



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

Sixteenth Congress
First Regular Session

HOUSE BILL NO. **3529**



Introduced by Honorable Pablo Roces Nava III

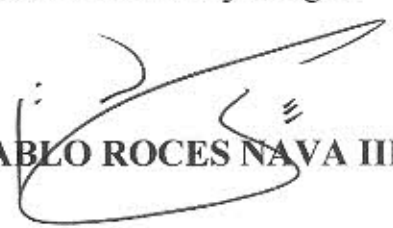
EXPLANATORY NOTE

The State recognizes the indispensable role of the private sector, especially those non-stock non-profit development organizations and corporations which help the government build the economy from the grassroots through microfinance.

The viability of these microfinance practitioners, however, is being undermined by a policy environment where they are being dealt with like ordinary lending companies. Thus, regular operations like providing their microfinance clients financial as well as non-financial services are seasonably examined for profit-making. Of late, the situation was made worst by a series of natural calamities that beleaguered the country bringing enormous losses to them due to unpaid loans of clients who were made victims by earthquakes and catastrophic typhoons like "Pablo" and "Yolanda".

It is therefore, crucial that the aforementioned microfinance practitioners be accorded policy support that would give them a shot in the arm to continue rendering microfinance services to more than one million poor microentrepreneurs and their families all over the country especially in the islands of Visayas and Mindanao.

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


PABLO ROCES NAVA III



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AN ACT

GRANTING TAX AMNESTY TO NON-STOCK NON-PROFIT ORGANIZATIONS AND CORPORATIONS ENGAGE IN MICROFINANCE, AND FOR OTHER PURPOSES

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

Section 1. *Declaration of Policy.* – It is declared policy of the State to recognize and encourage the work of the private sector that promote welfare of the poor by providing them access to financial, as well as, to social services and facilities such as education, health, housing, and other basic services which enable the underprivileged to meet their basic human needs to live a decent lives.

Section 2. *Coverage.* – There is hereby authorized and granted a tax amnesty which shall cover all national internal revenue taxes for the taxable year 2013 and prior years, with or without assessment duly issued therefore, that have remained unpaid as of December 31, 2013. Provided, however, that the amnesty hereby authorized and granted shall not cover organizations, corporations, or cases enumerated under Section 9 hereof.

Section 3. *Availment of the Amnesty.* – Any non-stock non-profit organization or corporation engaged in microfinance exclusively for the poor who

wishes to avail itself of the tax amnesty authorized and granted under this Act shall file with the Bureau of Internal Revenue (BIR) a Notice and Tax Amnesty Return accompanied by a Statement of Assets, Liabilities and Networth (SALN) as of December 31, 2013, in such form as may be prescribed in the Implementing Rules and Regulations (IRR) of this Act, and pay the applicable amnesty tax within six (6) months from the effectivity of the IRR.

Section 4. *What to Declare in the SALN.* – The SALN shall contain a declaration of the assets, liabilities and networth as of December 31, 2013, as follows:

a. Assets within or without the Philippines, whether real or personal, tangible or intangible, whether or not used in microfinance: Provided, that property other than money shall be valued at the cost at which the property was acquired: Provided, further, that foreign currency assets and/or securities shall be valued at the rate of exchange prevailing as of the date of the SALN;

b. All existing liabilities which are legitimate and enforceable, secured or unsecured, whether or not incurred in trade, business or microfinance; and

c. The networth of the taxpayer, which shall be the difference between the total assets and total liabilities.

Section 5. *Presumption of Correctness of the SALN.* – The SALN as of December 31, 2013 shall be considered as true and correct except where the amount of declared networth is understated to the extent of thirty percent (30%) or more as may be established in proceedings initiated by, or at the instance of, parties other than the BIR or its agents: Provided, that such proceedings must be initiated within one year following the date of the filing of the tax amnesty return and the SALN. Findings of or admission in congressional hearings, other administrative agencies of government, and/or courts shall be admissible to prove a thirty percent (30%) under-declaration.

Section 6. *Grant of Tax Amnesty.* – Except for cases covered in Section 9 hereof, any organization or corporation covered by this Act, may avail itself of the benefits of tax amnesty under this Act, and pay the amnesty tax at the rate of five percent (5%) or Php 25,000.00 whichever is higher, base on its networth as of December 31, 2013 as declared in the SALN as of said period.

