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THIRTEENTH CONGRESS OF THE REPUBLIC OF THE PHILIPPINES)
First Regular Session)

SENATE

S. No. 442

Introduced by Senator S. R. Osmeña III

EXPLANATORY NOTE

The Social Security System (SSS) and the Government Service Insurance System (GSIS) are the two largest public pension funds in the country. As of 1997, assets of the SSS amounted to P143.9 billion while that of the GSIS amounted to P120.8 billion. In terms of income, for the same year the net income of SSS was P15.1 billion and the GSIS P18.5 billion (before increase in reserves). Their income, both from contributions and investments are exempt from all taxes.

These two corporations are big players in the capital market and their moves affect the market. In 1997, total investments consist of investments in government bonds, corporate bonds, stocks, real estate development and loans to housing and local government units.

More recently, the SSS and GSIS have been in the headlines because of huge investments in stocks and acquisitions of distressed companies. The SSS and the GSIS were involved in the high profile bank merger of Equitable Banking Corporation and PCI Bank. In addition, both pension funds have been active in the stock market buying shares in big companies like the Metro Pacific Corporation, PLDT, San Miguel Corporation and Manila Electric Corporation.

The tax exemption of the SSS and the GSIS give them an advantage over other investment houses and pension funds when they participate in the capital market. The tax exemption gives them higher profits in their investments and this allows them a wider room in making deals.

To level the playing field, this bill proposes to remove the tax exemption of the SSS and GSIS. They will be subject to taxes such as income, capital gains and stock transaction tax, 20% final tax on deposits just like any other corporation.

The revenues to be generated from this measure will go a long way in bridging the budget deficit of our government and fund the pro-poor programs of the Arroyo administration. The budget deficit for 1999 is now projected to be around P85 billion and the government has to tap all possible sources of revenue.

This bill seeks to impose taxes on corporate income, interest on deposits and yield or any other monetary benefit from deposit substitutes and from trust funds and similar arrangements, and capital gains from the sale of shares of stock traded in the stock exchange. While the provisions of the charters of GSIS and SSS provide certain conditions upon which their exemption from payment of taxes, assessments, fees, charges and duties may be revoked, this however does not prelude the Congress to withhold privileges given to the grantees, especially so when the revocation of the exemption, public interest will be served and will benefit a great number of inhabitants. The conditions for revocation provided in the respective charters of SSS and GSIS are inapplicable to the enactment of this measure considering that these agencies still enjoy exemptions from other taxes, assessments, fees charges or duties of all kinds. Thus, this measure will not effect, alter the policy set forth in Section 2 of Republic Act No. 8282 or the SSS Act of 1997. Likewise, the bill will not altogether revoke the exemption referred to in Section 39 of Republic Act 8291 or the GSIS Act of 1997, thereby, the solvency of the GSIS fund is still maintained and protected. Moreover, to strictly abide with the conditions set forth by the charters will be prejudicial to the inherent power of Congress to revoke tax exemptions whenever it sees fit to do the same.

In light of the foregoing, the urgent approval of this bill is earnestly requested.

SERGIO OSMEÑA III
Senator

THIRTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

SENATE

S. No. 442

Introduced by Senator S. R. Osmeña III

AN ACT
AMENDING SECTION TWENTY-SEVEN, PARAGRAPH (C) OF REPUBLIC ACT NO. 8424, OTHERWISE KNOWN AS "TAX REFORM ACT OF 1997"

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

SECTION 1. – The role of the government is to establish a tax system that is uniform and equitable. Government shall implement a tax policy that creates a level playing field and allows fair competition in the market. It shall not give preference to specific sectors or corporations in imposing taxes. Furthermore, tax policies should be to raise revenues to support the development of the economy.

SEC. 2. Section 27 (c) of the Tax Reform Act of 1997 is hereby amended to read as follows:

"SEC. 27. Rates of Income Tax on Domestic Corporations-

c. Government-owned or Controlled Corporations, Agencies or Instrumentalities- The provisions of existing special or general laws to the contrary notwithstanding, all corporations, agencies or instrumentalities owned or controlled by the Government, except [the Government Service Insurance System (GSIS), the Social Security System (SSS),] the Philippine Health Insurance Corporation (PHIC), the Philippine Charity Sweepstakes Office

(PCSO) and the Philippine Amusement and Gaming Corporations (PAGCOR), shall pay such rate of their taxable income as are imposed by this Section upon corporations or associations engaged in similar business, industry, or activity[.]: PROVIDED, HOWEVER, THAT THE GSIS AND SSS SHALL PAY SUCH RATE OF TAX UPON THEIR INCOME AS ARE IMPOSED IN SUBSECTIONS (A) AND (D) PARAGRAPHS (1) AND (2) HEREOF: PROVIDED, FURTHER, THAT ROYALTIES REFERRED TO IN SUBSECTION (D) PARAGRAPH (1) HEREOF SHALL BE EXEMPTED FROM THE FINAL TAX RATE OF 20%"

SEC. 3. ***Repealing Clause*** – The provisions of Section 18 of Republic Act No. 8282 or the SSS Act of 1997 and Section 39 of Republic Act No. 8291 or the GSIS Act of 1997 are hereby amended or modified accordingly.

SEC. 4. ***Effectivity Clause***- This Act shall take effect fifteen (15) days following its complete publication in at least two (2) newspapers of general circulation.

Approved,