

[REPUBLIC ACT NO. 10021, March 05, 2010]

AN ACT TO ALLOW THE EXCHANGE OF INFORMATION BY THE BUREAU OF INTERNAL REVENUE ON TAX MATTERS PURSUANT TO INTERNATIONALLY-AGREED TAX STANDARDS, AMENDING SECTIONS 6(F), 71 AND 270 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. *Title.* — This Act shall be known as the "Exchange of Information on Tax Matters Act of 2009".

SEC. 2. *Declaration of Policy.* — It is the declared policy of the State to promote and pursue a tax environment that contributes in sustaining a favorable international investment climate and instills confidence in the adequacy and capacity of the country's tax administration to comply with its commitments under existing international conventions or agreements on tax matters.

Pursuant to this declared policy, the government shall comply with or commit to the internationally-agreed tax standard required for the exchange of tax information with its tax treaty partners to help combat international tax evasion and avoidance and to help address tax concerns that affect international trade and investment. The government shall likewise adopt measures and procedures to enhance cooperation with other countries in the efficient collection of taxes, consistent with the international understanding to ensure the payment of taxes due the respective taxing jurisdictions of the treaty partners.

SEC. 3. *Authority of the Commissioner of Internal Revenue to Inquire into Bank Deposit Accounts and Related Information Held by Financial Institutions.* — Section 6(F) of Republic Act No. 8424, as amended, otherwise known as the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

"SEC. 6. Power of the Commissioner to Make Assessments and Prescribe Additional Requirements for Tax Administration and Enforcement. -

"x x x

"(F) Authority of the Commissioner to Inquire into Bank Deposit Accounts and Other Related Information Held by Financial Institutions. — Notwithstanding any contrary provision of Republic Act No. 1405, Republic Act No. 6426, otherwise known as the Foreign Currency Deposit

Act of the Philippines, and other general and special laws, the Commissioner is hereby authorized to inquire into the bank deposits and other related information held by financial institutions of:

"(1) A decedent to determine his gross estate.

"(2) Any taxpayer who has filed an application for compromise of his tax liability under Sec 204(A)(2) of this Code by reason of financial incapacity to pay his tax liability.

"In case a taxpayer files an application to compromise the payment of his tax liabilities on his claim that his financial position demonstrates a clear inability to pay the tax assessed, his application shall not be considered unless and until he waives in writing his privilege under Republic Act No. 1405, Republic Act No. 6426, otherwise known as the Foreign Currency Deposit Act of the Philippines, or under other general or special laws, and such waiver shall constitute the authority of the Commissioner to inquire into the bank deposits of the taxpayer.

"(3) A specific taxpayer or taxpayers subject of a request for the supply of tax information from a foreign tax authority pursuant to an international convention or agreement on tax matters to which the Philippines is a signatory or a party of: *Provided*, That the information obtained from the banks and other financial institutions may be used by the Bureau of Internal Revenue for tax assessment, verification, audit and enforcement purposes.

"In case of a request from a foreign tax authority for tax information held by banks and financial institutions, the exchange of information shall be done in a secure manner to ensure confidentiality thereof under such rules and regulations as may be promulgated by the Secretary of Finance, upon recommendation of the Commissioner.

"The Commissioner shall provide the tax information obtained from banks and financial institutions pursuant to a convention or agreement upon request of the foreign tax authority when such requesting foreign tax authority has provided the following information to demonstrate the foreseeable relevance of the information to the request:

"(a) The identity of the person under examination or investigation;

"(b) A statement of the information being sought including its nature and the form in which the said foreign tax authority prefers to receive the information from the Commissioner;

"(c) The tax purpose for which the information is being sought;

"(d) Grounds for believing that the information requested is held in the Philippines or is in the possession or control of a person within the jurisdiction of the Philippines;

"(e) To the extent known, the name and address of any person believed