

## Negative Bureaucratic Behavior and Development: The Case of the Bureau of Internal Revenue

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*The prevailing administrative culture of the Bureau of Internal Revenue (BIR) tolerates corruption despite legal and administrative sanctions prohibiting negative bureaucratic behavior. Cases are presented to illustrate two kinds of corruption—internal corruption which is done without direct collusion with the client and external corruption in which the bureaucrat colludes and bargains with the client at the boundary exchange level. Reforms have, however, been instituted to minimize, if not eliminate corruption in the BIR. Still, since corruption has been found to have a negative effect on development, adoption of measures to eliminate corruption must not be separated from the larger goal of forming a more development-oriented society.*

### Introduction

This paper describes negative bureaucratic behavior in the revenue-raising agency and its possible effect on the developmental process. The agency selected is the Bureau of Internal Revenue, one of the two major revenue-raising agencies in the Philippines. In particular, this paper seeks to answer the following questions:

(1) What is the prevailing administrative culture in the Bureau of Internal Revenue? How does corruption and related criminal acts occur in the agency?

(2) What specific cases illustrate corrupt acts in the BIR?

(3) What steps have been taken in order to minimize opportunities for corruption in the BIR?

(4) What is the effect of corrupt behavior on the development process?

The administrative culture of the BIR will be described, and factors inherent in the functions and the history of the BIR as a revenue-raising agency which tend to aggravate tendencies towards corruption will be identified.

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Actual corruption may be classified into *internal corruption* which is done without direct collusion with an outsider or client; and *external corruption* where the

bureaucrat colludes and bargains with a client at the boundary exchange level. BIR employees themselves have openly admitted that latter type is more "financially rewarding" and consequently more difficult to prove.

Steps undertaken by the BIR to minimize opportunities for corruption refer mainly to events after September 21, 1975, when the President, in a decisive move against "backsliding" bureaucrats, initiated a massive "purge" of the governmental machinery. The standing resignations of leading officials were accepted. Among the most affected agencies were those in financial administration, including the Bureau of Internal Revenue. A commissioner was appointed, Justice Efren I. Plana, formerly of the Court of Appeals. Since then, Commissioner Plana has waged a determined war against corruption.

### Methodology

Because of the sensitive nature of the topic, clearance to obtain data on corruption in the BIR was first obtained from Commissioner Efren Plana, the head of the agency. Despite this, it was still difficult to find respondents who would be willing to share their personal experiences on the topic for obvious reasons. The researcher spent one year just trying to identify possible sources of information. Even so, this could not have been done without the help of personal friends and

former students at the College of Public Administration.

Another problem encountered was that of finding access to cases. The head of the Bureau's Security and Investigation Division greatly facilitated the researcher's search for decided cases that can be used relative to this study. Decided cases were chosen because of difficulties encountered in securing information on pending cases and the reluctance of employes to provide information which may be derogatory to their officemates.

Criteria used in the selection of cases were (1) representativeness, and (2) completeness of data. Selected cases were counterchecked further with the records and files of the Personnel Division.

More than fifty BIR respondents were interviewed using a nonstructured informal interview schedule. Interviews with taxpayers were also conducted. Respondents were chosen through referrals from certain BIR personnel, newspaper exposés, tips and the like. The researcher visited many of them in their homes. Confidentiality of source was often a prerequisite to these interviews.

### The BIR: A Brief Review

Although the Bureau of Internal Revenue, like most major government agencies, was formed during the American occupation, the practice of collecting compulsory contributions started as early as the

pre-Spanish colonial period when the early tribal chiefs exacted tributes from their subjects. The Spanish colonizers who ruled the Philippines for nearly four centuries were, however, the first foreigners to institutionalize a system of taxation upon the people.

During the Spanish regime, collection of taxes was done by the *contador de resultados*, or chief royal accountant. He was aided by the *cabezas de barangay*, nominal heads in the villages; the *alcaldes* in the towns; and the *gobernadorcillos* in the provinces.<sup>1</sup>

When the Americans occupied the Philippines, one of their earliest acts was to form an agency for the collection of taxes. Thus, on July 2, 1904, the Philippine Commission passed Reorganization Act No. 1189 creating the Bureau of Internal Revenue. The Bureau was formally organized on August 1, 1904.<sup>2</sup>

At present, the Bureau is under the control, direction and supervision of the Department of Finance, along with the other major revenue-raising agencies, namely, the Bureau of Customs and the Bureau of the Treasury.

Its principal functions are the following:

- (1) to collect all internal revenue taxes, fees and charges;

<sup>1</sup>Josue Rem Siat, "Historical Roots of Taxation and Tax Administration," *Philippine Revenue Service (Special Issue)* (August 1970), p. 10.

<sup>2</sup>*Ibid.*

- (2) to enforce all forfeitures, penalties and fines connected therewith, including the execution of judgments in all cases decided in its favor by the Court of Tax Appeals and ordinary courts; and

- (3) to give effect and administer the supervisory and police power conferred upon it by the National Internal Revenue Code and other laws.<sup>3</sup>

The Bureau started with a personnel complement of only 69 employes in 1904. It now has a working force of 7,854 employes. In the process it has undergone a number of reorganizations, the most notable of which were the comprehensive government reorganization plan of the Government Survey and Reorganization Commission (GSRC) in 1954 and the Integrated Reorganization Plan (IRP), or P.D. No. 1, in 1972. However, the most dramatic shakeup directly affecting the Bureau which had immediate implication on corruption was the "general purge" of September 21, 1975.

At present, the Bureau is headed by a Commissioner, with one Deputy Commissioner and two Assistant Commissioners. It has nine services (formerly called departments) with forty divisions, nine of which are directly under the Commissioner. These are all in the central office. The field service which is divided into geographical

<sup>3</sup>National Internal Revenue Code of 1977, Section 3.

operational areas has 17 regional offices and 91 revenue districts spread all over the country. The regional offices are headed by revenue regional directors who are directly responsible to the Commissioner. The revenue districts are headed by revenue district directors who are under the immediate supervision of their respective revenue regional directors. (Please refer to Figure 1).

