

Rousing the Partnership — The Tax Stimulus

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The Article begins with a review of the history of the Philippine partnership law, one that is a hybrid of American and Spanish laws on partnership. It also discusses Spanish and American partnership concepts with the purpose of providing the features of the hybrid partnership law in the Philippines and the necessary background for the reader to understand how the entities covered by the said law are taxed.

The Author's review on the development of the codified laws on partnership reveals that under the National Internal Revenue of 1939, owners of registered general co-partnerships were liable to income tax only in their individual capacity while all other partnerships, regardless of their creation or organization, were treated and taxed as corporations. The 1977 Tax Code further emphasized this treatment of partnerships as corporations when it provided that only general professional partnership should enjoy the flow-through tax scheme. This treatment remained with the current tax code. Currently, partnerships are taxed wither as corporations or as general professional partnerships, joint ventures and consortiums that are entitled to a flow-through taxation scheme.

After comparing the number of partnerships in the Philippines and in the United States and discussing the landscape of the Philippine tax bureaucracy, the Article proposes that the flow-through be also made available to all types of partnerships, both registered and unregistered, as well as to all types of joint ventures.

In conclusion, the Article claims that the essence of the proposal is to rouse the partnership from its slumber and, with its aid, overcome the frailties and impotence of a single individual's effort by creating an environment where partnerships thrive.