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Working Paper

Tax Administration Reform: (Semi-) Autonomous Revenue Authority Anyone?

PIDS Discussion Paper Series, No. 2003-05

Provided in Cooperation with:

Philippine Institute for Development Studies (PIDS), Philippines

Suggested Citation: Manasan, Rosario G. (2003) : Tax Administration Reform: (Semi-) Autonomous Revenue Authority Anyone?, PIDS Discussion Paper Series, No. 2003-05, Philippine Institute for Development Studies (PIDS), Makati City

This Version is available at:

<https://hdl.handle.net/10419/127807>

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Tax Administration Reform: (Semi-) Autonomous Revenue Authority Anyone?

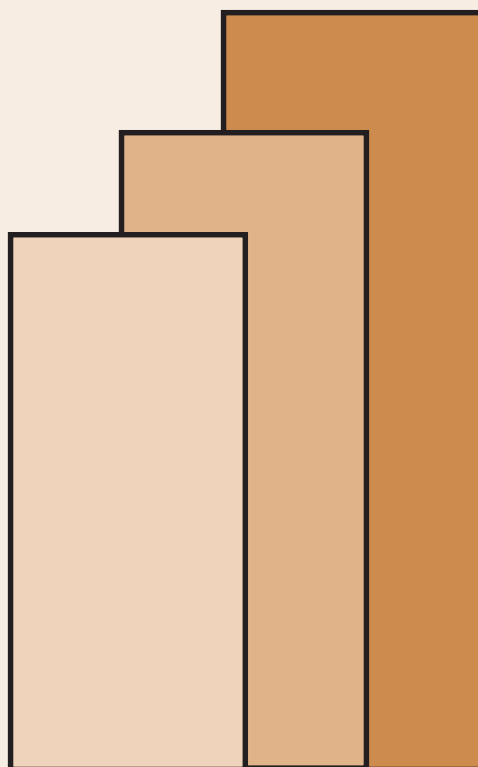
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DISCUSSION PAPER SERIES NO. 2003-05 (Revised)

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June 2003

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**TAX ADMINISTRATION REFORM:
(SEMI-) AUTONOMOUS REVENUE
AUTHORITY ANYONE?**

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JUNE 2003**

TAX ADMINISTRATION REFORM: (SEMI-) AUTONOMOUS REVENUE AUTHORITY ANYONE?

Abstract

The Philippines has not been immune to the worldwide trend towards the creation of semi-autonomous revenue authorities. To date, three bills are pending at the House of Representatives seeking to establish a semi-autonomous internal revenue administration to replace the Bureau of Internal Revenue. A review of the international experience reveals that the record of semi-autonomous revenue authorities in improving tax effort and in combating corruption is mixed. Moreover, even in many of the countries that have shown some degree of success with the model, there is some evidence that the gains in revenue performance tend to be eroded after some time. The more successful and sustainable revenue authorities appear to be those that have a higher degree of autonomy. Thus, should Philippine authorities decide to adopt the autonomous revenue authority model, it is imperative that it should be done right. Half measures will not be good enough. Doing it right implies that the new tax agency should be vested with strong autonomy-enhancing features and accountability mechanisms. The paper reviews the specific provisions of the alternative bills and suggests concrete areas for improvement.

Keywords: semi-autonomous revenue authority, tax effort, tax gap

TAX ADMINISTRATION REFORM: (SEMI-) AUTONOMOUS REVENUE AUTHORITY ANYONE?

Rosario G. Manasan

1. INTRODUCTION

In the last 15 years, there appears to have been a trend among developing countries towards the creation of semi-autonomous revenue authorities (RAs) to replace their existing tax collection agencies. Semi-autonomous RAs are found in many Latin American (Bolivia in 1987, Argentina in 1988, Peru in 1988, Colombia in 1991, Venezuela in 1994, Mexico in 1997, Guatemala in 1999 and Guyana in 1999) and African countries (Ghana in 1985, Uganda in 1991, Zambia in 1993, Kenya in 1995, Tanzania in 1996, South Africa in 1997, Rwanda in 1998, and Malawi in 2000). In addition, there are two Southeast Asian (Singapore in 1992 and Malaysia in 1994) and one European exceptions (Spain 1991) [Silvani and Baer 1997 and Jenkins and Khadka 2000]. In many of these countries, the radical reform of the tax agency was primarily intended to improve revenue performance in the face of deep-seated problems in tax administration.

