

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS

First Regular Session

HOUSE BILL No. 3235



Introduced by: Representative Karlo A. B. Nograles

Explanatory Note

This proposed measure seeks to rationalize the taxes imposed on the non-life insurance industry.

Prior to the enactment of Republic Act No. 10001 last February 2010, the percentage tax on premiums for both life and non-life insurance coverage was five percent (5%). However, RA 10001 reduced the tax rate for life insurance premiums to two percent (2%), while non-life insurance transactions are now subject to twelve percent (12%) value added tax. Section 28 (1), Article VI of the Constitution provides: "The rule of taxation shall be uniform and equitable. The Congress shall evolve a progressive system of taxation." The term "uniformity" requires that all subjects or objects of taxation, similarly situated, are to be treated alike or put on equal footing.¹ Equality and uniformity in taxation means that all taxable articles or kinds of property of the same class shall be taxed at the same rate.² Since both life and non life (property) insurance are similarly situated, they should be treated alike as far as taxation is concerned. Otherwise, the uniformity requirement of the Constitution will be violated. Thus, this bill seeks the equal tax treatment of the life and non-life insurance industry.

The significance of procuring insurance on property is no longer subject of debate. It has often been underscored that insurance is considered a risk-distributing device that stimulates business enterprise and efficiency. The coverage in insurance has made possible in sustaining the present-day commercial and industrial organizations. In addition, insurance enables these organizations to utilize their capital and resources in the advancement and progress of their business, thus

¹ *Juan Luna Subdivision v. Sarmiento* 91 Phil 371

² *City of Baguio v. De Leon* G.R. No. L-24756, October 31, 1968

attaining financial security against perils and risks. With diminished threat, these entrepreneurs can concentrate on the expansion of their trade and venture into other worth-while endeavors. Further, insurance is employed as a basis of credit. Extension of credit is considered one of the important segments of modern business practice and is factored in by practically all forms of insurance. In the case of a mortgage on a real estate, no mortgagee, whether a financial institution, or private entity, is willing to offer a loan of money without said entity having knowledge that the property is protected from fire or any other forms of destruction.

Non-life insurance lends us a steady hand, so to speak, in avoiding a probable loss in the value of one's assets owing to the incidence of fire, flood, earthquake, lightning and the like. It is considered an indispensable part of financial planning that assists organizations in maintaining a peaceful and undisturbed control of one's ownership of assets.

At present, non-life insurance policies are levied an array of taxes, including a 12% value-added tax (VAT), 12.5% documentary stamp tax, 2% fire service tax and between 0.15-0.75% local government tax.

It is to be noted that the "Philippines non-life insurers shoulder a 26.5% tax burden on premiums. In comparison, Singapore charges only a 7% VAT every policy, while Thailand charges only 3.9% for personal accident policies and 7.4% for all other types. Indonesia charges 0.4%."³

In view of the foregoing, approval of this measure is earnestly requested.



KARLO A. B. NOGRALES

³ Page 60, PIRA Non-life insurance Fact book 2012

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AN ACT
RATIONALIZING THE TAXES IMPOSED ON NON-LIFE INSURANCE POLICIES,
AMENDING FOR THIS PURPOSE SECTIONS 108, 123, 184 AND 185 OF THE
NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED

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

SECTION 1. Section 108 of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

“SEC. 108. Value-added Tax on Sale of Services and Use or Lease of Properties. -

(A) Rate and Base of Tax. - xxx

The phrase "*sale or exchange of services*" means the performance of all kinds of services in the Philippines for others for a fee, remuneration or consideration, including those performed or rendered by construction and service contractors; stock, real estate, commercial, customs and immigration brokers; lessors of property, whether personal or real; warehousing services; lessors or distributors of cinematographic films; persons engaged in milling processing, manufacturing or repacking goods for others; proprietors, operators or keepers of hotels, motels, resthouses, pension houses, inns, resorts; proprietors or operators of restaurants,

refreshment parlors, cafes and other eating places, including clubs and caterers; dealers in securities; lending investors; transportation contractors on their transport of goods or cargoes, including persons who transport goods or cargoes for hire and other domestic common carriers by land relative to their transport of goods or cargoes; common carriers by air and sea relative to their transport of passengers, goods or cargoes from one place in the Philippines to another place in the Philippines; sales of electricity by generation companies, transmission, and distribution companies; services of franchise grantees of electric utilities, telephone and telegraph, radio and television broadcasting and all other franchise grantees except those under Section 119 of this Code; services of banks, non-bank financial intermediaries and finance companies; [and non-life insurance companies (except their crop insurances), including surety, fidelity, indemnity and bonding companies;] and similar services regardless of whether or not the performance thereof calls for the exercise or use of the physical or mental faculties. xxx.”

