



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

Sixteenth Congress
Second Regular Session

HOUSE BILL NO. 4953



Introduced by Honorable Lilia Macrohon-Nuño

EXPLANATORY NOTE

The Bangko Sentral ng Pilipinas (BSP) has statutory authority to buy and sell gold in any form at prevailing market prices. Historically, the BSP's gold-buying operations have played an integral role in managing the gross international reserves of the country and in strengthening its international reserve position.

The BSP also maintains gold holdings for other vital reasons, such as security, diversifications and inflation hedging. Gold is perceived as an essential asset during financial turmoil and holding gold allows BSP to generate additional income through selling of call options and spot trading. Gold acquired and refined domestically are also traded in the international market for profit.

In sum, gold is perceived as the backbone of the country's global financial position – able to retain its value in times of internal and external political turmoil, rising prices, war and even changes in government. The public is even known to have taken confidence from the fact that its government holds gold, an indestructible asset not prone to inflationary worries attributable to paper money.

In order to promote the accumulation of gold resources and the sale of gold to the BSP, Section 17 of Republic Act No. 7076 mandates small-scale miners to sell all gold obtained from any mineral area to the BSP at prices competitive with those prevailing in the world market regardless of volume or weight. This is primarily intended to assist BSP in attaining its objective of maintaining international stability and convertibility of the Philippine peso. Section 26.6, Chapter VI of the Department of Environment and Natural Resources Administrative Order No. 34, Series of 1992 exempts the small-scale mining

contractor from the payment of excise tax from the sale of gold to the Central Bank.

However, on April 2, 2012, the Bureau of Internal Revenue issued Revenue Regulations No. 6-2012 which imposes a two percent (2%) excise tax and zero percent (0%) value added tax on the gold sold to the BSP. Furthermore, the BSP is being assessed and held liable for payment of excise taxes in the absence of proof that the gold miner or producer had paid said taxes. This prompted BSP to assume the responsibility of outrightly collecting the 2% excise tax from sellers of gold.

Moreover, sellers of gold are required to pay income tax. For every gold sold to the BSP, it is mandated by Revenue Regulations No. 6-2012, that the BSP withhold 5% of gross payments as creditable withholding tax (CWT). The BSP then remits to the Bureau of Internal Revenue the CWT withheld from the sale of gold regardless of whoever is selling as provided in Section 5 of Revenue Regulations No. 6-2012.

Due to the imposition of excise and income taxes on gold transactions, small-scale miners and traders seeking to avoid its payment are selling or smuggling their gold to other buyers and the black market. This inevitably gives rise to adverse effects on BSP's gold-buying activity.

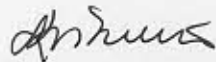
In 2012, BSP's gold purchases amounted to P2,332 billion – a 94% reduction from P35,413 billion in 2011, while in 2013, a meager P1,060 billion gold buys were recorded by BSP. Also, BSP purchased 32,888 fine troy ounces (FTO) of gold in 2012 – a 94% decline from 554,964 FTO in 2011. In 2013, a measly 17,778 FTO of gold were purchased by BSP.

Unless immediate action is taken to address the significant plunge in the purchase of gold by BSP, the monetary, banking and credit system of the Philippines will deteriorate to the prejudice of public interest. As gold is one of the compositions of international reserves, BSP's mandate to maintain adequate international reserves to meet foreseeable net demands for foreign currencies is clearly in danger of being compromised.

Furthermore, since gold purchased by BSP is devoted solely for the purpose of achieving price stability towards a balanced and sustainable growth of the economy, BSP is acting as mere instrument to further the governmental function of promoting and maintaining monetary stability and convertibility of the Philippine peso. The imposition of excise and value added taxes on the sale of gold to BSP, therefore, has the roundabout effect of taking money from one pocket of the government to put it in another pocket.

By removing excise tax on gold purchases, the State will encourage small-scale miners, sellers and traders to sell their gold to BSP and perforce promote the accumulation of gold resources by the latter. This is essential if the government wants to avoid eventual depletion of BSP's gold inventory, as well as any adverse effects on the international reserve and the Philippine economy. Lastly, the removal of excise tax on gold purchased by BSP will curb smuggling of gold out of the country committed by small-scale miners and traders seeking to avoid its payment.

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


LILIA MACROHON-NUÑO



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

Sixteenth Congress
Second Regular Session
HOUSE BILL NO. **4953**

Introduced by Honorable Lilia Macrohon-Nuño

AN ACT

**EXEMPTING THE SMALL-SCALE MINERS FROM THE PAYMENT
OF INCOME AND EXCISE TAXES FOR THE SALE OF GOLD TO
BANGKO SENTRAL NG PILIPINAS, AMENDING FOR THE PURPOSE
PRESIDENTIAL DECREE NO. 1158, AS AMENDED, OTHERWISE
KNOWN AS THE NATIONAL INTERNAL REVENUE CODE**

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

SECTION 1. Section 32 of the National Internal Revenue Code, as
amended, is hereby further amended to read as follows:

“SEC. 32. *Gross Income.* –

(A) General Definition. – Except when otherwise
provided in this Title, gross income means all income derived from
whatever source, including (but not limited to) the following items:

xxx

xxx

xxx

(B) Exclusion from Gross Income. – The following items shall not be included in gross income and shall be exempt from taxation under this Title:

(1) xxx

xxx xxx xxx

(7) Miscellaneous Items. –

(a) xxx

xxx xxx xxx

(I) INCOME OF SMALL-SCALE MINERS

– INCOME DERIVED BY SMALL-SCALE MINERS, AS DEFINED UNDER REPUBLIC ACT NO. 7076, FROM THE SALE OF GOLD TO THE BANGKO SENTRAL NG PILIPINAS.

xxx xxx xxx.”

SEC. 2. Section 151 of the same Code, as amended, is hereby further amended to read as follows:

“CHAPTER VII
EXCISE TAX ON MINERAL PRODUCTS

SEC. 151. *Mineral Products.* –

(A) *Rates of Tax.* – There shall be levied, assessed and collected on minerals, mineral products and quarry resources, excise tax as follows:

(1) xxx

1 SMALL-SCALE MINERS, AS DEFINED UNDER
2 REPUBLIC ACT NO. 7076, SHALL BE EXEMPT
3 FROM THE PAYMENT OF EXCISE TAX:
4 *PROVIDED*, THAT IF THE EXCISE TAX THEREON
5 WAS PAID PRIOR TO THE SALE OF GOLD TO
6 BSP, THE TAXPAYER MAY FILE A CLAIM FOR
7 REFUND OR CREDIT WITH THE COMMISSIONER
8 FOR THE EXCISE TAX PAID.

9 (4) xxx

10 xxx xxx xxx.”

11 SEC. 4. Within sixty (60) days after the effectivity of this Act, the Secretary
12 of Finance shall, in coordination with the Governor of Bangko Sentral ng Pilipinas
13 and the Commissioner of Internal Revenue, promulgate the necessary rules and
14 regulations for the effective implementation of this Act.

15 SEC. 5. All laws, orders, rules, regulations and other issuances or parts
16 thereof, which are inconsistent with the provisions of this Act, are hereby revoked,
17 repealed or modified accordingly.

18 SEC. 6. This Act shall take effect fifteen (15) days after its publication in
19 the *Official Gazette* or in a newspaper of general circulation.

20 Approved,