The Philippines has not been immune to the worldwide movement towards the creation of semi-autonomous revenue authority. To date, two bills have been filed in Congress seeking to establish a semi-autonomous internal revenue administration to replace the Bureau of Internal Revenue. House Bill 5054 proposes to create the Internal Revenue Management Authority (IRMA) while House Bill 5465 calls for the organization of the National Authority for Tax Administration (NARA). More recently, a substitute bill calling for the establishment of the National Revenue Authority (NRA) is being deliberated at the Committee on Ways and Means of the House of Representatives.

This paper reviews the experience of other countries which have set up semi-autonomous revenue authorities. First and foremost, this note will examine not only the context and rationale for the creation of these institutions but also the design issues that have helped shape them. Second, drawing lessons from international experience, it will evaluate the risks and opportunities in improving tax collections arising from the establishment of semi-autonomous RAs. Third, the paper will assess how the proposed bills on the creation of an independent revenue authority measures up against international best practice. In this sense, this short note is meant to help inform the debate on the proposed restructuring of the Bureau of Internal Revenue.

2. RATIONALE FOR SEMI-AUTONOMOUS RAs IN OTHER COUNTRIES

Tax experts (e.g., Silvani and Baer 1997 and Jenkins 1994) have suggested the imperative for radical changes in tax administration in countries where the tax gap¹ is large (i.e., 40% or more of the potential tax). The stylized facts that characterize tax administration in these countries include: (1) rigid civil service (i.e., recruitment, retention and compensation) rules and regulations for the public sector that tend to result in low salaries for

¹ The tax gap is defined as the difference between the tax that should be paid according to the tax statutes and the tax which is actually collected.

tax officials, thus, making it difficult for the tax collection agency to attract competent, professional personnel; (2) widespread perception of corruption in tax administration with negotiation of tax payments between tax examiners and taxpayers said to be prevalent; and consequently, and (3) low voluntary compliance because of the perceived lack of fairness in the enforcement of tax laws (Jenkins 1994).²

Frustrated by the inefficiency and the perceived corruption in the tax collection agency, supporters of semi-autonomous RAs in many of these countries justified the reform on the grounds that making tax administration more “business-like” and free of the financing and personnel rules that govern the public sector would reduce the motive for corruption by giving emphasis to performance-linked budgets and compensation schemes. Essentially, it is argued that pre-reform tax administration in these countries was inefficient because existing budgetary and personnel regulations make it difficult for government to provide tax collectors the appropriate incentive structure (not only in terms of providing a suitable compensation level but also in terms of the ease of hiring qualified personnel and firing erring ones) and the flexibility to make its own decisions on how to spend its budget and how to structure and staff its organization.

On the other hand, Taliercio (2000) posits that what motivates politicians to give more autonomy to the RAs is the need to make a credible commitment to taxpayers that the tax collection agency will be more competent, efficient and fair. The credibility problem in tax administration stems from the time consistency problem. This means that the incentives of politicians (i.e., the President) to undertake the reform change in the course of the reform process. Initially, politicians may support the reform because they need more revenues to support a larger expenditure program which could then conceivably generate greater political benefits. However, as the reform becomes successful, the politicians have the incentive to withdraw support from the reform as its cost start to outweigh its benefits. From this perspective, granting autonomy to the RA represents an attempt of the politicians to employ a “commitment technology”, (i.e., a means of making their commitment credible) in order to convince taxpayers of their faithfulness to the reform so as to increase tax compliance and, thereby, increase tax revenues. Thus, by turning tax administration over to an independent agency, RA autonomy reform aims to depoliticize tax collection and minimize the risks that politicians will undo the reform at a later date.

Consequently, Taliercio argues that the causal mechanism by which the semi-autonomous RA reform signals a credible commitment is anchored on the specific bureaucratic features of the new revenue authority. For instance, the fact that taxpayers know that the revenue authority’s budget is a function of revenues collected, that its officials are trained professionals operating in a meritocratic organization and that it is headed by someone who is free from political interference to pursue his mission establish a credible commitment by signaling to taxpayers that the RA has solid incentives to maximize revenue by detecting non-compliance on the part of taxpayers.

² Singapore and Malaysia are exceptions to the typical profile of countries that have adopted the semi-autonomous revenue authority model not only in the geographical sense. Tax administration in Singapore is generally viewed as efficient and its tax gap is estimated to be less than 10%. On the other hand, Malaysia’s civil service is highly regarded. It appears that in these countries the motivation for the reform is underpinned by the desire for improving the quality of taxpayer services and, thus, improving the overall business environment.

