

SENATE

'19 JUL 11 P1:12

S. No. 355

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INTRODUCED BY SENATOR RISA HONTIVEROS

AN ACT
AMENDING SECTIONS 106, 107, 108, 109, AND 112 OF REPUBLIC ACT NO.
8424, OTHERWISE KNOWN AS THE "TAX REFORM ACT OF 1997," AS
AMENDED, AND FOR OTHER PURPOSES

EXPLANATORY NOTE

As our tax system becomes more efficient and corruption is weeded out by our modernizing revenue bureaucracy, we will want to rely less on taxes that are easily passed on to final consumers, such as the Value-Added Tax (VAT).

After the recent passage of the Tax Reform for Acceleration and Inclusion (TRAIN) Act, which significantly reduced the number of exemptions to the VAT, the Department of Finance (DOF) has stated that we can expect an improvement in the efficiency of tax collection.

This efficiency should allow us to provide relief for the lower economic deciles of our population by lowering the VAT rate to 10%

There is also a need to align our tax system with that of the region. Thus, once the collections from a VAT rate of 10% reach 4-5% of GDP - which represents an amount exceeding the revenue being generated by Thailand's VAT rate of 7% -there is ample room to further reduce the VAT rate to achieve full alignment with the ASEAN norm of 8%.

Hence, the immediate passage of this measure is earnestly sought

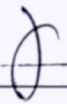
Risa Hontiveros
RISA HONTIVEROS

Senator

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AN ACT
AMENDING SECTIONS 106, 107, 108, 109, AND 112 OF REPUBLIC ACT NO. 8424, OTHERWISE KNOWN AS THE "TAX REFORM ACT OF 1997," AS AMENDED, AND FOR OTHER PURPOSES

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

1 Section 1. *Short Title.* – This Act shall be known as the "Bawas VAT Act of
2 2019."

3 Sec. 2. Section 106 (A) of Republic Act No. 8424, otherwise known as the Tax
4 Reform Act of 1997, is hereby amended to read as follows:

5 (A) Rate and Base of Tax. - There shall be levied, assessed and
6 collected on every sale, barter or exchange of goods or properties,
7 value-added tax equivalent to twelve percent (12%) of the gross selling
8 price or gross value in money of the goods or properties sold, bartered
9 or exchanged, such tax to be paid by the seller or transferor:

10 **PROVIDED, THAT EFFECTIVE JANUARY 1, 2019, THE RATE OF**
11 **VALUE ADDED TAX (VAT) SHALL BE REDUCED TO TEN PERCENT**
12 **(10%); AND PROVIDED, FURTHER, THAT THE PRESIDENT**
13 **SHALL, EFFECTIVE JANUARY 1, 2022, REDUCE THE RATE OF**
14 **VAT TO EIGHT PERCENT (8%) SHOULD THE PREVIOUS YEAR'S**
15 **REALIZED REVENUES FROM VALUE ADDED TAX REPORTED IN**
16 **THE BUDGET OF EXPENDITURES AND SOURCES OF FINANCING**
17 **SUBMITTED TO CONGRESS EQUAL OR EXCEED FOUR POINT**
18 **FIVE PERCENT (4-5%) AS A PERCENTAGE OF GROSS**
19 **DOMESTIC PRODUCT (GDP).**

1 Sec. 3. Section 107 (A) of Republic Act No. 8424, otherwise known as the Tax
2 Reform Act of 1997, is hereby amended to read as follows:

3 (A) In General. - There shall be levied, assessed and collected on every
4 importation of goods value-added tax equivalent to twelve percent
5 (12%) based on the total value used by the Bureau of Customs in
6 determining tariff and customs duties, plus customs duties, excise
7 taxes, if any, and other charges, such tax to be paid by the importer
8 prior to the release of such goods from customs custody: Provided,
9 That where the customs duties are determined on the basis of quantity
10 or volume of the goods, the value-added tax shall be based on the
11 landed cost plus excise taxes, if any; **PROVIDED, THAT EFFECTIVE**
12 **JANUARY 1, 2019, THE RATE OF VALUE ADDED TAX (VAT)**
13 **SHALL BE REDUCED TO TEN PERCENT (10%); AND PROVIDED,**
14 **FURTHER, THAT THE PRESIDENT SHALL, EFFECTIVE JANUARY**
15 **1, 2022, REDUCE THE RATE OF VAT TO EIGHT PERCENT (8%)**
16 **SHOULD THE PREVIOUS YEAR'S REALIZED REVENUES FROM**
17 **VALUE ADDED TAX REPORTED IN THE BUDGET OF**
18 **EXPENDITURES AND SOURCES OF FINANCING SUBMITTED TO**
19 **CONGRESS EQUAL OR EXCEED FOUR POINT FIVE PERCENT (4-**
20 **5%) AS A PERCENTAGE OF GROSS DOMESTIC PRODUCT**
21 **(GDP).**

