

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



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SENATE

S.B. No. 958

RECEIVED BY:

Introduced by Senator **SONNY ANGARA**

AN ACT
TO STRENGTHEN THE COUNTRY'S GROSS INTERNATIONAL RESERVES (GIR),
AMENDING FOR THE PURPOSE SECTIONS 32 AND 151 OF THE NATIONAL
INTERNAL REVENUE CODE, AS AMENDED, AND FOR OTHER PURPOSES

EXPLANATORY NOTE

Section 17 of Republic Act (RA) No. 7076, or the People's Small-Scale Mining Act of 1991, provides that "all gold produced by small-scale miners in any mineral area shall be sold to the Central Bank, or its duly authorized representative, which shall buy it at prices comparative with those prevailing in the world market regardless of volume or weight."

RA No. 7076 was enacted to help promote, develop, protect and rationalize viable small-scale mining activities in order to generate more employment opportunities and provide an equitable sharing of the nation's wealth and natural resources in the Philippines. The above quoted provision, in particular, seeks to ensure that small-scale miners would be able to receive a fair price for their gold while enabling the Bangko Sentral ng Pilipinas (BSP) to build up the country's gross international reserves (GIR) by buying domestically produced gold from small-scale miners using pesos.

However, when the BSP started to withhold and remit to the National Government 2% excise tax and 5% creditable withholding tax (CWT) on its purchase of gold from small-scale miners and traders pursuant to Bureau of Internal Revenue (BIR) Revenue Regulation (RR) No. 6-2012, the volume of gold sold to BSP declined drastically. BSP's total gold purchases in 2010 reached 918,110 troy ounces. By 2014, purchases decreased to 20,354 troy ounces only or a reduction of almost 98%¹. In terms of value, from the 2010 figure of P49,543 million, BSP purchased P984 million worth of gold only in 2014. Evidently, small-scale miners and traders had opted to sell their gold elsewhere rather than to the BSP.

Based on the foregoing, the BSP for practical purposes, has lost the opportunity to build

¹ Based on data provided by the Regional Monetary Affairs Sub-Sector (RMASS). Translated in terms of gold bars, from a total of 2,237.12 equivalent gold bars in 2010, only 43.89 gold bars were sold to BSP in 2014.

up its gold reserves using pesos. Buying gold from the domestic market results in a rise in the GIR, unlike buying using foreign currency, which simply alters the composition of the GIR. Meanwhile, purchasing gold using dollars acquired from the market affects the money supply. To keep money supply manageable and maintain growth would entail additional cost for the BSP. Moreover, the BSP buys gold as part of its international reserves as gold still represents the ultimate form of payment in the world. Central banks have long held on to gold as part of their international reserves for the following reasons: (1) Asset diversification - to invest in various revenue sources to protect the value of total reserve portfolio; (2) Economic security - gold value is less volatile as compared to the value of currencies; and (3) Physical security - gold maintains an intrinsic value and is less susceptible to foreign exchange controls. Finally, the BSP's gold refinery facility is currently operating at below capacity. With the contraction in the volume of gold to the BSP, it may have to raise gold refining charges, which would further discourage small-scale miners and their traders from selling to the BSP.

As regards actual National Government collections, while BSP remitted a significant amount of P205 million in taxes for the period of July to December 2011, its remittances for the same period in 2013 went down by 82% to a mere P36 million, and has since plateaued at this amount.

Indubitably, the dwindling tax collections of the National Government from the sale of gold to BSP should not take precedence over the undue burden that the tax collection has caused to BSP and the small-scale miners.

The proposed legislation would have the effect of assisting the BSP in the fulfillment of its mandate under its charter, returning to the formal sector the sale of gold from small-scale mining and supporting the trade of small-scale miners as originally envisioned under RA No. 7076.