3. KEY DESIGN FEATURES OF SEMI-AUTONOMOUS RAs

The first semi-autonomous RAs were generally modeled after central banks (Jenkins 1994). However, the World Bank (2002) notes that “RAs are not meant to be as autonomous as other types of public sector organizations like the central bank nor as dependent as ministerial line departments, hence the monicker “semi-autonomous’.” However, they are distinguished from traditional tax collection agencies by a higher degree of administrative and financial independence (i.e., autonomy) from the central government. The key design features that define semi-autonomous RAs are: (1) legal character, (2) governance structure, (3) financing mechanism, (4) personnel system, and (5) accountability relationships (World Bank 2002

Legal character. All of the semi-autonomous RAs were created by law which also defines the legal character of the RA concerned. All are situated within the public sector. However, they may take different forms.

For instance, Peru’s National Tax Administration Superintendency (SUNAT) is a decentralized public organization. The South Africa Revenue Service (SARS) is a public sector organization outside the public service. The Kenya Revenue Authority (KRA) is a government corporate body while Venezuela’s National Intergrated Tax Administration (SENIAT) is an autonomous institute. Of these four, all with the exception of the SENIAT have their own separate legal character and can own assets. It appears that RAs without their legal character are more subordinate to the ministries of finance (World Bank 2002). Similarly, the right to own assets strengthens the managerial autonomy of the tax administration.

Governance structures. All of the semi-autonomous RAs established to date follow any one of two governance models: the chief executive officer (CEO) model or the board of directors (BOD) model. The CEO model was adopted by almost all of the Latin American countries while the BOD model is popular in Africa and Asia.

In many of the countries that have followed the CEO model, the commissioner (or superintendent) of the revenue authority is appointed by the president of the republic although in some cases he is appointed by the minister of finance. In either case, the appointment of the commissioner may be for a fixed or a variable number of years.

Under the BOD model, the board of directors is responsible for overseeing the management of the RA but does not intervene on the day-to-day activities of the revenue authority. The boards vary in size, composition and appointing authority. For instance, the board of directors of Mexico’s Tax Administration Service (SAT) consists of 6 members: the minister of finance, two representatives from the ministry of finance who are designated by the minister finance, the president of the SAT who is appointed by the president of the republic, and 2 senior SAT employees designated by the president of the SAT. In contrast, the board of Kenya’s KRA has 11 members: the chairman appointed by the president of the republic, the commissioner of the KRA, the attorney-general, 2 high level civil service officers from the ministry of finance and six other persons appointed by the minister of finance (World Bank 2002).

Some boards consist solely of public officials (e.g., Mexico) while others include private sector representatives in addition to members from the public sector who are members

on an *ex-officio* basis (e.g., Kenya, Malaysia, Uganda).³ In Zambia, the board includes, in addition to public sector officials, private sector representatives who are nominated directly by the chambers of commerce and industry, the bankers' association, the institute of certified public accountants, and the law association.⁴

Jenkins and Khadka (2002) point out that membership in the board should be limited not only because a large board tends to be unwieldy in terms of scheduling meetings and making decisions but also because the larger the board is, the less individual accountability tends to be.

The desirability of having private sector representatives in the board of the RA is an open issue. Jenkins and Khadka (2000) point out that while opening the board membership to the private sector may enhance the RA's customer service orientation, help control costs and check corruption, it may also give rise to conflict of interest and breach of taxpayer confidentiality. On the other hand, Taliencio (2001) notes that private sector membership in the board may promote the creation of a broader based constituency for reform outside of the political arena that help ensure the sustainability of the reform as had happened in Peru.

The appointing authority for the head of the revenue authority under the BOD model may either be the president of the republic (Mexico), the minister of finance (South Africa, Kenya, Singapore) or the board itself (Malawi). As with the RAs using the CEO model, the term of the commissioner may be fixed or open to the discretion of the appointing authority. The World Bank (2002) notes that the presidential appointment of the commissioner is a mechanism that seems to increase autonomy. Similarly, fixed-term appointment for the commissioner tends to promote the independence of the RA.

Financing. Semi-autonomous RAs generally receive budgets which are set as fixed (e.g., 2% for the SUNAT of Peru) or variable percentages (e.g., between 3% and 5% as determined by the president of the republic for the SENIAT of Venezuela) of their actual collections. The funding of the KRA of Kenya as well as the MRA of Malawi is equal to a variable percentage of difference between actual and targeted collections in addition to a fixed percentage of actual collections but the total should not exceed a given percentage of total collections. However, a few RAs like the SARS of South Africa are funded just like any ordinary government agency (i.e., through legislative appropriations).

