

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



SENATE  
S.B. No. 295

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**Introduced by Senator Aquilino "Koko" Pimentel III**

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**AN ACT  
AMENDING SECTIONS 99(B), 100, AND 101 OF CHAPTER II,  
TITLE III, ESTATE AND DONOR'S TAXES, OF THE  
NATIONAL INTERNAL REVENUE CODE OF 1997 AS  
AMENDED, AND FOR OTHER PURPOSES**

**EXPLANATORY NOTE**

Taxation, aside from its basic function to raise the revenues needed for government operations, can also be used as a tool for sharing wealth, effecting a more equitable distribution of resources with the aim of minimizing the gap between the rich and the poor. Giving of gifts between family members and loved ones is a gesture that naturally flows from the love and affection that exist among themselves. But, donating to strangers is hardly a natural process.

Under the current provision of the Tax Code, donation to strangers is taxed at 30% of its market value. This prohibitive rate is a disincentive to the prospective donors. In order to encourage the sharing of excess wealth by the haves to the have-nots, there is a need to reduce the current 30% donor's tax rate to the minimum rate of 2% based on the current donor's tax table.

The past disasters that wreaked havoc to our country have revealed the slow pace in the release of donated relief goods from foreign donors due to bureaucratic red tapes in securing tax and duty exemption certificates from the concerned government agencies. The current codal provisions exempting donations from the payment of tax are confined to donee institutions such as charitable, religious, social welfare and the like, and nothing to individual victims of natural and

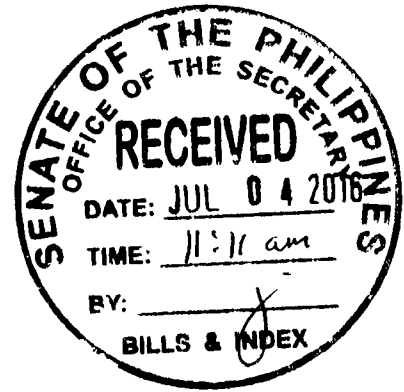
man-made disasters. There is an urgent need to exempt from donor's tax all donations to the individual victims of these disasters without having to be coursed through such donee institutions, to ensure speedy delivery of relief goods and services.

On another note, there is also a need to revise the statutory imputation of donative intent on the sale, assignment or disposition of ordinary real properties below the BIR-ascribed fair market value (FMV), such as zonal value, etc., which is currently subjecting to donor's tax the difference in the selling price and the BIR-ascribed FMV. In the commercial world, the FMV is defined as that "*value that a willing buyer under no duress would pay and a willing seller under no duress would sell for the property or service(s) involved.*" Thus, the need to revise Section 100 of the Tax Code to exclude from the coverage of this donor's tax all bona fide sale of ordinary real properties including the sale of shares of stock which are transacted in the regular course of business.

These tax rationalization efforts would therefore make the economy more dynamic and prosperous by making taxation an instrument of equity that will lighten the burden of taxpayers.

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

  
AQUILINO "KOKO" PIMENTEL III



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2 AMENDING SECTIONS 99(B), 100, AND 101 OF TITLE III,  
3 ESTATE AND DONOR’S TAXES, OF THE NATIONAL  
4 INTERNAL REVENUE CODE OF 1997 AS AMENDED, AND  
5 FOR OTHER PURPOSES

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

6 SECTION 1. Section 99 (B) of the National Internal Revenue Code  
7 (NIRC) is hereby amended as follows:

8 “(B) *Tax Payable by Donor if Donee is a*  
9 *Stranger.* – When the donee or beneficiary is a  
10 stranger, the tax payable by the donor shall be  
11 [thirty percent (30%)] **TWO PERCENT (2%)** of  
12 the net gifts.”

13 SECTION 2. Section 100 is hereby amended to read as follows:

14  
15 "SECTION 100. *Transfer for Less Than*  
16 *Adequate and Full Consideration.* — Where  
17 property, other than real property referred to in  
18 Section 24(D) **AND SHARES OF STOCK**  
19 **REFERRED TO IN SECTIONS 24(C),**  
20 **25(A)(3), 27(D)(2), 28(A)(7)(C) AND**

1           **28(B)(5)(C)**, is transferred for less than an  
2 adequate and full consideration in money or  
3 money's worth, then the amount by which the fair  
4 market value of the property exceeded the value of  
5 the consideration shall, for the purpose of the tax  
6 imposed by this Chapter, be deemed a gift, and  
7 shall be included in computing the amount of gifts  
8 made during the calendar year. **PROVIDED,**  
9 **HOWEVER, THAT A BONA FIDE SALE,**  
10 **EXCHANGE OR OTHER TRANSFER OF**  
11 **PROPERTY MADE IN THE COURSE OF**  
12 **BUSINESS CANNOT BE DEEMED A GIFT**  
13 **REGARDLESS OF THE AMOUNT OF**  
14 **CONSIDERATION.”**

15 **SECTION 3.** Section 101 is hereby amended to introduce a new  
16 Subsection (4) under Section (101)(A) and Subsection (3) under  
17 Section(101)(B), to read as follows:

18           **“SEC. 101. *Exemption of Certain Gifts.*** – The  
19                                   following gifts or donations shall be  
20                                   exempt from the tax provided for in this  
21                                   Chapter: x x x

22           **(A) *In the Case of gifts Made by a Resident.*** –

23                                   xxx

24                                   **(4) GIFTS TO VICTIMS OF DISASTERS,**  
25                                   **WHETHER NATURAL OR MAN-**  
26                                   **MADE.**

27           **“(B) *In the Case of Gifts Made by a Nonresident***  
28                                   ***not a Citizen of the Philippines.*** –

29                                   xxx

1                   **(3) GIFTS TO VICTIMS OF**  
2                   **DISASTERS, WHETHER NATURAL**  
3                   **OR MAN-MADE.”**

4   **SECTION 4.***Separability Clause* - Should any portion or provision of  
5 this Act be declared unconstitutional or invalid, the declaration shall not  
6 have the effect of nullifying other portions or provisions not affected  
7 thereby.

8   **SECTION 5.***Repealing Clause* - All laws, executive or administrative  
9 orders, rules or regulations, or any parts thereof which are inconsistent  
10 with any of the provisions of this Act, are hereby repealed or modified  
11 accordingly.

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

*Approved,*