

MALACAÑAN PALACE  
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER NO. 401-A

CREATING A BOARD OF TAX APPEALS

Pursuant to the powers vested in me by Republic Act Numbered Four hundred twenty-two, I, Elpidio Quirino, President of the Philippines, do hereby order:

SECTION 1. There is hereby created a Board of Tax Appeals which shall have the functions, powers and duties hereinafter specified.

Whenever the word "Board" is used in any part of this Order, it shall be held to mean the Board of Tax Appeals.

The Board shall have a seal which shall be judicially noticed.

SEC. 2. The Board of Tax Appeals shall be composed of a chairman and two members to be appointed by the President of the Philippines. The chairman shall hold office for six years, one member for four years, and the other member for two years from the date they qualify and assume office; but their successors shall be appointed for terms of six years, except that any person chosen to fill a vacancy shall serve only for the unexpired term of the member whom he succeeds. The chairman of the Board shall receive a compensation of ten thousand pesos per annum and shall have the same qualifications, rank, category and privileges as a District Judge of First Instance. The two members shall each receive nine thousand pesos per annum and one of them shall have the same qualifications, rank, category and privileges as a Judge-at-large of First Instance. The chairman and the member of the Board having the qualifications, rank, category and privileges of a Judge-at-large of First Instance may be removed from office only for the same causes and in the same manner provided by law for Judges of First Instance. The President may detail any Judge of First Instance as chairman or member of the Board.

For administrative purposes, the Board shall be under the executive supervision of the Department of Justice.

SEC. 3. A majority of the members of the Board shall constitute a *quorum* for the transaction of any business, and decisions of the Board shall be carried on a vote of at least two members. The chairman, however, shall be the administrative head of the Board, and in all matters of internal administration his actuation shall be sufficient.

SEC. 4. The Board shall fix, with the approval of the President, the number and salaries of, prescribe the duties, and in accordance with Civil Service Law, rules and regulations, appoint, the personnel necessary to assist it in the efficient performance of its functions.

All Departments, bureaus and offices of the Government, and its agencies and instrumentalities, including the local governments and the government owned or controlled corporations, shall, upon the request of the Board, give such information and extend such assistance and facilities as the latter may need in the performance of its functions.

SEC. 5. No member or other official or employee of the Board shall intervene, directly or indirectly, in the management or control of any private enterprise which in any way may be affected by the functions of the Board.

Members of the Board shall be disqualified from sitting in any case on the same grounds provided under Rule 126, section 1, of the Rules of Court for the disqualification of judicial officers.

No person who has once served in the Board in a permanent capacity, either as chairman or as member thereof, shall be qualified to practice as counsel before the Board for a period of one year from the date of his separation therefrom for any cause.

SEC. 6. The Board shall have its office in the City of Manila and shall hold hearings at such time and place as it may, by order in writing, provide with a view to assuring a reasonable opportunity for taxpayers to appear with as little inconvenience and expense as practicable.

SEC. 7. The Board shall submit an annual report of its activities to the Secretary of Justice not later than the end of August of each year for the preceding fiscal year, unless the Secretary of Justice shall otherwise direct, furnishing the Secretary of Finance with copy thereof.

#### Part II—JURISDICTION

SEC. 8. The Board of Tax Appeals shall have exclusive jurisdiction to hear and decide administratively as hereinafter provided:

(1) All appeals from decisions of the Collector of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters arising under the National Internal Revenue Code or other law or part of law administered by the Bureau of Internal Revenue;

(2) All appeals from decisions of the Commissioner of Customs in cases involving liability for customs duties, fees or other money charges; seizure, detention or release of property affected; fines, forfeitures or other penalties imposed in relation thereto; or other matters arising under the Customs Law or other law or part of law administered by the Bureau of Customs; and,

(3) All appeals from decisions of provincial or city Boards of Assessment Appeals in cases involving the assessment and taxation of real property or other matters

arising under the Assessment Law, including the rules and regulations relative thereto.

Notwithstanding that no appeal has been filed, when the public interest so requires the Board may nevertheless, within sixty days from the receipt of copy thereof, review *motu proprio* any decision of the Collector of Internal Revenue, the Commissioner of Customs, or of the provincial or city Board of Assessment Appeals concerned, and, after proper notice and hearing, it may, as the case may be, affirm, reverse or otherwise modify said decision.

