

EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



HOUSE OF REPRESENTATIVES

H. B. No. 4354

Introduced by Rep. Vilma Santos-Recto
6th District of Batangas

AN ACT
REMOVING THE CONDITIONS FOR THE CONDONATION OF ALL UNPAID
INCOME TAXES DUE FROM LOCAL WATER DISTRICTS, AMENDING FOR
THE PURPOSE SECTION 289-A OF THE NATIONAL INTERNAL REVENUE
CODE, AS AMENDED

EXPLANATORY NOTE

Presidential Decree (P.D.) No. 198 institutionalized the concept of *Local Water Districts* (LWDs). As early as 1973, the government recognized the need for reliable, economically viable and sound water supply and wastewater disposal system for population centers of the Philippines.

In order to support the growth of LWDs, P.D. No. 198 exempted them from paying income taxes, as well as from the payment of all national government, local government and municipal taxes and fees, and all duties or imposts on imported machinery, equipment and materials required for its operation.

Over a period of more than three decades, several laws were enacted either granting or withdrawing the tax exemption privileges of LWDs. Also, the juridical personality and tax status of LWDs, as gleaned from the provisions of Sections 27 and 32 of the Tax Code, have been subjected to various interpretations by government agencies and judicial bodies. Even more disconcerting is the fact that other public utilities of similar nature such as the Metropolitan Waterworks and Sewerage System (MWSS) and National Power Corporation (NPC) were granted tax exemptions by the Bureau of Internal Revenue (BIR) based upon the same Tax Code provisions.

During the Fourteenth Congress, Republic Act (R.A.) No. 10026 was enacted with the end in view of resolving the inconsistencies in tax treatment that have probably hampered the growth and efficient provision of safe, adequate and potable water to more than fifteen (15) million people outside Metro Manila. Thus, R.A. No. 10026 included LWDs in the list of government agencies exempt from the payment of income taxes and also allowed the condonation of their tax liabilities.

However, R.A. No. 10026 provided that unpaid taxes will only be condoned subject to certain conditions, to wit: (1) that the BIR, after careful review of the financial statements of a water district applying for condonation of taxes due, establishes its financial incapacity; and (2) that the water district availing of such condonation shall submit to Congress a program of internal reforms, duly certified by the Local Water Utilities Administration. The condonation therefore, is not automatic but, rather is dependent on certain requirements which LWDs must comply with.

It will be noted that the BIR has not issued a Revenue Regulation (RR) to implement the grant of condonation as per RA No. 10026. What was issued two years after the enactment of the law was Revenue Memorandum Circular 68-2012 which merely established the procedures in submitting the documentary requirements in applying for condonation and prescribed a narrow compliance period of only less than six (6) months.

According to the Philippine Association of Water Districts (PAWD), there are about 251 cases involving the unpaid tax liabilities of 164 water districts from fiscal year 1997 to 2007 which should be covered by the implementation of the condonation clause of R.A. No. 10026. However, two (2) months after the deadline set in the RMC, only a fraction of the 164 LWDs have complied with the requirements provided under R.A. No. 10026 and RMC 68-2012.

This bill seeks to remove the prescribed documentary requirements for availing the tax condonation granted in RA No. 10026. It was not the intent of RA No. 10026 (Granting Income Tax Exemption to LWDs) to make it difficult for LWDs to avail of the tax condonation benefit. In fact, under the same law, the LWDs are now exempt from the

payment of income taxes and, therefore, there is no need to impose conditions to write off dues when LWDs deserved to have been exempted from the beginning.

Debt cancellation is not a principle alien to the government. We have undertaken bailouts of distressed firms and buyouts of their liabilities in amounts far greater than what is requested by the water districts.

The LWD funds needed to settle the unpaid income taxes should be used instead for the delivery of better services. We want to see improvements like new wells and fresh water sources, new pipes and modern meters to end leaks, among others.

