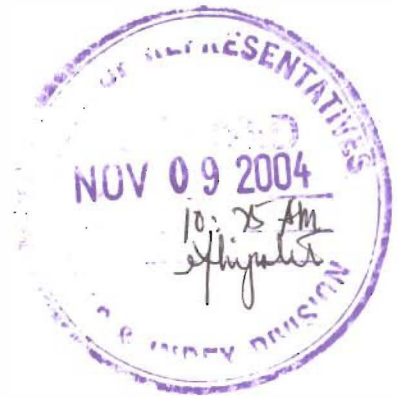


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS
First Regular Session



HOUSE BILL NO. 3256

Introduced by: **REP. ANTONIO M. DIAZ**

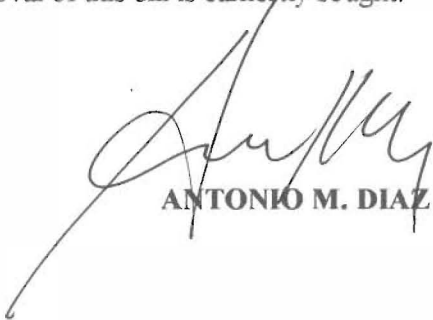
EXPLANATORY NOTE

This proposed measure is a response to the call of the President for Congress to pass laws designed to meet the fiscal crisis besetting the nation today.

Corporate taxation used to be a major source of government revenues. Over time, however, corporations have found ways and means to avoid tax either by shifting the burden of the tax or going around the law without necessarily violating the same. This practice has gained wide acceptance. At one point, the Supreme Court even sanctioned such practice. Hence, while tax evasion is illegal, tax avoidance is legal.

Presently, it appears that the 32% income tax achieves the objectives of the law, but in reality it is not. This bill, therefore, seeks to address the hiatus in the area of corporate taxation by imposing a uniform 15% gross rate of tax on all gains of corporations derived from whatever source. This bill also seeks to provide easier administration of corporate taxation, one of the facets of a strong and working tax system. In other words, this proposed measure simplifies taxation, a characteristic that is also a feature of a fair and equitable tax system.

In view hereof, immediate approval of this bill is earnestly sought.


ANTONIO M. DIAZ

Republic of the Philippines
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THIRTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 3256

Introduced by: **REP. ANTONIO M. DIAZ**

AN ACT
ADOPTING THE GROSS INCOME TAXATION FOR CORPORATIONS AMENDING
FOR THE PURPOSE PERTINENT PROVISIONS OF TITLE II OF THE NATIONAL
INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSE

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

SECTION 1. Section 21 (A) of the National Revenue Code of 1997, as amended. Is hereby deleted and lieu thereof of a new Section 27 (A) is hereby inserted which shall read as follows:

"SEC. 27. RATES OF INCOME TAX ON DOMESTIC CORPORATIONS.

"(A) IN GENERAL - EXCEPT AS OTHERWISE PROVIDED IN THIS CODE, AN INCOME TAX AT THE RATE OF FIFTEEN PERCENT (15%) IS HEREBY IMPOSED UPON THE GROSS INCOME DURING THE TAXABLE YEAR FROM ALL SOURCES WITHIN AND WITHOUT THE PHILIPPINES BY EVERY CORPORATION, AS DEFINED UNDER SECTION 22(B) OF THIS CODE, AND TAXABLE UNDER THIS TITLE AS A CORPORATION, ORGANIZED IN, OR EXISTING UNDER THE LAWS OF THE PHILIPPINES.

"FOR PURPOSES OF THIS SECTION, THE TERM 'GROSS INCOME' DERIVED FROM BUSINESS SHALL BE EQUIVALENT TO GROSS SALES LESS SALES RETURNS, DISCOUNTS AND ALLOWANCES AND COST OF GOODS SOLD. 'COST OF GOODS SOLD' SHALL INCLUDE ALL BUSINESS EXPENSE DIRECTLY INCURRED TO PRODUCE THE MERCHANDISE TO BRING THEM TO THEIR PRESENT LOCATION AND USE.

