



Sports Law-for-All

No. 10 | Atty. Alberto C. Agra | Sept. 20, 2021

A Tax and Fund for Sports-for-a-Purpose

What we need – More Olympians. More medals. More competitions for all at all levels. Higher prevalence of physical activity. Quality physical education. Greater participation by local government units. More initiatives for peace and development through sports. More alternative sports. More incentives. More funds. Safer sport. More Olympists (i.e., those who advocate the core of Olympism which is “Building Better Humans”). A Sports-for-a-Purpose tax and fund.

(3) What is Sports-for-a-Purpose (SFAP)?

SFAP captures the purposes, intent and spirit of sports under the Constitution. In particular, SFAP must be advanced to:

- Use sports to attain peace and development;
- Build better humans and active communities in, around, with and through sports;
- Be more responsive to the needs and aspirations of the people and be more accountable to them in terms of sports and talent development;
- Perform the functions devolved to them in connection with sports and physical activities;
- Promote sports and physical activity for the overall physical and mental health of all its residents;
- Enable the achievement of the 17 Sustainable Development Goals set by the United Nations General Assembly in 2015 in, around, with and through sports;
- Encourage the participation in sports and physical activities of all residents such as the able-bodied, persons with disabilities, youth and kids, and seniors;
- Propagate quality physical education in all academic levels;
- Develop traditional and alternative or emerging sports and disciplines;
- Undertake safe, secure, fair and non-discriminatory practices in sports and physical activities;
- Use physical activities and sports to prevent the youth from engaging in harmful and deleterious activities resulting from a lack of healthy alternatives; and
- Encourage the organization of competitive and recreational sports events.

(4) According to the United Nations, what is the type of response countries and local governments must pursue?

The United Nations Global Action Plan on Physical Activity (2018-2030) calls on countries, cities, and communities to adopt a *whole-of-system* response involving all sectors and stakeholders taking action at global, regional and local levels to provide safe and supportive environments and more opportunities to help people increase their levels of physical activity.

(5) Is there a national tax specifically dedicated for SFAP which can be directly accessed by local government units (LGUs)?

Unfortunately, there is none. The Author proposes the adoption of SFAP Fund which shall be taken from the social welfare and benefits program drawn from the Incremental Revenues from the Tax

(9) What are the other possible local sources of fund to support SFAP?

There are three additional possible sources of funds for SFAP. Through an ordinance duly-enacted by the Sanggunian, funds may be drawn from:

- The annual or supplementary budgets;
- The Special Education Fund (SEF); and
- The Local Development Fund (LDP).

The ordinance shall provide for the percentage or amount that will be earmarked from the SEF and LDP.

(10) How can the SFAP Fund and SFAP Local Tax be established?

A statute passed by Congress is necessary to:

- Define SFAP;
- Create the SFAP fund that will be taken from the Incremental Revenues under the NIRC; and
- Empower LGUs to levy the SFAP tax.

Here is the proposed text of the bill which must emanate from the House of Representatives since this is a revenue measure:

AN ACT CREATING A SPECIAL FUND FOR SPORTS-FOR-A-PURPOSE AND AUTHORIZING LOCAL GOVERNMENT UNITS TO COLLECT ADDITIONAL TAXES TO PROMOTE AND DEVELOP SPORTS-FOR-A-PURPOSE, AND AMENDING SEC. 288 (F) OF THE NATIONAL INTERNAL REVENUE CODE

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

SECTION 1. Title. – This Act shall be known as the “Sports-for-a-Purpose Fund.”

SECTION 2. Declaration of Principles. – The Constitution declares that “the State shall give priority to education, science and technology, arts, culture, and sports to foster patriotism and nationalism, accelerate social progress, and promote total human liberation and development (Section

- Sports* is defined as all forms of physical activity that contribute to physical fitness, mental well-being and social interaction, and which includes play, recreation, organized, casual or competitive sports, and indigenous sports or games.
- Sports-for-a-Purpose* or *SFAP* is described as using sports to enable the attainment and realization of the Objectives set forth herein.

