

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City
17th CONGRESS
First Regular Session
4412
House Bill No. _____

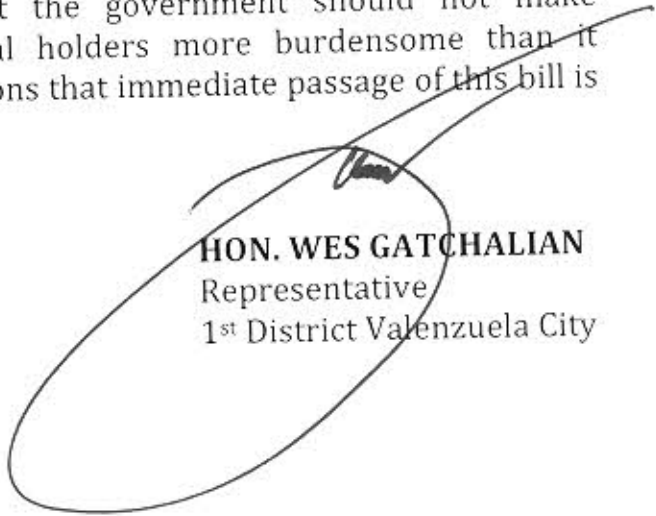


Introduced by Representative Wes Gatchalian

EXPLANATORY NOTE

It is the reality of the free market that not all economic ventures result into the desired profitable business. It is therefore a reality that many entrepreneurs decide to close shop and cease operations when their capital are no longer able to meet the losses that they are incurring. This is an accepted reality and one that is foreseen by anyone endeavoring to enter into business. What is however often overlooked are the costs imposed by government on closing business ventures. When a business owner ceases to operate without paying the proper fees, he is further burdened by penalties which accrue over time.

In proposing the amnesty in this bill, the following are the main considerations of the proponent. First, it is to give those entrepreneurs a fresh start and a clean slate from their failed ventures. These penalties are an undue burden to a person who is already down after incurring losses; moreover, it is a barrier and deterrence to those attempting to re-enter into business. Second, as a policy, it is submitted that the government should not make economic realities of capital holders more burdensome than it already is. It is for these reasons that immediate passage of this bill is sought.


HON. WES GATCHALIAN
Representative
1st District Valenzuela City

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House Bill No. **4412**

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AN ACT
ENHANCING REVENUE ADMINISTRATION AND COLLECTION
BY GRANTING AN AMNESTY ON ALL ACCRUED PENALTIES
AND CHARGES OF BUSINESSES WHICH CEASED TO
OPERATE WITHOUT CLERANCE FROM THE NATIONAL
GOVERNMENT

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

SECTION 1. Coverage. — There is hereby authorized and granted an amnesty for payment of penalties and charges* to all businesses who have ceased to operate and have not formally filed the proper application for closure with the bureau of internal revenues, and for such reason have accumulated penalties and charges with the bureau for the year 2016 and all prior years.

SEC. 2. Availment of the Amnesty. — Any person, natural or juridical, who wishes to avail himself of the amnesty authorized and granted under this Act shall file with the Bureau of Internal Revenue (BIR) a notice of availment of such amnesty, a proof of closure as may be prescribed in the IRR of this Act, a Statement of Assets, Liabilities and Net Worth (SALN) as of the fiscal year immediately preceding the effectivity of this Act, and pay the applicable fees which in no case shall exceed the original peso value of what the business owner would have paid had he filed the proper application for closure at the moment he ceased to operate, within six months from the effectivity of the IRR.

SEC. 3. *Grant of Amnesty.* — Except for the persons or cases covered in Section 5 hereof, any person, whether natural or juridical, may avail himself of the benefits of amnesty under this Act: Provided that any person whose net worth is below five million pesos (P 5, 000, 000) shall not be charged any fee.

SEC. 4. *When and Where to File and Pay.* — The filing of the Amnesty Return and the payment of fees for those availing themselves of the 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

SEC. 5. *Exceptions.* — The amnesty provided in Section 3 hereof shall not extend to the following persons or cases existing as of the effectivity of this Act:

1. Those with pending cases falling under the jurisdiction of the Presidential Commission on Good Government;
2. Those with pending cases involving unexplained or unlawfully acquired wealth or under the Anti-Graft and Corrupt Practices Act;
3. Those with pending cases filed in court involving violation of the Anti-Money Laundering Law;
4. 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
5. Tax cases subject of final and executory judgment by the courts.

SEC. 6. *Penalties.* —

1. Any person who, having filed a statement or Amnesty Return under this Act, willfully understates his 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.
2. The willful failure to declare any property in the statement and/or in the 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 case of associations, partnerships, or corporations, the penalty shall be imposed on the partner, president, general manager, branch manager, treasurer, officer-in-charge and employees responsible for the violation.

3. Any person who makes an unlawful divulgence of the 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.

SEC. 7. *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.

SEC. 8. *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,