The BIR has a budget of ₱150,822 million for CY 1978, almost one-half of the latest Department of Finance budget of ₱310,866 million.<sup>4</sup>

The strategic role of the Bureau of Internal Revenue in the financial system of the Philippine government evidences itself in the amount of revenue that it collects. The BIR from an initial collection of ₱4.2 million in 1905, collected ₱8.3 billion for CY 1976. The latter is over 40 percent of total national government receipts amounting to ₱20.2 billion for the same period. For CY 1977, the BIR expects to collect ₱10.1 billion, nearly one-half of total receipts projected for the period.<sup>5</sup>

### *The Image of the BIR*

Generally, the image of the BIR before the taxpaying public has not

been very flattering. While BIR employes are regarded with dread because of their tax collection function, they are also subjected to public contempt, and possibly, private envy. The Bureau is generally associated with corruption. Respondents who were interviewed say that there was a time when they were even ashamed to admit that they were BIR employes. One said that he would only admit to being an employe of the Department of Finance; another would only say that he was a lawyer whenever asked about his job. A typical reaction upon learning that an individual works with the BIR was, "Why, he must be rich!"

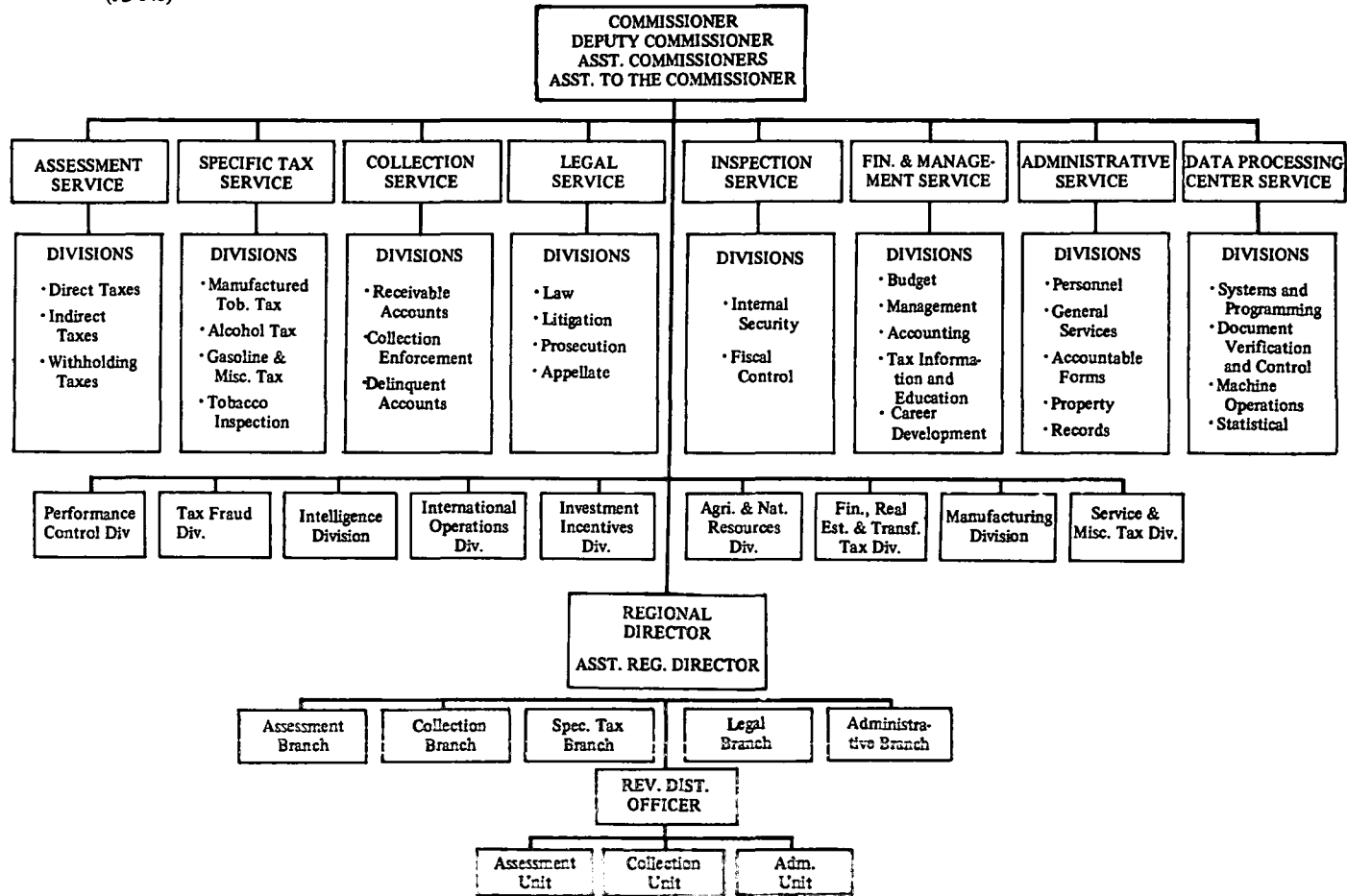
Before the seventies when newspapers, radio commentators and the general citizenry publicly denounced corruption in high places, the BIR was one of the favorite subjects of exposés and villification.<sup>6</sup> Despite this, many who apply for work in the government express a preference for working in that agency, even if it means pulling strings. Once within the BIR, the enterprising ones jockey for the position of BIR examiner. This is particularly true of certified public accountants (CPAs) and lawyers. Supervisors have been known to complain that many of their CPAs and lawyers want to be BIR examiners or try to

<sup>4</sup>Presidential Decree No. 1250 (General Appropriation Decree), January 1-December 31, 1978.

<sup>5</sup>Efren I. Plana, "The BIR Today Faces the Challenge of Reform and Development," *Fookien Times Philippines Yearbook*, 1977, p. 140.

<sup>6</sup>See for example, Alfredo S. Quijano, "BIR Harassment Policy," *Examiner* (November 2, 1968), p. 7; also, Edward C. Kuinisala, "Lagay is my Guy," *Philippines Free Press* (October 19, 1968).

Figure 1. BUREAU OF INTERNAL REVENUE Organizational & Functional Chart  
 July 1, 1975  
 (PD 640)



get assigned on official detail as examiners.

Since 1975, a determined campaign has been launched by the present Commissioner to change the image of the Bureau by instituting measures designed to reeducate the BIR employe and eliminate opportunities for corruption. However, many concede that it will take time to obliterate the notoriety acquired through decades of negative bureaucratic behavior that has long been associated with the agency.

### The Administrative Culture

The administrative culture in the BIR is part of the existing pattern of values, attitudes and social norms pervading the entire governmental system in the Philippines. These cultural norms that tend to tolerate corruption and create opportunities for pursuing such activities coexist with legal and administrative provisions prohibiting and punishing corruption.

At the same time, weaknesses in the administrative machinery give ample opportunity for manipulation and collusion, particularly at the boundary exchange level, or at the level where bureaucrats deal directly with their clients. Corruption apparently results from a combination of inclination and opportunity.