Clearly, having the RA budget as a fixed percentage of actual tax collections (as in Peru) is autonomy-enhancing. Moreover, the practice tends to enhance revenue performance since it provides the revenue authority more incentive to collect taxes efficiently even as taxpayer compliance is enhanced by this very fact (Jenkins and Khadka 2002). On the other hand, while the system in Kenya and Malawi may initially look attractive in the sense that it is performance-linked, it may actually lead to strategic behavior on the part of the revenue authority in the area of revenue target setting and may be counterproductive.

The other issue with respect to financing refers to how the funds are released to the revenue authority. Needless to say, a system whereby formula-based funding is released automatically to the revenue administration would be the most autonomy enhancing. The SUNAT is the only RA which receives its funds directly from the treasury. Providing for

³ Refer to Jenkins and Khadka 2000.

⁴ These organizations are specified in the Zambia Revenue Authority Act.

autonomous financing mechanisms in the legislation is, however, no guarantee that the principle is honored in practice (World Bank 2002). For instance, the SENIAT and the MRA has not received the resources due them under the law.

Personnel systems. “The availability and retention of trained human resources are by far the most important factors in determining the efficiency of tax administration” (Jenkins and Khadka 2002). However, in many countries, existing civil service rules impinge negatively on the ability of the tax administration to recruit the most competent personnel, to provide competitive base pay to all, to give additional incentives for good performance, to sanction bad behavior, and to dismiss erring staff. Corollary to this, autonomy in hiring, firing, rewarding and motivating its staff is viewed by many as perhaps the most critical feature of semi-autonomous RAs.

The SUNAT of Peru has perhaps the most independent personnel system amongst all semi-autonomous RAs. It was given by law the authority to adopt a non-public sector personnel regime. Consequently, the SUNAT has the authority to set its own salary structure and to appoint and remove its employees without the need to consult with any other public sector entity. Thus, “the revenue authority model worked well in the Peruvian context because it empowered professional managers to carry out far-reaching efficiency and integrity-enhancing reforms while maintaining accountability to the government” (World Bank 2001).

Accountability mechanisms. Following the principle that the best strategy against corruption should combine both positive and negative incentives (World Bank 1999), greater administrative and financial independence should be accompanied by the establishment of accountability mechanisms in the semi-autonomous RAs. The components of a good accountability system are: (1) code of ethics for all employees of the tax authority, (2) a strong internal audit unit with a high profile within the revenue authority to enforce the code of ethics, (3) independent external audit of the revenue authority itself, and (4) clear reporting relationships to other government agencies (Silvani and Baer 1997).

In Kenya, the commissioner of the KRA audits the internal accounts of the revenue authority every three months and presents the findings to its board of directors, the minister of finance, and the auditor-general. Many of the semi-autonomous RAs in the other countries submit periodic reports to the minister of finance who then presents the report to the legislature (e.g., Malawi and South Africa). Mexico’s SAT is the only RA that a direct accountability link to the legislature (World Bank 2002).

4. RISKS AND OPPORTUNITIES IN THE CREATION OF SEMI-AUTONOMOUS Ras

The record of semi-autonomous revenue authorities in improving tax effort and in combating corruption is mixed. On the one hand, Taliercio (2000), using the results of a survey conducted in 1998-1999 in four countries in Latin America⁵, found that semi-autonomous RA reform has had uneven impact not only in combating corruption (**Table 1**) but also in improving taxpayer services (**Table 2**).

⁵ The respondents to the survey consist of large corporate taxpayers, professional tax consultants, and private sector and professional organizations concerned with taxation issues. All of the tax consulting firms and the private sector organizations were interviewed. On the other hand, the sample size for the large corporate taxpayers was determined so as to ensure that the error level is not more than 10%.

Table 1. Proportion of Respondents Opining on Whether There is More or Less Corruption in the Tax Agency Than Before the Reform.

	Much Less	Substan- tially Less	Slightly Less	No Change	Slightly More	Substan- tially More	Much More
Peru	52%	33%	10%	0%	0%	0%	4%
Mexico	4%	17%	34%	36%	6%	0%	2%
Venezuela	8%	18%	53%	18%	0%	0%	4%
Bolivia	2%	6%	18%	48%	16%	6%	4%

Source: Taliercio, Ph. D. Dissertation, Harvard University (2000)

Table 2. Proportion of Respondents Opining on Whether Overall Quality of Services Provided by the Tax Agency is Better or Worse Than that Provided Before the Reform.

