



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Constitution Hills, Quezon City



SEVENTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 5520

Introduced by
REPRESENTATIVE PANTALEON D. ALVAREZ

AN ACT
PROHIBITING THE IMPOSITION OF THE CAPITAL GAINS TAX
ON THE TRANSFER OF TAX DECLARATION, AMENDING FOR
THE PURPOSE SECTION 24 (D) AND 27 (D) OF REPUBLIC ACT
NO. 8424, AS AMENDED, OTHERWISE KNOWN AS THE
NATIONAL INTERNAL REVENUE CODE OF 1997

EXPLANATORY NOTE

The Tax Code currently imposes a six percent (6%) capital gains tax (CGT) on individual taxpayers on the sale, exchange or other disposition of real property based on the gross selling price or current fair market value, whichever is higher.

Although it should go without saying that the CGT should not be levied on the transfer of mere tax declarations, unfortunately, there have been reports of the occurrence of such practice. There is, therefore, an urgent need to provide a lasting solution through legislation.

Hence, this bill specifically clarifies that the CGT should not be imposed on the transfer of tax declaration in order to protect the tax paying public from unnecessary payments.

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



PANTALEON D. ALVAREZ



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

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

“SEC. 24. x x x. –

“(A) x x x

“(B) x x x

“(C) x x x

“(D) **Capital Gains from Sale of Real Property.** –

- (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 assets, including pacto de retro sales and other forms of conditional sales, by individuals, including estates and trusts: **PROVIDED THAT TRANSFER OF MERE TAX DECLARATIONS SHALL NOT BE SUBJECT TO CAPITAL GAINS TAX;** Provided, further, that the tax liability, if any, on gains from sales or other dispositions of real property to the government or any of its political subdivisions or agencies or to government-owned or controlled corporations shall be determined either under Section 24 (A) or under this Subsection, at the option of the taxpayer;"

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

"SEC. 27. x x x. -

"(A) x x x

"(B) x x x

"(C) x x x

"(D) **Rate of Tax on Certain Passive Incomes -**

"(1) Interest from Deposits and Yield or any other Monetary Benefit from Deposit Substitutes and from Trust Funds and Similar Arrangements and Royalties. - xxx

"(2) Capital Gains from the Sale of Shares of Stock Not Traded in The Stock Exchange. - xxx

“(3) Tax on Income Derived under the Expanded Foreign Currency Deposit System. – xxx

“(4) Intercorporate Dividends. – xxx

“(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 of 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 CAPITAL GAINS TAX SHALL NOT APPLY TO THE TRANSFER OF MERE TAX DECLARATIONS.**”

SECTION 3. Separability Clause – If any of the sections or provisions of this Act is held invalid, all other provisions not affected thereby shall remain valid.

SECTION 4. Repealing Clause - All other laws, acts, presidential decrees, executive orders, issuances, presidential proclamations, rules and regulations or parts thereof which are contrary to or inconsistent with any provision of this Act are hereby repealed, amended or modified accordingly.

SECTION 5. Effectivity – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,