In the case of the Bureau of Internal Revenue, this is aggravated by factors peculiar to the agency and by the nature of its functions. In the first place, there is the tradi-

tional negative attitude towards the payment of taxes and the desire to avoid, if not to evade, payment. Taxes are defined as a "compulsory payment to the government in return for which the payer gets no definite, specific commodity or service."<sup>7</sup> These two aspects of taxation—its compulsory nature and the fact that whatever benefit it is supposed to give cannot be readily discerned by the taxpayer—tend to generate negative attitudes, resistance and even resentment over the idea of having to pay taxes at all. This in turn paves the way to evasion and avoidance.

In countries which have histories of prolonged colonial domination, taxes have been associated with the colonizers. It was therefore not surprising that one of the first symbolic acts taken by the Filipino revolutionaries against Spanish rule was to tear up their *cedulas*, taxes forcibly levied on the Filipinos which appeared to them as symbols not only of Spanish corruption, but of violent oppression as well. Such prolonged association of taxes with oppression and corruption has probably engendered the apparent negative attitude of the modern-day taxpayer.

In the second place, the temptation to make a fortune is much stronger in the BIR and other agencies where employes directly handle

<sup>7</sup>Eduardo Z. Romualdez, Angel Q. Yonico and Antonio Casem, Jr., *Philippine Public Finance* (Manila: GIC Enterprise, 1973), p. 220.

considerable sums of money. While all government employes are subject to economic pressures, a BIR agent is faced with the option of solving his financial problems by either helping himself to his collections or colluding with the taxpayer for a fee. At the same time, the technical aspects of taxation give a wide berth to the BIR agent in interpreting the law. According to a service chief, "once the BIR agent is in the field, he is on his own; he applies and enforces the income tax law independently. He can manipulate his findings to suit his purpose." This gives rise to opportunities for bargaining, collusion and finally corruption.

The above combination of factors, plus the prevailing social norms that condone corruption create a favorable climate for corruption. That the temptation in the BIR is formidable is reflected in the comments of certain BIR officials who declared that they will never allow their children to work in this agency since the latter may not have the moral strength to resist the tremendous pressure to commit corrupt acts.

However, it must be emphasized that while the image of the BIR has not been very flattering on the whole, the assumption that the BIR employe is corrupt is not accurate. Our interviews and actual observation of the Bureau during the period of research indicated that corruption tends to be concentrated only in areas where boundary exchange

processes take place and in positions where a bureaucrat can exercise powers of discretion. On one of our visits to a major regional office, we actually saw a clerk selling dried fish in plastic bags in an effort perhaps to earn a few more honest pesos. Rank and file employes had the same harassed look typical of government workers perpetually trying to make ends meet.

It is claimed, though, that when an employe makes a "killing," he usually shares his booty with his less enterprising officemates (and even with his bosses) through blow-outs, celebrations and even direct doleouts. Employes talk of finding envelopes on their tables on such happy occasions.

This leads us to another facet of the administrative culture of the BIR which is the unusual closeness of the employes, especially at the middle management level. All respondents at the BIR made mention of the strong ties of affection and close interpersonal relations that bind the BIR employes together. This is particularly true among the more senior employes in the agency. The answer of one official interviewed about the case of a dismissed employe is perhaps typical, "I cannot comment on this case. It is difficult to cut off the head of a member of the family." It seems that these ties are strengthened by the above-mentioned system where the ones with "initiative" and daring share with the timid and the "less fortunate." Some sectors even claim

that a close knit "fraternity" which controls choice positions, protects its members, and distributes the profits of corruption, exists in the agency.

### Internal Corruption

It is difficult to isolate a purely "corrupt act" based on the legal definition, and a "criminal" act. Most of the situations we have observed concern not only corrupt acts per se but related criminal activities as well. Many of those who have been dismissed from the BIR were charged for both corrupt practices and criminal acts. Thus, they were dismissed from the service and criminally charged at the same time.

Internal corruption takes place in a variety of situations. One is through manipulation of administrative mechanisms. Another is through collusion with fellow employees.

#### *Falsification and Manipulation of Financial Documents and Records*

Of all "inside jobs," this is the most financially rewarding. One or more employees can collude and tamper with official receipts (O.R.) to make recorded payments less than the amount actually received. The original of the official receipt is given to the taxpayer. What the receiving officer does is to make sure that there are no carbon copies. Later on, he would fill the blank duplicate himself and reduce the

amounts involved. An attempt to stop this malpractice was made by the Department of Finance through Memorandum Circular 11-68 dated July 5, 1968 where receiving officers were obligated to give the client the duplicate instead of the original O.R.

It was presumed that it would be more difficult to tamper with the original official receipts. However, cases of tampering with official receipts continue to be uncovered with amounts ranging up to millions. Initial investigation of a revenue collection agent who manipulated his official receipts revealed that he had accumulated over ₱80,000; another amassed over ₱1 million.

Another practice of erring BIR fieldmen is to falsify remittances of returns. Department of Finance Order No. 20-73 dated June 14, 1973 and Revenue Memorandum Circular No. 27-76 dated August 31, 1976 require that collections be remitted weekly or at any time it reaches ₱500. However, fieldmen can falsify documents to make it appear that they have made remittances and deposits to the official bank depository. If an agent is careful in covering up his tracks he can gradually accumulate sizeable amounts from manipulation of receipts and falsification of remittances, as in the case of a collection agent from Central Luzon who accumulated ₱255,771.50 in a few years time.

Another rich source is the overprinting of documentary strip



stamps, auxiliary labels and cigaret stamps. One spectacular case of overprinting was discovered last October 1975 involving 108 cash clerks and collection agents, with overprinted documentary stamps amounting to P2.5 million.<sup>8</sup>

#### *Selling and Bidding For Choice Positions*

One practice which has long been associated with the BIR is the selling of sensitive positions to the highest bidder. Perhaps, this is a carryover from the Spanish colonial administration where positions in the colonial government were bought and sold. A position acquired under such circumstances takes the nature of a business investment which has to be recovered and made as profitable as possible. Some informants claim that this practice is syndicated in the sense that a group controls the parcelling out of juicy posts to bidders. While this practice is of general knowledge in the BIR and elsewhere, proving it has been difficult. Those who say that it used to be practiced refuse to give details. Others say they have only heard about it. In a newspaper interview, Commissioner Plana stated that the probe into this practice has not yielded concrete results, so far.<sup>9</sup>

Interviewees in the BIR all admit that bidding for positions used to

<sup>8</sup>"108 Revenue Men Probed on Stamps," *Daily Express* (November 14, 1976).

