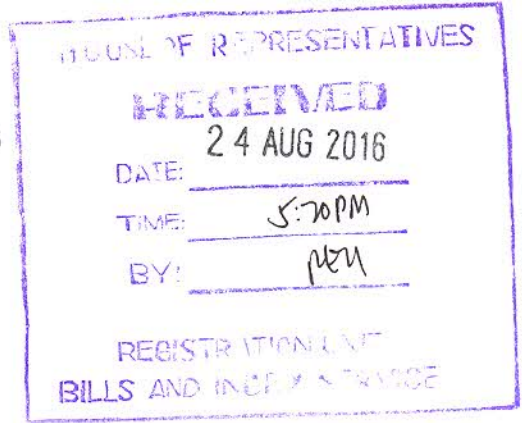


Republic of the Philippines  
HOUSE OF REPRESENTATIVES  
Quezon City

SEVENTEENTH CONGRESS  
First Regular Session

House Bill No. **3304**



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Introduced by Representative GLORIA MACAPAGAL ARROYO

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**AN ACT**  
**TO STRENGTHEN THE COUNTRY'S GROSS INTERNATIONAL RESERVES**  
**(GIR) AMENDING FOR THE PURPOSE SECTIONS 32 AND 151 OF THE**  
**NATIONAL INTERNAL REVENUE CODE, AS AMENDED, AND FOR OTHER**  
**PURPOSES**

**EXPLANATORY NOTE**

Section 17 of Republic Act No. 7076 or the People's Small-Scale Mining Act of 1991, provides that "all gold produced by small-scale miners in any mineral area shall be sold to the Central Bank, or its duly authorized representative, which shall buy it at prices comparative with those prevailing in the world market regardless of volume or weight."

One of the key benefits of RA No. 7076 is that it enables the Bangko Sentral ng Pilipinas (BSP) to build up the country's gross international reserves (GIR) by buying domestically produces gold from small-scale miners using pesos.

However, per Bureau of Internal Revenue (BIR) Revenue Regulation No. 6-2012, the BSP started to withhold and remit to the National Government 2% excise tax and 5% creditable withholding tax (CWT) on its purchase of gold from small-scale miners and traders. As a result of this tax imposition, the volume of gold sold to BSP declined drastically. Compared to BSP's total gold purchases in 2010 of 918,110 troy ounces, purchases decreased by 98% to 20,354 troy ounces only in 2014. In terms of value, from the 2010 figure of P49,543million, BSP only purchased P984million worth of gold in 2014. Evidently, small-scale miners and traders had opted to sell their gold elsewhere rather than to the BSP.

Based on the foregoing, the BSP for practical purposes, has lost the opportunity to build up its gold reserves using pesos. Buying gold from the domestic market results in a rise in the GIR, unlike buying using foreign currency, which simply alters the composition of the GIR. Meanwhile, purchasing gold using dollars acquired from the market affects the money supply. To keep money supply manageable and maintain growth would entail additional cost for the BSP. Moreover, the BSP buys gold as part of its international reserves as gold still represents the ultimate form of payment in the world. Central banks have long held on to gold as part of their international reserves for the following reasons: 1)

Asset diversification – to invest in various revenue sources to protect the value of total reserve portfolio; 2) Economic security – gold value is less volatile as compared to the value of currencies; and 3) Physical security – gold maintains an intrinsic value and is less susceptible to foreign exchange controls. Finally, the BSP's gold refinery facility is currently operating at below capacity. With the contraction in the volume of gold to the BSP, it may have to raise gold refining charges, which would further discourage small-scale miners and their traders from selling to the BSP.

The dwindling tax collections of the National Government from the sale of gold to BSP should not take precedence over the undue burden that the tax collection has caused to BSP and the small-scale miners.

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

  
**GLORIA MACAPAGAL ARROYO**  
2<sup>nd</sup> District, Pampanga

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**PURPOSES**

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

**SECTION 1.** *Amendment of Section 32 of the National Internal Revenue Code.* — Section 32 (B) (7) of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

SECTION 32. Gross Income. —

X X X

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

X X X

7) Miscellaneous Items. —

X X X

i) *INCOME DERIVED FROM THE SALE OF GOLD PURSUANT TO REPUBLIC ACT NO. 7076 – INCOME DERIVED FROM THE FOLLOWING TRANSACTIONS PURSUANT TO R.A. NO. 7076, OTHERWISE KNOWN AS THE PEOPLE'S SMALL-SCALE MINING ACT OF 1991:*

- 1) THE SALE OF GOLD TO THE BANGKO SENTRAL NG PILIPINAS BY REGISTERED SMALL-SCALE MINERS, AS DEFINED UNDER R.A. 7076, AND ACCREDITED TRADERS;  
AND



2) THE SALE OF GOLD BY REGISTERED SMALL-SCALE MINERS TO ACCREDITED TRADERS FOR EVENTUAL SALE TO THE BANGKO SENTRAL NG PILIPINAS.

**SECTION 2.** *Amendment of Section 151 of the National Internal Revenue Code.* — Section 151 of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

SECTION 151. Mineral Products. —

x x x

“C) NOTWITHSTANDING THE FOREGOING, GOLD WHICH IS COLD, OR EVENTUALLY SOLD, TO THE BANGKO SENTRAL NG PILIPINAS, IN ACCORDANCE WITH SECTION 32 (B) (7) (i), SHALL BE EXEMPT FROM THE PAYMENT OF EXCISE TAX: *PROVIDED, HOWEVER,* THAT IF EXCISE TAX DUE THEREON HAD BEEN PAID PRIOR TO THE SALE OF GOLD TO THE BANGKO SENTRAL NG PILIPINAS, THE TAXPAYER MAY FILE A CLAIM FOR REFUND OR CREDIT WITH THE COMMISSIONER FOR THE EXCISE TAX PAID.”

**SECTION 3.** *Tax Incentives and Privileges of Small-Scale Miners.* — In addition to the foregoing, and notwithstanding the existing provisions of Republic Act No. 6938, otherwise known as the Cooperative Code of the Philippines, as amended, and other applicable laws, the sale of gold by registered small-scale miners, as defined under R.A. 7076, to accredited traders for eventual sale to the Bangko Sentral ng Pilipinas shall enjoy the same tax treatment and privileges given to the direct sale of gold to the Bangko Sentral ng Pilipinas under the Tax Code.

**SECTION 4.** *Implementing Rules and Regulations.* — Within sixty (60) days after the effectivity of this Act, the Governor of the Bangko Sentral ng Pilipinas, the Secretary of Environment and Natural Resources, the Secretary of Interior and Local Government and the Commissioner of Internal Revenue shall recommend to the Secretary of Finance, for promulgation, the necessary rules and regulations necessary for the effective implementation of this Act. The rules and regulations shall include provisions for the registration and accreditation requirements of small-scale miners and traders in order to avail of the tax exemptions under this Act.

**SECTION 5.** *Separability Clause.* — Any provision of this Act declared unconstitutional shall not affect the validity of the other provisions thereof.

**SECTION 6.** *Repealing Clause.* — All orders, rules, regulations and other issuances, or parts thereof, which are inconsistent with this Act, are hereby repealed or modified accordingly.

**SECTION 7.** *Effectivity.* — This law shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

*Approved,*