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



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AMENDING FOR THE PURPOSE SECTIONS 32 AND 151 OF THE NATIONAL INTERNAL
REVENUE CODE, AS AMENDED, AND FOR OTHER PURPOSES**

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

1 **SECTION 1. Amendment of Section 32 of the National Internal Revenue Code.** Section 32
2 (B) (7) of the National Internal Revenue Code of 1997, as amended, is hereby further amended
3 to read as follows:

4
5 SECTION 32. Gross Income. -
6 xxx
7 (B) Exclusions from Gross Income. - The following items shall not be included in
8 gross income and shall be exempt from taxation under this Title:

9 xxx
10 (7) Miscellaneous Items. -
11 xxx
12 (i) INCOME DERIVED FROM THE SALE OF GOLD PURSUANT TO REPUBLIC
13 ACT (R.A.) NO. 7076 - INCOME DERIVED FROM THE FOLLOWING
14 TRANSACTIONS PURSUANT TO R.A. NO. 7076, OTHERWISE KNOWN AS
15 THE PEOPLE'S SMALL-SCALE MINING ACT OF 1991:

- 16 1) THE SALE OF GOLD TO THE BANGKO SENTRAL NG
17 PILIPINAS BY REGISTERED SMALL-SCALE MINERS, AS
18 DEFINED UNDER R.A. 7076, AND ACCREDITED TRADERS;
19 AND
20 2) THE SALE OF GOLD BY REGISTERED SMALL-SCALE
21 MINERS TO ACCREDITED TRADERS FOR EVENTUAL SALE
22 TO THE BANGKO SENTRAL NG PILIPINAS.

23

1 **SEC. 2. Amendment of Section 151 of the National Internal Revenue Code.** Section 151 of
2 the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as
3 follows:

4
5 SECTION 151. Mineral Products.

6 xxx

7 "(C) NOTWITHSTANDING THE FOREGOING, GOLD WHICH IS SOLD, OR
8 EVENTUALLY SOLD, TO THE BANGKO SENTRAL NG PILIPINAS, IN
9 ACCORDANCE WITH SECTION 32 (B) (7) (i), SHALL BE EXEMPT FROM THE
10 PAYMENT OF EXCISE TAX: PROVIDED, HOWEVER, THAT IF EXCISE TAX
11 DUE THEREON HAD BEEN PAID PRIOR TO THE SALE OF GOLD TO THE
12 BANGKO SENTRAL NG PILIPINAS, THE TAXPAYER MAY FILE A CLAIM FOR
13 REFUND OR CREDIT WITH THE COMMISSIONER FOR THE EXCISE TAX
14 PAID."
15

16 **SEC. 3. Tax Incentives and Privileges of Small-Scale Miners.** In addition to the foregoing,
17 and notwithstanding the existing provisions of Republic Act (R.A.) No. 6938, otherwise known
18 as the Cooperative Code of the Philippines, as amended, and other applicable laws, the sale of
19 gold by registered small-scale miners, as defined under R.A. No. 7076, to accredited traders for
20 eventual sale to the Bangko Sentral ng Pilipinas shall enjoy the same tax treatment and
21 privileges given to the direct sale of gold to the Bangko Sentral ng Pilipinas under the Tax Code.
22

23 **SEC. 4. Implementing Rules and Regulations.** Within sixty (60) days after the effectivity of
24 this Act, the Governor of the Bangko Sentral ng Pilipinas, the Secretary of Environment and
25 Natural Resources, the Secretary of Interior and Local Government and the Commissioner of
26 Internal Revenue shall recommend to the Secretary of Finance, for promulgation, the necessary
27 rules and regulations necessary for the effective implementation of this Act. The rules and
28 regulations shall include provisions for the registration and accreditation requirements of small-
29 scale miners and traders in order to avail of the tax exemptions under this Act.
30

31 **SEC. 5. Repealing Clause.** All laws, orders, rules, regulations and other issuances or parts
32 thereof, which are inconsistent with the provisions of this Act, are hereby revoked, repealed or
33 modified accordingly.
34

35 **SEC. 6. Separability Clause.** Should any provision herein be declared unconstitutional, the
36 same shall not affect the validity of the other provisions of this Act.
37

38 **SEC.7. Effectivity.** This law shall take effect fifteen (15) days after its publication in the Official
39 Gazette or in a newspaper of general circulation.
40

41 Approved,