

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. **3816**



Introduced by Representative Arthur R. Defensor, Jr.

EXPLANATORY NOTE

The 1987 Constitution stands as the fundamental law of the Republic of the Philippines. By its provisions, the paramount policies to be undertaken by the State are delineated which serve as guidelines for legislation. Education is recognized as among priority sector for development which aims “to foster patriotism and nationalism, accelerate social progress, and promote total human liberation and development.” To further emphasize the preferred status of education as an area for development, the Constitution mandates the State to institute a complete, adequate, and integrated system of education through a free public education system, scholarship for the underprivileged, as well as vocation and non-formal or indigenous learning systems that enable the People to acquire skills for livelihood or to respond to community needs.²

In order to complement the foregoing thrusts, the Constitution likewise granted an all-encompassing exemption from income taxes in favour of non-stock, non-profit educational institutions under Article XIV, Section 4(3). The said provision reads:

(3) All revenues and assets of non-stock, non-profit educational institutions used actually, directly and exclusively for educational purposes shall be exempt from taxes and duties. Upon the dissolution or cessation of the corporate existence of such institutions, their assets shall be disposed of in the manner provided by law.

¹CONST., art.II, §17.

²CONST., art.XIV, §2.

³JOAQUIN BERNAS, S.J., THE 1987 CONSTITUTION OF THE PHILIPPINES: A COMMENTARY 1235-40 (2003); See also IV RECORD OF THE 1986 CONSTITUTIONAL COMMISSION 400-404.

⁴IV RECORD OF THE 1986 CONSTITUTIONAL COMMISSION 401-403 (Per Comms.Gascon, Bacani and Ople).

⁵Batas Pambansa Blg.232, §30.43

Fr. Joaquin Bernas S.J. explains that Article XIV, Section 4 (3) of the 1987 Constitution has a threefold rationale: (i) to preserve the democratic choice of students; (ii) to enable educational institutions to improve their quality, and (iii) to make quality education affordable to students.

The 1986 Constitutional Commission explicitly intended that the State should support non-stock, non-profit educational institutions through the form of tax breaks in the hopes that it will assure students of lower tuition fees and to improve the overall quality of education in the country.⁴

Under the law, non-stock, non-profit educational institutions, whether governmental or proprietary, are authorized to engage in auxiliary enterprises to generate income to finance its educational operations or reduce tuition fees.⁵ To the mind of the undersigned, any form of income derived by non-stock, non-profit educational institutions from auxiliary activities must perforce be exempt, even if the purpose of the activity is for profit, so long as income generated satisfies the test of actual direct, and exclusive use for educational purposes.

Jurisprudence is well-settled that the status of an entity as a non-stock, non-profit entity depends upon the manner of organization of the entity or corporation and is not affected by the actual earning of profit by the entity or the conduct of auxiliary profit-generating businesses.⁶ So long as the juridical entity is not organized as a stock corporation the entity remains to be organized for non-profit purposes regardless of whether any profit is actually received by the organization or it undertakes a profit generating activity.

This constitutional conflict is one proper for legislative correction in accordance with the duty of the members of Congress to uphold and defend the Constitution. Accordingly, this bill merely seeks to introduce the necessary amendment to cure the latent conflict between Section 30 of the NIRC and Article XIV, Section 4 (3) of the 1987 Constitution.

The foregoing duly considered, the approval of this bill is earnestly sought.



ARTHUR R. DEFENSOR, JR.

⁴Jesus Sacred Heart College v. Collector of Internal Revenue, G.R.No.L-6807, 24 Mar 1954, 95 Phil.16; Collector of Internal Revenue v. V.G. Sinco Educational Corporation, 100 Phil. 127 (1956), U.S.T. Press v. National Labor Union, G.R. No. L-17207, 30 October 1962; University of Santo Tomas Hospital v. U.S.T. Hospital Employees Association (NLU), G.R. No. L-12919, 30 October 1962, 95 Phil. 40.

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HOUSE BILL **3816**

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AN ACT

REALIZING THE CONSTITUTION TAX EXEMPTION GRANTED TO NON-STOCK, NON-PROFIT EDUCATION INSTITUTIONS BY AMENDING SECTION 30 OF THE REPUBLIC ACT NO. 8424, AS AMENDED, OTHERWISE KNOWN AS THE NATIONAL INTERNAL REVENUE CODE

Section 1. Section 30 of Republic No. 8424, as amended otherwise known as the National Internal Revenue Code is hereby amended to read, as follows:

SEC.30. Exemptions from Tax on Corporations - The following organizations shall not be taxed under this Title in respect to income received by them as such:

- (A) Labor, agriculture or horticultural organization not organized principally for profit;
- (B) Mutual savings bank not having a capital stock represented by shares, and cooperative bank without capital stock organized and operated for mutual purposes and mutual profit;
- (C) A beneficiary society, order or association, operating for the exclusive benefit of the members such as a fraternal organization operating under the lodge system, or mutual aid association or a non-stock corporation organized by employees providing for the payment of life, sickness, accident, or other benefits exclusively to the members of such society, order, or association, or non-stock corporation or their dependents;
- (D) Cemetery company owned and operated exclusively for the benefit of its members;

- (E) Non-stock corporation or association organized and operated exclusively for religious, charitable, scientific, athletic, or cultural purposes, or for the rehabilitation of veterans, no part of its net income or asset belong to or inures to the benefit of any member, organizer, officer or any specific person;
- (F) Business league chamber of commerce, or board or trade, not organized for profit and no part of the net income inures to the benefit of any private stock-holder, or individual;
- (G) Civic league or organization not organized for profit but operated exclusively for the promotion of social welfare;
- (H) A non-stock and non-profit educational institution OR A NON-STOCK, NON-PROFIT EDUCATIONAL FOUNDATION UNDER SECTION 50 OF BATAS PAMBANSA BLG. 232 AND REPUBLIC ACT NO. 6055;
- (I) Government educational institution;
- (J) Farmers' or other mutual typhoon or fire insurance company, mutual ditch or irrigation company, mutual or cooperative telephone company, or like organization of a purely local character, the income of which consists solely of assessments, dues, and fees collected from members for the sole purpose of meeting its expenses; and
- (K) Farmers', fruit growers', or like association organized and operated as a sales agent for the purpose of marketing the products of its member and turning back to them the proceeds of sales, less the necessary selling expenses on the basis of the quantity of produce finished by them;

Notwithstanding the provisions in the preceding paragraphs, the income of whatever kind and character of the foregoing organizations from any of their properties, real or personal, or from any of their activities conducted for profit regardless of the disposition made of such income, shall be subject to tax imposed under this Code, *PROVIDED*, THAT INCOME BY ORGANIZATIONS FALLING WITHIN SUBSECTIONS (H) AND (I) WHICH ARE ACTUALLY, DIRECTLY, AND EXCLUSIVELY USED FOR EDUCATION PURPOSES SHALL BE EXEMPT FROM TAX UNDER THIS CODE.

Section 2. The Commissioner of Internal Revenue, subject to the approval of finance, Shall provide the necessary implementing rules and regulations within thirty (30) days after the approval of this Act and its publications in at least two (2) newspaper of general circulation.

Section 3. All provisions of laws and rules inconsistent with the provisions of this Act are hereby repealed or amended accordingly.

Section 4. If, for any reason, any section or provision of this Act is declared unconstitutional or invalid, the other sections or provisions not affected thereby shall remain in full force and effect.

Section 5. This act take effect after fifteen (15) days following its publication in a newspaper of general circulation.

Approved,