	Much Worse	Generally Worse	Slightly Worse	No Change	Slightly Better	Generally Better	Much Better
Peru	0%	0%	2%	2%	25%	44%	27%
Mexico	0%	2%	2%	38%	42%	16%	0%
Venezuela	0%	0%	8%	4%	40%	35%	13%
Bolivia	0%	0%	6%	28%	46%	18%	2%

Source: Taliercio, Ph.D. Dissertation, Harvard University 2000.

On the other hand, a review of the movement in tax effort over time in some of the countries that have effected RA reform also show considerable variation.⁶ In some countries, the tax-to-GDP ratio rose dramatically with the establishment of the new revenue authority. For instance, in Peru, the tax-to-GDP ratio rose from 9% in 1987 to 15% in 1997 (**Table 3**).⁷ Similarly, in Uganda, tax effort surged from 4% of GDP in 1990 to 11% in 1996 while in Ghana tax effort jumped from 7% in 1984 to 16% in 1996. In other countries, the improvement in tax effort was more modest. For example, In Venezuela, the ratio increased from 14% in 1993 to 17% in 1997 while in Colombia, the ratio went up from 10% in 1990 to 13% in 1997. Similarly, in South Africa, tax effort rose from 24% in 1996 to 26% in 1999.

⁶ Undeniably, RA reform in most of these countries was undertaken to improve the revenue performance of the tax collection agency. In this sense, tax effort is deemed to be a good indicator of the success of the reform. It should be emphasized that in some of these countries RA reform was complemented by a tax policy reform which was aimed at making tax structure easier to administer and, thus, more revenue productive. Thus, the direction of the expected impact on tax effort of both reforms is the same. Nonetheless, in countries where both types of reform were undertaken, not all of the observed change in tax effort may be attributed to RA reform alone. Moreover, other intervening variables (changes in economic structure) might also have affected the tax effort. Thus, the discussion on tax effort should be viewed with some caution.

⁷ It should be emphasized that the following discussion of the impact of semi-autonomous RA on tax effort is limited because changes in tax policy has not been taken into account.

In yet other countries, the improvement in tax effort is marginal. Thus, the tax-to-GDP ratio went up by about one percentage point in Tanzania between 1995 and 1996 and in Argentina between 1987 and 1994 while the ratio rose by less than one percentage point in Mexico between 1996 and 1997 and in Rwanda between 1997 and 1998.

Table 3. Impact of the Creation of Semi-autonomous RA on Tax Effort

Country	Year RA was established	Effect on tax effort
Latin America		
Bolivia	1987-1988 a/	tax effort was 8% in 1987 and 7% in 1988; rose consistently to 15% in 1998 and dipped to 14% in 1999
Argentina	1988	tax effort dipped from 13% in 1987 to 8% in 1988; rose consistently to 14% in 1994; declining since then reaching 13% in 1998
Peru	1988	tax effort was 9% in 1987 and 1988; dipped to 7% in 1989; rose consistently to 15.4% in 1997; declining since then reaching 14% in 2000 b/
Colombia	1991	tax effort rose from 10% in 1990 to 13% in 1993 then settled at 10% in 1994-1999
Venezuela	1994	tax effort dipped from 14% in 1993 to 3% in 1994; rose to 17% in 1997 before declining to 12% in 1998 and 13% in 1999 c/
Mexico	1997	tax effort rose from 12.7% in 1996 to 13.0% in 1997 then dropped to 11.7% in 1998 d/
African countries		
Ghana	1985	tax effort rose from 7% in 1984 to 16% in 1996
Uganda	1991	tax effort rose from 4% in 1990 to 11% in 1996
Zambia	1993	tax effort dipped from 19% in 1992 to 15% in 1993 before increasing to 19% in 1994 before settling at 17%-18% in 1995-1997
Kenya	1995	tax effort declined from 25% in 1994 to 20% in 1999 (with reduction in tax rates)
Tanzania	1996	tax effort rose from 11% in 1995 to 12% in 1996 but declined since then reaching 10% in 1998
South Africa	1997	tax effort rose from 24% in 1996 to 26% in 1999 (with reduction in tax rates)
Rwanda	1998	tax effort rose from 9.8% in 1997 to 10.1% in 1998; dipped to 9.3% in 2000
Southeast Asia		
Malaysia	1994	tax effort fairly stable at 17% since 1993

a / Semi-autonomous RA in Bolivia (the Ministry of Tax Collection) became operational in 1987 but was abolished in mid-1988 (Taliencio 2001).