SEC. 9. In all cases involving an original assessment of P5,000 or less, the action of the Collector of Internal Revenue pursuant to his authority to compromise cases and make refunds under section 309 of the National Internal Revenue Code, and that of the Commissioner of Customs pursuant to similar authority under section 1369 of the Revised Administrative Code, shall in no case become effective unless approved by the Secretary of Finance. Copies of the action of the Collector of Internal Revenue or of the Commissioner of Customs, as the case may be, and of the approval thereof by the Secretary of Finance, shall be promptly furnished the Board of Tax Appeals, and within sixty days from the receipt of copy thereof, the Board may, for justifiable reasons, review the case *motu proprio*.

But in cases involving an original assessment of more than P5,000, the approval by the Secretary of Finance of the action taken as aforesaid by the Collector of Internal Revenue or of the Commissioner of Customs shall not become effective until and unless the same is approved by the Board of Tax Appeals.

### Part III—PROCEDURE

SEC. 10. The proceedings of the Board shall be conducted in accordance with such rules of practice and procedure as the Board may prescribe but such proceedings shall not be governed strictly by the technical rules of legal evidence.

The Board shall fix the period within which appeals from decisions of the Collector of Internal Revenue, the Commissioner of Customs, or of the provincial or city Board of Assessment Appeals concerned shall be filed with the Board.

SEC. 11. The Board shall fix reasonable fees for the filing of an appeal; for certified copies of any transcript of the record, entry or other document; and for other authorized services rendered by the Board or its personnel.

SEC. 12. The Board shall have power to administer oaths, receive evidence and summon witnesses by *subpœna* and *subpœna duces tecum*, subject in all respects to the same restrictions and qualifications as apply in judicial proceedings of a similar character.

After the decision of the Board in any proceeding has become final, the Board may, upon proper motion, permit the withdrawal by the party entitled thereto of the originals of books, documents and records, and of models, diagrams and other exhibits, introduced as evidence before the Board; or, the Board may, on its own motion, make such other disposition thereof as it deems advisable.

SEC. 13. The Board shall, in accordance with Rule 64 of the Rules of Court, have the power to punish for contempt for the same causes, under the same procedure and with the same penalties prescribed therein.

SEC. 14. The Board may, upon proper motion or on its own initiative, direct that a case, or any issue thereof, be assigned to one of its members for the taking of evidence, when the determination of a question of fact arises upon motion or otherwise in any stage of the proceedings, or when the taking of an account is necessary, or when the determination of an issue of fact requires the examination of a long account. The hearing before such member shall proceed in all respects as though the same had been had before the Board.

Upon the completion of the hearing before such member, he shall promptly submit to the Board his report in writing, stating his finding and conclusions; and thereafter, the Board shall render its decision on the case, adopting, modifying, or rejecting the report in whole or in part, as the case may be, or, the Board may in its discretion recommit it with instructions, or receive further evidence.

SEC. 15. Cases brought before the Board shall be decided within sixty days from the filing of the appeal. As in the case of judicial officers under section 129 of the Revised Administrative Code, the members of the Board shall each certify on their applications for leave, and upon salary vouchers presented by them for payment, or upon the payrolls under which their salaries are paid, that all proceedings, petitions and motions which have been under submission to the Board for determination or decision for a period of sixty days or more have been determined or decided by the Board on or before the date of making the certificate, and no leave shall be granted and no salary shall be paid without such certificate.

SEC. 16. Decisions of the Board shall be in writing, stating clearly and distinctly the facts and the law on which they are based, and signed by the members concurring therein.

SEC. 17. Where an appeal is found to be frivolous, or that proceedings have been instituted merely for delay, the Board may assess damages against the appellant in an amount not exceeding ₱500, which shall be collected in the same manner as fines or other penalties authorized by law.

SEC. 18. When, in the performance of its functions, it should appear to the Board that a crime or other violation of law has been committed, or, that there are reasonable grounds to believe that any official, employee or private person is guilty of any crime, offense, or other violation, the Board shall refer the matter to the proper department, bureau or office, for investigation or the institution of such criminal or administrative action as the facts and circumstances of the case may warrant.

SEC. 19. The Board shall provide for the publication of its decisions in the Official Gazette in such form and manner as may be best adopted for public information and use.

