

## Comments on Senate Bill 256, Senate Bill 452, Senate Bill 1838 and Senate Bill 2157

1. Senate Bill 256 (Sen. Ralph Recto) and Senate Bill 2157 (Sen. Sonny Angara) seek to increase the ceiling on the 13<sup>th</sup> month pay and other benefits of employed individuals as enumerated under Section 32 (B) (7) (e) of the National Internal Revenue Code of 1997 that is exempted from the individual income tax from PhP 30,000 to PhP 75,000. Both bills also propose that the new ceiling of PhP 75,000 shall be adjusted to its present value using the NSO's Consumer Price Index (CPI) three years after the proposed amendment's effectivity and every 3 years thereafter.
2. On the other hand, Senate Bill 452 (Sen. Ralph Recto) and Senate Bill 1838 (Sen. Lito Lapid) proposes to fully exempt the 13<sup>th</sup> month pay and other benefits as enumerated under Section 32 (B) (7) (e) of the National Internal Revenue Code of 1997 from the individual income tax.
3. Ostensibly, the purpose of the exemption of the 13<sup>th</sup> month pay and other benefits is to provide wage and salaried workers some tax relief during the holiday season in order to promote the overall welfare of workers.
4. The PhP 30,000 cap on the amount of the 13<sup>th</sup> month pay that is tax exempt was first introduced upon the effectivity of Republic Act 7833 in 1994. The same ceiling was subsequently carried over in Republic Act 8424, otherwise known as the National Internal Revenue Code of 1997.
5. Because of inflation, a peso in 1994 is only worth 36 centavos in 2014. In other words, PhP 30,000 in 1994 is only worth PhP 10,800 in 2014. Thus, SB 256 and SB 2157 both proposes to (adjust) [restore the purchasing power of] the PhP 30,000 tax exempt cap on the 13<sup>th</sup> month pay (for inflation) by increasing the ceiling to PhP 75,000. Note that if one adjusts for inflation based on the Consumer Price Index (CPI), PhP 30,000 in 1994 prices is equivalent to PhP 75,000 in 2011 prices. To fully restore the purchasing power of the PhP 30,000 cap based on 2014 prices, the ceiling should be increased to PhP 82,000.
6. Based on the Labor Force Survey of July 2014, it is estimated that some 210,000 wage and salaried workers have 13<sup>th</sup> month pay in excess of PhP 30,000 and, thus, stands to benefit from SB 256, SB 452, SB 1838 and SB 2157.
7. If SB 256/ SB 2157 were passed, the revenue loss is estimated to be equal to PhP 2.6 billion, considerably lower than the estimate attributed to the BIR Commissioner in news reports. On the other hand, if SB 452/ SB 1838 were passed the revenue loss is estimated to be equal to PhP 9 billion.
8. One of the basic principles of individual income taxation requires that the tax base should be reckoned on a global basis so as not to incentivize tax arbitrage and provide a venue for tax evasion. In line with this, Section 33 of the NIRC of 1997 provides that fringe benefits of employed workers are subjected to the individual tax rate. From this perspective, the full exemption of the 13<sup>th</sup> month pay and other benefits from the individual income tax as proposed in SB 452 and SB 1838 is difficult to justify.