<sup>9</sup>"77 Dismissed, 21 Suspended in BIR Purge," *Manila Daily Bulletin* (March 19, 1977).

be rampant before. However, with the coming into office of the new Commissioner, there has been a reduction in activities of this type because the Commissioner himself reviews all important appointments to ferret out possible collusion.

#### *Delaying of Remittances*

Another common practice of BIR officers which is not easily detectable is the delaying of remittances. For example, an agent may have collections for the month of March. What he will do is delay his remittance and use the money in the meantime. Next month, he will use his April collections and remit these as March collections and so on. An agent can do this continuously for long periods of time without getting caught. Again, while this may appear to be a harmless practice involving petty amounts, if it is done over a prolonged period of time, the amounts involved become quite sizeable, and may therefore easily lead to malversation. Since 1976, the Fiscal Control Division has audited 13 agents suspected of this malpractice. All of them were proven guilty. Out of the thirteen, nine admitted that they withheld remittances and used the money for personal purposes.

#### *Accepting Bribes For Agents With Cases*

This type of activity is limited to BIR officers with investigatory functions. These officers in charge of investigating other erring officers

are bribed so that they will sit on cases, delay investigation or better still, dismiss complaints. Others sit on cases out of a sense of *pakiki-sama* with their co-employees. The attitude of *kami at sila* (us and them) is very strong in the BIR. Since the Bureau's investigation offices were drastically reorganized, this practice has been largely minimized.

### External Corruption

Corruption at the boundary exchange level is admittedly the most prevalent form of venality from the public point of view. However, this is also the most difficult to prove, since it involves collusion between the taxpayer and the BIR collector, neither of whom would presumably want to implicate each other. It is most often talked and complained about, but people refuse to come up with concrete cases. Taxpayers hesitate to denounce BIR agents because in so doing they themselves become vulnerable to criminal charges. The agents on the other hand claim they encounter difficulties in pinning down taxpayers since the latter can have powerful connections and may easily retaliate. Taxpayers who were interviewed claim that it is the BIR agents who extort money from them. On the other hand, BIR agents claim that it is the taxpayers who corrupt them.

While internal corruption, particularly manipulation of records and documents, can be discovered be-

cause there is written evidence, only the testimony of one of the colluding parties will expose a case of external corruption.

### Income Taxes and the Arreglo

There are two general types of collusion: *lagay* and *arreglo*. *Lagay* can be petty but *arreglo* is certainly not. *Lagay* refers to money or gifts which are given in order to facilitate the processing of papers as it passes from table to table. It helps oil the bureaucratic machinery. In 1968 for example, it was estimated that the *lagay* for one single importation permit was P63. Presumably, the cost is much higher at present.

On the other hand, *arreglo* is on a large-scale basis. The word literally means coming to terms, and making arrangements and accommodations for a fee. This is a more serious offense since laws are directly violated by both the taxpayer and the agent.<sup>10</sup>

*Arreglo* is more often used to settle income tax cases. When the taxpayer files his income tax, in effect he assesses himself. He reports his gross income, deducts his expenditures and then computes the tax due on the net taxable income. The BIR reviews his return. If it is found that income has been understated, expenditures inflated or the tax due computed incorrectly, an examiner interviews the taxpayer.

<sup>10</sup>John Yench, "It's Business," *Examiner* (October 5, 1968), p. 18.

Arreglo comes to play in the determination of the deficiency tax. The Complaints and Investigation Office of the President reports of a case where a businessman was levied a deficiency tax of P240,000. The BIR agent offered to reduce it to P120,000 with P40,000 going to the government and P80,000 going to him. Here, the arreglo fee is P80,000. The businessman reported the incident to the CIO. However, he was unwilling to make a sworn statement.

The income tax is admittedly the richest single source of corruption. An agent can make a sizeable profit in one big transaction. The opportunity for collusion presents itself in the review of both income and expenditures. It is said that it is relatively easier for a taxpayer to understate his income than to overstate his expenditures. Still, both activities offer fertile ground for collusion. For example, a taxpayer reports a gross income of P100,000 but does not report P500,000 which could be gains from a capital asset transaction. Extraneous income for activities not directly related to the business or regular activity of a taxpayer cannot be traced easily. However, an enterprising examiner usually has other sources of information. He can conduct investigations and researches to get documentary evidence on the unreported income. He accumulates his evidence and confronts the taxpayer. The negotiations begin. If all goes well, the agent may refrain from

reporting discovery of the understated income for an arreglo.

From the taxpayer's point of view, it is more difficult to overstate his expenditures. However, for an arreglo, an agent may use his discretion and accept claimed deductions. Also, he may recommend allowable deductions. Thus, the area of discretion exercised by the examiner is in the interpretation of allowable deductions.

An examiner may also extort money by taking advantage of the taxpayer's ignorance of BIR regulations. He can accuse the taxpayer of not paying taxes on even non-taxable income, e.g. pensions.

#### *Lagay*

The asking of lagay for the simplest service like furnishing records and clearances used to be rampant. This is a familiar practice in other offices where money has to be shelled out as a document moves from one table to another. Taxpayers themselves offer money to speed up transactions, especially on the matter of clearances. Insiders at the Bureau now claim that this practice has been placed under control.

#### *Giving of Legal Advice*

BIR employes can earn extra money by furnishing advice on how to reduce reported income and increase expenditures legally. Since they are familiar with BIR regulations, agents are in a position to

give advice which can result in substantial tax savings for the taxpayers. The savings are usually shared by both.

### Cases of Corruption

The cases which are cited in this paper were culled from records of the Inspection Service, one of the eight major Services in the Bureau. The Inspection Service is composed of two divisions: The Fiscal Control Division which monitors the activities of accountable employes, and the Internal Security Service which keeps an eye on the activities of all BIR employes for corrupt and criminal practices. Their records were supplemented with interviews and examination of newspaper reports.

As mentioned earlier, it is difficult to isolate pure cases of corruption from related criminal acts. Almost always, what were considered as corrupt practices were also punishable under criminal law. The names the persons involved in these cases are fictitious.

### Manipulation of Records

*Mr. Cruz and the Official Receipts.* Mr. Cruz was a Revenue Collection Agent of a most affluent town in the Metro Manila area. He owned a large house, a fleet of cars and frequently gave parties. On the average, he would maintain at least three cars, constantly changing them and acquiring new models. At night, he attended law school and impressed his classmates with his blowouts and celebrations. One of

his professors, a more senior official in the BIR, was chided by the other students for not being as affluent as Mr. Cruz.

