

SENATE

S. No. **1944**

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Introduced by Senator Ralph G. Recto

Explanatory Note

This bill seeks to amend Sections 32 and 33 of the National Internal Revenue Code (NIRC) of 1997, as amended, as follows:

- (a) Excluding from gross income the amounts received by natural and juridical persons as indemnity for any loss or injury suffered;
- (b) Increasing the P30,000 cap for the income tax exemption of the 13th month pay and Christmas bonuses;
- (c) Incorporating a proviso on *de minimis* benefits into the NIRC of 1997; and
- (d) Removing the tax advantage of managerial employees over rank-and-file employees on fringe benefits.

The role of human capital in developing the economy has been widely acknowledged. This is one of the reasons that Congress has enacted pro-labor laws such as Republic Act No. 9504 which increased the basic personal exemption and exempted minimum wage earners from the payment of income tax. While our current tax system provides for some relief to our workers by reducing their income tax burden, it still needs to be enhanced to address other issues and concerns besetting the labor sector.

Workers are sometimes compensated in the form of back wages, allowances and benefits by virtue of a labor dispute award. While it is clearly stated in Revenue Memorandum Circular No. 39-2012 that such remunerations are taxable, other amounts received by the worker as part of recoveries for physical and nonphysical injuries or damages obtained due to the dispute should not be treated as part of those remunerations. Moreover, other types of damages awarded by courts should also be explicitly included in the list of exclusions from gross income since these do not constitute part of the worker's rendered service to his employer.

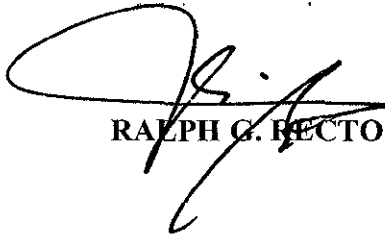
The P30,000 ceiling for the income tax exemption of the 13th month pay and Christmas bonuses first introduced in 1994 no longer mirrors prevailing circumstances. This bill, therefore, aims to increase said ceiling to P75,000 to make it more responsive to the needs of the times.

The incorporation of the provision on *de minimis* benefits lifted from Revenue Regulations No. 5-2011 secures its continued implementation by institutionalizing it in the Tax Code. The ceiling amounts therein provided, however, are proposed to be adjusted every three years based on their current Consumer Price Index (CPI) values.

The proposed removal of the tax advantage of managerial employees over rank-and-file employees with respect to fringe benefits is a move that would reduce the income divide between these groups of employees. More than ever, the words of President Ramon Magsaysay that *those who have less in life should have more in law* ring true.

We owe it to our labor force to craft laws that ensure they get effectively what are due them by expanding and strengthening the mechanisms through which they can find relief from the taxes that take off significant amounts from their meager monthly take home pay.

In view of the foregoing, immediate approval of this bill is earnestly sought.



RALPH C. RECTO

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S. No. 1944

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AN ACT
PROVIDING TAX RELIEF TO THE LABOR SECTOR BY EXPANDING THE
COVERAGE OF EXCLUSIONS FROM GROSS INCOME AND INCREASING THE
AMOUNTS OF *DE MINIMIS* BENEFITS EXEMPT FROM TAX AMENDING FOR THE
PURPOSE SECTIONS 32(B) AND 33 OF THE NATIONAL INTERNAL REVENUE
CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES

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

1 **SECTION 1.** Section 32(B) of the National Internal Revenue Code of 1997, as amended,
2 is hereby further amended to read as follows:

3 “Sec. 32. Gross Income. –

4 “(A) xxx

5 “(B) Exclusions from Gross Income. – The following items shall not be included
6 in gross income and shall be exempt from tax under this Title:

7 “(1) xxx

8 “(2) xxx

9 “(3) xxx

10 “(4) xxx

11 “(5) DAMAGES AWARDED BY COURTS, BOARDS OR OFFICERS
12 EXERCISING JUDICIAL OR QUASI-JUDICIAL FUNCTIONS. –
13 AMOUNTS RECEIVED AS INDEMNITY BY NATURAL AND
14 JURIDICAL PERSONS FOR ANY LOSS OR INJURY
15 SUFFERED, SUCH AS, BUT NOT LIMITED TO:

16 (A) DAMAGES RECEIVED AS COMPENSATION FOR
17 PHYSICAL AND NONPHYSICAL INJURIES ACQUIRED
18 DURING LABOR DISPUTES;

19 (B) DAMAGES TO PERSONAL OR FAMILY RIGHTS;

20 (C) DAMAGES FOR SLANDER AND LIBEL;

21 (D) AWARD FOR LOSS OF LIFE; AND

22 (E) DAMAGES FOR INJURIES TO THE GOODWILL OF A
23 TAXPAYER’S BUSINESS, UNLESS THE AMOUNT
24 AWARDED EXCEEDS THE VALUE OF GOODWILL.

