

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

18 DEC 2012

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FIFTEENTH CONGRESS
Third Regular Session

House Bill No. **6768**

Introduced by BAYAN MUNA
Rep. NERI JAVIER COLMENARES and Rep. TEDDY A. CASIÑO

**AN ACT CLASSIFYING THE ASSOCIATION DUES AND MEMBERSHIP FEES
COLLECTED BY HOMEOWNERS ASSOCIATIONS OR CONDOMINIUM
CORPORATIONS FROM THEIR MEMBERS OR TENANTS AS EXCLUDED
FROM INCOME TAX AND VALUE ADDED TAX**

EXPLANATORY NOTE

The executive department always has a simple solution to its budgetary needs and its chronic fiscal deficit—taxation. Government does not seem to notice that the Bureau of Internal Revenue and the Bureau of Customs continue to fail in meeting their revenue targets due to corruption and inefficiency, that billions of pesos in income are lost due to sweetheart deals with foreign investors and favored cronies, that hundreds of billions of pesos in public funds are lost in corrupt transactions and projects, that billions more are lost because of inefficiency, incompetence and red tape, and another round of hundreds of billions are lost in the payment of debts that were spent on overpriced projects attended by corruption and irregularities.

A government that has failed to address misplaced profligacy, incompetence, inefficiency and corruption has no moral authority to impose taxes on the people already crippled by rising prices, and unemployment. This lack of moral authority is never more pronounced than government attempts to tax a basic need of the people enshrined in its constitutional right to shelter—housing.

This bill seeks to exclude from income tax and value-added tax the association dues or membership dues paid by homeowners to their housing association or condominium corporations for the upkeep and maintenance of their housing tenements, common areas of their condominium buildings and other items that will help ensure a safe and healthy environment for homeowners.

Association or membership or condominium dues cannot be considered income of the Association because it can only be spent on the intended purpose of homeowners who placed it in trust of the homeowners association or condominium corporations. The association has

no discretion in the use or spending of these funds since these are not their "income" subject to their disposition.

Certainly the funds cannot also be deemed as payment for sale or services or any transaction subject to VAT. These are payment by the members to hire security or janitorial services, and other maintenance work, all of which will later on be subject to VAT, initially held in trust by the association and cannot therefore be subject to another VAT.

The BIR itself had issued several rulings in the past which exempts from income tax the assessments/charges collected by condominium corporations from its members, on the ground that the collection of association dues and other assessments/charges were merely held in trust to be used solely for administrative expenses in implementing its purposes, such as operating, managing and maintaining the condominium, and from which no gain or profit can be realized by the condominium corporation from the receipt thereof.

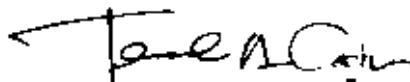
There is a housing problem in the country and government should not only build housing units for the people to address this problem but must also encourage those who are capable of owning a house to invest in the building or owning of a home of their own. Encouraging people who can afford to invest in or acquire their own homes, is never more pronounced because government claims to be incapable of building houses to solve the lack of housing. In fact, taxing association dues practically goes against all government policies in response to the housing shortage including policies related to encouraging low cost or socialized housing for the poor and those who cannot afford their housing needs.

Taxing association or membership dues will not only increase the cost of owning a home but will discourage people from investing in acquiring or building their homes, which will surely exacerbate the housing crisis in the country.

In view of the foregoing, approval of this bill, which exempts membership and association dues from income and value added tax, is earnestly sought.

Approved.


NERL JAVIER COLMENARES
Bayan Muna Party List


TEDDY A. CASINO
Bayan Muna Party List

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

Section 1. Section 30 paragraph C of Republic Act 8424 as amended or the National Internal Revenue Code is amended to read as follows:

Section 30. Exemptions from Tax on Corporations. - The following organizations shall not be taxed under this Title in respect to income received by them as such:

xxx

(C) A beneficiary society, order or association, operating for the exclusive benefit of the members such as a fraternal organization operating under the lodge system, or mutual aid association or a non-stock corporation organized by employees providing for the payment of life, sickness, accident, or other benefits exclusively to the members of such society, order, or association, or non-stock corporation or their dependents, OR A NON-PROFIT CONDOMINIUM CORPORATION OR HOMEOWNERS' ASSOCIATION HOLDING IN TRUST ASSOCIATION OR MEMBERSHIP DUES FOR THE BENEFIT OF THE MEMBERS;

Section 2. Section 32 (B) of the Republic Act No. 8424 as amended or the National Internal Revenue Code is amended to read as follows:

"Section 32. Gross Income. -

"(A) General Definition. xxx

"(B) Exclusions from Gross Income. - The following items shall not be included in gross income and shall be exempt from taxation under this title:

"(1) xxx

"(2) xxx

"(7) Miscellaneous Items. -

"(a) xxx

"(b) xxx

"(f) GSIS, SSS, Medicare and Other Contributions. - GSIS, SSS, Medicare and Pag-ibig contributions, and union dues of individuals AND AMOUNTS PAID AS ASSOCIATION DUES AND MEMBERSHIP FEES COLLECTED BY A CONDOMINIUM CORPORATION OR A HOMEOWNERS' ASSOCIATION FROM THEIR MEMBERS OR TENANTS."

Section 109. Section 109 of RA 9179 is hereby amended to read as follows:

"Section 109. *Exempt Transactions.* - The following shall be exempt from the value-added tax

(t) Gross receipts from lending activities by credit or multi-purpose cooperatives duly registered with the Cooperative Development Authority whose lending operation is limited to their members; GROSS RECEIPTS OF CONDOMINIUM CORPORATIONS OR HOMEOWNERS' ASSOCIATION FOR AMOUNTS PAID AS ASSOCIATION DUES OR MEMBERSHIP FEES COLLECTED BY A CONDOMINIUM CORPORATION OR A HOMEOWNERS' ASSOCIATION FROM THEIR MEMBERS OR TENANTS."

Section 4. Repealing clause—All laws, decrees, resolutions, orders or ordinances or parts thereof inconsistent with this Act, are hereby repealed, amended or modified accordingly.

Section 5. Effectivity. - This law shall take effect after fifteen days following its publication for two consecutive weeks in the newspaper of general circulation in the Philippines.

Approved.