b / Decline in tax effort starting in 1998 coincided with replacement of independent-minded superintendent (Revilla) with someone more submissive to the MOF (Taliencio 2001).

c / Decline in tax effort in 1998 coincided with the issuance of decree by President Caldera that gave opened up the human resource management system of the SENIAT to ministerial intervention.

d / In June 1998, the SSI (subsecretariat of revenue) was re-established because of conflict between the SAT and the MOF. At the same time, two measures were issued that effectively decimated the autonomy of the SAT with respect to personnel matters and the issuance of ad ministerial rulings, thus, effectively marking the demise of the SAT as a semi-autonomous RA (Taliencio 2001).

Meanwhile, in some countries (e.g. Malaysia and Zambia), the creation of the semi-autonomous revenue authority appears to have no tangible impact on tax effort. In contrast, tax effort declined despite the creation of a semi-autonomous RA in Kenya.

Table 3 suggests that one of the risks associated with the creation of semi-autonomous RAs is the sharp drop in tax effort in the first year of its operation.⁸ Thus, it seems that the process of changing over to a new system may involve significant costs in terms of reduced revenues in addition to the cost of retiring personnel of the old tax administration. This happened in Argentina, Peru, Venezuela and Zambia.

Moreover, even in many of the countries that have shown some degree of success with the semi-autonomous RA model, there is some evidence that the gains in revenue performance tends to be eroded after some time. For instance, tax effort has started to falter in Peru since 1997. A drop in tax effort has likewise evident in Argentina (since 1995), Colombia (since 1994), Venezuela (since 1998), Mexico (1998), Tanzania (since 1997) and Rwanda (2000). In all these countries with the exception of Peru, the deterioration in tax effort was such that tax effort settled at a level that was just the same or even lower than the pre-reform level. It is also interesting that the decline in tax effort in Peru, Venezuela and Mexico coincided with the weakening of the autonomy features of the RAs in these countries (see below).

Related to this, Taliercio (2001), after assessing the experience of Bolivia, Mexico, Peru and Venezuela, concludes that semi-autonomous RAs have been less sustainable than expected. This occurs as their autonomous features are undermined, if not eliminated. He argues that the main challenge to the autonomy of the RA has been the government itself (working through the ministry of finance) in as much as the very design of semi-autonomous RAs gives rise to “dynamic of conflict and competition between the government and the RA.”⁹

Taliercio (2001) also points out that the executive (i.e., the president of the republic) invariably exerts his influence on the tussle between the RA and the ministry of finance. How the president intervenes depends on his incentives at different points during the reform process. The support of the president appears to have been critical in the creation and initial success of semi-autonomous RAs in Latin America. Taliercio, however, notes several reasons why presidents would not continue to support the reform they initiated. First, changing circumstances may increase the president’s need for political support. For instance, President Caldera (Venezuela) needed to forge a new political coalition after the defection of some of his partners and because of this he agreed to the restoration of ministerial control

⁸ Apparently, some of the earlier studies may have exaggerated the improvement in tax effort following the introduction of semi-autonomous RAs by reckoning the change in tax effort relative to the “low” point registered in the first year of its implementation.

⁹ He notes that the reform vests “the minister of finance with high costs, yet provides little in the way of benefits. From a political perspective the main benefit of reform is greater revenues. Yet it is largely the president, not the minister, who benefits politically from greater expenditures. The main costs of the RA reform are lost patronage opportunities, less political control of the tax agency, and less influence over tax policy making. The minister is affected by all these costs as the RA reform removes a large percentage of ministerial employees from his control (which results in a substantially decreased budget), reduces his political control over the tax administration, and reduces his tax policy control by establishing another center of tax policy expertise. According to this simple cost-benefit analysis, ministers should generally have incentives to oppose the reform (even while presidents support it). Thus, on both administrative and political grounds, finance ministers are likely to oppose semi-autonomous RAs .

over the SENIAT. Similarly, in Peru, although President Fujimori preserved the organizational form of the SUNAT amidst demands from the minister of finance to re-incorporate the SUNAT as a Vice Ministry of Tax Collections under the Ministry of Finance, he compromised by allowing the minister of finance to replace the superintendent of the RA with someone more pliable to its control. Second, presidents tend not to concern themselves closely with post-reform decisions relating to the sustainability of the RA, unlike “in the creation stage in which the executive oversees important *ex ante* decisions.”