The law finally caught up with the fast-living Mr. Cruz when a team from his revenue district conducted a special audit. The fiscal auditors of the present Fiscal Control Division also conducted a separate audit. The findings of both teams revealed that Mr. Cruz had been manipulating official receipts for documentary stamps and payments for specific taxes. He colluded with an employe of the municipal government detailed with his office, and with another party. Among the three of them, they issued 58 official receipts to a racing club in that town and seven official receipts to a manufacturing company for its specific taxes. The total amount malversed was computed as follows:

Total amounts actually paid by the taxpayers, as evidenced by their copies of the official receipts .....	P12,309,202.05
Total amount indicated in the BIR copies of the official receipts .....	9,143,585.80
Total amount malversed .....	<u>P 3,165,616.25</u>

The anomaly was discovered when the auditors compared the BIR file copies of the official re-

ceipts with the copies retained by the taxpayers.

Apparently, what Mr. Cruz did was to reflect the correct amount of taxes paid in the copies of the official receipts issued to the taxpayer. However, much smaller amounts were written in the copies retained by the BIR.

The records of the BIR show that Mr. Cruz was able to do this for a period of nearly two years, from February 13, 1973 to December 1974, despite Finance Department Memo Circular 11-68.

What Mr. Cruz did is considered a corrupt practice as per Sec. 3 of R.A. 3019 otherwise known as the Anti-Graft Law as follows:

*Section 3(a).* Persuading, inducing or influencing another public official to perform an act constituting a violation of rules and regulations duly promulgated by competent authority for an offense in connection with the official duties of the latter or allowing himself to be persuaded, induced or influenced to commit such violation or offense.

At the same time, Mr. Cruz was found guilty of malversation of funds. He and his partner were charged with malversation through falsification of public and official documents. The investigation strongly indicated that in addition to manipulation of records, he also received lagay and arreglo. There was however insufficient evidence to prove this conclusively.

Mr. Cruz was dismissed from the Bureau. His criminal case is still

pending in the Court of First Instance of Rizal.

*The Mysterious Mr. Bong.* This case concerns Mr. Bong, a Revenue Collection Agent assigned to a town of a timber-rich province in Mindanao. This town has one major taxpayer, a logging corporation.

According to the records of the BIR Personnel Division, Mr. Bong joined the BIR in 1968 and was immediately assigned as Revenue Collection Agent I. Although his records indicated that he was only a high school graduate with no civil service eligibility, he was given substantial financial responsibilities as Revenue Collector Agent.

In 1977, based on findings of the Fiscal Control Division, Mr. Bong was suspected of manipulating records and was subjected to an audit. During the audit, it was discovered that Mr. Bong requisitioned 10 booklets of Revenue Official Receipts bearing Serial Nos. 4515001 to 4515500. However, said receipts were not reflected in the monthly reports of collections from June 1, 1974 to January 1, 1976, the period under audit. These same official receipts were not among those turned over on January 15, 1976 to the succeeding agent.

Based on available records the audit team was able to determine that the shortage of Mr. Bong amounted to P1,004,407.03. Of this amount, P243,718.69 constituted the unreported tax payments of the logging corporation. It was also dis-

covered that five of the missing official receipts requisitioned by Mr. Bong were issued to the logging corporation as follows:

<i>ROR No.</i>	<i>Dates Issued</i>	<i>Amount</i>
4515484	5-31-76	₱ 86,850.00
4515482	5-21-76	22,335.43
4515226	3- 5-76	300.00
4515127	3- 5-76	300.00
4515120	1- 9-76	38,694.12
		₱148,479.55

Despite incomplete records the audit team had reason to believe that the shortage of Mr. Bong was much more than ₱1 million. They also strongly suspected that he colluded with the logging corporation and the local bank. The logging corporation claimed that their tax payments were made to Mr. Bong and that the bank did not return their checks. Presumably, the checks must have been made payable to the Commissioner. The intriguing question was: if the tax payments were made in checks which were payable to the Commissioner, how was Mr. Bong able to cash the checks?

At the time of the audit, rumors were floated in the newspapers that revenue collections in certain provinces of Mindanao were being channelled to the secessionist movement. The BIR requested for an ASSO (Arrest, Search and Seizure Order) on Mr. Bong and his personal files to determine his exact accountabil-

ity and to locate missing records. BIR investigators also wanted to define the extent of the participation of the logging corporation and the local bank in the manipulations of Mr. Bong.

Fortunately for Mr. Bong, he died in April 1977 before an ASSO could finally be obtained. His full accountability was not completely ascertained. Strangely, Mr. Bong did not leave any properties, whether in his name, his wife's or his relatives! Verification with the Register of Deeds and the Board of Transportation yielded no results. Up to now, two questions still remain: (1) where did the wily Mr. Bong channel over ₱1 million in government revenues? and (2) how could a high school graduate have been appointed as an accounting officer?

*Mr. Lauro and His Fictitious Remittances.* Mr. Lauro, a lawyer, joined the BIR as Revenue Collector I in 1970. He was assigned as revenue collector of a town in a Central Luzon Province. He was chosen for audit on the basis of evidence gathered by the Fiscal Control Division pointing to possible corruption.

Fiscal inspectors of the Fiscal Control Division of the BIR, in coordination with representatives of the Office of the Provincial Auditor, conducted an audit of the records of Mr. Lauro for the period January 1, 1972 to March 31, 1976. They established that his shortage amounted to ₱255,771.56 as follows:

Undeposited internal revenue collections, per letter of demand dated June 8, 1976 .....	₱10,518.94
Fictitious remittances as confirmed by the PNB, San Jose City Branch .....	214,156.36
Understated collections from a company .....	31,096.26
	<u>₱255,771.56</u>

It will be noted from the above that the bulk of the shortage consisted of unremitted collections. Mr. Lauro made it appear that he remitted his collections to the Philippine National Bank (PNB) by falsifying remittance advices supposedly acknowledged by the latter. A check with the PNB exposed the irregularity.

The shortage of ₱31,096.26 was incurred when Mr. Lauro manipulated the payment receipts of a big firm. He wrote the correct amount in the receipt of the taxpayer but a smaller one in the copy for the BIR files. The ₱10,518.94 consisted of collections from April 1 to May 12, 1976 which he deliberately did not enter in his cash book.

