



'19 OCT -1 P2 :09

SENATE

S. No. 1084

RECEIVED

Introduced by Senator Ralph G. Recto

AN ACT
ESTABLISHING THE TAX REGIME OF ONE PERSON CORPORATIONS,
AMENDING FOR THIS PURPOSE SECTION 22(B) OF THE NATIONAL
INTERNAL REVENUE CODE OF 1997, AS AMENDED

EXPLANATORY NOTE

This proposed measure seeks to establish the tax regime of One Person Corporation (OPC). The concept of OPC has been introduced in our jurisdiction for the first time through Republic Act No. 11232, otherwise known as the Revised Corporation Code of the Philippines, which took effect on February 23, 2019.

The Revised Corporation Code provides that OPC is a corporation with a single stockholder and that it may only be formed by a natural person, trust or an estate. It is also provided that the single stockholder shall be the sole director and president of the OPC.

Under OPC concept, an individual natural person, by himself, may now establish a corporation to pursue any commercial activity. Just like an ordinary corporation, OPC type of business organization has a personality separate and distinct from the single stockholder composing it. Therefore, the liability of the OPC is not a liability of the single stockholder. The liability is limited only to the extent of single stockholder's subscribed capital contribution to the OPC.

However, for income tax purposes, the tax regime of OPC is not clear. The National Internal Revenue Code (NIRC) of 1997, as amended, defines "corporation"

as including partnerships, no matter how created or organized, joint-stock companies, joint accounts (cuentas en participacion), associations, or insurance companies, but does not include general professional partnerships and a joint venture or consortium formed for the purpose of undertaking construction projects or engaging in petroleum, coal, geothermal and other energy operations pursuant to an operating consortium agreement under a service contract with the Government.

When the NIRC was enacted, what the legislators had in mind at that time with regard to the concept of corporation is an organization or association of two or more persons. This is very evident from the enumeration of organizations or associations as included in the definition of corporation for income tax purposes such as partnerships and joint accounts, among others.

Under the principle of "*ejusdem generis*", where a general word or phrase follows an enumeration of particular and specific words of the same class or where the latter follow the former, the general word or phrase is to be construed to include, or to be restricted to persons, things or cases akin to, resembling, or of the same kind or class as those specifically mentioned. Applying this principle, OPC may not be considered as corporation for income tax purposes because it did not fall under the same category as partnerships, joint accounts and associations as the latter are formed or organized by two or more persons.

Hence, the inclusion of OPC in the definition of "corporation" under the NIRC is necessary to remove ambiguity or avoid different interpretations whether or not OPC is a corporation for income tax purposes.

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



RALPH G. RECTO

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

1 Section 1. Section 22(B) of the National Internal Revenue Code of 1997, as
2 amended, is hereby further amended to read as follows:

3 "SEC. 22. *Definitions.* – When used in this Title:

4 "(A) xxx

5 "(B) The term 'corporation' shall include **ONE PERSON**
6 **CORPORATIONS**, partnerships, no matter how created or organized, joint-
7 stock companies, joint accounts (*cuentas en participacion*), associations, or
8 insurance companies, but does not include general professional partnerships
9 and a joint venture or consortium formed for the purpose of undertaking
10 construction projects or engaging in petroleum, coal, geothermal and other
11 energy operations pursuant to an operating consortium agreement under a
12 service contract with the Government. 'General professional partnerships' are
13 partnerships formed by persons for the sole purpose of exercising their
14 common profession, no part of the income of which is derived from engaging
15 in any trade or business.

16 "xxx"

1 Sec. 2. *Implementing Rules and Regulations (IRR)*. – Within thirty (30) days
2 from the effectivity of this Act, the Secretary of Finance, upon the recommendation
3 of the Commissioner of Internal Revenue, shall promulgate the necessary rules and
4 regulations for its effective implementation.

5 Sec. 3. *Repealing Clause*. – All laws, acts, decrees, executive orders,
6 issuances, and rules and regulations or parts thereof which are contrary to and
7 inconsistent with this Act are hereby repealed, amended or modified accordingly.

8 Sec. 4. *Effectivity*. – This Act shall take effect fifteen (15) days after its
9 complete publication in the *Official Gazette* or in at least two (2) newspapers of
10 general circulation.

Approved,|