1 “[5] (6) xxx

2 “[6] (7) xxx

3 “[7] (8) Miscellaneous Items. –

4 “(a) xxx

5 “(b) xxx

6 “(c) xxx

7 “(d) xxx

8 “(e) 13th Month Pay and Other Benefits. – Gross benefits received
9 by officials and employees of public and private entities:
10 *Provided, however,* That the total exclusion under this
11 subparagraph shall not exceed [Thirty thousand pesos
12 (P30,000)] SEVENTY-FIVE THOUSAND PESOS
13 (P75,000) which shall cover:

14 “(i) xxx

15 “(ii) xxx

16 “(iii) xxx

17 “(iv) Other benefits such as productivity incentives and
18 Christmas bonus. [*Provided, further,* That the
19 ceiling of Thirty thousand pesos (₱ 30,000) may be
20 increased through rules and regulations issued by
21 the Secretary of Finance, upon recommendation of
22 the Commissioner, after considering among others,
23 the effect on the same of the inflation rate at the
24 end of the taxable year.]

25 *PROVIDED, THAT NOT LATER THAN THREE (3)*
26 *YEARS AFTER THE EFFECTIVITY OF THIS ACT AND*
27 *EVERY THREE (3) YEARS THEREAFTER, THE AMOUNT*
28 *HEREIN STATED SHALL BE ADJUSTED TO ITS CURRENT*
29 *VALUE AT THAT TIME USING THE CONSUMER PRICE*
30 *INDEX, AS PUBLISHED BY THE NATIONAL STATISTICS*
31 *OFFICE (NSO).*

32 “(f) xxx

33 “(g) xxx

34 “(h) xxx

35 “(i) *DE MINIMIS* BENEFITS. – THESE SHALL BE LIMITED TO
36 FACILITIES OR PRIVILEGES FURNISHED OR OFFERED
37 BY AN EMPLOYER TO HIS EMPLOYEES, BOTH
38 MANAGERIAL AND RANK-AND-FILE, THAT ARE OF
39 RELATIVELY SMALL VALUE AND ARE OFFERED OR

1 FURNISHED BY THE EMPLOYER MERELY AS A MEANS
2 OF PROMOTING THE HEALTH, GOODWILL,
3 CONTENTMENT, OR EFFICIENCY OF HIS EMPLOYEES,
4 SUCH AS, BUT NOT LIMITED TO, THE FOLLOWING:

5 “(I) MONETIZED VALUE OF VACATION AND SICK
6 LEAVE CREDITS PAID TO PRIVATE
7 EMPLOYEES NOT EXCEEDING TEN (10) DAYS
8 DURING THE YEAR;

9 “(II) MONETIZED VALUE OF VACATION AND SICK
10 LEAVE CREDITS PAID TO GOVERNMENT
11 OFFICIALS AND EMPLOYEES;

12 “(III) MEDICAL CASH ALLOWANCE TO DEPENDENTS
13 OF EMPLOYEES NOT EXCEEDING NINE
14 HUNDRED PESOS (P900) PER SEMESTER OR
15 ONE HUNDRED FIFTY PESOS (P150) PER
16 MONTH;

17 “(IV) RICE SUBSIDY OF TWO THOUSAND PESOS
18 (P2,000) OR ONE (1) SACK OF 50-KG. RICE PER
19 MONTH AMOUNTING TO NOT MORE THAN
20 P2,000;

21 “(V) UNIFORM AND CLOTHING ALLOWANCE NOT
22 EXCEEDING FIVE THOUSAND PESOS (P5,000)
23 PER ANNUM;

24 “(VI) ACTUAL MEDICAL ASSISTANCE TO COVER
25 MEDICAL AND HEALTH CARE NEEDS,
26 ANNUAL MEDICAL/ EXECUTIVE CHECK UP,
27 MATERNITY ASSISTANCE, AND ROUTINE
28 CONSULTATIONS, NOT EXCEEDING TWELVE
29 THOUSAND PESOS (P12,000) PER ANNUM;

30 “(VII) LAUNDRY ALLOWANCE NOT EXCEEDING
31 FIVE HUNDRED PESOS (P500) PER MONTH;

32 “(VIII) EMPLOYEE ACHIEVEMENT AWARDS FOR
33 LENGTH OF SERVICE OR SAFETY
34 ACHIEVEMENT, WHICH MUST BE IN THE
35 FORM OF A TANGIBLE PERSONAL PROPERTY
36 OTHER THAN CASH OR GIFT CERTIFICATE,
37 WITH AN ANNUAL MONETARY VALUE NOT
38 EXCEEDING TWELVE THOUSAND PESOS
39 (P12,000) RECEIVED BY THE EMPLOYEE

