



House of Representatives
Quezon City, Metro Manila

Seventeenth Congress
First Regular Session

House Bill No. **3187**



Introduced by Representatives Dakila Carlo E. Cua and Pantaleon D. Alvarez

EXPLANATORY NOTE

The power of eminent domain was enshrined under the 1987 Philippine Constitution which provides that private property shall not be taken for public use without just compensation. Also called as the power of expropriation, eminent domain is described to be the highest and most exact idea of property remaining in the government that may be acquired for some public purpose through a method in the nature of a compulsory sale to the State.

To validly exercise the power of expropriation, the expropriator must meet the following elements: (1) the taking of private property; (2) the taking must be for public purpose; and (3) there must be just compensation.

Just compensation has been described as the just and complete equivalent of the loss which the owner of the thing expropriated has to suffer by reason of expropriation.

This bill then seeks to mandate the government, in the exercise of its power of eminent domain, to pay the compulsory seller of the real property the just compensation and the amount of capital gains tax due on the said transaction. To give justice for the material impairment of the property, the additional amount comprising the capital gains tax due would somehow indemnify the real property owner.

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


Dakila Carlo E. Cua
Lone District, Province of Quirino


Pantaleon D. Alvarez
1st District, Davao Del Norte



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AN ACT MANDATING THE GOVERNMENT TO PROVIDE FOR AN ADDITIONAL AMOUNT OF CAPITAL GAINS TAX DUE IN THE JUST COMPENSATION FOR THE SALE OF PROPERTY IN THE EXERCISE OF THE STATE'S POWER OF EMINENT DOMAIN, AMENDING FOR THE PURPOSE SECTION 24 (D) OF REPUBLIC ACT NO. 8424, AS AMENDED, OTHERWISE KNOWN AS THE NATIONAL INTERNAL REVENUE OF 1997

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

SECTION 1. Section 24(D) of Republic Act No. 8424, as amended, otherwise known as the National Internal Revenue Code of 1997, is hereby further amended to read as follows:

"SEC. 24. X X X. –

(A) X X X

(B) X X X

(C) X X X

(D) Capital Gains from Sale of Real Property. –

(1) In General. – x x x

(2) Exception. – (1) x x x

(3) **JUST COMPENSATION IN THE EXERCISE OF POWER OF EMINENT DOMAIN** – THE GOVERNMENT SHALL, IN THE EXERCISE OF ITS POWER OF EMINENT DOMAIN, PAY THE COMPULSORY SELLER OF THE REAL PROPERTY THE JUST COMPENSATION AND THE AMOUNT OF CAPITAL GAINS TAX DUE ON THE SAID TRANSACTION.”

SEC. 2. *Rules and Regulations.* – The Secretary of Finance shall, upon the recommendation of the Commissioner of Internal Revenue, within sixty (60) days, promulgate the necessary rules and regulations to faithfully implement the intent and the provisions of this Act: *Provided*, That the failure of the Secretary of Finance to promulgate the said rules and regulations shall not prevent the implementation of this Act upon its effectivity.

SEC. 3. *Repealing Clause.* – All laws, rules and regulations which are inconsistent with this Act are hereby repealed, amended or modified accordingly.

SEC. 4. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its publication in any newspaper of general circulation.

Approved,