Mr. Lauro was criminally charged for malversation of public funds on three counts. Mr. Lauro was also suspected of colluding with taxpayers but this could not be proven conclusively. His case was given wide coverage in the metropolitan

papers. He was eventually dismissed from the service.

#### *Collusion and Extortion*

*Investigating the Investigators.* Cases of corruption at the boundary exchange level although of common knowledge are difficult to prove, unless one of the parties involved comes out openly and is prepared to testify. If the transaction is mutually beneficial, neither one would make a fuss and this could even develop into a retainer-like relationship.

Most of the cases concerning collusion at the boundary exchange which have been uncovered were brought to light because the affected taxpayer complained, either because he does not want an arreglo or the amount demanded is excessive, or he is tired of continually giving money to agents. The technique used to prove this type of corruption conclusively is known as entrapment, where a scenario is set so that an agent is caught in the act of receiving money. He is arrested on the spot and charged both with corruption and extortion.

This is what happened in the case of two investigators of the BIR, Mr. Reyes and Mr. Santos, who were assigned the task of tracking down erring taxpayers.

According to their Division Chief, Mr. Reyes and Mr. Santos received a tip on the stockpiling of smuggled fabrics in Divisoria. They relayed this information to the Commis-

sioner. The latter issued an order dated July 22, 1977 to Mr. Reyes and Mr. Santos and their supervisor, Mr. Torres, to look into the veracity of the information by conducting a spot check on the goods. The owner could not produce papers indicating that he had paid taxes for the imported textiles. An inventory was conducted and the result was signed by the three agents and the owner. The agents then called their Division Chief by telephone. The latter ordered them to confiscate the goods. The storeowner pleaded over the telephone that he be allowed to retain the goods but the Division Chief refused. The textiles were therefore confiscated and brought to the BIR National Office in Quezon City.

A report was prepared by the Division in coordination with the Bureau of Customs for the assessment of the goods. The assessment was computed at ₱22,000. The owner was invited to come over with his lawyer and accountants, and to bring over their books. The owner sent his representative who complained that the assessment was too much.

Reyes and Santos had also been assigned to conduct preliminary investigations regarding incorrect payment of taxes of a corporation engaged in the manufacture of molasses. The investigation was confidential and was supposed to be conducted without the knowledge of the taxpayer concerned. In the course of their investigation, Reyes

and Santos became acquainted with a woman who turned out to be the common-law wife of the company president.

From there on, the accounts on the same incident differed. The sworn statement executed by the company president, his wife and the corporate secretary indicated that Santos originally demanded ₱1 million for arreglo of an alleged tax evasion case in the amount of ₱2 million. However, on August 24, 1977, Mr. Santos, accompanied by Mr. Reyes, met with the taxpayers and demanded ₱175,000. The businessman and his wife claimed that they agreed to give Mr. Reyes and Mr. Santos an undetermined amount of money in a Calocan City restaurant. It was in this restaurant where the entrapment was set by combined elements of the Metrocom and the Intelligence Service of the Armed Forces of the Philippines (ISAFP). On August 27, 1977, Mr. Santos was in the act of receiving ₱10,000.00 in marked bills when he was arrested. On August 30, 1977 Commissioner Plana, upon approval of Secretary of Finance Cesar Virata, summarily dismissed Mr. Reyes and Mr. Santos. Although Mr. Reyes was not around when Mr. Santos was arrested, he was cited in the sworn statement of the businessman as accomplice. The arrests and announcement of dismissals were given front page treatment in the metropolitan dailies.

To make matters worse for Mr. Reyes and Mr. Santos, a twist in



the textiles case had also developed, involving the two deeper in corruption. The storeowner presented in a sworn statement sometime in September a different version of the textiles case, details of which were released to the newspapers. According to the storeowner, he was informed after the inventory that he was liable to pay P200,000 taxes. This was later reduced after some bargaining to P168,000. Later on, the owner claimed, Reyes, Santos and their supervisor Mr. Torres proposed that an arreglo of P50,000 would settle the whole problem. The owner was further threatened with criminal prosecution if he did not agree to their proposal. Because he feared the prospect of criminal charges, the owner bargained with the agents until the amount of P20,000 was agreed upon. He therefore issued, according to him, a check marked for "Reyes, Santos and Torres" which he himself cashed. The proceeds of the check were turned over to the three, the owner claimed.

The Commissioner referred the case to the Philippine Constabulary (PC) which filed criminal charges against the three on September 16, 1977. The event was widely publicized and resulted in an exchange of press releases and statements.

Mr. Reyes and Mr. Santos, aside from being summarily dismissed by the BIR, are presently facing two criminal charges filed by the PC for both the textiles and molasses cases. Their supervisor, Mr. Torres, is

being charged for extortion in the textiles case even as he faces administrative charges in the BIR.

Although the case of Reyes and Santos is already considered closed as far as the BIR is concerned, the former have made public statements insisting that the textile owner is really guilty of tax evasion. In the ensuing exchange of public statements, Reyes and Santos have claimed that the BIR Commissioner ignored their documented report on the tax evasion of the storeowner and preferred to pay attention to the retaliatory sworn statement of the latter. Commissioner Plana has answered that he has actually forwarded the case of the storeowner to the Customs Bureau since it involved customs duties. He also declared that aside from the testimony of the storeowner and the P20,000 check which was encashed, three witnesses have executed affidavits implicating the three. Mr. Torres has countered with a press statement claiming that the witnesses were not around when the confiscation was made.

It will probably take sometime before the criminal charges against Reyes, Santos and Torres will be finally decided. Reyes and Santos were dismissed from the service while Torres still has a pending administrative charge.

#### **Reforms in the BIR**

The notoriety which the BIR has acquired through decades of publicly-known corrupt activities has led

to the initiation of reforms designed to change its tainted image. Among these are control measures relating to the financial accountability of agents and examiners. One of these is Executive Order No. 206 which requires tax payments particularly in Metro Manila to be paid only through authorized agent banks effective April 6, 1970. Another is Finance Department Memorandum Circular 11-68 dated July 5, 1968 which requires that the duplicate of the office receipt be given to the taxpayer and the original retained by the BIR to prevent manipulation of official receipts.