#### Part IV.—COURT REVIEW OF BOARD DECISIONS

SEC. 20. No judicial proceeding against the Government involving matters arising under the National Internal Revenue Code, the Customs Law, or the Assessment Law shall be maintained except as herein provided, until and unless an appeal has been previously filed with the Board of Tax Appeals and disposed of in accordance with the provisions hereof.

The party adversely affected by any ruling, order or decision of the Board of Tax Appeals may appeal therefrom to the Supreme Court by filing with the said Board a notice of appeal and with the Supreme Court a petition for review, within thirty days from the date he receives notice of said ruling, order or decision. If, within the aforesaid period, he fails to perfect his appeal, the said ruling, order or decision shall become final and conclusive against him.

If no decision is rendered by the Board within sixty days from the filing with said Board of an appeal from any ruling, order or decision of the Collector of Internal Revenue, the Commissioner of Customs, or of the provincial or city Board of Assessment Appeals concerned, the party adversely affected by said ruling, order or decision may file with said Board a notice of his intention to appeal to the Supreme Court, and if, within thirty days from the filing of said notice of intention to appeal, no decision has as yet been rendered by the Board, the aggrieved party may file directly with the Supreme Court an appeal from said ruling, order or decision, notwithstanding the foregoing provisions of this section.

SEC. 21. If any ruling, order or decision of the Board of Tax Appeals be adverse to the Government, the Collector of Internal Revenue, the Commissioner of Customs, or the provincial or city Board of Assessment Appeals concerned, as the case may be, may likewise file an appeal therefrom to the Supreme Court in the same manner and within the same period as above prescribed for private parties.

SEC. 22. Any ruling, order or decision of the Board may likewise be reviewed by the Supreme Court upon a writ of certiorari in proper cases.

Proceedings in the Supreme Court upon a writ of certiorari or a petition for review, as the case may be, shall be in accordance with the provisions of the Rules of Court or such rules as the Supreme Court may prescribe.

SEC. 23. Nothing in this Order shall be construed as amending or repealing the period of prescription fixed under section 306 of the National Internal Revenue Code for the recovery of taxes erroneously or illegally collected by the Collector of Internal Revenue. The same period of prescription shall apply to the recovery of customs duties, fees or other charges erroneously or illegally collected by the Commissioner of Customs.

The period of prescription for actions involving matters arising under the Assessment Law shall continue to be the same as provided by existing laws.

SEC. 24. Any proceeding directly affecting any ruling, order or decision of the Board of Tax Appeals shall have preference over all other civil proceedings, except habeas corpus, workmen compensation and election cases.

#### PART V.—GENERAL PROVISIONS

SEC. 25. There is hereby appropriated the amount of thirty-two thousand pesos, or so much thereof as may be necessary, out of any funds in the National Treasury not otherwise appropriated, for the maintenance and operation of the Board of Tax Appeals for the remainder of the fiscal year 1951. Thereafter, the funds needed for this purpose shall be provided annually in the General Appropriation Law.

SEC. 26. Wherever the words "Board of Tax Appeals" are used in Commonwealth Act No. 470, otherwise known as the Assessment Law, or in other laws, rules and regulations relative thereto, the same shall be read "Board of Assessment Appeals."

The Central Board of Tax Appeals created under section 2 of Commonwealth Act No. 530 is hereby abolished and its functions, powers and duties are hereby transferred to the Board of Tax Appeals herein created.

Section 309 of the National Internal Revenue Code and section 1369 of the Revised Administrative Code are hereby modified accordingly, and any law or part of law, and any executive order, administrative order, rule or regulation, or part thereof, which is inconsistent with the provisions of this Order is hereby repealed or modified as the case may be.

SEC. 27. No appeal taken to the Board of Tax Appeals from the decision of the Collector of Internal Revenue or the Commissioner of Customs shall suspend the payment,

levy, distraint and/or sale of any property of the taxpayer for the satisfaction of his tax liability as provided by existing law.

SEC. 28. This Order shall take effect immediately.

Done in the City of Manila, this 5th day of January, in the year of Our Lord, nineteen hundred and fifty-one, and of the Independence of the Philippines, the fifth.

ELPIDIO QUIRINO

*President of the Philippines*

By the President:

TEODORO EVANGELISTA

*Executive Secretary*

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