SECTION 5. Funding. A Sports-for-a-Purpose Fund (SFAPF) could be created by an LGU through an ordinance from:

- The annual or supplementary budgets;
- A tax which is an additional one-half percent (0.5%) on the assessed value of all lands in excess of Fifty Thousand Pesos (P50,000) in assessed value;
- The Special Education Fund (SEF); and
- The Local Development Fund (LDP).

The ordinance shall provide for the percentage or amount that will be earmarked from the SEF and LDP.

SECTION 6. Amendment of Section 288 (F) of the National Internal Revenue Code of 1997. An additional proviso is hereby inserted under Section 288 (F) of the National Internal Revenue Code, as amended by Republic Act No. 10963 or the Tax Reform for Acceleration and Inclusion (TRAIN Act), to be read as follows:

“(F) Incremental Revenues from the Tax Reform for Acceleration and Inclusion. – For five (5) years from the effectivity of this Act, the yearly incremental revenues generated shall be automatically appropriated as follows: x x x x

(2) Not more than thirty percent (30%) to fund: x x x x

(c) A social welfare and benefits program where qualified beneficiaries x x x x

- Unconditional cash transfer x x x x
- Fuel vouchers x x x x
- For minimum wage earners x x x x

(1) Does the Philippine Constitution expressly prioritize and promote sports?

Philippine sports has a noble purpose enshrined under our Constitution. Under our fundamental law, the purpose of sports is “to foster patriotism and nationalism, accelerate social progress, and promote total human liberation and development” while purpose of physical education is “to foster self-discipline, teamwork, and excellence for the development of a healthy and alert citizenry.”

The Constitution declares that “the State shall give priority to education, science and technology, arts, culture, and sports to foster patriotism and nationalism, accelerate social progress, and promote total human liberation and development (Section 17, Article II)” and “the State shall promote physical education and encourage sports programs, league competitions, and amateur sports, including training for international competitions, to foster self-discipline, teamwork, and excellence for the development of a healthy and alert citizenry (Section 19 (1), Article XIV).”

(2) What is the meaning of Sport?

According to United Nations Inter-Agency Taskforce on Sport for Development and Peace, sport can be defined as “all forms of physical activity that contribute to physical fitness, mental well-being and social interaction. These include: play; recreation; organized, casual or competitive sports; and indigenous sports or games.”

In the Toolkit for Action for “The Contribution of Sports to the Achievement of the Sustainable Development Goals” developed by the SDF Fund Secretariat, sport has been described as “an important enabler of sustainable development.” Quoting Nobel Peace Prize laureate and former South African President Nelson Mandela:

“*Sport has the power to change the world. It has the power to inspire, it has the power to unite people in a way that little else does. It speaks to youth in a language they understand. Sport can create hope, where once there was only despair. It is more powerful than governments in breaking down racial barriers. It laughs in the face of all types of discrimination.*” (underscoring supplied)

Reform for Acceleration and Inclusion (TRAIN Act) under Section 288 (F) of the National Internal Revenue Code (NIRC), as amended. This is the proposed wording of the additional program: *For funding of plans and projects to be pursued under the identified and approved projects by the concerned LGUs pursuant to the their SFAP ordinance.*

(6) Who shall administer and benefit from this fund?

It is proposed that the Philippine Sports Commission (PSC) administer said fund. LGUs – provinces, cities and municipalities – which adopt SFAP through their respective ordinances, shall be entitled to a portion of said fund. The fund shall exclusively inure to and benefit the LGUs. The PSC, in consultation with the Department of Education, Commission on Higher Education, and Leagues of Provinces, Cities and Municipalities, shall adopt the necessary rules and guidelines for the fair, objective and expeditious evaluation, assessment and release of the funds sought by the LGUs.

(7) Why must LGUs be involved in SFAP?

As frontliners and being in a better position to address local concerns, and in furtherance of local autonomy, fiscal autonomy, devolution and promotion of the general welfare, LGUs should be the SFAP program designer and implementor.

