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

Senate
Office of the Secretary

'11 JUN 14 A11 :38

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S E N A T E

S. No. 2878

Introduced by Senator Ralph G. Recto

Explanatory Note

In 2004, members of the 13th Congress enacted Republic Act No. 9337 or the law that expanded the value-added taxation system in the country. This piece of legislation increased the VAT to 12% and expanded the tax base to include fuel, electricity and the transport industries, among others.

From its deliberation in Congress and up to its eventual enactment and implementation, RA 9337 appears to be one of the most heavily-debated tax measures ever to have been brought to the halls of Congress and before the bar of public opinion.

There was strong opposition to the measure as it was seen to be an additional burden to the general public. However, its proponents believed that it was necessary to enact such a law owing to the prevailing economic conditions at that time.

The tax measure is one of the recommended solutions to address a looming fiscal crisis brought about by an unprecedented increase in national debt.

In 2004, the country's debt-to-GDP ratio was at 78.2%, a record high. Debt service, including principal and interest payments, was equivalent to 86.1% of government revenues, while infrastructure and other capital expenditures were only 10.87% of government expenditures for the same year.

The country's total foreign borrowing was over P3 trillion while foreign reserves fell. It was also at this time when the country was receiving downgrades in credit ratings from international credit rating agencies due to the deterioration in public finances.

To arrest the downward spiral of the national government finances, drastic measures need to be implemented to increase revenues. One such measure is the enactment of RA 9337, which has generated more funds for infrastructure and social services and allowed the government to cut down on borrowings for its projects since 2004.

However, the prevailing conditions in 2004 no longer exist today and an amendment to RA 9337 should be in order.

This bill seeks to authorize the President of the Republic of the Philippines to reduce the VAT rate from 12% to 10% if the national debt as a percentage of GDP of the previous year does not exceed fifty-six percent (56%). The author believes that nearly seven years after the enactment of RA 9337, the VAT rate can be reduced to 10% in order to unburden the general public as the existing conditions when the law was passed are no longer present at this time.

In 2010, the debt-to- GDP ratio fell to 55.4%, the lowest since 1998 when the ratio was at 53.3% and a far cry from the 78.2% in 2004. The Aquino administration said it is committed to cutting the debt-to-GDP ratio to 46% in 2016. Also, forecasts of international financial institutions indicate that the peso will strengthen this year.

The reduction of the VAT rate from 12% to 10% therefore would be a welcome relief for the general public now burdened with high prices of commodities brought about by the continuing volatility of crude oil prices in the world market.

It would also put more money in the pockets of our fellow Filipinos who are facing the prospect of high inflation rates next year. Nomura International (HK) Ltd. sees an increase in inflation rate in the Philippines, peaking to a high of 15.4 percent in the second quarter of next year.

The bill also seeks to amend Sec. 109 of the Tax Code by increasing the thresholds for VAT exemption stated in paragraphs (P), (Q) and (V) for sale of real properties not primarily held for sale or lease in the ordinary course of trade or business, real property utilized for low-cost and socialized housing, and residential lot from P1.5 million to P2 million; lease of residential unit with monthly rental from P10,000 to P13,000; and other sale or lease of goods or properties or performance of services from P1.5 million to P3 million based on the updated Consumer Price Index, as published by the National Statistics Office (NSO).

It likewise seeks to amend Sec. 236 by increasing the threshold for non-VAT taxpayers from P1.5 million to P3 million to enable small entrepreneurs to grow before being made subject to the ambit of VAT. The author believes that this would greatly benefit micro enterprises, which comprise over 90% of all business enterprises in the country. This is also envisioned to encourage the establishment of more micro enterprises by exempting them from the coverage of VAT and thus lead to the creation of more jobs, as government data show that these business vehicles promote employment. As of 2009, micro enterprises generated a total of 1,731,082 jobs, according to the Department of Trade and Industry.

In view of the foregoing, the passage of this measure is sincerely sought.