At the same time, Taliercio (2001) observes that the creation of a powerful pro-reform constituency in the private sector tends to sustain semi-autonomous RA reform. This is exemplified in Peru where the support of the business community and academics has enabled the SUNAT to resist the battering of the MOF longer than in the other countries.¹⁰

5. ASSESSMENT OF PROPOSED BILLS CREATING SEMI-AUTONOMOUS RAs IN THE PHILIPPINES

The experience of other countries with semi-autonomous revenue authorities suggests that not all semi-autonomous revenue authorities are created equal. Some RAs perform better than other. The more successful ones appear to be those that have a higher degree of autonomy

International experience in semi-autonomous RA reform clearly shows that should Philippine authorities decide to adopt the autonomous RA model, then it is imperative that it should be done right. Obviously, this is a situation where half measures will not be good enough. Less than full autonomy will not only increase the risk but also the costs associated with the reform.

“Doing it right” implies that new tax agency should be vested with strong autonomy-enhancing features and accountability mechanisms. Using this framework, **Table 4** reviews the provisions of the three alternative bills proposing to create a semi-autonomous revenue authority to replace the BIR and suggests the following areas for improvement.

- Limit the size of the board of directors to seven voting members to enhance individual accountability of members and to make decision making less unwieldy. However, it is proposed that commissioner be made a non-voting member of the Board.
- Government representatives to the Board should come from the fiscal oversight agencies, namely, Department of Finance (DOF), Department of Budget and Management (DBM) and National Economic and Development Authority (NEDA).
- Increase number of private sector representatives to help create a constituency for reform in private sector and to help insulate new tax agency from political interference. Appointment of the first batch of private sector representatives should be staggered.

¹⁰ Apparently, corporate taxpayers preferred the SUNAT over the pre-reform agency because by dramatically reducing the amount of corruption in tax administration, it reduced the costs of uncertainty for the private sector.

- Assign policy-making functions (including establishment of standards and systems) to the Board; assign day-to-day administration and implementation of standards and systems to Commissioner.
- Set funding as fixed percentage of actual tax collections in the previous year (instead of fixing it between 1% and 2% of actual collections) and provide for its automatic appropriation and release to eliminate venue for negotiation between the executive as well as the legislative branches of government, on the one hand, and the revenue authority, on the other. The provision for the additional funding equal to a certain percentage of the excess collection over target is not recommended because it may lead to strategic behavior on the part of the revenue authority in the area of revenue target setting and may be counterproductive.
- Give new tax agency independence in the formulation and administration of its human resource management system by vesting the Board with final appellate authority in cases involving promotion, transfer, assignment and dismissal.
- Mandate new tax agency not to give preferential and prior rights to incumbent BIR employees when recruiting employees of new tax agency to give the new Commissioner the flexibility in hiring of staff and, thus, “safeguard the integrity and efficiency of the incentive contract” with him (de Dios 2003)
- Provide for periodic third party performance audit of the RA by an entity to be identified by the Board; COA is limited to the financial audit of new tax agency.
- Mandate Board of Directors of new tax agency to establish a written code of ethics for all employees in the new tax authority to strengthen accountability mechanism.
- Delete reporting requirement to Congressional Oversight Committee and the Joint Congressional Commission as provided in the substitute bill as this would tend to subject new tax agency to political interference.
- Provide for separation incentives over and above benefits and gratuities under existing laws.
- Pending the organization of new tax agency, all incumbent personnel of BIR should continue to exercise their duties as personnel of BIR (not the new authority), otherwise, capture of new system by incumbents will be fostered and cost of establishing new tax agency will tend to be unduly high.

Table 4. Key Features of Alternative House Bills Proposing to Create New Revenue Authority