(8) Can LGUs enact their own SFAP tax?

It is suggested that LGUs be authorized by statute to impose an *additional one half percent (0.5%) tax on the assessed value of all lands in excess of Fifty Thousand Pesos (P50,000) in assessed value, provided that the imposition thereof shall be made under a duly-enacted ordinance.*

The authority of an LGU to levy this SFAP tax is premised on its fiscal autonomy, its residual taxing power, and its authority to impose taxes which are not listed in the Republic Act No. 7160 or the Local Government Code of 1991 (LGC) pursuant to Section 186 of the LGC. Such a tax is not unjust, excessive, oppressive and confiscatory, and is in furtherance of a constitutional and national policy. The SFAP tax is similar to the imposition of a Socialized Housing Tax (SHT) held to be valid by the Supreme Court in the case of *Ferrer vs. Bautista* (G.R. No. 210551, June 30, 2015). The SHT was anchored on the Republic Act No. 7279 or the Urban Development and Housing Act of 1992.

17, Article II)” and “the State shall promote physical education and encourage sports programs, league competitions, and amateur sports, including training for international competitions, to foster self-discipline, teamwork, and excellence for the development of a healthy and alert citizenry (Section 19(1), Article XIV).” Likewise, the United Nations Global Action Plan on Physical Activity (2018-2030) calls for countries, cities, and communities to adopt a ‘whole-of-system’ response involving all sectors and stakeholders taking action at global, regional and local levels to provide safe and supportive environments and more opportunities to help people increase their levels of physical activity.

SECTION 3. Declaration of Objectives. Through this Act, it is envisioned that local government units, in recognition of their local autonomy, fiscal autonomy and responsibility to promote the general welfare, shall be able to:

- Use sports to attain peace and development;
- Build better humans and active communities in, around, with and through sports;
- Be more responsive to the needs and aspirations of the people and be more accountable to them in terms of sports and talent development;
- Perform the functions devolved to them in connection with sports and physical activities;
- Promote sports and physical activity for the overall physical and mental health of all its residents;
- Enable the achievement of the 17 Sustainable Development Goals set by the United Nations General Assembly in 2015 in, around, with and through sports;
- Encourage the participation in sports and physical activities of all residents such as the able-bodied, persons with disabilities, youth and kids, and seniors;
- Propagate quality physical education in all academic levels;
- Develop traditional and alternative or emerging sports and disciplines;
- Undertake safe, secure, fair and non-discriminatory practices in sports and physical activities;
- Use physical activities and sports to prevent the youth from engaging in harmful and deleterious activities resulting from a lack of healthy alternatives; and
- Encourage the organization of competitive and recreational sports events.

SECTION 4. Definition of Terms. As used in this Act:

- Local Government Unit* or *LGU* is understood to include provinces, cities and municipalities regardless of income classification.

(iv) *For funding of plans and projects to be pursued under the identified and approved projects by the concerned LGUs pursuant to the their SFAP ordinance;*
(v) *other social benefits programs x x x x.”*

The funds collected under for the SFAP program shall be administered by the Philippine Sports Commission (PSC) and be made available to the LGUs. The fund shall exclusively inure to and benefit the LGUs. The PSC, in consultation with the Department of Education, Commission on Higher Education, and Leagues of Provinces, Cities and Municipalities, shall adopt the necessary rules and guidelines for the fair, objective and expeditious evaluation, assessment and release of the funds sought by the LGUs.

SECTION 7. Separability Clause. – If for any reason, any provision of this Act is declared invalid or unconstitutional, the remaining provisions not affected thereby shall continue to be in full force and effect.

SECTION 8. Repealing Clause. – All laws, decrees, executive orders, proclamations, rules and regulations, and other issuances, or parts thereof which are inconsistent with the provisions of this Act, are hereby repealed or modified accordingly.

SECTION 9. Effectivity Clause. – This Act shall take effect upon its publication in at least two (2) national newspapers of general circulation.



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