

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

HOUSE BILL No. **5785**



Introduced by Representatives HORACIO P. SUANSING, JR.
and ESTRELLITA B. SUANSING

AN ACT
PROVIDING FOR TAX RELIEF IN TIMES OF CALAMITY

EXPLANATORY NOTE

The Philippines endured 274 typhoons and other natural disasters between 1995 and 2015, making it the fourth most disaster-prone country in the world according to the report by the United Nations Office for Disaster Risk Reduction (UNISDR). The report also showed that the Philippines is among the ten countries in the world with the most number of people affected by calamities. Further, according to the National Disaster Risk Reduction and Management Council (NDRRMC), just between February 2015 and March 2016, a total of 6 provinces, 12 cities, 17 municipalities and 2 barangays have declared a State of Calamity because of the El Niño phenomenon. Given our country's vulnerability to natural disasters, the government needs to strengthen its disaster prevention and response program, and at the same time enact measures that would expedite the flow of relief and the recovery of calamity victims. An act that would provide for tax relief in times of calamity could be one of these measures.

As a rule, one who claims exemption from tax must show proof that exemptions apply by express mandate of the law. Under our current tax system, tax relief is given only to individuals and corporations that incur casualty losses on properties that are actually used in business, to the extent that these are not compensated for by insurance or other forms of indemnity. Generally, under the Local Government Code, only the following are exempt from payment of real property tax: government properties; religious, charitable, and educational institutions; local water utilities machinery and equipment; registered cooperatives; and machinery and equipment used for pollution control and environmental protection. This proposed measure intends to mandate a two (2) year real property tax exemption to calamity victims from the date of the declaration of a State of Calamity by the proper local Sanggunian. This measure aims to facilitate the recovery and rehabilitation of calamity victims by relieving them of substantial tax liabilities.

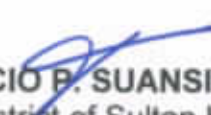
Further, during times of calamity, most notably in the wake of Typhoon Ondoy and Typhoon Yolanda, foreign and local government and private entities have been generously giving large sums to aid calamity victims. According to the records of the Foreign Aid Transparency Hub (FAiTH), in the wake of Typhoon Yolanda, the

Philippines received a total of USD 386.2 million in foreign aid, 86 percent of which or USD 330.8 million were coursed through non-government organizations and multilateral agencies. Further, out of the total USD 386.2 million, about USD 26.9 million in cash and USD 28.5 million in non-cash donations were received by the National Government.

Regrettably, some bureaucratic roadblocks have impeded the flow of these donations. Multinationals and some individuals who intended to donate huge sums had to face paying a substantial donor's tax. Under the law, donations from local and foreign entities may be exempted from taxes and import duties, but only if these are channeled through certain government offices, such as the Department of Social Welfare and Development (DSWD) and the National Disaster Risk Reduction and Management Council (NDRRMC), and state-accredited organizations. However, these exemptions are not given automatically – in order for these donations to be tax exempt, at the minimum, the donor would still need to obtain a BIR Ruling confirming that the donation is exempted from donor's tax. Obtaining the said BIR approval would entail the submission of documents substantiating the donation, which can prove burdensome to the donor. This issue is further compounded by the fact that not all organizations that are involved with relief operations are accredited by the State, and thus, donations coursed through these channels would be subjected to donor's tax. This bill aims to address these impediments by allowing for the automatic exemption from donor's tax, provided that not more than 10% of the donation would be used by the donee organization for administrative purposes. Once enacted, donors would no longer need to pay any donor's tax nor undergo the required accreditation before exemption is applied.

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

This bill was originally filed by Senator Miriam Defensor Santiago during the Fourteenth Congress and refiled during the Sixteenth Congress, and is based on the response of the United States Congress in granting similar tax treatments in the wake of Hurricane Katrina.



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

SECTION 1. Calamity defined. – For the purposes of this Act, "Calamity" shall be defined as a state of extreme distress or misfortune, produced by some adverse circumstance or event or any great misfortune or cause or loss or misery caused by natural forces.

SECTION 2. Effect of Declaration of Calamity. – A declaration of a State of Calamity by the proper local Sanggunian shall make effective the following tax relief:

- A) The real property tax in the affected area shall not be assessed and collected for two fiscal years, starting from the date of the declaration of a State of Calamity;
- B) Any donation in the name of any organization that declares that the funds donated shall be in favor of the victims of the calamity shall be exempt from donor's tax. This exemption from the donor's tax shall automatically apply and the Bureau of Internal Revenue shall not require any accreditation requirements: Provided, however, that not more than 10% of the said donation shall be used by the donee organization for administrative purposes.

SECTION 3. Implementing Rules and Regulations. – The Bureau of Internal Revenue (BIR) shall within thirty (30) days from the effectivity of this Act, promulgate the rules and regulations necessary for the effective implementation of this Act.

SECTION 4. Separability Clause. – If any provision of this Act is held invalid or unconstitutional, the same shall not affect the validity and effectivity of the other provisions hereof.

SECTION 5. Repealing Clause. – All laws, decrees, orders, and issuances, or portions thereof, which are inconsistent with the provisions of this Act, are hereby repealed, amended or modified accordingly.

SECTION 6. Effectivity Clause. – This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in two (2) newspapers of general circulation.

Approved,