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SENATE

S.B. No. 2123

RECEIVED BY: *ji*

Introduced by Senator Sergio Osmeña III

AN ACT FURTHER AMENDING THE NATIONAL INTERNAL REVENUE CODE (NIRC) OF 1997, AS AMENDED, BY INCLUDING THE TRANSPORT OF CARGOES BY INTERNATIONAL CARRIERS UNDER THE LAST PARAGRAPH OF SECTION 28(A)(3), PARAGRAPH (S) OF SECTION 109 AND DELETING SECTION 118 OF TITLE V THEREOF FOR THE PURPOSE OF EXPANDING TRADE AND ATTRACTING INVESTMENTS IN THE COUNTRY, AND FOR OTHER PURPOSES

EXPLANATORY NOTE

Establishing our country's connectivity becomes more imperative as the year 2015 draws near, which is the target year for the Association of Southeast Asian Nations (ASEAN) Economic Integration. International connectivity does not merely refer to tourism but also to the export development thrust of the government. The benefits of increasing Philippine connectivity for the purpose of enhancing trade should not be compromised.

Republic Act No. 10378 or "An Act Recognizing the Principle of Reciprocity as Basis for the Grant of Income Tax Exemptions to International Carriers and Rationalizing Other Taxes Imposed Thereon by Amending Sections 28(A)(3)(A), 109, 118 and 236 of the National Internal Revenue Code (NIRC), as Amended, and For Other Purposes" granted international air and sea carriers exemption from the payment of the Gross Philippine Billings Tax (GPBT) on the basis of reciprocity, and from the payment of the Common Carriers Tax (CCT) insofar as their transport of passengers is concerned. Unfortunately, the transport of cargoes by these international carriers was not considered by the said measure.

This bill seeks to remedy this peculiar situation by granting the same tax exemption to international carriers in the transport of cargo. The goal is to elevate not only our tourism industry but also our export of goods and services into a more globally competitive level. Moreover, studies have shown that international companies generally shy away from countries with poor connectivity and instead opt to put their investments elsewhere.

As pointed out by the Board of Airline Representatives (BAR), there is no distinction between CCT for passenger and for cargo on any passenger carriers' financial bottom-line. Removing CCT for cargo also goes towards the goal of increasing connectivity for the Philippines for the betterment of tourism. Further, the Joint Foreign Chambers of the Philippines (JFC) supports the inclusion of the transport of cargoes within the exemption from GPBT and CCT given our international commitments with

the World Trade Organization (WTO) and the International Civil Aviation Organization (ICAO). To include cargoes within the exemption will provide the necessary impetus to promote trade and investment in the Philippines. Sea and air carriers provide the vital transport nexus that keep the supply chain flowing and uninterrupted. Thus, the removal of these tax barriers will induce foreign vessels and airlines to expand their services in all ports and airports of the country thereby increasing supply chain networks nationwide.

In view of the foregoing, early passage of this bill is earnestly sought.

A handwritten signature in black ink, appearing to read "S. Osmeña III", written in a cursive style.

SERGIO OSMEÑA III
Senator

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

1 **SECTION 1.** The last paragraph of Section 28 (A)(3) of the National Internal
2 Revenue Code of 1997, as amended, is hereby further amended to read as follows:

3
4 "Sec. 28 Rates of Income Tax on Foreign Corporations.-

5 "(A) Tax on Resident Foreign Corporations.-

6
7 " (1) x x x x x .

8 " (2) x x x x x

9 " (3) International Carrier. – An International carrier doing
10 *business in the Philippines shall pay a tax of two and one-half*
11 *percent (2 1/2 %) on its Gross Philippine Billings as defined*
12 *hereunder:*

13
14 " (a) x x x x x

15 " (b) x x x x x

1 "Provided, That international carriers doing business in the
2 Philippines may avail of a preferential rate or exemption from the
3 tax herein imposed on their gross revenue derived from the
4 carriage of persons and their excess baggage, **AND CARGOES** on
5 the basis of an applicable tax treaty for international agreement to
6 which the Philippines is a signatory or on the basis of reciprocity
7 such that an international carrier, whose home country grants
8 income tax exemption to Philippine carriers, shall likewise be
9 exempt from the tax imposed under this provision."

10 "(4) x x x x x

11 **SECTION 2.** Paragraph (S) of Section 109 of the National Internal Revenue
12 Code of 1997, as amended, is hereby further amended to read as follows:

13
14 "Sec. 109. Exempt Transactions. – The following shall be exempt
15 from the value-added tax:

16 "(A) x x x x x

17 "x x x x x

18 "(S) Transport of passengers **AND CARGOES** by
19 international carriers;

20 "x x x x x

21 "(W) x x x x x

22 "x x x x x

23 **SECTION 3.** Section 118, Title V of the National Internal Revenue Code of 1997,
24 as amended, is hereby deleted.

25 **SECTION 4. Implementing Rules and Regulations.** – The Secretary of
26 Finance shall, upon the recommendation of the Commissioner of Internal Revenue,
27 promulgate not later than thirty (30) days upon the effectivity of this Act the necessary
28 rules and regulations for its effective implementation. The Department of Finance
29 (DOF), in coordination with Department of Foreign Affairs (DFA), shall oversee the
30 exchange of notes between the Philippines and concerned countries for purposes of
31 facilitating the availment of reciprocal exemptions intended under this Act.

1 **SECTION 5. Separability Clause.**- If any provision of this Act is subsequently
2 declared invalid or unconstitutional, other provisions thereof which are not affected
3 thereby shall remain in full force and effect.

4 **SECTION 6. Repealing Clause.**- All laws, acts, presidential decrees, executive
5 orders, issuances, presidential proclamations, rules and regulations, or parts thereof
6 which are contrary to and inconsistent with any provisions of this Act are hereby
7 repealed, amended or modified accordingly.

8 **SECTION 7. Effectivity.** – This Act shall take effect fifteen (15) days after its
9 complete publication either in the Official Gazette or in at least two (2) newspapers of
10 general circulation.

11 Approved,