On September 21, 1968,<sup>11</sup> then BIR Commissioner Misael P. Vera announced to the press that he was going to abolish the practice of allowing reassessment of tax cases. He said that from then on, only one assessment would be allowed to discourage possible collusion between the BIR examiners and the client. Defense Secretary Juan Ponce Enrile likewise suggested that the investigation of income tax returns shall be made only once a year. He charged that the BIR probe of income taxes had not brought any positive result except the mounting complaints of taxpayers against mulcting BIR men.<sup>12</sup> Both proposals were incorporated in Sec. 37 of Republic Act No. 6110,

also known as the Omnibus Tax Law which was passed on August 1, 1969. This was later on amended by Section 337 of Presidential Decree No. 69 signed on November 24, 1972 which states:

*Preservation of Books of Accounts and Other Accounting Records.* All the books of accounts, including the subsidiary books, and other accounting records of corporations, partnerships or persons shall be preserved for them for a period of at least five years from the last entry in each book and shall be subject to examination and inspection only once in a taxable year during that 5-year period by internal revenue officers, except in cases of fraud, irregularity or mistake as determined by the Commissioner, or unless the taxpayer requests otherwise, in which case another examination and inspection may be made.

Before the above amendment was made, the regional director had the sole responsibility to determine the cases of fraud, irregularity or mistake. To prevent possible collaboration between the examiner and the regional director, it was deemed necessary to transfer this function to the Commissioner. This law has to a great extent minimized opportunities for corruption.

However, it can perhaps be said without exaggeration that it was after September 21, 1975 that a massive and concerted drive was initiated in order to curb corrupt practices in the BIR. The assumption into office by Efren L. Plana as Acting Commissioner of the BIR has generated a wave of reforms in the Bureau. Although reactions to

<sup>11</sup>Alfredo S. Quijano, "Delaying Tactics in Tax Collection," *Examiner* (September 21, 1968), p. 6.

<sup>12</sup>Quijano, *op. cit.*, p. 7.

the administrative style of the Commissioner are mixed, there is general agreement on two counts: first, he has started clearing up the BIR; and second, he is scrupulously honest, dedicated and hardworking.

#### *Monitoring Revenue Personnel*

Upon assumption into office, Plana immediately took steps to weed out the notoriously undesirable from the Bureau. This is a continuing process that forms an important part of the program of activities in the BIR. As of September 16, 1975<sup>13</sup> some 88 BIR personnel have already been ousted, as follows: reorganized out—39; required to resign—15; dismissed—34.

In addition, the following key officials have either been removed or demoted: regional directors — 11; assistant regional directors — 5; revenue district officers — 9.

Considering that in the September 21, 1975 "purge" only 22 were removed with one reinstatement, the above figures appear significant. The fact that the guilty have been punished has had a tremendous psychological impact on the employes who are beginning to realize perhaps that the new Commissioner is serious in his campaign to stamp out corruption in the BIR.

Another significant step that has been undertaken is the reorganiza-

<sup>13</sup>See letter of BIR Commissioner Efren I. Plana to Information Secretary Francisco S. Tatad, September 16, 1977.

tion of the Inspection Service, the unit charged with the task of monitoring the activities of BIR employes. There are two divisions under this unit, the Fiscal Control Division and the Internal Security Division. Through the Fiscal Control Division, the Service investigates and audits the activities of financially accountable officials, specifically collection agents and revenue district officers. On the other hand, the Internal Security Division investigates administrative complaints, conducts surveillance operations and renders decisions.

The Inspection Service was reorganized in the wake of reports that employes were accepting bribes from those who had pending cases so that investigations will be delayed or reports will not be acted upon. In the Internal Security Division, only two assistants were retained. Three were removed and the rest were reassigned.

The Fiscal Control Division, on the other hand, worked out a criteria for selecting employes for audit:<sup>14</sup>

- (1) Those who on the basis of the records of the Accounting Di-

<sup>14</sup>See proposed Internal Revenue Memorandum Order to be submitted to BIR Commissioner Plana by Jose Resurreccion, Chief of the Fiscal Control Division, setting guidelines or procedures for compiling and maintaining a control system of indicators that would show BIR collecting officers who are probably guilty of irregularities in the performance of their collection of accounts, June 20, 1977, typescript.

vision, are not prompt in their remittances;

(2) Those whose reports indicate that they made remittances but such cannot be traced, indicating the possibility of fictitious remittances;

(3) Those whose remittances were not validated by authorized respondent banks, e.g., PNB, Philippine Veterans Bank (PVB) or the Development Bank of the Philippines (DBP).

A master list of all the BIR collection agents was prepared and each deficiency was marked by one star. One star is a danger sign, two stars indicate an audit, and three stars call for immediate audit. Since the system was installed, thirteen agents have already been investigated and all have been found guilty of various offenses ranging from technical malversation to withholding of remittances and using these for personal purposes.

The Chief of the Fiscal Control Division is proposing that the above system be institutionalized specially since it has proven to be 100% effective. Other criteria were later added to include: (1) those who engage in high living or lavish consumption; (2) those who regularly gamble; (3) those who frequent night clubs; (4) those who maintain luxurious houses and accumulate properties; (5) those who maintain *queridas* or paramours; (6) those who join exclusive clubs.

To supplement the intelligence activities of BIR units, the present Commissioner has also sought the assistance of outside agencies in ferreting out misbehaving employes. While he continually reviews reports of corrupt activities from BIR employes, Plana claims that he does not swallow such reports "hook, line and sinker." He seeks the help of outside agencies in verifying information and in collecting counter-intelligence information.<sup>15</sup>

#### *Reeducating BIR Personnel*

At the same time that measures have been instituted to remove notoriously corrupt personnel, the present administration claims that it has worked out a system of incentives for deserving personnel. Deliberate steps have been taken to introduce concepts of public service and to redirect the behavior of employes towards honesty and integrity. Features of this revitalized personnel program are:<sup>16</sup>

(1) improved recruitment system designed to attract outstanding young graduates from good universities, particularly those with a healthy outlook on public service. This program is aimed at attracting new lawyers and CPAs;

(2) improved promotion system which places a premium on

<sup>15</sup>Interview with Commissioner Plana.

<sup>16</sup>Plana, *op. cit.*; see also, "Good News for Little BIR Workers Based," *Bulletin Today* (April 20, 1977), p. 15.

desirable behavior, and quality work performance;

(3) continuous training and career development through the integrated staff development programs not only for top management and middle management of the Civil Service Commission but also for the rank and file. An interesting program is the BIR's Reorientation Seminars which are designed to inculcate public service values.