22 Sec. 4. Section 108 (A) of Republic Act No. 8424, otherwise known as the Tax
23 Reform Act of 1997, is hereby amended to read as follows:

24 (A) Rate and Base of Tax. - There shall be levied, assessed and
25 collected on every sale, barter or exchange of goods or properties,
26 value-added tax equivalent to twelve percent (12%) of gross receipts
27 derived from the sale or exchange of services, including the use or
28 lease of properties[.];**PROVIDED, THAT EFFECTIVE JANUARY 1,**
29 **2019, THE RATE OF VALUE ADDED TAX (VAT) SHALL BE**
30 **REDUCED TO TEN PERCENT (10%); AND PROVIDED, FURTHER,**
31 **THAT THE PRESIDENT SHALL, EFFECTIVE JANUARY 1, 2022,**
32 **REDUCE THE RATE OF VAT TO EIGHT PERCENT (8%) SHOULD**
33 **THE PREVIOUS YEAR'S REALIZED REVENUES FROM VALUE**
34 **ADDED TAX REPORTED IN THE BUDGET OF EXPENDITURES**
35 **AND SOURCES OF FINANCING SUBMITTED TO CONGRESS**

1 **EQUAL OR EXCEED FOUR POINT FIVE PERCENT (4-5%) AS A**
2 **PERCENTAGE OF GROSS DOMESTIC PRODUCT (GDP).**

3 Sec. 5. Section 108 (B) of Republic Act No. 8424, otherwise known as the Tax
4 Reform Act of 1997, is hereby amended to read as follows:

5 (1) xxx

6 [(2) Services other than those mentioned in the preceding paragraph,
7 rendered to a person engaged in business conducted outside the
8 Philippines or to a nonresident person not engaged in business who is
9 outside the Philippines when the services are performed, the
10 consideration for which is paid for in acceptable foreign currency and
11 accounted for in accordance with the rules and regulations of the
12 Bangko Sentral ng Pilipinas (BSP);]

13 **(2) [(3)]** Services rendered to persons or entities whose exemption
14 under special laws or international agreements to which the Philippines
15 is a signatory effectively subjects the supply of such services to zero
16 percent (0%) rate;

17 (3) Services rendered to persons engaged in international shipping or
18 international air transport operations, including leases of property for
19 use thereof: Provided, That these services shall be exclusive for
20 international shipping or air transport operations;

21 (4) Services performed by subcontractors and/or contractors in
22 processing, converting, of manufacturing goods for an enterprise whose
23 export sales exceed seventy percent (70%) of total annual production;
24 and

25 (5) Transport of passengers and cargo by air or sea vessels from the
26 Philippines to a foreign country.

27 [(7) Sale of power or fuel generated through renewable sources of
28 energy such as, but not limited to, biomass, solar, wind, hydropower,
29 geothermal, ocean energy, and other emerging energy sources using
30 technologies such as fuel cells and hydrogen fuels.

31 (8) Services rendered to:

32 (i) Registered enterprises within a separate customs territory as
33 provided under special law; and

34 (ii) Registered enterprises within tourism enterprise zones as
35 declared by the TIEZA subject to the provisions under Republic
36 Act No. 9593 or the Tourism Act of 2009.

1 Provided, That subparagraphs (b)(l) and (b)(5) hereof shall be subject
2 to the twelve percent (12%) value-added tax and no longer be subject
3 to zero percent (0%) vat rate upon satisfaction of the following
4 conditions:

- 5 (1) The successful establishment and implementation of an
6 enhanced VAT refund system that grants refunds of creditable
7 input tax within ninety (90) days from the filing of the VAT
8 refund application with the Bureau: Provided, that, to determine
9 the effectivity of item no. 1, all applications filed from January 1,
10 2018 20 shall be processed and must be decided within ninety
11 (90) days from the filing of the VAT refund application;
12 (2) All pending VAT refund claims as of December 31, 2017 shall
13 be fully paid in cash by December 31, 2019.

