



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

'17 MAY -2 P1:37

SENATE

RECEIVED BY:

S. No. 1420

Introduced by Senator Ralph G. Recto

AN ACT  
EXEMPTING THE SALE OF REAL PROPERTY IN THE EXERCISE OF THE  
STATE'S POWER OF EMINENT DOMAIN FROM THE PAYMENT OF CAPITAL  
GAINS AND DOCUMENTARY STAMP TAXES, AMENDING FOR THE PURPOSE  
SECTIONS 24 (D) AND 196 OF REPUBLIC ACT NO. 8424, AS AMENDED,  
OTHERWISE KNOWN AS THE 'NATIONAL INTERNAL REVENUE CODE OF 1997'

Explanatory Note

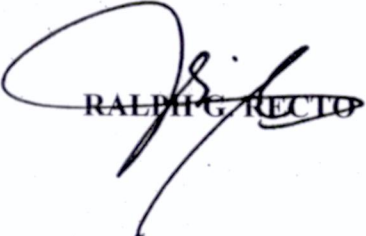
Section 9, Article III of the 1987 Constitution guarantees the right of every owner whose land is being taken for public use to be paid with just compensation. Moreover, Section 24(D)(1) of Republic Act No. 8424 otherwise known as the National Internal Revenue Code (NIRC) of 1997 mandates that a final tax of six percent (6%) based on the gross selling price or current fair market value, whichever is higher, is imposed upon capital gains presumed to have been realized from the sale, exchange, or other disposition of real property located in the Philippines. On the other hand, Section 196 of the NIRC mandates the collection of documentary stamp tax on the same transaction.

The exercise of the power of eminent domain involves the transfer of real estate title in exchange for the payment of compensation, which the NIRC generally treats as an ordinary taxable sale of property. This means that the Bureau of Internal Revenue considers the just compensation received by a property owner as a *gain* for which taxes should be paid.

One way of looking at the expropriation of a real property is as a forced sale of property. Owners have a degree of primal, oftentimes emotional, attachment to the land and forcibly taking the land from them is like severing the attachment. Accordingly, the State should exercise due sensibility and consideration by exempting the compulsory seller from paying these taxes, at least, to give justice for the material impairment of the seller's property.

This bill acknowledges that time is of the essence in implementing a government infrastructure project, thus, allowing certain exceptions to taxation of property taken by eminent domain. More than anything else, this bill prioritizes efficiency and ease of the acquisition of properties by exempting the sale of real property in the exercise of the State's power of eminent domain from the payment of capital gains and documentary stamp taxes.

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

  
RALPH RECTO

/mabm



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AN ACT

EXEMPTING THE SALE OF REAL PROPERTY IN THE EXERCISE OF THE STATE'S POWER OF EMINENT DOMAIN FROM THE PAYMENT OF CAPITAL GAINS AND DOCUMENTARY STAMP TAXES, AMENDING FOR THE PURPOSE SECTIONS 24 (D) AND 196 OF REPUBLIC ACT NO. 8424, AS AMENDED, 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 24(D) of Republic Act No. 8424, as amended, otherwise known as  
2 the National Internal Revenue Code of 1997, is hereby further amended to read as follows:

3           "SEC. 24. X X X

4           (A) X X X

5           (B) X X X

6           (C) X X X

7           (D) Capital Gains from Sale of Real Property. –

8               (1) In General. – X X X

9               (2) Exception. – X X X

10           (3) JUST COMPENSATION IN THE EXERCISE OF POWER OF EMINENT  
11           DOMAIN. – THE GOVERNMENT SHALL, IN THE EXERCISE OF ITS  
12           POWER OF EMINENT DOMAIN, PAY THE COMPULSORY SELLER OF  
13           THE REAL PROPERTY THE JUST COMPENSATION ON THE SAID  
14           TRANSACTION. *PROVIDED*, THAT THE SAID TRANSACTION SHALL BE  
15           EXEMPT FROM THE PAYMENT OF THE CAPITAL GAINS TAX IMPOSED  
16           UNDER THIS SECTION."

17           **SEC. 2.** Section 196 of Republic Act No. 8424, as amended, otherwise known as the  
18 National Internal Revenue Code of 1997, is hereby further amended to read as follows:

19           "SEC. 196. Stamp Tax on Deeds of Sale and Conveyances of Real Property. – On  
20 all conveyances, deeds, instruments, or writings, other than grants, patents or original  
21 certificates of adjudications issued by the Government, whereby any land, tenement, or  
22 other realty sold shall be granted, assigned, transferred, or otherwise conveyed to the  
23 purchaser, or purchasers, to any other person or persons designated by such purchaser or  
24 purchasers, there shall be collected a documentary stamp tax, at the rates herein below  
25 prescribed, based on the consideration contracted to be paid for such realty or on its fair

1 market value determined in accordance with Section 6 (E) of this Code, whichever is  
2 higher: *Provided*, That when one of the contracting parties is the Government, the tax  
3 herein imposed shall be based on the actual consideration: *PROVIDED FURTHER*,  
4 THAT THE SAID TRANSACTION SHALL BE EXEMPT FROM THE PAYMENT OF  
5 THE DOCUMENTARY STAMP TAX IMPOSED UNDER THIS SECTION.”

6 (a) X X X

7 (b) X X X

8 **SEC. 3. Rules and Regulations.** – The Secretary of Finance shall, upon the  
9 recommendation of the Commissioner of Internal Revenue, within sixty (60) days from the  
10 effectivity of this Act, promulgate the necessary rules and regulations to faithfully implement the  
11 intent and the provisions of this Act: *Provided*, That the failure of the Secretary of Finance to  
12 promulgate the said rules and regulations shall not prevent the implementation of this Act upon  
13 its effectivity.

14 **SEC. 4. Separability Clause.** – If any provision of this Act is subsequently declared  
15 invalid or unconstitutional, other provisions hereof which are not affected hereby shall remain in  
16 full force and effect.

17 **SEC. 5. Repealing Clause.** – All laws, decrees and orders or parts thereof inconsistent  
18 with the provisions of this Act are hereby repealed or modified accordingly.

19 **SEC. 6. Effectivity Clause.** – This Act shall take effect fifteen (15) days after its  
20 complete publication either in Official Gazette or in at least one (1) newspaper of general  
21 circulation.

Approved,