SEC. 2. Section 123 of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

“SEC. 123. *Tax on [Life] Insurance Premiums.* - There shall be collected from every person, company or corporation (except purely cooperative companies or associations) doing [life] insurance business of any sort in the Philippines a tax of two percent (2%) of the total premium collected, whether such premiums are paid in money, notes, credits or any substitute for money; but premiums refunded within six (6) months after payment on account of rejection of risk or returned for other reason to a person insured shall not be included in the taxable receipts; nor shall any tax be paid upon reinsurance by a company that has already paid the tax; nor upon premiums collected or received by any branch of a domestic corporation, firm or association doing business outside the Philippines on account of any [life] insurance of the insured who is a nonresident, if any tax on such premium is imposed by the foreign country where the branch is established nor upon premiums collected or received on account of any reinsurance, if the **RISK INSURED AGAINST COVERS PROPERTY LOCATED OUTSIDE THE PHILIPPINES** OR THE insured, in case of personal insurance, resides outside the Philippines, if any tax on such premiums is imposed by the foreign country where the original insurance has been issued or perfected; nor upon that portion of the premiums collected or received by the insurance companies on variable contracts, in excess of the amounts necessary to insure the lives of the variable contract workers.

xxx.”

SEC. 3. Section 184 of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

"SEC. 184. Stamp Tax on Policies of Insurance Upon Property. - On all policies of insurance or other instruments by whatever name the same may be called, by which insurance shall be made or renewed upon property of any description, including rents or profits, against peril by sea or on inland waters, or by fire or lightning there shall be collected a documentary stamp tax [of Fifty centavos (P0.50) on each Four pesos (P4.00), or of fractional part thereof, of the amount of premium charged:] **AT THE FOLLOWING RATES:**

IF THE AMOUNT OF INSURANCE DOES NOT EXCEED PHP 100,000.00	-	EXEMPT
IF THE AMOUNT OF INSURANCE EXCEEDS PHP 100,000.00 BUT DOES NOT EXCEED PHP 300,000.00	-	PHP 10.00
IF THE AMOUNT OF INSURANCE EXCEEDS PHP 300,000.00 BUT DOES NOT EXCEED PHP 500,000.00	-	PHP 25.00
IF THE AMOUNT OF INSURANCE EXCEEDS PHP 500,000.00 BUT DOES NOT EXCEED PHP 750,000.00	-	PHP 50.00
IF THE AMOUNT OF INSURANCE EXCEEDS PHP 750,000.00 BUT DOES NOT EXCEED PHP 1,000,000.00	-	PHP 75.00
IF THE AMOUNT OF INSURANCE EXCEEDS PHP 1,000,000.00	-	PHP 100.00

Provider, however, That no documentary stamp tax shall be collected on reinsurance contracts or on any instrument by which cession or acceptance of insurance risks under any reinsurance agreement is effected or recorded."

SEC. 4. Section 185 of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

“SEC. 185. Stamp Tax on Fidelity Bonds and Other Insurance Policies. – On all policies of insurance or bonds or obligations of the nature of indemnity for loss, damage or liability made or renewed by any person, association, company or corporation transacting the business of accident, fidelity, employer’s liability, plate, glass, steam boiler, burglar, elevator, automatic sprinkler, or other branch of insurance (except life, marine, inland and fire insurance), and all bonds, undertakings, or recognizances, conditioned for the performance of the duties of any office or position, for the doing or not doing of anything therein specified, and on all obligations guaranteeing the validity or legality of any bond or other obligations issued by any province, city, municipality or other public body or organization, and on all obligations guaranteeing the title to any real estate or guaranteeing any mercantile credits which may be made or renewed by any such person, company or corporation, there shall be collected a documentary stamp tax [of Fifty centavos (P0.50) on each Four pesos (P4.00), or fractional part thereof, of the premium charged.] **AT THE FOLLOWING RATES:**

IF THE AMOUNT OF INSURANCE DOES NOT EXCEED PHP 100,000.00	-	EXEMPT
IF THE AMOUNT OF INSURANCE EXCEEDS PHP 100,000.00 BUT DOES NOT EXCEED PHP 300,000.00	-	PHP 10.00
IF THE AMOUNT OF INSURANCE EXCEEDS - PHP 300,000.00 BUT DOES NOT EXCEED PHP 500,000.00	-	PHP 25.00
IF THE AMOUNT OF INSURANCE EXCEEDS PHP 500,000.00 BUT DOES NOT EXCEED PHP 750,000.00	-	PHP 50.00
IF THE AMOUNT OF INSURANCE EXCEEDS PHP 750,000.00 BUT DOES NOT EXCEED PHP 1,000,000.00	-	PHP 75.00
IF THE AMOUNT OF INSURANCE EXCEEDS PHP 1,000,000.00	-	PHP 100.00.”

SEC. 5. *Rules and Regulations.* - The Secretary of Finance shall, upon recommendation of the Commissioner of Internal Revenue, promulgate the necessary rules and regulations for the effective implementation of the provisions of this Act.

SEC. 6. *Separability Clause.* - If any provision of this Act is held unconstitutional or invalid, all other provisions not affected thereby shall remain valid.

SEC. 7. *Repealing Clause.* - All laws, decrees, executive orders, rules and regulations or parts thereof which are inconsistent with this Act are hereby repealed, amended or modified accordingly.

SEC. 8. *Effectivity.* - This Act shall take effect fifteen (15) days following the completion of its publication in the *Official Gazette* or in a newspaper of general circulation in the Philippines.

Approved,