Section 7. Immunities and Privileges. – Those who availed themselves of the tax amnesty under Section 6 hereof, and have fully complied with all its conditions shall be entitled to the following immunities and privileges:

a. The taxpayer shall be immune from the payment of taxes, as well as addition thereto, and the appurtenant civil, criminal or administrative penalties under the National Internal Revenue Code of 1997, as amended, arising from the failure to pay any and all internal revenue taxes for taxable year 2013 and prior years;

b. The taxpayer's Tax Amnesty Returns and the SALN as of December 31, 2013 shall not be admissible as evidence in all proceedings that pertain to taxable year 2013 and prior years, insofar as such proceedings relate to internal revenue taxes, before judicial, quasi-judicial or administrative bodies in which it is a defendant or respondent, and except for the purpose of ascertaining the networth beginning January 1, 2014, the same shall not be examined, inquired or looked into by any person or government office. However, the taxpayer may use this as a defense, whenever appropriate, in case brought against it or its officers or employees;

c. The books of accounts and other records of the taxpayer for the years covered by the tax amnesty availed of shall not be examined: Provided, That the Commissioner of Internal Revenue may authorize in writing the examination of the said books of accounts and other records to verify the validity or correctness of a claim for any tax refund, tax credit (other than refund or credit of taxes withheld on wages), tax incentives, and/or exemptions under existing laws.

All these immunities and privileges shall not apply where the subject organization or corporation failed to file a SALN and the Tax Amnesty Return, or where the amount of networth as of December 31, 2013 is proven to be understated to the extent of thirty percent (30%) or more, in accordance with the provisions of Section 3 hereof.

Section 8. When and Where to File and Pay. — The filing of the Tax Amnesty Return and the payment of the amnesty tax for those availing themselves of the tax amnesty shall be made within six months starting from the effectivity of the IRR. It shall be filed at the office of the Revenue District Officer which has jurisdiction over the legal residence or principal place of business of the filer. The Revenue District Officer shall issue an acceptance of payment form authorizing an

authorized agent bank, or in the absence thereof, the collection agent or municipal treasurer concerned, to accept the amnesty tax payment

Section 9. Exceptions. — The tax amnesty provided in Section 6 hereof shall not extend to the following applicants or cases existing as of the effectivity of this Act:

a. Withholding agents with respects to their withholding tax liabilities;

b. Those with pending cases falling under the jurisdiction of the Presidential Commission on Good Government;

c. Those with pending cases involving unexplained or unlawfully acquired wealth or under the Anti-Graft and Corrupt Practices Act;

d. Those with pending cases filed in court involving violation of the Anti-Money Laundering Law;

e. Those with pending criminal cases for tax evasion and other criminal offenses under Chapter II of Title X of the National Internal Revenue Code of 1997, as amended, and the felonies of frauds, illegal exactions and transactions, and malversation of public funds and property under Chapters III and IV of Title VII of the Revised Penal Code; and

f. Tax cases subject of final and executory judgment by the courts.

Section 10. Unlawful Divulgence of Tax Amnesty Return and Statement of Assets, Liabilities and Networth. — Except as otherwise provided herein and in Section 5 hereof, it shall be unlawful for any person having knowledge of the Tax Amnesty Return and SALN filed pursuant hereto, to disclose any information relative to such declaration and statement, and any violation hereof shall subject the offender to the penalties under Section 11 (c) of this Act: Provided, however, That the Commissioner of Internal Revenue may disclose the content of the Tax Amnesty Return and the SALN upon the request of Congress pursuant to and in accordance with Section 20(A) or Section 290 of the National Internal Revenue Code of 1997, as amended.

Section 11. Penalties. —

a. Any applicant who, having filed a statement or Tax Amnesty Return under this Act, willfully understates its networth to the extent of thirty percent (30%) or more shall, upon conviction, be subject to the penalties of perjury under the Revised Penal Code.

b. The willful failure to declare any property in the statement and/or in the Tax Amnesty Return shall be deemed in prima facie evidence of fraud and shall constitute a ground upon which attachment of such property may be issued in favor of the BIR to answer for the satisfaction of any judgment that may be acquired against the declarant.

In addition to the penalties provided in paragraphs (a) and (b) above, immediate tax fraud investigation shall be conducted to collect all taxes due, including increments, and to criminally prosecute those found to have willfully evaded lawful taxes due.

In the cases covered by this Act, the penalty shall be imposed on the president, general manager, branch manager, treasurer, officer-in-charge, employees and/or any other persons who appear responsible for the violation.

c. Any person who makes an unlawful divulgence of the Tax Amnesty Return or the SALN shall be penalized by a fine of not less than Fifty thousand pesos (P50,000.00) and imprisonment of not less than six years but not more than ten (10) years.

If the offender is an officer or employee of the BIR or any government entity, he/ she shall likewise suffer an additional penalty of perpetual disqualification to hold public office to vote and to participate in any public election.

Section. 12. Implementing Rules and Regulations. — The Secretary of Finance shall, in coordination with the Commissioner of Internal Revenue, promulgate and publish the necessary rules and regulations within sixty (60) days from the effectivity of this Act.

Section. 13. Separability Clause. — The provisions of this Act are hereby declared to be separable. If any provision of this Act shall be unconstitutional, the remainder of the Act not otherwise affected shall remain in full force and effect.

Section. 14. *Repealing Clause.* — All laws, executive orders, rules and regulations or parts thereof which are contrary to or inconsistent with this Act are hereby repealed.

Section 15. *Effectivity.* — This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in any two newspapers of general circulation, whichever comes earlier.

Approved,