

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



13 JUL -8 P2:42

SENATE

S. No. 612

RECEIVED BY: *ji*

Introduced by Senator Ralph G. Recto

Explanatory Note

Presidential Decree (P.D.) No. 198 institutionalized the concept of *Local Water Districts* (LWDs). As early as 1973, the government recognized the need for reliable, economically viable and sound water supply and wastewater disposal system for population centers of the Philippines.

In order to support the growth of LWDs, P.D. No. 198 exempted them from paying income taxes, as well as from the payment of all national government, local government and municipal taxes and fees, and all duties or imposts on imported machinery, equipment and materials required for its operation.

Over a period of more than three (3) decades, several laws were enacted either granting or withdrawing the tax exemption privileges of LWDs. Also, the juridical personality and tax status of LWDs, as gleaned from the provisions of Sections 27 and 32 of the Tax Code, have been subjected to various interpretations by government agencies and judicial bodies. Even more disconcerting is the fact that other public utilities of similar nature such as the Metropolitan Waterworks and Sewerage System (MWSS) and National Power Corporation (NPC) were granted tax exemptions by the Bureau of Internal Revenue (BIR) based upon the same Tax Code provisions.

During the Fourteenth Congress, Republic Act (R.A.) No. 10026 was enacted with the end in view of resolving the inconsistencies in tax treatment that have probably hampered the growth and efficient provision of safe, adequate and potable water to more than fifteen (15) million people outside Metro Manila. Thus, R.A. No. 10026 included LWDs in the list of government agencies exempt from the payment of income taxes and also allowed the condonation of their tax liabilities.

However, R.A. No. 10026 provided that unpaid taxes will only be condoned subject to certain conditions, to wit: (1) that the BIR, after careful review of the financial statements of a water district applying for condonation of taxes due, establishes its financial incapacity; and (2) that the water district availing of such condonation shall submit to Congress a program of internal reforms, duly certified by the Local Water Utilities Administration. The condonation therefore, is not automatic but, rather is dependent on certain requirements which LWDs must comply with.

Moreover, the BIR issued Revenue Memorandum Circular (RMC) No. 68-2012 on November 5, 2012 to lay down the procedures in the application and approval of the condonation of tax liabilities subject to the submission of the following requirements:

- a) Letter of application;
- b) Conditional Certificate of Conformance;
- c) Proof of its financial capacity; and
- d) Proof that it has submitted to Congress a program of internal reforms.

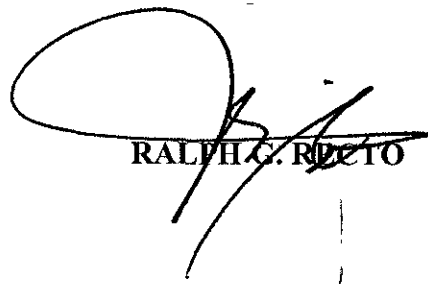
The RMC also set the deadline to apply for condonation of taxes on or before April 30, 2013.

According to the Philippine Association of Water Districts (PAWD), there are about 251 cases involving the unpaid tax liabilities of 164 water districts from fiscal year 1997 to 2007 which should be covered by the implementation of the condonation clause of R.A. No. 10026. However, two (2) months after the deadline set in the RMC, only a fraction of the 164 LWDs have complied with the requirements provided under R.A. No. 10026 and RMC 68-2012.

The condonation is deemed necessary for the LWDs with no financial capability to pay their tax liabilities. This would help them consolidate their resources in order to expand water services, improve water quality and ensure the provision of a reliable, secure and affordable supply of water to consumers.

In order to relieve the LWDs from the additional requirements for availment of the tax condonation, and to allow a greater number of them to benefit from the true intent of the law, this bill seeks to remove the documentary requirements prescribed under R.A. No.10026. It is believed that it was never the intent of R.A. No. 10026 to make it difficult for LWDs to avail of the tax condonation. After all, under the same law, LWDs are now exempt from the payment of income taxes. Hence, why impose conditions to writing off past dues when they deserved to have been exempted from the beginning. Therefore, it is proposed that a one-time general amnesty or condonation of taxes involving LWDs be passed by this Congress.

In view of the foregoing, early approval of this proposal is earnestly sought.



RALPH G. RUYTO



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AN ACT
REMOVING THE CONDITIONS FOR THE CONDONATION OF ALL UNPAID TAXES DUE FROM LOCAL WATER DISTRICTS, AMENDING FOR THE PURPOSE SECTION 289-A OF THE NATIONAL INTERNAL REVENUE CODE, AS AMENDED

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

1 **SECTION 1.** Section 289-A of the National Internal Revenue Code of 1997, as
2 amended, is hereby further amended to read as follows:

3 **“Sec. 289-A. Support for Local Water Districts.** – The amount that would
4 have been paid as income tax and saved by the local water district by virtue of its
5 exemption to the income taxes shall be used by the local water district concerned
6 for capital equipment expenditure in order to expand water services coverage and
7 improve water quality in order to provide safe and clean water in the provinces,
8 cities, and municipalities: Provided, That, the water district shall adopt internal
9 control reforms that would bring about their economic and financial viability:
10 Provided, further, That the water district shall not increase by more than twenty
11 percent (20%) a year its appropriation for personal services, as well as for travel,
12 transportation or representation expenses and purchase of motor vehicles.

13 “All unpaid taxes or any portion thereof due from a local water district for
14 the period starting August 13, 1996 until the effectivity date of this Act are hereby
15 condoned by the Government **THEREBY RELIEVING ALL LOCAL**
16 **WATER DISTRICTS FROM THE PAYMENT THEREOF.** [subject to the
17 following conditions: (1) that the Bureau of Internal Revenue, after careful review
18 of the financial statements of a water district applying for condonation of taxes
19 due, establishes its financial incapacity, after providing for its maintenance and
20 operating expenses, debt servicing and reserved fund, to meet such obligations for
21 the period stated herein; and (2) that the water district availing of such
22 condonation shall submit to Congress of the Philippines a program of internal
23 reforms, duly certified by the local water utilities administration, that would bring
24 about its economic and financial viability.]

