



MANILA, Philippines – The Freedom from Debt Coalition stated its support for government’s imposition of taxes on the controversial Poverty Eradication and Alleviation Certificates (PEACe) government bonds set to be paid today, October 18, as current bond holders, mostly banks, filed a petition before the Supreme Court contesting the decision.

The debt watchdog also likened the PEACe bonds to the financial scams by huge Wall Street banks, which triggered the 2008 financial crisis that led to the collapse of major world economies, stealing ordinary people’s pensions and life savings, putting them out of their homes and schools, and causing them to lose their jobs.

“These banks want super profit and risk-free and no-tax investments, and expect government to bail them out in case of default, using public money,” said Milo Tanchuling, FDC Secretary-General.

“This is the same with the PEACe bonds case. The banks who bought the bonds know of the taxes, but because of greed they still bought the controversy-ridden bonds. These banks are as greedy as the major banks in Wall Street,” stressed Tanchuling.

BIR ruling

“We laud the decision of the Bureau of Treasury (BtR) and the Bureau of Internal Revenue (BIR) to apply the law imposing the 20-percent final withholding tax and the 30-percent capital gains tax that were purposely relaxed and bent in 2001,” Tanchuling said.

In 2001, the BtR offered government bonds to the government securities eligible dealers through an auction. The Caucus of Development NGO networks or CODE-NGO, through Rizal Commercial Banking Corp. (RCBC), bought the ten-year zero-coupon bonds on Oct. 16, 2001 at the discounted rate of P10.17 billion and at 12.75 percent interest.

The government, through the National Treasury, is set to pay the bond holders P35 billion, including P24.3 billion, and simultaneously, collect about P4.83 billion in tax from the matured bonds. This is pursuant to BIR ruling 370-2011 which its 2004 ruling reversing three earlier rulings issued in 2001 exempting the bonds from the 20-percent final withholding tax.

It remains unclear, however, how and from whom the government will charge the withholding

tax, as the bonds have already been resold to banks and insurance companies.

Earlier, BIR Commissioner Kim Henares said CODE-NGO’s P1.83 billion profit from the resale of the bonds in the secondary market is also subject to a 30-percent capital gains tax, around P549 million.

FDC said the government should apply the law and impose the tax to whoever benefitted from the transactions, whether they are the bondholders or CODE-NGO/RCBC.

“Pagtutuwid ng baluktot”

“The 2004 BIR ruling reversing its earlier rulings in 2001 exempting the bonds from the taxes, in fact, proves that there were indeed infirmities in the application of laws and procedures during the conceptualization, auction and award of the zero coupon bonds,” Tanchuling further said.

FDC said the recent move of the BtR and the BIR is aligned with President Aquino’s “tuwid na daan,” as this is a correction of the wrongs carried out by the Arroyo administration ten years ago when it relaxed the rules in order to favor certain groups.

“Itinutuwid lamang nito ang binaluktot na batas noong 2001,” said Tanchuling.

Innovative strategy?

CODE-NGO praises itself for an “innovative strategy” to raise funds to support anti-poverty programs; however many in the civil society including the FDC condemn the transaction as “a questionable activity, granting special privileges and benefits to a few at the expense of Filipino tax payers now burdened to pay the abominable P35 billion debt.”

According to FDC, CODE-NGO, a non-government organization consortium, which tacitly supported then-President Gloria Macapagal-Arroyo’s rise to power in the wake of EDSA II, lobbied hard for the Arroyo administration to sweeten the bonds with tax exemptions and eligibilities.

On Monday, eight banks who bought the zero coupon bonds asked the Supreme Court (SC) to inhibit the government – particularly the BtR and BIR – from imposing the withholding tax, citing violation of non-retroactivity of laws and due process as grounds. These banks are Banco De Oro, Bank of Commerce, China Banking Corporation, Metropolitan Bank and Trust Company, Philippine Bank of Communications, Philippine National Bank, Philippine Veterans Bank and Planters Development Bank.

On Tuesday, the SC did not issue a temporary restraining order on the BIR ruling implementing the 20% final withholding tax on the PEACe bonds. However, the High Court said the banks are required to hold in escrow the 20% and release only the 80% to investors to protect government, pending final court decision.

“No laws were changed. BIR only executed the law and merely reiterated their 2004 ruling. The

BIR did not violate the rules; it is those who designed and benefitted from the PEACe bonds that bent the law.” **-30-**