

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

EIGHTEENTH CONGRESS
Third Regular Session

HOUSE BILL NO. 9596



Introduced by REP. JOEY SARTE SALCEDA

AN ACT
AMENDING SECTION 27 (B) OF THE NATIONAL INTERNAL REVENUE CODE
OF 1997, AS AMENDED

EXPLANATORY NOTE

Article XIV, Section 4 of the 1987 Constitution recognizes “the complementary roles of public and private institutions in the educational system” and commits the state to exercising “reasonable supervision and regulation of all educational institutions.”

State policy must align with the spirit of the Constitution, and tax laws are no exception to this constitutional obligation.

However, the formulation of the National Internal Revenue Code, as clarified by the Supreme Court in *CIR vs. De la Salle University* is such that “a proprietary educational institution is entitled only to the reduced rate of 10% corporate income tax. The reduced rate is applicable only if: (1) the proprietary educational institution is nonprofit and (2) its gross income from unrelated trade, business or activity does not exceed 50% of its total gross income.

In the same ruling, the Court also observed that “[w]hile a non-stock, non-profit educational institution is classified as a tax-exempt entity under Section 30 (*Exemptions from Tax on Corporations*) of the Tax Code, a proprietary educational institution is covered by Section 27 (*Rates of Income Tax on Domestic Corporations*).”

The Bureau of Internal Revenue cannot tax proprietary educational institutions in a manner that is contrary to this unambiguous view of the Court. Thus, it was constrained to apply the regular tax rate to private for-profit schools, even when the same have been able to avail of the 10% tax rate prior to the ruling.



At the same time, the spirit of the Corporate Recovery and Tax Incentives for Enterprises or CREATE Law, and the legislative intent of its principal authors, this representation among them, is to lower taxes on corporations, not to increase them.

The most obvious recourse – one that will put the issue to rest and leave no room for conflicting interpretations – is to define the tax rates for proprietary educational institutions in a manner that allows it to avail of the preferential rate of 10% on taxable income and extends to these

institutions the same relief (the reduced 1% tax rate from July 1, 2020 to June 30, 2023) granted to private non-profit schools.

This relief is urgent as private schools continue to reel from the effects of COVID-19, and as the government was unable to extend significant support to this sector given its own fiscal constraints.

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



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

SECTION 1. Section 27(B) of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

“SEC. 27. Rates of Income tax on Domestic Corporations. –

xxx

(B) Proprietary Educational Institutions and NON-PROFIT Hospitals.— Proprietary educational institutions and [hospitals which are nonprofit] **NON-PROFIT HOSPITALS** shall pay a tax of ten percent (10%) on their taxable income except those covered by Subsection (D) hereof: *Provided*, That beginning July 1, 2020 until June 30, 2023, the tax rate herein imposed shall be one percent (1%): *Provided, further*, That if the gross income from 'unrelated trade, business or other activity' exceeds fifty percent (50%) of the total gross income derived by such educational institutions or hospitals from all sources, the tax prescribed in Subsection (A) hereof shall be imposed on the entire taxable income. For purposes of this Subsection, the term 'unrelated trade, business or other activity' means any trade, business or other activity, the conduct of which is not substantially related to the exercise or performance by such educational institution or hospital of its primary purpose or function. 'Proprietary' means a private hospital, or any private school maintained and administered by private individuals or groups with an issued permit to operate from the Department of Education (DepEd), or the Commission on Higher Education (CHED), or the Technical Education and Skills Development Authority (TESDA), as the case may be, in accordance with existing laws and regulations: **PROVIDED, FINALLY, THAT PROPRIETARY EDUCATIONAL INSTITUTIONS AS DEFINED HEREIN MAY AVAIL OF THE PREFERENTIAL RATE FOR THEIR TAXABLE INCOME BEGINNING TAXABLE YEAR 2016.**

SEC. 2. *Repealing Clause.* – All laws, decrees, executive orders, rules and regulations or parts thereof, which are inconsistent with this Act, are hereby repealed, amended or modified accordingly.

SEC. 3. *Effectivity.* – This Act shall take effect immediately upon its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,