14 Provided, that the Department of Finance shall establish a VAT refund
15 center in the Bureau of Internal Revenue (BIR) and in the Bureau of
16 Customs (BOC) that will handle the processing and granting of cash
17 refunds of creditable input tax.

18 An amount equivalent to five percent (5%) of the total value-added tax
19 collection of the BIR and the BOC from the immediately preceding year
20 shall be automatically appropriated annually and shall be treated as a
21 special account in the General Fund or as trust receipts for the purpose
22 of funding claims for VAT refund: Provided, That any unused fund, at
23 the end of the year shall revert to the General Fund.

24 Provided, further, that the BIR and BOC shall be required to submit to
25 the COCCTRP a quarterly report of all pending claims for refund and any
26 unused fund.】

27 Sec. 6. Section 109 (1) of Republic Act No. 8424, otherwise known as the Tax
28 Reform Act of 1997, is hereby amended to read as follows:

29 (A) xxx

30 xxx

31 **(J) SALE OF POWER OR FUEL GENERATED THROUGH**
32 **RENEWABLE SOURCES OF ENERGY SUCH AS, BUT NOT**
33 **LIMITED TO, BIOMASS, SOLAR, WIND, HYDROPOWER,**

**GEOTHERMAL, OCEAN ENERGY, AND OTHER EMERGING
ENERGY SOURCES USING TECHNOLOGIES SUCH AS FUEL
CELLS AND HYDROGEN FUELS;**

[(J) 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;]

xxx

[(Q) Lease of a residential unit with a monthly rental not exceeding Fifteen thousand pesos (P15,000);]

(Q) [(R)] Sale, importation, printing or publication of books and any newspaper, magazine review or 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;

(R) [(S)] Transport of passengers by international carriers;

(S) [(T)] Sale, importation or lease of passenger or cargo vessels and aircraft, including engine, equipment and spare parts thereof for domestic or international transport operations;

(T) [(U)] Importation of fuel, goods and supplies by persons engaged in international shipping or air transport operations: Provided, That the fuel, goods, and supplies shall be used for international shipping or air transport operations; Provided, That the fuel, goods, and supplies shall be used for international shipping or air transport operations;

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

(V) [(W)] Sale or lease of goods and services to senior citizens and persons with disabilities, as provided under republic act nos. 9994 (Expanded Senior Citizens Act of 2010) and 10754 (An Act Expanding the Benefits and Privileges of Persons with Disability), respectively;

(W) [(X)] Transfer of property pursuant to Section 40(c)(2) of the NIRC, as amended;

(X) [(Y)] Association dues, membership fees, and other assessments and charges collected by homeowners associations and condominium

corporations;

(Y)[(Z)] Sale of gold to the Bangko Sentral ng Pilipinas;

(Z)[(AA)] Sale of drugs and medicines prescribed for diabetes, high cholesterol, and hypertension beginning January 1, 2019; and

(AA)[(BB)] 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 [one million five hundred thousand] Three million pesos (P3,000,000).

Sec. 7. Section 112 of Republic Act No. 8424, otherwise known as the Tax Reform Act of 1997, is hereby amended to read as follows:

Sec. 112. Refunds or Tax Credits of Input Tax. –

(A) xxx

(B) xxx

(C) xxx

ALL PENDING VAT REFUND CLAIMS PURSUANT TO THIS SECTION AS OF DECEMBER 31, 2017 SHALL BE PROCESSED, AND IF MERITORIOUS, SHALL BE REFUNDED IN CASH WHEN APPROVED, ON OR BEFORE DECEMBER 31, 2019.

Sec. 8. *Implementing Rules and Regulations (IRR)*. — The Secretary of Finance, upon the recommendation of the Commissioner of Internal Revenue, shall issue the Implementing Rules and Regulations for the effective implementation of this Act, within sixty (60) days from the approval thereof.

Sec. 9. *Separability Clause*. — If any provision of this Act is declared unconstitutional or invalid by a court of competent jurisdiction, the remaining provisions not affected thereby shall continue to be in full force and effect.