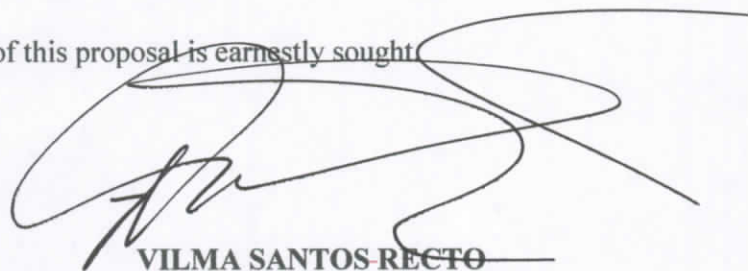
The condonation of tax obligations is deemed necessary for the LWDs which have no financial capability to pay their tax liabilities. This would help them consolidate their resources in order to expand water services, improve water quality and ensure the provision of a reliable, secure and affordable supply of water to consumers.

It is getting tougher to meet the challenge of providing clean water for all in the years to come. Population increase demands that we have to correspondingly increase our potable water supply by 118 billion liters annually. Aside from this future demand, we also have to contend with a backlog that needs to be wiped out.

Condonation of the unpaid income taxes of LWDs would help them remain viable and better respond to the challenge of providing adequate potable water to the people.

Therefore, it is proposed that a one-time general amnesty or condonation of taxes involving LWDs be passed by this Congress.

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



VILMA SANTOS RECTO

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CODE, AS AMENDED

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

1 Section 1. Section 289-A of the National Internal Revenue Code of 1997, as
2 amended, is hereby further amended to read as follows:

3 "Sec. 289-A. *Support for Local Water Districts.* – The amount that
4 would have been paid as income tax and saved by the local water district by
5 virtue of its exemption ~~[to the]~~ **FROM** income taxes shall be used by the local
6 water district concerned for capital equipment expenditure in order to expand
7 water services coverage and improve water quality in order to provide safe and
8 clean water in the provinces, cities, and municipalities: *Provided, That,* the
9 water district shall adopt internal control reforms that would bring about their
10 economic and financial viability: *Provided, further,* That the water district
11 shall not increase by more than twenty percent (20%) a year its appropriation
12 for personal services, as well as for travel, transportation or representation
13 expenses and purchase of motor vehicles.

14 "All unpaid **INCOME** taxes or any portion thereof due from a local
15 water district for the period starting August 13, 1996 until the effectivity date
16 of this Act are hereby condoned by the Government **THEREBY**
17 **RELIEVING ALL LOCAL WATER DISTRICTS FROM THE**
18 **PAYMENT THEREOF.** ~~[subject to the following conditions: (1) that the~~

1 Bureau of Internal Revenue, after careful review of the financial statements of
2 a water district applying for condonation of taxes due, establishes its financial
3 incapacity, after providing for its maintenance and operating expenses, debt
4 servicing and reserved fund, to meet such obligations for the period stated
5 herein; and (2) that the water district availing of such condonation shall submit
6 to Congress of the Philippines a program of internal reforms, duly certified by
7 the local water utilities administration, that would bring about its economic
8 and financial viability.]

9 "All water districts, through the Local Water Utilities Administration,
10 shall furnish the Committee on Ways and Means of the Senate and House of
11 Representatives, respectively, on an annual basis, with statistical data and
12 financial statements regarding their operations and other information as may
13 be required, for purposes of monitoring compliance with the provisions of this
14 Act and reviewing the rationalization for tax exemption privileges."

15 Sec. 2. *Implementing Rules and Regulations.* — The Secretary of Finance, in issuing
16 the necessary rules and regulations for the effective implementation of this Act, shall take
17 into account the legislative intent of exonerating local water districts of their tax liabilities
18 including the fines, penalties and/or surcharges, if any, appurtenant thereto. The said rules
19 and regulations shall not provide for additional requirements that would negate the purpose of
20 this Act; *Provided, That*, the failure of the Secretary of Finance to promulgate the said rules
21 and regulations shall not prevent the implementation of this Act upon its effectivity.

22 Sec. 3. *Repealing Clause.* - All laws, acts, presidential decrees or issuances,
23 executive orders, letters of instruction, and rules and regulations or parts thereof which are
24 contrary to and inconsistent with this Act are hereby repealed, amended or modified
25 accordingly.

26 Sec. 4. *Effectivity.* - This Act shall take effect fifteen (15) days after its publication
27 in at least two (2) newspapers of general circulation or in the *Official Gazette*.

Approved,