

[EXECUTIVE ORDER NO. 401-A, January 05, 1951]

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 1869 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 *subpoena* and *subpoena 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