Key Design Feature	House Bill 5054	House Bill 5465	Substitute Bill	Ideal
New Agency Name	Internal Revenue Management Authority (IRMA)	National Authority for Tax Administration (NARA)	National Revenue Authority (NRA)	
Legal Features				
Legal Character	separate legal character	separate legal character	separate legal character	separate legal character
Patrimony	can own assets and create liabilities	can own assets and create liabilities	can own assets and create liabilities to be used solely for the improvement of its capital and infrastructure needs	can own assets and create liabilities to be used solely for the improvement of its capital and infrastructure needs
Governance structure				
Governance model	board of directors model	board of directors model	board of directors model	board of directors model
BOD membership	4 government representatives (<i>ex officio</i>) and 3 private sector representative	5 government representatives (<i>ex officio</i>) and 4 private sector representative	4 government representatives (<i>ex officio</i>) and 3 private sector representative	3 <i>ex officio</i> government representatives (DOF, DBM and NEDA) and 4 full time private sector representative; Commissioner as non-voting member
Appointment of BOD members	appointment by President for a period of 3 years with possibility of reappointment once	appointment by President for a period of 3 years with possibility of reappointment once	appointment by President for a period of 3 years with possibility of reappointment once	appointment by President for a period of 5 years with possibility of reappointment once
Appointment of commissioner	appointment by Board for a period of 3 years with possibility of reappointment depending on performance but limited to a maximum of 3 terms	appointment by Board for a period of 3 years with possibility of reappointment depending on performance but limited to a maximum of 3 terms	appointment by Board for a period of 4 years with possibility of reappointment depending on performance; no term limit	appointment by Board for a period of 5 years with possibility of reappointment depending on performance once
Functions of the Board				Board tasked with making policies governing the operations of the authority
Functions of the Commissioner				Commissioner tasked with implementing policies set by the boards and administering day-to-day operations of the revenue authority

Table 4 (con't)

Key Design Feature	House Bill 5054	House Bill 5465	Substitute Bill	Ideal
Financing Mechanism				
Source of funds	between 1% and 2% of actual tax collections; 5% of excess over target	between 1% and 2% of actual tax collections; 5% of excess over target	2% of actual tax collections in the previous year plus 5% of annual collection in excess of its target	1.5% of actual collections in the previous year
Transfer of funds	congressional appropriation	congressional appropriation	automatic appropriation/release	automatic appropriation/release
Personnel system				
establishment of human resource management system and oversight of the same	Own human resource management system (hiring, transfer, promotion, dismissal, pay and position classification) promulgated by commissioner; final appellate authority in cases involving promotion, transfer, assignment rests with Board	Own human resource management system (hiring, transfer, promotion, dismissal, pay and position classification) promulgated by commissioner; final appellate authority in cases involving promotion, transfer, assignment rests with Board	organizational structure, compensation / position classification scheme, qualification standards and performance-based management system governing selection, hiring, appointment, transfer, promotion and dismissal of personnel set by the Board; appointment and deployment of personnel in accordance with Civil Service Law	Own human resource management system (hiring, transfer, promotion, dismissal, pay and position classification) promulgated by Board and administered/implemented by commissioner; final appellate authority in cases involving promotion, transfer, assignment
Recruitment of employees of new tax agency	no preferential or prior right shall be given to BIR employee	preferential absorption of BIR employees	preferential absorption of BIR employees	no preferential or prior right shall be given to BIR employees
Accountability mechanisms				
Strong internal audit unit	yes	yes	yes; deemed deputized by Office of Ombudsman; tasks to conduct periodic lifestyle checks of personnel	yes; deputized by Office of Ombudsman; to conduct periodic lifestyle checks of personnel
External audit	no mention	no mention	no mention	Periodic third party performance audit by entity to be identified by the Board; financial audit by COA
Code of ethics	no mention	no mention	no mention	Board should establish and implement a written code of ethics for all employees

Table 4 (con't)

Key Design Feature	House Bill 5054	House Bill 5465	Substitute Bill	Ideal
Accountability mechanisms Clear reporting rules	as indicated in Section 20 of NIRC	as indicated in Section 20 of NIRC	in addition to requirements indicated in Section 20 of NIRC, submission of annual and semi-annual report to Senate and House of Representatives and to Congressional Oversight Committee; in the first 3 years from effectivity of the Act, Joint Congressional Revenue Commission to review reports and evaluate implementation of Authority	in addition to requirements indicated in Section 20 of NIRC, submission of annual and semi-annual report to Senate and House of Representatives; abolish Congressional Oversight Committee; no to Joint Congressional Revenue Commission
Separation Benefits	gratuities and benefits under existing laws	separation incentives over and above gratuities and benefits under existing laws	separation incentives over and above gratuities and benefits under existing laws; package equal to 3 months for every year of service	separation incentives over and above gratuities and benefits under existing laws; package not to exceed 1.5 months per every month of service
Transitory provision	all incumbent personnel in BIR as of date of approval of act shall continue to exercise their duties and function as personnel of the Authority	all incumbent personnel in BIR as of date of approval of act shall continue to exercise their duties and function as personnel of the Authority	all incumbent personnel in BIR as of date of approval of act shall continue to exercise their duties and function as personnel of the Authority	pending the organization of new Authority, all incumbent personnel of BIR shall continue to exercise their duties and functions as personnel of BIR (not as personnel of Authority)

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