"FOR A TRADING OR MERCHANDISING CONCERN, 'COST OF GOODS' SOLD SHALL INCLUDE THE INVOLVE COSTS OF THE GOODS SOLD, PLUS IMPORT DUTIES, FREIGHT IN TRANSPORTATING THE GOODS TO THE PLACE WHERE THE GOODS ARE ACTUALLY SOLD, INCLUDING INSURANCE WHILE THE GOODS ARE IN TRANSIT.

"FOR A MANUFACTURING CONCERN, 'COST OF GOOD MANUFACTURED AND SOLD' SHALL INCLUDE ALL COSTS OF PRODUCTION OF FINISHED GOODS, SUCH AS RAW MATERIALS USED, DIRECT LABOR AND MANUFACTURING OVERHEAD, FREIGHT COST, INSURANCE PREMIUMS AND OTHER COSTS INCURRED TO BRING THE RAW MATERIALS TO THE FACTORY OR WAREHOUSE.

"IN THE CASE OF TAXPAYERS ENGAGED IN THE SALE OF SERVICE, 'GROSS INCOME' MEANS GROSS RECEIPTS LESS SALES RETURNS, ALLOWANCES AND DISCOUNTS AND COST OF SERVICES. 'COST OF SERVICES' SHALL MEAN ALL DIRECT COSTS AND EXPENSES NECESSARILY INCURRED TO PROVIDE THE SERVICES REQUIRED BY THE CUSTOMERS AND CLIENTS INCLUDING (A) SALARIES AND EMPLOYEE BENEFITS OF PERSONNEL, CONSULTANTS AND SPECIALISTS DIRECTLY RENDERING THE SERVICES AND (B) COST OF FACILITIES DIRECTLY UTILIZED IN PROVIDING THE SERVICE AND SUCH AS DEPRECIATION OR RENTAL OF EQUIPMENT USED AND COST OF SUPPLIES: PROVIDED, HOWEVER, THAT IN THE CASE OF BANKS, 'COST OF SERVICES' SHALL INCLUDE INTEREST EXPENSE.

"WHENEVER IN THE JUDGEMENT OF THE COMMISSIONER THERE ARE SOME COST ITEMS OR COST COMPONENTS TO BE INCLUDED IN THE COST OF GOODS OR COST OF SERVICES, AS THE CASE MAY BE, TAKING

INTO ACCOUNT THE SPECIAL CIRCUMSTANCES, NATURE AND CHARACTER OF THE CORPORATE TRADE, BUSINESS OR INDUSTRY, THE SECRETARY OF FINANCE, UPON RECOMMENDATION OF THE COMMISSIONER, MAY, BY RULES AND REGULATIONS, ALLOW SUCH INCLUSION."

SEC. 2. Section 27(E) of the National Internal Revenue Code, as amended, is hereby deleted and in lieu thereof, a new Section 27(E) is hereby inserted which shall read as follows:

"(E) TAX ON OTHER INCOME - ANY INCOME, GAIN OR PROFIT OF WHATEVER KIND AND WHATEVER FORM DERIVED BY A DOMESTIC CORPORATION FROM ALL OTHER SOURCES NOT SPECIFICALLY EXEMPT FROM TAX UNDER THIS TITLE SHALL BE SUBJECT TO A FINAL TAX AT THE RATE OF FIFTEEN PERCENT (15%) OF THE TOTAL AMOUNT THEREOF.

SEC.3. Section 28 (A) of the National Internal Revenue Code, as amended, is hereby deleted and in lieu thereof a new Section 28(A)(1) is hereby inserted which shall read as follows:

"SEC. 28. RATES OF INCOME TAX ON FOREIGN CORPORATIONS. -

"(A) TAX ON PRESIDENT OF FOREIGN CORPORATIONS.

