

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



74 MAR 11 P4 58

SENATE
S. B. No. 2172

RECEIVED BY: *ji*

Introduced by Senator Maria Lourdes Nancy S. Binay

AN ACT CLARIFYING THE PROCEDURE FOR APPLICATION FOR TAX TREATY RELIEF, AMENDING FOR THIS PURPOSE REPUBLIC ACT NO. 8424, AS AMENDED, OTHERWISE KNOWN AS THE TAX REFORM ACT OF 1997


EXPLANATORY NOTE

The obligation of the State to observe in good faith its treaty obligations is integral in maintaining good commercial relations with other countries. *Pacta sunt servanda* thus requires contracting parties to comply with their treaty obligations in good faith. Rightly so, as this is the foundation of viable commercial relations with foreign entities.

It would be observed that in the recent case of *Deutsche Bank AG Manila Branch v. Commissioner of Internal Revenue* (G.R. 188550, August 19, 2013), the Supreme Court struck down a Revenue Memorandum Order (“RMO”) issued by the Bureau of Internal Revenue (“BIR”) imposing a period within which a tax treaty relief application may be filed. RMO 01-2000 provides that “any availment of the tax treaty relief must be preceded by an application with the International Tax Affairs Division (ITAD) at least 15 days before the transaction.” RMO 072-2010, which amended RMO 01-2000, provides that failure to file the tax treaty relief application within the period prescribed shall result in disqualification.

This proposed bill seeks to clarify the rule that unless provided under the tax treaty, international agreements, or other international obligations the application for treaty relief may be filed and processed at any time after the taxable transaction arises.

The passage of this bill is therefore earnestly requested.


MARIA LOURDES NANCY S. BINAY
Senator

'14 MAR 11 P4 58

SENATE
S. B. No. 2172

RECEIVED BY: *ji*

Introduced by Senator Maria Lourdes Nancy S. Binay

1 AN ACT CLARIFYING THE PROCEDURE FOR APPLICATION FOR TAX TREATY
2 RELIEF, AMENDING FOR THIS PURPOSE REPUBLIC ACT NO. 8424, AS AMENDED,
3 OTHERWISE KNOWN AS THE TAX REFORM ACT OF 1997
4

5 *Be it enacted by the Senate and House of Representatives of the Philippines in Congress*
6 *assembled:*
7

8 **SECTION 1.** Section 32 (B) (5) of Republic Act No. 8424, as amended, is hereby further
9 amended to read as follows:

10
11 **CHAPTER VI - COMPUTATION OF GROSS INCOME**

12
13 **SEC. 32. Gross Income. -**

14
15 xxx

16
17 (B) *Exclusions from Gross Income.* - The following items shall not be included
18 in gross income and shall be exempt from taxation under this title:

19
20 xxx

21
22 (5) Income Exempt under Treaty. - Income of any kind, to the extent
23 required by any treaty obligation binding upon the Government of the
24 Philippines.
25

26 UNLESS PROVIDED OR SO REQUIRED UNDER THE
27 RELEVANT TAX TREATY OR OTHER INTERNATIONAL
28 OBLIGATIONS, THE APPLICATION FOR TAX TREATY RELIEF
29 BY A PERSON, PARTNERSHIP, ASSOCIATION,
30 CORPORATION, OR OTHER ENTITY, SUBJECT TO
31 COMPLIANCE WITH OTHER REQUIREMENTS PRESCRIBED
32 UNDER SUCH TREATY OR INTERNATIONAL OBLIGATION,
33 MAY BE FILED AT ANY TIME AFTER THE TAXABLE
34 TRANSACTIONS.
35

36 **SECTION 2. Repealing Clause.** All laws, decrees, orders, rules and regulations, other
37 issuances, or parts thereof inconsistent with the provisions of this Act are hereby repealed or
38 modified accordingly.

1 **SECTION 3.** *Effectivity.* This Act shall take effect fifteen (15) days after its publication in at
2 least two (2) newspapers of general circulation.

3

4

5 . Approved,