BIR employees are often reminded not to stray away from the straight and narrow path. For example, in a conference of top BIR officials held on June 6, 1977 at the new P80 million BIR building, Secretary of Finance Cesar Virata echoed Commissioner Plana's exhortations about honesty and integrity. Virata emphasized that "the government would not spare the rod against any official or employe found to be partaking of government revenues." These constant reminders have led to newspaper comments that the BIR men are among the most threatened men in the government.<sup>17</sup>

#### *Reducing Opportunities for Graft*

To minimize opportunities for corruption, the tax structure and the existing system of tax administration are presently being evaluated to determine areas where the discretion of examiners and agents

can be narrowed. One possibility is the imposition of gross income taxation to limit the discretion of the examiner in allowing expenditures. Among the additional measures which have been instituted to limit opportunities are: (1) expanded system of payment through banks; (2) confirmation letters to check taxpayers' payments; (3) spot checks or audits; (4) closer supervision of collection agents by revenue district officers; (5) controls and corrective measures to check government losses due to unreported income and the use of false official receipts and fake stamps.<sup>18</sup>

The BIR has also requested for the appointment of a team of Commission on Audit (COA) examiners and aides who will exclusively audit BIR collection agents.

In order to prevent any attempt to cover up any anomalous transaction, Commissioner Plana has further banned the appointment of anyone related to any official or employe of the BIR. In some instances, appointments of relatives up to the 6th degree have been banned. The Commissioner has also transferred to other positions personnel working under the supervision of relatives. Cases have been found of a husband working under the wife's supervision, or a husband and wife working in the same region.

<sup>17</sup>"Virata Cracks Whip at BIR," *Bulletin Today* (June 7, 1977), p. 1.

<sup>18</sup>See Letter of Commissioner Plana to Finance Secretary Cesar E.A. Virata, January 7, 1977.

To prevent BIR agents fraternizing with clients, a periodic reshuffling of fieldmen has been implemented. The most recent reshuffle involved 198 tax inspectors and fieldmen under the Specific Tax Division.<sup>19</sup>

### *Leadership by example*

Employees of the Bureau who were interviewed all agree that the leadership factor has an important role in curbing or discouraging corrupt practices in the agency. In Philippine bureaucracies, high-ranking officials are looked up to and are expected to set the example in official behavior and decorum. At the BIR, Commissioner Plana has kept true to this expectation and has spearheaded the move to rid the BIR of undersirable elements.

Employees are, however, still in the process of adjusting to the leadership style of the Commissioner. The previous Commissioner used a highly personal system of administration where everyone was treated as a member of the BIR family. With Plana at the helm, certain employees now sense that an "atmosphere of fear" has enveloped the BIR, and jumpy employees have been trying to guess whose head will roll next.

The leadership style of the present Commissioner, as described by the respondents, seems to be close

<sup>19</sup>"Plana Shuffles BIR Fieldmen," *Times Journal* (July 23, 1977).

to the Weberian formula of the impersonal, industrious and efficient bureaucrat imbued with universalistic values. Employees used to an easygoing, approachable type of leadership find it, therefore, difficult to shift gears.

One official has even commented that only a personality like Plana's can really introduce changes in the BIR and break the backbone of entrenched corruption. This is because of the close camaraderie among leading employees in the BIR who tend to protect each other. Since Plana is an outsider as far as the BIR is concerned, he can punish erring employees without hesitation because he has not been intimately associated with them. However, for this same reason, his employees will tend to fear him.

The stern measures which have been undertaken are probably necessary in order to emphasize the seriousness of the government in implementing steps to curb corruption. It is perhaps too early to judge and declare that corruption in the BIR has finally been stamped out. Cases of corruption have come out because there were those who were willing to testify. How about the countless transactions where participants were not willing to talk?

Definitely, the present leadership in the BIR has made a discernible impact on corrupt behavior in the BIR. However, the agency cannot be separated from the rest of the

governmental system which is still operating largely on the basis of interpersonal relationships and particularistic values. It will probably take nothing less than a total sustained campaign to change prevailing values which encourage corruption, even as government reforms are continually being formulated to limit opportunities for venality.

### Effects of Corruption

The evidence gathered for this paper strongly indicates that corruption has indeed a negative effect on development. The capability of the New Society to achieve its set goals and objectives is, to a large extent, dependent upon its capacity to raise revenues to finance its wide-ranging development programs. The BIR, as the leading revenue-raising agency of the government, has, therefore, a strategic role to play in the achievement of these goals.

The main function of the BIR is to collect taxes. Taxes are levied not for purely economic purposes but also to effect a more equitable redistribution of income and wealth in the country. Given this context, a progressive tax structure is preferred over a regressive one.

### *Effect On The Tax Burden*

It appears that the effect of corruption in the BIR on the tax burden is to encourage the regressive tendencies of the present tax

structure. Substantial tax payments that have not reached the government coffers because wilful avoidance and malicious evasion were supposed to have been made by people who belong mostly to the middle and upper classes, particularly those of the business sector. This could not have been possible without their collusion with BIR agents.

Commissioner Plana once stated in a newspaper interview that taxes collected as a result of investigations amounted to 19 percent of the total BIR collections. From this, it can be surmised that the total amount for the remaining uncollected taxes and uninvestigated tax payments are probably much more substantial.

### *Effects on Borrowing Activities of the Government*

Financial planners admit that the level of borrowings in the country is increasing because locally generated revenue is not enough to finance the escalating level of governmental expenditures. Government losses through corruption add to the level of these borrowings. While borrowing cannot be avoided by developing countries, this can be held within bounds through increased reliance on locally generated revenue. Receipts from taxation are definitely preferred to receipts from borrowing since the former are non-inflationary and carry none of the risks that are attendant to borrowing.

### *Effect on the Citizenry*

As proven in the past, corruption in the BIR, as in other government agencies, has bred cynicism and doubts on the sincerity of the government in bringing about promised reforms. Two responses from interviews illustrate this attitude. One respondent has stated: "Why should not a BIR man commit graft and corruption? Anyway, much of the money that he collects will just be stolen later by other officials. He might as well get his share of the booty!" Another has commented: "But the corruption in the BIR is nothing compared to what goes on in high places and in other agencies!"

Rampant corruption has contributed to the public alienation from the government and government officials. Such a situation will defi-

nately hamper development efforts because cooperation from the citizenry would be difficult to obtain.

### **Conclusion**

This paper has described corruption and how it specifically occurs in a revenue-raising agency like the BIR. The attempts of the present administration to curb corruption have likewise been mentioned. Still, it must be reemphasized that the case of the BIR cannot be separated from the entire governmental system with its existing web of particularistic norms and values that contradict universalistic laws prohibiting corruption. Thus, measures to eliminate corruption in the agency should be instituted within the context of the larger effort at forming a more development-oriented and hopefully, a less corrupt society.