

Republic of the Philippines  
House of Representatives  
Quezon City

Seventeenth Congress  
First Regular Session

HOUSE BILL NO. **3470**

HOUSE OF REPRESENTATIVES

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**Introduced by Honorable Joseph Stephen S. Paduano**

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### **EXPLANATORY NOTE**

This bill seeks to exempt small-scale miners from the payment of income and excise taxes for the sale of gold to the Bangko Sentral ng Pilipinas (BSP), amending for the purpose Presidential Decree No. 1158, as amended, otherwise known as the National Internal Revenue Code.

Section 3(c) of Republic Act (RA) No. 7076, otherwise known as the "*People's Small-Scale Mining Act of 1991*" defines small-scale miners as "*Filipino citizens who, individually or in the company of other Filipino citizens, voluntarily form a cooperative duly licensed by the Department of Environment and Natural Resources to engage, under the terms and conditions of a contract, in the extraction or removal of minerals or ore-bearing materials from the ground.*" Section 13(d) of the same law provides that the holder of small-scale mining contract shall have the obligation to "*pay all taxes, royalties or government production share as are now or may hereafter be provided by law.*"

Pursuant to the provisions of RA 7076 and consistent with the National Internal Revenue Code (NIRC), small-scale miners are obligated to pay an excise tax of 2%, income tax between 5-32% in case of individual taxpayers and 30% in case of corporations, and a creditable withholding tax of 5% of gross payments. Due to this multitude of tax obligations, small-scale miners and traders seeking to avoid its payment are selling or smuggling their gold to the black market rather than selling the gold to the BSP at competitive prices, as mandated by RA 7076. According to the law, the BSP or its duly authorized representatives, has the authority to buy and sell gold at prices competitive with those prevailing in the world market regardless of volume or weight.

It is within the BSP's mandate to maintain monetary stability and convertibility of the Philippine peso, as expressed under RA 7653, otherwise known as the "*New Central Bank Act*." To fulfill this, the BSP shall maintain adequate international reserves which include gold, the ultimate form of payment in the world. This may be done by purchasing gold from both large-scale and small-scale miners.

Alarminglly, based on available data from the Mines and Geosciences Bureau, BSP's gold purchases significantly declined from 48.93 billion in 2010, 34.67 billion in 2011, down to 2.30 billion in 2012. The trend continued in 2013 with 1.06 billion and in 2014 with 1.01 billion. This plunge in BSP's gold purchase clearly compromised the country's gross international reserves and may further lead to a depletion of the gold inventory of the BSP. Eventually, this will have an adverse effect on the Philippine economy.

By removing excise and income taxes from the sale of gold to BSP, small-scale miners, sellers and traders will be encouraged to sell their gold to the BSP instead of the black market and curb the smuggling of gold out of the country.

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



**JOSEPH STEPHEN S. PADUANO**

Seventeenth Congress  
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HOUSE BILL NO. **3470**

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

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

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

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

1

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, OTHERWISE KNOWN AS THE “PEOPLE’S SMALL-SCALE MINING ACT OF 1991,” 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

XXX XXX XXX

(2)      xxx                          xxx                          xxx

(3) On all metallic minerals, a tax based on the actual market value of the gross output thereof at the time of removal, in the case of those locally extracted or produced; or the value used by the Bureau of Customs in determining tariff and customs duties, net of excise tax and value added tax, in the case of importation, in accordance with the following schedule:

(a) Copper and other metallic minerals:

- (i) On the first three (3) years upon the effectivity of Republic Act No. 7729, one percent (1%);
- (ii) On the fourth and the fifth years, one and a half percent (1 ½%); and
- (iii) On the sixth year and thereafter, two percent (2%).

(b) Gold and chromite, two percent (2%).

xxx xxx xxx

(C) NOTWITHSTANDING THE FOREGOING PROVISIONS, GOLD SOLD TO BANGKO SENTRAL NG PILIPINAS (BSP) BY SMALL-SCALE MINERS, AS DEFINED UNDER REPUBLIC ACT NO. 7076, SHALL BE EXEMPT

FROM THE PAYMENT OF EXCISE TAX:  
*PROVIDED*, THAT IF THE EXCISE TAX THEREON  
WAS PAID PRIOR TO THE SALE OF GOLD TO  
BSP, THE TAXPAYER MAY FILE A CLAIM FOR  
REFUND OR CREDIT WITH THE COMMISSIONER  
FOR THE EXCISE TAX PAID.

(4) xxx

xxx xxx xxx.”

SEC. 3. Within sixty (60) days after the effectivity of this Act, the  
Secretary of Finance shall, in coordination with the Governor of Bangko Sentral  
ng Pilipinas and the Commissioner of Internal Revenue, promulgate the necessary  
rules and regulations for the effective implementation of this Act.

SEC. 4. All laws, orders, rules, regulations and other issuances or parts  
thereof, which are inconsistent with the provisions of this Act, are hereby revoked,  
repealed or modified accordingly.

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

Approved,