


13th CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

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04 JUL -6 12:08

SENATE

S. Bill. No. **1320**

Introduced by Senator Ralph G. Recto

EXPLANATORY NOTE

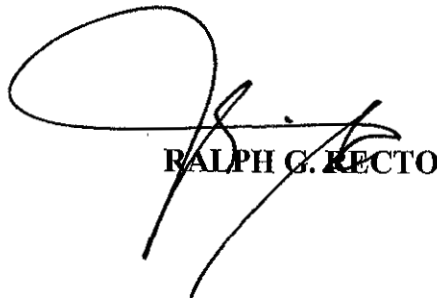
This bill seeks to pursue drastic reform measures to instill fiscal discipline among the taxpayers in line with the desire and program of the national government to provide more efficient basic services to the taxpayers. It is thus imperative to implement revenue measures aimed at boosting revenues to work out a reasonable solution to the country's growing budget deficit.

The economic managers of the Philippine government have been working to keep its budget deficit under control. This legislation proposes to help devise a solution to the biggest problem facing the country's ailing economy. The necessity of introducing stop-gap measures is due to the alarming numbers as follows: the budget deficit reached 198.7 billion pesos (3.61 billion dollars) at the end of 2003, just below the target ceiling of 202 billion pesos while the target deficit for 2004 is pegged at 197.8 billion pesos.

Under the present provisions of the National Internal Revenue Code of 1997 (the "Tax Code"), the Net Operating Loss Carry-Over ("NOLCO") as a deduction from gross income is available to the taxpayer for the next three consecutive taxable years following the year in which it was incurred. At present, if the taxpayer incurs an operating loss in year 1 but eventually registers a gain or profit in year 2, the NOLCO may be offset against the resulting gain or profit so that no income taxes may be due and owing the government.

Under the proposal, the NOLCO will not be available as a deduction from gross income such that in the event that a taxpayer who incurred losses in year 1 registers a profit in the succeeding year, then the relevant comparison that must be made is between the Minimum Corporate Income Tax (MCIT) or the regular corporate income tax, whichever is greater, for purposes of determining the taxes due the government.

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


RALPH G. RECTO

SENATE

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AN ACT
AMENDING SECTION 34 PARAGRAPH D SUBSECTION 3 OF REPUBLIC
ACT 8424 OTHERWISE KNOWN AS THE NATIONAL INTERNAL REVENUE
CODE OF 1997

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

1 SECTION 1. Section 34 of Republic No. 8424, otherwise known as the
2 "National Internal Revenue Code of 1997," is hereby amended to read as follows:

3 "Sec. 34. Deductions from Gross Income . - Except for taxpayers
4 earning compensation income arising from personal services rendered
5 under an employer-employee relationship where no deductions shall be
6 allowed under this Section other than under Subsection (M) hereof, in
7 computing taxable income subject to income tax under Sections 24(A);
8 25(A); 26; 27(A), (B) and (C); and 28(A)(1), there shall be allowed the
9 following deductions from gross income:

10 "(A) X X X

11 "(B) X X X

12 "(C) X X X

13 "(D) *Losses.* -

14 x x x

15 [(3) *Net Operating Loss Carry-over.* -

16 The net operating loss of the business or enterprises
17 for any taxable year immediately preceding the current
18 taxable year, which had not been previously offset as

1 deduction from gross income shall be carried over as a
2 deduction from gross income for the next three (3)
3 consecutive taxable years immediately following the year
4 of such loss: *Provided, however,* that any net loss incurred
5 in a taxable year during which the taxpayer was exempt
6 from income tax shall not be allowed as a deduction under
7 this Subsection: *Provided, further,* That a net operating loss
8 carry-over shall be allowed only if there has been no
9 substantial change in the ownership of the business or
10 enterprise in that –

11 “(i) Not less than seventy-five percent
12 (75%) in nominal value of outstanding issued shares, if the
13 business is in the name of a corporation, is held by or on
14 behalf of the same persons; or

15 “(ii) Not less than seventy-five percent
16 (75%) of the paid up capital of the corporation, if the
17 business is in the name of a corporation, is held by or on
18 behalf of the same persons].

19
20 XXX

21
22 SEC. 2. The succeeding sections and letters of Republic Act No. 8424 are hereby
23 adjusted accordingly.

24
25 SEC. 3. *Implementing Rules and Regulations.* - The Bureau of Internal Revenue
26 (BIR), Department of Finance (DoF), Department of Labor and Employment (DOLE),
27 Civil Service Commission (CSC) and other appropriate government agencies shall
28 promulgate rules and regulations necessary for the effective implementation of this Act.

29

1 SEC. 4. *Repealing Clause.* - All other laws, decrees, orders, issuances and rules
2 and regulations or parts thereof inconsistent with this Act are hereby amended or repealed
3 accordingly.

4

5 SEC. 5. *Separability Clause.* - The provisions of this Act are hereby declared to
6 be separable and, in the event any of such provisions is declared unconstitutional, the
7 order provision which is not affected thereby shall remain in full force and effect.

8

9 SEC. 6. *Effectivity.* - This Act shall take effect fifteen (15) days after its
10 complete publication in at least two (2) newspapers of general circulation.

11

12 Approved ,

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