

THIRTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

'04 OCT 27 P1:30

SENATE

RECEIVED BY: _____

S. No. 1838

Introduced by Senators
FRANKLIN M. DRILON, JUAN M. FLAVIER
and FRANCIS N. PANGILINAN

EXPLANATORY NOTE

A broad-based Value-added Tax (VAT) is an efficient and neutral tax. Under this system, a broad range of goods and services are taxed in the same manner. VAT is also the only tax that has a built-in self-policing feature through its input VAT credit mechanism. Such mechanism creates a paper trail by which tax administration is able to match claims for input services. VAT can be a buoyant and stable source of revenue. Any increase in the tax base is certain to translate to an increase in VAT revenues.

The desirability of VAT as a buoyant, efficient and neutral tax results only when the tax is applied on a broad base. Any exemption from VAT is a distortion in the system and a break in the VAT chain upon which lie the self-policing mechanism of the VAT.

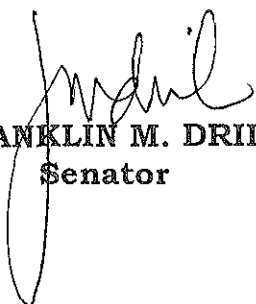
However, the full benefits from VAT cannot be realized in view of the exemptions that have been granted to various sectors of the economy. The National Internal Revenue Code, for instance, lists 25 items of exemptions from the VAT. The capacity of a broad-based VAT to address the revenue requirements of government should these exemptions be kept to the minimum can be substantial.

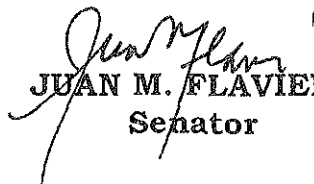
In view thereof, this bill seeks to withdraw certain exemptions from the VAT which are currently provided under the National Internal Revenue Code of 1997, as amended. Specifically, the bills seeks to repeal the VAT exemption of the following :

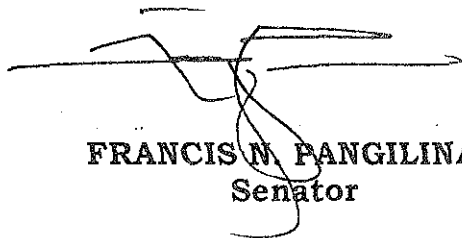
- a. Sale or importation of coal, natural gas and petroleum products
- b. Sale or importation of raw materials used in the manufacture of petroleum products by the buyer or importer himself;
- c. Importation of passenger and / or cargo vessels of more than five thousand tons (5,000), whether coastwise or ocean-going, including engine and spare parts of said vessel to be used by the importer himself as operator;
- d. Sales and importation of cooperatives, excluding lending activities of credit and multi-purpose cooperatives;
- e. Sale, importation, printing and publication of books; and

f. Services rendered in the exercise of medical and legal profession.

In view of the foregoing, approval of this bill is earnestly urged.


FRANKLIN M. DRILON
Senator


JUAN M. FLAVIER
Senator


FRANCIS N. PANGILINAN
Senator

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**AN ACT AMENDING SECTION 109 OF THE NATIONAL INTERNAL
REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER
PURPOSES**

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

Section 1. Section 109 of the National Internal Revenue Code of 1997, as amended by Republic Act No. 9238, is hereby amended to read as follows :

“SEC. 109. Exempt Transactions. – The following shall be exempt from the value-added tax :

- (a) Sale of nonfood agricultural products; marine and forest products in their original state by the primary producer or the owner of the land where the same are produced;
- (b) Sale of cotton and cotton seeds in their original state; and copra;
- (c) Sale or importation of agricultural and marine food products in their original state, livestock and poultry of a kind generally used as, or yielding or producing foods for human consumption; and breeding stock and genetic materials therefore;

Products classified under this paragraph and paragraph (a) shall be considered in their original state even if they have undergone the simple processes of preparation or preservation for the market, such as freezing, drying, salting, broiling, roasting, smoking or stripping, Polished and/or husked rice, corn grits, raw cane sugar and molasses, and ordinary salt shall be considered in their original state;

- (d) Sale or importation of fertilizers; seeds, seeding and fingerlings; fish, prawn, livestock and poultry feeds,

including ingredients, whether locally produced or imported, used in the manufacture of finished feeds (except specialty feeds for race horses, fighting cocks, aquarium fish, zoo animals and other animals generally considered as pets);

- [(e) Sale or importation of coal and natural gas, in whatever form or state, and petroleum products (except lubricating oil, processed gas, grease, wax and petrolatum) subject to excise tax imposed under Title VI;]
- [(f) Sale or importation of raw materials to be used by the buyer or importer himself in the manufacture of petroleum products subject to excise tax, except lubricating oil, processed gas, grease, wax and petrolatum;]
- [(g) Importation of passenger and/or cargo vessels or more than five thousand tons (5,000), whether coastwise or ocean-going, including engine and spare parts of said vessels to be used by the importer himself as operator thereof;]
- [(h)] (E) Importation of personal and household effects belonging to the residents of the Philippines returning from abroad and nonresident citizens coming to resettle in the Philippines; Provided, That such goods are exempt from customs duties under the Tariff and Customs Code of the Philippines;
- [(i)] (F) Importation of professional instruments and implements, wearing apparel, domestic animals, and personal household effects (except any vehicle, vessel, aircraft, machinery, other goods for use in the manufacture and merchandise of any kind in commercial quantity) belonging to persons coming to settle in the Philippines, for their own use and not for sale, barter or exchange, accompanying such persons, or arriving within ninety (90) days before or after their arrival, upon the production of evidence satisfactory to the Commissioner, that such persons are actually coming to settle in the Philippines and that the change of residence is *bona fide*;
- [(j)] (G) Services subject to percentage tax under Title V;
- [(k)] (H) Services by agricultural contract growers and milling for others of palay into rice, corn into grits and sugar cane into raw sugar;
- [(l)] (I) Medical, dental, hospital and veterinary services except those rendered by professionals;
- [(m)] (J) Educational services rendered by private educational institutions, duly accredited by the Department of Education [; Culture and Sports (DECS)]

