

Batas Pambansa Blg. 37

amends Sections 34, 45, 51 and 72 of the National Internal Revenue Code of 1977 as amended, by subjecting to the final tax capital gains derived from the sale or other dispositions of real property. \*\*\*

Approved and took effect September 7, 1979.  
(75 O.G. 7508)

Batas Pambansa Blg. 38

consolidates the provisions on travel tax by amending certain Sections of PD 1138 as amended.

Approved and took effect September 7, 1979.  
(75 O.G. 7511)

Batas Pambansa Blg. 41

further amends Sections 30 (on expenses, losses, and deductibility of certain payments), 36 (on inventories), 37 (on rentals and royalties), 45 (on individual returns), 53 and 54 (on taxes withheld at source), 86, 153 (on specific tax on naphtha, gasoline and other like products), 187 (on the definition of "real estate broker") and 196 of the National Internal Revenue Code of 1977, as amended.

Approved and took effect Sept. 7, 1979.  
(75 O.G. 7520)

\*\*\* For Revenue Regulations No. 8-79, implementing Sec. 34(h) of the National Internal Revenue Code of 1977, as amended by B.P. 37, see 75 O.G. 9365 et seq.

## MINISTER OF JUSTICE

Compiled by:

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AND

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### ADMINISTRATIVE LAW

**CASE:** Members of the Sanguniang Bayan are not exempt from the operation of Section 2176 of the Revised Administrative Code, in view of the categorical and unambiguous prohibition contained in said provision forbidding municipal officers from holding a pecuniary interest, direct or indirect, in any cockpit. In effect, this provision makes every violation of Sec. 2176 an offense. If a group of persons were to be exempted from the operation of Section 2176 by an administrative or implementing agency, it would be tantamount to a condonation of the act of said group which is deemed an offense under the penal provisions of section 2176 and/or a determination that the act in question shall not constitute an offense. This is not within the prerogative of an administrative or implementing agency. (Opinion 156, 12 November 1979)

**CASE:** Presidential Decree No. 1603 does not curtail the power of the Minister of Finance to issue rules and regulations pursuant to Section 326 of the National Internal Revenue Code. Presidential Decree No. 1603 is a general conferment of authority on every ministry, bureau, or office to promulgate rules and regulations pertaining to their respective agency. The general grant of power must give way to the specific grant in the National Internal Revenue Code. (Opinion 139, 23 October 1979)

## CONSTITUTIONAL LAW

CASE: Mining claims validly located and/or patented under the Act of the United States Congress of July 1, 1902 or before the 1935 Constitution went into effect are not covered by Batasan Bill No. 171 entitled "An Act Reverting to the Public Domain all Patented Mineral Lands/Claim, Prescribing Condition therefor, and Providing Provisions for Disposition." Prior to the 1935 Constitution mining claims became segregated from the public domain and therefore, private property of the locator. To allow the Batasan Bill to operate with respect to these lands would be a deprivation of property without due process of law. However, mining claims acquired after the effectivity of the 1935 Constitution which expressly declares that all mineral lands of the public domain and mineral and other natural resources belong to the State and prohibits their alienation (Sec. 1, Art. XIII), are subject to the operation of the Batasan Bill. Mineral lands and minerals are no longer subject to private acquisition (Opinion No. 160, 20 November 1979)

CASE: The Batasan Pambansa does not have the power to ratify an International Convention to make it binding on the Republic of the Philippines. One of the 1976 Amendments to the New Constitution provides that the Interim Batasang Pambansa shall have the same powers as the Interim National Assembly and the regular National Assembly, but it shall not exercise the powers provided in Article VIII, Section 14 (1) of the Constitution, which provides that a treaty shall be valid and effective only "when concurred in by majority of all the Members of the National Assembly." (Opinion No. 4, 10 January 1979)

CASE: The expenditure of government funds to improve and expand the Camalig Museum located in the catholic church premises of Camalig, Albay is not constitutionally objectionable. It is a declared policy of the state to protect and preserve the cultural properties of the nation. The Constitutional dictate of separation of Church and State is not violated when incidental benefits flow to a particular denomination unintentionally provided that State policy is subserved. (Opinion No. 141, 26 October 1979)

