

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



Senate
Office of the Secretary

13 SEP -3 AIC :39

SENATE

Senate Bill No. 1468

RECEIVED BY: *je*

INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

EXPLANATORY NOTE

In this age of virtual reality, ignorance can be fatal!

In reality, computers and information technology affect all aspects of human endeavor. And there is no way out! We can never escape from it. What the country must do is to strive hard to educate our people regarding information technology. And we must do it immediately and thoroughly starting from the grade school up to the tertiary level. Unfortunately, many of our educational institutions are lacking in computer hardware and even software.

It is imperative that we equip our schools with the necessary tools (computer hardware and software) in order for them to learn the trade. However, the State cannot provide for all of them alone. It must, therefore, encourage private participation by granting a tax incentive for every donation of information technology equipment to our educational institutions, both public and private. But we should not take for granted our research institutions. Together these two institutions must go hand in hand. Each shall complement the other.

This is the only way that we can address the urgent need of our country to cope with the technological demands of the cyberspace age in the new millennium. However, we must be careful in accepting donations of information technology equipment for our educational and research institutions from donor private companies, individuals and other entities. We must safeguard against dumping of useless and toxic computer hardware and/or software.


JINGGOY EJERCITO ESTRADA
Senator

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AN ACT

TO ENCOURAGE, PROMOTE AND ALLOW PRIVATE COMPANIES AND INDIVIDUALS TO DONATE INFORMATION TECHNOLOGY EQUIPMENT (ITE) TO EDUCATIONAL AND/OR RESEARCH INSTITUTIONS BY PROVIDING TAX INCENTIVES THEREFORE, AMENDING FOR THE PURPOSE SECTIONS 34 AND 101 OF THE NATIONAL INTERNAL REVENUE CODE (NIRC) AS AMENDED, AND FOR OTHER PURPOSES

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

SECTION 1. Subsection (F), Section 34 of the National Internal Revenue Code, as amended, is hereby further amended by adding a new Paragraph (7) therein after Paragraph (6) to read as follows:

“(7) DEPRECIATION OF INFORMATION TECHNOLOGY EQUIPMENT. – FOR PURPOSES OF COMPUTING ALLOWABLE DEDUCTIONS UNDER THIS SECTION, INFORMATION TECHNOLOGY EQUIPMENT SHALL HAVE A DEPRECIATION RATE OF FIFTY PERCENT (50%) FOR THE FIRST YEAR OF ITS USE IN THE BUSINESS, TRADE OR EXERCISE OF PROFESSION ON THE SECOND YEAR OF ITS USE, SUCH EQUIPMENT SHALL BE CONSIDERED ONE HUNDRED PERCENT (100%) DEPRECIATED.

SEC. 2. Subsection (H), Section 34 of the same Code is hereby amended by adding a new Paragraph (5) after Paragraph (4) to read as follows:

“(5) DEDUCTIBILITY OF DONATION OF INFORMATION TECHNOLOGY EQUIPMENT TO EDUCATIONAL AND/OR RESEARCH INSTITUTIONS. – NOTWITHSTANDING ANY PROVISIONS TO THE CONTRARY, ANY DONATION OF INFORMATION TECHNOLOGY EQUIPMENT MADE TO ANY PUBLIC OR PRIVATE EDUCATIONAL AND/OR RESEARCH INSTITUTIONS SHALL BE DEDUCTIBLE IN FULL TO BE COMPUTED BASED ON ITS FAIR MARKET VALUE: PROVIDED, THAT THE EQUIPMENT DONATED MUST NOT BE MORE THAN THREE (3) YEARS OLD AND MUST BE

YEAR 2000 COMPLAINT (Y2K): PROVIDED, FURTHER THAT FOR A DONATION OF COMPUTER HARDWARE AND/OR SOFTWARE TO QUALIFY FOR THE BENEFITS GRANTED HEREUNDER, THE SAME MUST BE COMPLETELY BUILT-UP, FULLY USEABLE WITHOUT A NEED TO ADD ANY PERIPHERALS OR OTHER GADGETS. AND THE SAME MUST NOT REQUIRE AN UPGRADE TO MAKE IT FULLY FUNCTIONAL: PROVIDED, HOWEVER, THAT IN CASES OF DONATIONS MADE BY A COMPANY TO ITS SUBSIDIARY ENGAGED IN COMPUTER EDUCATION, THE SAME SHALL BE DISQUALIFIED FROM THE INCENTIVES GRANTED HEREUNDER: UNLESS THE SAME SHALL DONATE TO ANOTHER EDUCATIONAL AND/OR RESEARCH INSTITUTION WHEREIN IT HAS NO CORPORATE INTEREST.

THE DEDUCTIBILITY OF DONATION OF INFORMATION TECHNOLOGY EQUIPMENT TO EDUCATIONAL AND/OR RESEARCH INSTITUTIONS GRANTED HEREUNDER SHALL BE ALLOWED ONLY IN THE IMMEDIATELY PRECEDING TAXABLE YEAR AFTER THE DONATION."

SEC. 3. – Subsection (A), Section 101 of the same Code is hereby further amended to read as follows:

"SEC. 101. *Exemption of Certain Gifts.* The following gifts or donations shall be exempt from the tax provided for in this Chapter:

(A) In the Case of Gifts Made by a Resident

- (1) Dowries or gifts made on account of marriage and before its celebration or within one year thereafter by parents to each of their legitimate, recognized, natural or adopted children to the extent of the first Ten Thousand Pesos (P10,000.00)
- (2) Gifts made to or for the use of the National Government or any entity created by any of its agencies which is not conducted for profit, or to any political subdivision of the said Government; and
- (3) Gifts in favor of an educational and/or charitable, religious, cultural or social welfare corporation, institution, accredited non-government organization, trust or philanthropic organization or research institution or organization: Provided, however, That not more than thirty percent (30%) said gifts shall be used by such done for administration purposes. For the purpose of this exemption, a non-profit educational and/or research institution or organization is a school, college or university and/or charitable corporation, accredited non-government organization, trust or

philanthropic organization and/or research institution or organization, incorporated as a nonstick entity, paying no dividends, governed by trustees who receive no compensation, and devoting all its income, whether student's fees or gifts, donations, subsidies or other forms of Philanthropy, to the accomplishment and promotion of the purpose enumerated in its Articles of Incorporation. **PROVIDED, FURTHER,** **THAT NOTWITHSTADING ANY PROVISION TO THE CONTRARY, ALL GRATUITUOUS DONATION OF INFORMATION TECHNOLOGY EQUIPMENT MADE TO ANY PUBLIC AND/OR PRIVATE EDUCATIONAL AND/OR RESEARCH INSTITUTIONS SHALL BE COVERED BY THE EXEMPTION GRANTED UNDER THIS SECTION: PROVIDED, HOWEVER, THAT THE EQUIPMENT DONATED SHALL IF USED EXCLUSIVELY FOR EDUCATION, TRAINING, RESEARCH, OR EXPERIMENTATION PURPOSES ONLY IN PHYSICAL, BIOLOGICAL, COMPUTER AND OTHER SCIENCES.**

SEC. 4. The Secretary of Finance shall, upon recommendation of the Commissioner of Internal Revenue, *Promulgate such rules and regulations for the proper and effective implementation of this Act.*

SEC. 5. All laws, decrees, executive orders, memorandum circulars, administrative orders, ordinances or any part thereof, inconsistent herewith are hereby repealed or modified accordingly.

SEC. 6. If any provision of this Act is subsequently declared unconstitutional, the validity of the remaining provisions hereof shall remain in full force and effect.

Approved,