RALPH G. RECTO

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AN ACT
AUTHORIZING THE PRESIDENT OF THE REPUBLIC OF THE PHILIPPINES TO LOWER THE RATE OF VALUE ADDED TAX TO TEN PERCENT (10%) AND INCREASING THE THRESHOLD FOR CERTAIN NON-VAT TAXPAYERS, AMENDING FOR THE PURPOSE SECTIONS 106 (A), 107 (A), 108 (A), 109, AND 236 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED BY REPUBLIC ACT 9337

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

SECTION. 1. Section 106 paragraph (A) of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

"SEC. 106. *Value-Added Tax on Sale of Goods or Properties.*

"(A) Rate and Base of Tax. – There shall be levied, assessed and collected on every sale, barter or exchange of goods or properties, a value-added tax equivalent to TWELVE PERCENT (12%) **[**ten percent (10%)**]** of the gross selling price or gross value in money of the goods or properties sold, bartered or exchanged, such tax to be paid by the seller or transferor : Provided, That the President, upon the recommendation of the Secretary of Finance, shall **[**,effective January 1, 2006, raise**]** LOWER the rate of value-added tax to TEN PERCENT (10%) IF THE **[**twelve percent (12%), after any of the following conditions has been satisfied:

"(i) Value-added tax collection as a percentage of Gross Domestic Product (GDP) of the previous year exceeds two and four-fifth percent (2 4/5%); or

"(ii)] National government DEBT [deficit] as a percentage of GDP of the previous year DOES NOT EXCEED FIFTY-SIX PERCENT (56%). [exceeds one and one-half percent (1 ½%).]

"(1) Xxx

"(2) Xxx"

SEC. 2. Section 107 paragraph (A) of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

"SEC. 107. Value-Added Tax on Importation of Goods.

"(A) In General. – There shall be levied, assessed and collected on every importation of goods a value-added tax equivalent to TWELVE PERCENT (12%) [ten percent (10%)] based on the total value used by the Bureau of Customs in determining tariff and customs duties, plus customs duties, excise taxes, if any, and other charges, such tax to be paid by the importer prior to the release of such goods from customs custody: Provided, That where the customs duties are determined on the basis of the quantity or volume or the goods, the value-added tax shall be based on the landed cost plus excise taxes, if any : Provided, further, That the President, upon the recommendation of the Secretary of Finance, shall [, effective January 1, 2006, raise] LOWER the rate of value-added tax to TEN PERCENT (10%) IF THE [twelve percent (12%), after any of the following conditions has been satisfied:

"(i) Value-added tax collection as a percentage of Gross Domestic Product (GDP) of the previous year exceeds two and four-fifth percent (2 4/5%); or

"(ii)] National government DEBT [deficit] as a percentage of GDP of the previous year DOES NOT EXCEED FIFTY-SIX PERCENT (56%). [exceeds one and one-half percent (1 ½%).]

SEC. 3. Section 108 paragraph (A) of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

"***SEC. 108. Value-Added Tax on Sale of Services and Use or Lease of Properties. –***

"(A)Rate and Base of Tax. – There shall be levied, assessed and collected, a value-added tax equivalent to TWELVE PERCENT (12%) [ten percent (10%)] of gross receipts derived from the sale or exchange of services, including the use or lease of properties: Provided, That the President, upon the recommendation of the Secretary of Finance, shall [, effective January 1, 2006, raise] LOWER the rate of value-added tax to TEN PERCENT (10%) IF THE [twelve percent (12%), after any of the following conditions has been satisfied:

"(i) Value-added tax collection as a percentage of Gross Domestic Product (GDP) of the previous year exceeds two and four-fifth percent (2 4/5%); or

"(ii)] National government DEBT [deficit] as a percentage of GDP of the previous year DOES NOT EXCEED FIFTY-SIX PERCENT (56%). [exceeds one and one-half percent (1 ½%).]

