

SENATE
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Introduced by Senator Maria Lourdes Nancy S. Binay

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EXPLANATORY NOTE

After typhoon Yolanda struck the Philippines, the Bureau of Internal Revenue (BIR) drew flak from the public in view of its statements that donations or gifts to victims of calamities may attract donor's and other taxes. In order to avoid donor's tax, the BIR suggested that donations be made directly to national government agencies or local government units to avoid donor's taxes.

The present system appears to penalize generosity to victims of huge disasters or calamities and discourages the entry of much needed aid to affected areas.

As such, the passage of this Bill clarifying the intent of the law is earnestly requested.


MARIA LOURDES NANCY S. BINAY
Senator

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1 AN ACT EXEMPTING FROM DONOR'S TAX AND DOCUMENTARY STAMP TAX
2 GIFTS/DONATIONS/REMITTANCES FOR THE BENEFIT OF VICTIMS OF NATURAL
3 DISASTERS AND OTHER CALAMITIES, AMENDING FOR THE PURPOSE REPUBLIC
4 ACT 8424 OR THE NATIONAL INTERNAL REVENUE CODE AS AMENDED
5

6 *Be it enacted by the Senate and House of Representatives of the Philippines in Congress*
7 *assembled:*
8

9 **SECTION 1.** Section 101 of Republic Act 8424 is hereby amended to read as follows:
10

11 **Section 101. Exemption of Certain Gifts.** The following gifts or donations shall be
12 exempt from the tax provided for in this Chapter:
13

14 (A) In the Case of Gifts Made by a Resident. -
15

16 (1) Dowries or gifts made on account of marriage and before its celebration or
17 within one year thereafter by parents to each of their legitimate, recognized
18 natural, or adopted children to the extent of the first Ten thousand pesos
19 (P10,000);
20

21 (2) Gifts made to or for the use of the National Government or any entity created
22 by any of its agencies which is not conducted for profit, or to any political
23 subdivision of the said Government; and
24

25 (3) Gifts in favor of an educational and/or charitable, religious, cultural or social
26 welfare corporation, institution, accredited nongovernment organization, trust
27 or philanthropic organization or research institution or organization:
28 Provided, however, That not more than thirty percent (30%) of said gifts shall
29 be used by such donee for administration purposes. For the purpose of the
30 exemption, a 'non-profit educational and/or charitable corporation, institution,
31 accredited nongovernment organization, trust or philanthropic organization
32 and/or research institution or organization' is a school, college or university
33 and/or charitable corporation, accredited nongovernment organization, trust or
34 philanthropic organization and/or research institution or organization,
35 incorporated as a nonstock entity, paying no dividends, governed by trustees
36 who receive no compensation, and devoting all its income, whether students'
37 fees or gifts, donation, subsidies or other forms of philanthropy, to the
38 accomplishment and promotion of the purposes enumerated in its Articles of
39 Incorporation.
40
41

1 (B) In the Case of Gifts Made by a Nonresident not a Citizen of the Philippines. -
2

3 (1) Gifts made to or for the use of the National Government or any entity
4 created by any of its agencies which is not conducted for profit, or to any
5 political subdivision of the said Government.

6 (2) Gifts in favor of an educational and/or charitable, religious, cultural or
7 social welfare corporation, institution, foundation, trust or philanthropic
8 organization or research institution or organization: Provided, however, That
9 not more than thirty percent (30% of said gifts shall be used by such donee for
10 administration purposes.
11

12 (C) GIFTS/DONATIONS IN TIMES OF DISASTERS
13

14 PARAGRAPHS (A) AND (B) NOTWITHSTANDING, IN TIMES OF
15 DISASTERS AS DEFINED IN SECTION 3(D) OF REPUBLIC 10121,
16 GIFTS/DONATIONS TO ANY AND ALL TYPES OF NON-
17 GOVERNMENT ORGANIZATIONS/PEOPLE'S
18 ORGANIZATIONS/ASSOCIATIONS ENGAGED IN RELIEF
19 OPERATIONS IN AFFECTED AREAS SHALL BE EXEMPT FROM
20 DONOR'S TAX. GIFTS/DONATIONS DIRECTLY GIVEN TO VICTIMS
21 OF SUCH DISASTERS SHALL ALSO BE EXEMPT FROM DONOR'S
22 TAX.
23

24 (D) Tax Credit for Donor's Taxes Paid to a Foreign Country.
25

26 (1) *In General.* - The tax imposed by this Title upon a donor who was a citizen
27 or a resident at the time of donation shall be credited with the amount of any
28 donor's tax of any character and description imposed by the authority of a
29 foreign country.

30 (2) *Limitations on Credit.* - The amount of the credit taken under this Section
31 shall be subject to each of the following limitations:

32 (a) The amount of the credit in respect to the tax paid to any country shall not
33 exceed the same proportion of the tax against which such credit is taken,
34 which the net gifts situated within such country taxable under this Title bears
35 to his entire net gifts; and

36 (b) The total amount of the credit shall not exceed the same proportion of the
37 tax against which such credit is taken, which the donor's net gifts situated
38 outside the Philippines taxable under this title bears to his entire net gifts.
39

40 **SECTION 2.** *Exemption from DST for Remittances to Disaster-affected Areas.* The
41 provisions of RA 8424 notwithstanding, remittances to disaster-affected areas shall not be
42 charged with documentary stamp tax.
43

44 **SECTION 3.** *Period of Exemptions.* The above exemptions shall apply within sixty (60)
45 days from the date of occurrence of the disaster, subject to an extension for a period to be
46 determined by the National Disaster Risk Reduction and Management Council (NDRRMC).
47 The period of extension to be fixed by the NDRRMC shall not exceed ninety (90) days.
48

49 **SECTION 4.** *Implementing Rules and Regulations.* The Bureau Internal Revenue shall issue
50 the necessary revenue regulations within sixty (60) days from the approval of this Act.
51

1 **SECTION 5. *Separability Clause.*** Should any part or provision of this Act be declared
2 unconstitutional or invalid, other parts or provisions hereof not otherwise affected thereby
3 shall remain in full force and effect.

4
5 **SECTION 6. *Effectivity.*** This Act shall take effect fifteen (15) days after its publication in at
6 least two (2) newspapers of general circulation.

7
8 Approved.