

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH (16TH) CONGRESS
First Regular Session

House Bill No. **1758**



Introduced by **Hon. Joseph Gilbert F. Violago**

EXPLANATORY NOTE

Besides police power, the power of taxation is certainly one of the more potent power exercised by the State over its citizens. While the former may be said to be potent only in emergency situations; the latter, without a doubt, rules our daily lives regardless of the times.

And to safeguard against its abuse, the 1987 Constitution clearly mandates that the law on taxation must be both uniform and equitable. And if I may add, it must also be flexible and constantly attuned to the times. Hence, this bill.

Certainly, one of the principal reasons why owners of lands and buildings are not enticed to sell their real properties to the government lies in the fact that under our present laws, these transactions are subject to the payment of capital gains tax on gains realized from said transactions.

Therefore, in order to encourage private owners to sell their real properties to the government; and for the government to utilize them as offices in the case of buildings, or for the construction of schools, hospitals, and other infrastructure projects in the case of lands, this representation proposes to exempt any person, natural or juridical, who sells any real property to the government or any of its political subdivisions or instrumentalities, from the payment of capital gains tax.

With this tax incentive in place, hopefully, the government's perpetual need for suitable lands and/or buildings to carry out its mandate of providing infrastructure projects to the people will be addressed.


HON. JOSEPH F. VIOLAGO
Representative
2nd District, Nueva Ecija

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AN ACT

EXEMPTING ANY PERSON WHO SELLS ANY REAL PROPERTY TO THE GOVERNMENT OR ANY OF ITS POLITICAL SUBDIVISIONS OR INSTRUMENTALITIES FROM THE PAYMENT OF CAPITAL GAINS TAX AND FOR OTHER PURPOSES

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

SECTION 1. Section 24 (D) (1) of Republic Act No. 8424, otherwise known as the "National Internal Revenue Code of the 1997" is hereby amended to read as follows:

"(1) In General. - The provisions of Section 39(B) notwithstanding, a final tax of six percent (6%) based on the gross selling price or current fair market value as determined in accordance with Section 6(E) of this Code, whichever is higher, is hereby imposed upon capital gains presumed to have been realized from the sale, exchange, or other disposition of real property located in the Philippines, classified as capital asset, including *pacto de retro* sales and other forms of conditional sales, by individuals, including estates and trusts: Provided, That [the tax liability, if any, on gains from sales or other dispositions] ANY SALE of real property to the government or any of its political subdivisions or agencies or to government-owned or-controlled corporations shall be EXEMPT FROM THE PAYMENT OF CAPITAL GAINS TAX [determined either under Section 24(A) or under this Subsection, at the option of the taxpayer];"

SEC. 2. Section 27 (d) (5) of Republic Act No 8424, otherwise known as the "National Internal Revenue Code of 1997" is hereby amended to read as follows:

"(5) Capital Gains Realized from the Sale, Exchange or Disposition of Lands and/or Buildings. - A final tax of six percent (6%) is hereby imposed on the gain presumed to have been realized on the sale, exchange or disposition of lands and/or buildings which are not actually used in the business of a corporation and are treated as capital assets, based on the gross selling price or fair market value as determined in accordance with Section 6(E) of this Code, whichever is higher. Of such lands and/or buildings[: PROVIDED, THAT ANY SALE OF REAL PROPERTY TO THE GOVERNMENT-OWNED OR-CONTROLLED CORPORATIONS SHALL BE EXEMPT FROM THE PAYMENT OF CAPITAL GAINS TAX WHETHER OR NOT SUCH REAL PROPERTY ARE ACTUALLY USED IN THE BUSINESS."

SEC. 3. The Department of Finance shall issue the necessary rules and regulations to implement the provisions of this Act.

SEC. 4. All laws, presidential decrees, executive issuance, rules and regulations, or parts thereof, found inconsistent with this Act are hereby expressly repealed or modified accordingly.

SEC. 5. If, for any reason whatsoever, any provision of this Act is declared unconstitutional, the same shall not affect the validity of the other provisions not declared as such.

SEC. 6. This Act shall take effect upon its approval and fifteen (15) days following its publication in at least two (2) newspapers of general circulation.

Approved,