Sec. 10. *Repealing Clause* – All laws, decrees, executive orders, department or memorandum orders and other administrative issuances or parts thereof which are inconsistent with the provisions of this Act are hereby modified, superseded or repealed accordingly.

The following laws or provisions of laws are hereby expressly repealed and the persons and/or transactions affected herein are made subject to the VAT provisions of Title IV of the National Internal Revenue Code, as amended:

a) Section 16(a) and (b), Section 17(a), insofar as VAT exemption and

- 1 vat payment deferment is concerned, and section 17(b), insofar as
2 VAT tax credits are concerned, of Presidential Decree 972 s. 1976, or
3 the Coal Development Act of 1976;
- 4 b) Section 10 (2), insofar as VAT exemption is concerned, and (3),
5 insofar as VAT tax credits are concerned, of Republic Act No. 7156, or
6 the Mini-Hydro Electric Power Incentives Act;
- 7 c) Section 15(g), insofar as VAT zero-rating is concerned, and Section 15
8 (j), insofar as VAT tax credits are concerned, and Section 21 (a) (b)
9 and (d) insofar as VAT incentives are concerned, of Republic Act No.
10 9513, or the Renewable Energy Act of 2008;
- 11 d) Section 13, insofar as VAT exemption is concerned, of Republic Act
12 No. 7820, or the Partido Development Administration act of 1994;
- 13 e) Section 5(c), insofar as VAT exemption is concerned, of Republic Act
14 No. 10072, or the Philippine Red Cross Act of 2009;
- 15 f) Section 23, insofar as fiscal incentives relating to VAT are concerned,
16 of Republic Act No. 7916, or Special Economic Zones Act of 1995, as
17 amended by Republic Act No. 8748;
- 18 g) Section 1, insofar as VAT exemption is concerned, of Republic Act no.
19 20 9400, or an Act amending Republic Act No. 7227, as amended,
20 otherwise known as the Bases Conversion and Development Act of
21 1992;
- 22 h) 3rd paragraph, insofar as VAT exemption is concerned, of Section 2 of
23 Republic Act No. 9400, or an Act Amending Republic Act No. 7227, as
24 amended, otherwise known as the Bases Conversion and
25 Development Act of 1992;
- 26 i) 2nd paragraph, insofar as VAT exemption is concerned, of Section 3
27 of Republic Act No. 9400, or an Act Amending Republic Act No. 7227,
28 as amended, otherwise known as the Bases Conversion and
29 Development Act of 1992;
- 30 j) Section 4, insofar as VAT exemption is concerned, of Republic Act No.
31 2 9400, or an Act Amending Republic Act No. 7227, as amended,
32 otherwise known as the Bases Conversion and Development Act of
33 1992;
- 34 k) Section 5, insofar as VAT exemption is concerned, of Republic Act No.
35 5 9400, or an Act Amending Republic Act No. 7227, as amended,

1 otherwise known as the Bases Conversion and Development Act of
2 1992;

3 l) Section 4 (f), insofar as VAT exemption is concerned, of Republic Act
4 No. 7903, or the Zamboanga City Special Economic Zone Act of 1995;

5 m) Section 4 (b) (c), insofar as VAT exemption is concerned, Republic Act
6 No. 7922, or the Cagayan Special Economic Zone Act of 1995;

7 n) Section 5 (c) (e) (g) (m), insofar as VAT exemption is concerned, of
8 Republic Act No. 9490, or the Aurora Special Economic Zone Act of
9 2007;

10 o) Section 4, insofar as VAT exemption is concerned, of Republic Act No.
11 10083, or an Act Amending Republic Act 9490, the Aurora Special
12 Economic Zone Act of 2007;

13 p) Section 86 (c),(d),(e)(l), insofar as VAT exemption is concerned, and
14 (e)(2) insofar as VAT tax credits are concerned, of Republic Act No.
15 9593, or the Tourism Act of 2009;

16 q) Section 5, insofar as VAT exemption is concerned, of Republic Act No.
17 9728, or the Freeport of Bataan Act of 2009;

18 Sec. 11. *Effectivity.* – This Act shall take effect fifteen (15) days after its
19 publication in the Official Gazette or 25 in any newspaper of the general circulation.

Approved,