"(1) IN GENERAL - EXCEPT AS OTHERWISE PROVIDED IN THIS CODE, A CORPORATION ORGANIZED, AUTHORIZED, OR EXISTING UNDER THE LAWS OF ANY FOREIGN COUNTRY, ENGAGED IN TRADE OR BUSINESS WITHIN THE PHILIPPINES SHALL BE SUBJECT TO AN INCOME TAX AT THE RATE OF FIFTEEN PERCENT (15%) OF THE GROSS INCOME DERIVED DURING THE TAXABLE YEAR FROM ALL SOURCES WITHIN THE PHILIPPINES. FOR PURPOSES OF THIS SUBSECTION, GROSS INCOME SHALL BE DETERMINED IN THE SAME MANNER AS PROVIDED UNDER SECTION 27(A) OF THIS CODE.

SEC. 4. Section 28 (A)(2) of the Code, as amended is hereby deleted. Paragraphs (3), (4), (5), (6) and (7) of Section 28 (A) are hereby accordingly renamed Paragraphs (2), (3), (4), (5) and (6), respectively.

SEC. 5. A new paragraph to be known as paragraph (8) is hereby inserted under Section 28(A) of the National Internal Revenue Code of 1997, as amended, which shall read as follows:

"(8) OTHER INCOME - ANY INCOME, GAIN OF PROFIT OR WHATEVER KIND AND WHATEVER FORM DERIVED BY A RESIDENT FOREIGN CORPORATION FROM ALL OTHER SOURCES WITHIN THE PHILIPPINES AND

WHICH IS NOT SPECIFICALLY EXEMPT FROM TAX UNDER THIS TITLE SHALL BE SUBJECT TO A FINAL TAX AT THE RATE OF FIFTEEN PERCENT (15%) OF THE TOTAL AMOUNT THEREOF.

SEC. 6. Section 28(B) of the National Internal Revenue Code, amended, is hereby amended to read as follows:

"(B)" TAX ON NON-RESIDENT FOREIGN CORPORATION -

"(1) IN GENERAL - EXCEPT AS OTHERWISE PROVIDED IN THIS CODE, A FOREIGN CORPORATION NOT ENGAGED IN TRADE OR BUSINESS IN THE PHILIPPINES SHALL PAY A TAX AT THE RATE OF FIFTEEN PERCENT (15%) OF THE GROSS INCOME RECEIVED DURING EACH TAXABLE YEAR FROM ALL SOURCES WITHIN THE PHILIPPINES, SUCH AS INTERESTS, DIVIDENDS, RENTS, ROYALTIES, SALARIES, PREMIUMS (EXCEPT REINSURANCE PREMIUMS), ANNUITIES, EMOLUMENTS OR OTHER FIXED OR DETERMINABLE ANNUAL, PERIODIC OR CASUAL GAINS, PROFITS AND INCOME, AND CAPITAL GAINS, EXCEPT CAPITAL GAINS SUBJECT TO TAX UNDER SUBPARAGRAPH 5 (b).

SEC. 7. Section 28(B) 5(b) of the National Internal Revenue Code, as amended, is hereby deleted. Paragraph (5)(c) of Section 28(B) is hereby renamed paragraph (5)(b).

Sec. 8. Section 31 of the National Internal Revenue Code, as amended, is hereby amended to read as follows:

"SEC. 31. Taxable Income Defined- The term 'taxable income', **WHICH SHALL NOT APPLY TO TAXPAYERS TAXABLE ON GROSS INCOME AS PROVIDED UNDER THIS TITLE** means the pertinent items of gross income specified in this Code, less the deductions and /or personal and additional exemptions, if any authorized for such types of income by this Code or other special laws."

Sec 9. All sections of the National Internal Revenue Code of 1997, as amended, which are affected by the renumbering made under the ACT, as well cross-references made hereto, are hereby renumbered accordingly.

Sec. 10. Implementing the rules and regulations- The Secretary of Finance shall upon the recommendation of the Commissioner of the Bureau of Internal Revenue, promulgated the necessary rules and regulations for the effective implementation of this Act.

Sec.11. Repealing Clause- All laws, decrees, executive orders, rules and regulations or parts thereof, which are contrary to or inconsistent with this Act, are hereby repealed, amended or modified accordingly.

Sec 12. Effectivity- This Act shall take effect fifteen (15) DAYS AFTER THE PUBLICATION IN THE Official Gazette or in any newspapers of general circulation, whichever comes earlier.

Approved.