(DEPED) and the Commission of Higher Education (CHED), and those rendered by government educational institutions;

- [(n)] (K) Sale by the artist himself of his works of art, literary works, musical compositions and similar creations, or his services performed for the production of such works;
- [(o)] (L) Services rendered by individuals pursuant to an employer-employee relationship;
- [(p)] (M) Services rendered by regional or area headquarters established in the Philippines by multinational corporations which act as supervisory, communications and coordinating centers for their affiliates, subsidiaries or branches in the Asia-Pacific Region and do not earn or derive income from the Philippines;
- [(q)] (N) Transactions which are exempt under international agreements to which the Philippines is a signatory or under special laws, except those under Presidential Decree Nos. 66, 529 and 1590;
- [(r)] Sales by agricultural cooperatives duly registered with the Cooperative Development Authority to their members as well as sale of their produce, whether in its original state or processed form, to non-members; their importation of direct farm inputs, machineries and equipment, including spare parts thereof, to be used directly and exclusively in the production and/or processing of their produce;]
- [(s)] Sales by electric cooperatives duly registered with the Cooperative Development Authority or National Electrification Administration, relative to the generation and distribution of electricity as well as their importation of machineries and equipment, including spare parts, which shall be directly used in the generation and distribution of electricity;]
- [(t)] (O) Gross receipts from lending activities by credit or multi-purpose cooperatives duly registered with the Cooperative Development Authority whose lending operation is limited to their members; PROVIDED, HOWEVER, THAT SUCH LENDING ACTIVITIES SHALL BE SUBJECT TO THE TAX IMPOSED IN SECTION 121 OF NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED BY REPUBLIC ACT NO. 9238;
- [(u)] Sales by non-agricultural, non-electrical and non-credit cooperatives duly registered with the Cooperative Development Authority: Provided, That the share capital contribution of each member does not exceed Fifteen Thousand Pesos (P15,000) and regardless of the

aggregate capital and net surplus ratably distributed among the members ;]

[(v)] (P) Export sales by persons who are not VAT-registered;

[(w)] (Q) Sale of real properties not primarily held for sale to customers or held for lease in the ordinary course of trade or business or real property utilized for low-cost and socialized housing as defined by Republic Act No. 7279, otherwise known as the Urban Development and Housing Act of 1992, and other related laws, house and lot and other residential dwellings valued at One million pesos (P1,000,000.00) and below: Provided, That not later than January 31st of the calendar year subsequent to the effectivity of this Act and each each calendar thereafter, the amount of One million pesos (P1,000,000) shall be adjusted to its present value using the Customer Price Index, as published by the National Statistics Office (NSO);

[(x)] (R) Lease of a residential unit with a monthly rental not exceeding Eight thousand pesos (P8,000): Provided, That not later than January 31st of the calendar year subsequent to the effectivity of Republic Act No. 8241 and each calendar year thereafter, the amount of Eight thousand pesos (P8,000) shall be adjusted to its present value using the Consumer Price Index as published by the National Statistics Office (NSO);

[(y)] (S) Sale, importation, printing or publication of books and any newspaper, magazine, review of bulletin which appears at regular intervals with fixed prices for subscription and sale and which is not devoted principally to the publication of paid advertisements;

[(z)] (T) Sale or lease of goods or properties or the performance of services other than the transactions mentioned in the preceding paragraphs; the gross annual sales and/or receipts do not exceed the amount of Five hundred fifty thousand pesos (P550,000): Provided, That not later than January 31st of the calendar year subsequent to the effectivity of Republic Act No. 8241 and each calendar year thereafter, the amount of Five hundred fifty thousand pesos (P550,000) shall be adjusted to its present value using the Consumer Price Index, as published by the National Statistics Office (NSO); AND

[(aa)] (U) Services of banks, non-bank financial intermediaries performing quasi-banking functions, and other non-bank financial intermediaries [;].

[(bb)] services rendered by doctors of medicine duly registered with the professional regulatory commission (PRC); and]

[(cc) services rendered by lawyers duly registered with the Integrated Bar of the Philippines (IBP).]

The foregoing exemptions to the contrary notwithstanding, any person whose sale of goods or properties or services which are otherwise not subject to VAT, but who issues a VAT invoice or receipt therefore shall, in addition to his liability to other applicable percentage tax, if any, be liable to the tax imposed in Section 106 or 108 without the benefit of input tax credit, and such tax shall also be recognized as input tax credit to the purchaser under Section 110, all of this Code."

Section 2. If any provision of this Act shall be held to be unconstitutional or not valid, no other provision shall be affected thereby.

Section 3. All laws, decrees, executive orders, administrative orders, regulations or parts thereof which are inconsistent with this Act are hereby repealed, amended or modified accordingly.

Section 4. This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in any two (2) newspapers of general circulation.

Approved,