1 UNDER AN ESTABLISHED WRITTEN PLAN
2 WHICH DOES NOT DISCRIMINATE IN FAVOR
3 OF HIGHLY PAID EMPLOYEES;

4 “(IX) GIFTS OR PRIZES GIVEN DURING CHRISTMAS
5 AND MAJOR ANNIVERSARY CELEBRATIONS
6 NOT EXCEEDING SIX THOUSAND PESOS
7 (P6,000) PER EMPLOYEE PER ANNUM;

8 “(X) DAILY MEAL ALLOWANCE FOR OVERTIME
9 WORK NOT EXCEEDING TWENTY-FIVE
10 PERCENT (25%) OF THE BASIC MINIMUM
11 WAGE.”

12 *PROVIDED*, THAT NOT LATER THAN THREE (3)
13 YEARS AFTER THE EFFECTIVITY OF THIS ACT AND
14 EVERY THREE (3) YEARS THEREAFTER, THE AMOUNTS
15 STATED UNDER SUBSECTIONS (III), (IV), (V), (VI), (VII),
16 (VIII), AND (IX) HEREIN SHALL BE ADJUSTED TO THEIR
17 CURRENT VALUE AT THAT TIME USING THE
18 CONSUMER PRICE INDEX AS PUBLISHED BY THE
19 NATIONAL STATISTICS OFFICE (NSO).

20 “(J) FRINGE BENEFITS TO RANK-AND-FILE EMPLOYEES –
21 BENEFITS GIVEN TO THE RANK-AND-FILE EMPLOYEES,
22 WHETHER GRANTED UNDER A COLLECTIVE
23 BARGAINING AGREEMENT OR NOT.”

24 **SEC. 2.** Section 33 of the National Internal Revenue Code of 1997, as amended, is hereby
25 further amended to read as follows:

26 “SEC. 33. Special Treatment of Fringe Benefits. –

27 “(A) xxx

28 “(B) Fringe Benefit Defined. – For purposes of this Section, the term ‘fringe
29 benefit’ means any good, service or other benefit furnished or granted in
30 cash or in kind by the employer to an individual employee [(except rank-
31 and-file employees as defined herein)] such as, but not limited to, the
32 following:

33 “(1) Housing;

34 “(2) Expense account;

35 “(3) Vehicle of any kind;

36 “(4) Household personnel, such as maid, driver and others;

37 “(5) Interest on loan at less than market rate to the extent of the
38 difference between the market rate and actual rate granted;

1 “(6) Membership fees, dues and other expenses borne by the employer
2 for the employee in social and athletic clubs or other similar
3 organizations;

4 “(7) Expenses for foreign travel;

5 “(8) Holiday and vacation expenses;

6 “(9) Educational assistance to the employee or his dependents; and

7 “(10) Life or health insurance and other non-life insurance premiums or
8 similar amounts in excess of what the law allows.

9 “(C) Fringe Benefits Not Taxable. – The following fringe benefits are not taxable
10 under this Section:

11 “(1) Fringe benefits which are authorized and exempted from tax under
12 special laws;

13 “(2) Contributions of the employer for the benefit of the employee to
14 retirement, insurance and hospitalization benefit plans;

15 “(3) Benefits given to the rank-and-file employees, whether granted
16 under a collective bargaining agreement or not; and

17 “(4) *De minimis* benefits as defined in [the rules and regulations to be
18 promulgated by the Secretary of Finance, upon recommendation of
19 the Commissioner] SECTION 32 HEREOF.

20 “The Secretary of Finance is hereby authorized to promulgate, upon
21 recommendation of the Commissioner, such rules and regulations as are necessary
22 to carry out efficiently and fairly the provisions of this Section, taking into
23 account the peculiar nature and special need of the trade, business or profession of
24 the employer.”

25 **SEC. 3. *Implementing Rules and Regulations.*** - The Secretary of Finance shall promulgate
26 the necessary rules and regulations for the effective implementation of the provisions of this Act.

27 **SEC. 4. *Separability Clause.*** - If any provision of this Act is declared unconstitutional or
28 invalid, other parts or provisions hereof not affected thereby shall continue to be in full force and
29 effect.

30 **SEC. 5. *Repealing Clause.*** - All laws, orders, issuances, circulars, rules and regulations or
31 parts thereof, which are inconsistent with the provisions of this Act are hereby repealed or
32 modified accordingly.

33 **SEC. 6. *Effectivity.*** - This Act shall take effect fifteen (15) days after its publication in the
34 *Official Gazette* or in at least two (2) newspapers of general circulation.

Approved,