

SENATE  
P. S. R. No. 327

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Introduced by Senator Miriam Defensor Santiago

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RESOLUTION  
DIRECTING THE PROPER SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID  
OF LEGISLATION, ON THE REPORTED NEED TO REVIEW THE INEQUITABLE  
VALUE-ADDED TAX IMPOSED ON HOMEOWNERS' ASSOCIATION AND  
CONDOMINIUM DUES

WHEREAS, the Constitution, Article 6, Section 28, states: "The rule of taxation shall be uniform and equitable. The Congress shall evolve a progressive system of taxation";

WHEREAS, in an article published on Interaksyon.com dated 30 December 2012, the country's richest—those living in Forbes Park and Dasmariñas Village—have been exempted from paying the newly-imposed value-added tax (VAT) on association dues;

WHEREAS, the exemption was made through a ruling handed down by Revenue Commissioner Kim Henares imposing 12 percent VAT on condominium dues;

WHEREAS, according to the report, it was not clear why Henares, her in-laws live in Dasmariñas Village, excluded the high-end villages from her order;

WHEREAS, it was claimed that Henares merely followed the provision in Republic Act No. 9904 also known as the Magna Carta for Homeowners and Homeowners Association, enacted in 2010, which provided tax exemption on subdivision dues and even on the association's income;

WHEREAS, Section 18 of R.A. No. 9904, reads: "Where the LGUs (local government units) lack resources to provide for basic services, the associations shall endeavor to tap the means to provide for the same. In recognition of the associations' efforts to assist the LGUs in providing such basic services, association dues and income derived from rentals of their facilities shall be tax-exempt: Provided, That such income and dues shall be used for the cleanliness, safety, security, and other basic services needed by the members, including the maintenance of the facilities of their respective subdivisions or villages";

WHEREAS, it was reported, that a closer reading of the law shows that the exemption applies only where the LGUs lack resources to provide for basic services, which is not the case with Barangay Forbes Park, Barangay Bel Air, or even Dasmariñas Village;

WHEREAS, the report concedes that parenthetically, the above provision can and should apply to condominiums, which are, come to think of it, vertical subdivisions; however, the Henares exemption of the subdivisions will allegedly have one unintended but unfortunate consequence—it will widen the already large gap between the association dues paid by Forbes residents and the monthly dues borne by lower-income condominium dwellers;

WHEREAS, citing an example, the report claimed that Forbes Park and Dasmariñas Village residents pay only P23 a square meter every month in VAT-exempt association dues

while unit owners of the lower middle-class DMCI condominium in flood-prone Pasig struggle with P35 per square meter plus 12% VAT in monthly assessments;

WHEREAS, a large number of middle-class condominium buyers will not be able to afford the higher dues imposed on them in addition to their monthly amortization payments, especially since the VAT ruling was implemented immediately;

WHEREAS, the exclusion of affluent subdivisions is inconsistent with the State's policy to implement uniform and equitable taxation; it is also incompatible with inclusive growth;

WHEREAS, there is a need for the legislature to amend relevant laws in order to abide by the Constitution's mandate for Congress to evolve a progressive system of taxation, and create a uniform and equitable system of taxation with regard to homeowners' association and condominium dues, taking into account the social class of those living in these guarded subdivisions and condominiums;

WHEREFORE, be it hereby resolved to direct the proper Senate committee to conduct an inquiry, in aid of legislation, on the reported need to review the inequitable value-added tax imposed on homeowners' association and condominium dues.

Adopted,

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MIRIAM DEFENSOR SANTIAGO