Xxx"

SEC. 4. Section 109 of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

"SEC. 109. Exempt Transactions. –

"(1) Subject to the provisions of Subsection (2) hereof, the following transactions shall be exempt from the value-added tax:

"(A) xxx

"(B) xxx

"(C) xxx

"(D) xxx

"(E) xxx

"(F) xxx

"(G) xxx

"(H) xxx

"(I) xxx

"(J) xxx

"(K) xxx

"(L) xxx

"(M) xxx

"(N) xxx

"(O) xxx

"(P) 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, residential lot valued at TWO MILLION PESOS (P2,000,000) **[**One million five hundred thousand pesos (P1,500,000)**]** and below, house and lot, and other residential dwellings valued at THREE MILLION TWO HUNDRED THOUSAND PESOS (P3,200,000) **[**Two million five hundred thousand pesos (P2,500,000)**]** and below: Provided, That not later than THREE YEARS AFTER THE EFFECTIVITY OF THIS ACT **[**January 31, 2009**]** and every three (3) years thereafter, the amounts herein stated shall be adjusted to their present values

using the Consumer Price Index, as published by the National Statistics Office (NSO);

"(Q) Lease of a residential unit with a monthly rental not exceeding THIRTEEN THOUSAND PESOS (P13,000) [Ten thousand pesos (P10,000)] Provided, That not later than THREE YEARS AFTER THE EFFECTIVITY OF THIS ACT [January 31, 2009] and every three (3) years thereafter, the amount herein stated shall be adjusted to its present value using the Consumer Price Index as published by the National Statistics Office (NSO);

"(R) xxx

"(S) xxx

"(T) xxx

"(U) xxx

"(V) 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 THREE MILLION PESOS (P3,000,000) [One million five hundred thousand pesos (P1,500,000)]: Provided, That not later than THREE YEARS AFTER THE EFFECTIVITY OF THIS ACT [January 31, 2009] and every three (3) years thereafter, the amount herein stated shall be adjusted to its present value using the Consumer Price Index, as published by the National Statistics Office (NSO).

"(2) xxx"

SEC. 5. Section 236 paragraph (F) subparagraph (2)(a) and paragraph (G) subparagraph (1) of the National Internal Revenue Code of 1997, as amended, are hereby further amended to read as follows:

"***SEC. 236. Registration Requirements.*** –

"(A) xxx

"(B) xxx

"(C) xxx

"(D) xxx

"(E) xxx

"***(F) Cancellation of Registration***. –

"(1) xxx

"(2) Cancellation of Value-added Tax Registration. – A VAT-registered person may cancel his registration for VAT if:

"(a) He makes written application and can demonstrate to the Commissioner's satisfaction that his gross sales or receipts for the following twelve (12) months, other than those that are exempt under Section 109 (A) to (U), will not exceed THREE MILLION PESOS (P3,000,000) **[**One million five hundred thousand pesos (P1,500,000)**]**, or

"(b) xxx

"(***G) Persons Required to Register for Value-Added Tax***. –

"(1) Any person who, in the course of trade or business, sells, barters or exchanges goods or properties, or engages in the sale or exchange of services, shall be liable to register for value-added tax if:

"(a) His gross sales or receipts for the past twelve (12) months, other than those that are exempt under Section 109 (A) to (U), have exceeded THREE MILLION PESOS (3,000,000) **[**One million five hundred thousand pesos (P1,500,000)**]**; or

"(b) There are reasonable grounds to believe that his gross sales or receipts for the next twelve (12) months, other than those that are exempt under Section 109 (A) to (U), will exceed THREE MILLION PESOS (P3,000,000) **[**One million five hundred thousand pesos (P1,500,000)**]**.

"(2) xxx

"(H) xxx

"(I) xxx

"Xxx"

SEC. 6. ***Implementing Rules and Regulations (IRR).*** – Within sixty (60) days upon approval of this Act, the Secretary of Finance, upon recommendation by the Commissioner of Internal Revenue, shall issue the IRR for the effective implementation of this Act.

SEC. 7. ***Separability Clause.*** – Any portion or provision of this Act that may be declared unconstitutional or invalid shall not have the effect of nullifying other portions or provisions hereof, as long as such remaining portions or provisions can still subsist and be given effect in their entirety.

SEC. 8. ***Repealing Clause.*** All laws, acts, decrees, executive orders, issuances, and rules and regulations or parts thereof which are contrary to and inconsistent with this Act are hereby repealed, amended or modified accordingly.

SEC. 9. ***Effectivity.*** - This Act shall take effect fifteen (15) days after its complete publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,