## KATARUNGANG PAMBARANGAY LAW

CASE: The filing of a case before the Lupong Tagapayapa, created by the Katarungang Pambarangay Law, does not stop the running of the prescriptive period of a crime. Section 6 of said law provides that parties may go directly to court where the action may otherwise be barred by the Statute of Limitations. Thus, when Section 6 of said law, Presidential Decree No. 1508, speaks of the possibility that the action might be barred by the Statute of Limitations, it can only mean that the prescriptive period for any action, whether civil or criminal, as this provision does not qualify, continues to run despite its filing with the Lupon. That is the rationale behind the provision allowing the parties to go directly to court if the action might be barred by the Statute of Limitations. (Opinion 152, 7 November 1979)

CASE: The Katarungang Pambarangay Law covers agrarian disputes because this intention is expressed in the law itself. The authority of the Lupon is broad enough to cover all kinds of disputes except those enumerated therein and agrarian disputes are not expressly excepted. The barangay captain may act as sole arbiter only when the parties agree in writing at any stage of the proceedings that they shall abide by the arbitration award made by the barangay captain. Otherwise, he cannot decide the dispute in favor of either of the parties. (Opinion 151, 7 November 1979).

CASE: Should the parties fail to reach a settlement of their dispute, the Secretary of the **Pangkat ng Tagapagkasundo** shall submit the minutes of said proceeding to the local city or municipal court. The transmittal of the minutes, however, is not for the adjudication of the dispute involved but merely for safekeeping. Many cases which may be brought before the Lupong Tagapayapa are not within the jurisdiction of the city or municipal court so the requirement that said minutes shall be transmitted to the inferior courts could not have been intended for the purpose of adjudication. (Opinion 147, 6 November 1979)

## LABOR

CASE: The term "private agricultural lands" mentioned in Justice Ministry Circular No. 14 dated March 15, 1979, includes only lands planted to rice and corn. Circular No. 14 enjoins all Register of Deeds to require every registrant of a voluntary deed or instrument to present, in addition to the affidavit of non-tenancy, a certification from the Ministry of Agrarian Reform to the effect that the land subject of the transaction is not covered by Operation Land Transfer pursuant to Presidential Decree No. 27. The additional requirement imposed by Circular No. 14 is intended as a check against unlawful dealings in private agricultural lands covered by Presidential Decree No. 27. Since Presidential Decree No. 27 applies only to rice and corn lands, the requirements in the circular should only apply when the private agricultural lands involved are ricelands or cornlands as shown by the corresponding tax declaration (Opinion 149, 7 November 1979).

## TAXATION

CASE: The "tax exemption privileges" granted under the 1947 Base Agreement were not repealed by the 1979 Agreement. Although the later agreement completely recognized Philippine Sovereignty over the bases, this fact does not act as an implied repeal of certain "tax exempt privileges". The exercise of Philippine Sovereignty over the bases is not incompatible with the grant of tax exemptions to certain persons or transactions. The power to exempt from transaction, like the power to tax, is itself an attribute of sovereignty (Opinion 125, 4 October 1979).

## LABOR RULINGS OF THE NLRC

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## ABANDONMENT

Abandonment is considered a just cause for dismissal. There is abandonment where the employee absents himself from work over a substantial period of time without previous notice to and permission of the employer. In many companies, abandonment is covered by specific regulations. The standard provision is that an employee is deemed to have abandoned his position, or to have resigned from the same, whenever, he has been absent therefrom without previous permission of the employer for three consecutive days or more. The justification is the obvious harm to the employer's interest, resulting from non-availability of the worker's services. (DAVAO PORT & GENERAL TRANSPORT WORKERS UNION & /OR RODRIGO CAGUMBAY vs. BACHELOR EXPRESS INC. & /OR SAMSON YSAY, NLRC Case No. 569-MC-XI 76, October 16, 1979)

## ABSENCE AS GROUND FOR DISMISSAL:

In order that absenteeism may be considered sufficient cause for termination of employment, it must be shown to have been habitual in a sense as to form a conviction that the erring employee has been grossly neglectful of his work. In other words, mere absence without proof of habituality could hardly be considered adequate ground for dismissal of employee's services. (LEONARDO DONES vs. IMPERIAL CARPENTRY SHOP, NLRC Case No. RB-W-21655-78-T, November 29, 1979)