

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

'04 OCT 27 P1:31

SENATE

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S. No. 1839

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

EXPLANATORY NOTE

Fiscal Incentives are widely used to promote social, political and economic objectives. Some of these objectives are promotion of domestic and foreign investments, reducing regional disparities, and creation of jobs. But there have been questions surrounding the efficacy of fiscal incentives offered by the Government, and the cost effectiveness of providing them for investment promotion, social and economic development. They have been attacked on various grounds, including among others : the ensuing revenue loss, its relative ineffectiveness in achieving intended goals, distortions in resource allocation, and the vulnerability of tax incentive systems to syndicated crimes, graft and corruption.

The current fiscal incentives structure in the country is complicated, fragmented, inefficient and costly in administrative and revenue terms. The fiscal incentives system has long been suffering from policy overload. The general practice of picking winners and losers in the grant of fiscal incentives has been muddled and in its stead, incentives were given to those sectors that can effectively lobby.

To date, there are 124 provisions of laws granting tax and duty exemption privileges to private and government sectors. This has resulted in a tax incentives regime competing against one another, opportunities for incentive-shopping by firms or double availment of tax incentives. Tax incentives have also been granted to activities that do not promote the country's development objectives.

On top of the problems posed by the grant of fiscal incentives on monitoring and management is the problem of foregone revenues of the National Government. Last year, the cost to the government of the grant of fiscal incentives amounted to P 229.4 Billion or 5.33% of GDP. The grant of fiscal incentives even outgrew the country's production. The grant of fiscal incentives grew by 61% from 2002 to 2003 while GDP grew by a meager 9%.

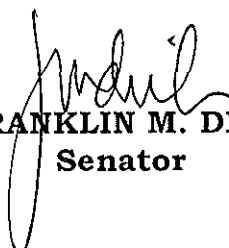
The revenue foregone from various investments incentives laws last year could have been enough to cover the budget deficit of P199.9 Billion. The government is presently faced with serious budgetary constraints to

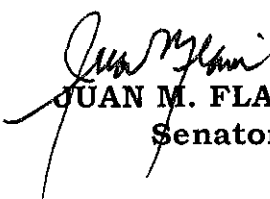
adequately finance all the priority programs and projects of social importance such as housing, health, food, and education among others. It cannot afford to continue losing legitimate revenues from various inefficient investment incentives packages.

The continuous grant of fiscal incentives results in inequity because some sectors become "free riders". It also places the heavy burden of financing basic service to salaried individuals that are caught in the tax net.

This bill, therefore, proposes a reform in fiscal incentives, zeroing in on the special laws or provisions of laws granting fiscal incentives. This bill proposes the express repeal of the fiscal incentives provisions in various laws. This proposed legislation on the fiscal incentives will save the government sufficient revenues to help ease the fiscal burden. More than P 5 Billion in revenue savings can be expected from this proposal. What cannot be quantified, but surely are benefits from this proposal, would be the administrative simplicity and reduction in implementation costs that this proposal will likewise bring. The proposed repeal is also intended to pave the way for an incentive system that is highly focused on promotable areas of investment and which would be easy to manage, administer and monitor.

Passage of this bill is earnestly requested.


FRANKLIN M. DRILON
Senator


JUAN M. FLAVIER
Senator


FRANCIS N. PANGILINAN
Senator

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Introduced by Senators
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**AN ACT RATIONALIZING THE FISCAL INCENTIVES SYSTEM BY
WITHDRAWING THE TAX AND DUTY EXEMPTIONS AND
PREFERENTIAL TREATMENT GRANTED TO GOVERNMENT AND
PRIVATE ENTITIES UNDER SPECIAL LAWS, WITH CERTAIN
EXCEPTIONS, MANDATING THE FISCAL INCENTIVE REVIEW BOARD
TO OVERSEE THE ADMINISTRATION OF ALL FISCAL INCENTIVES
AND FOR OTHER PURPOSES**

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

Section 1. *Declaration of Policy.* – It shall be the policy of the State to rationalize the fiscal incentives system to make it efficient, relevant and effective in promoting social and economic objectives, transparent, and simple to administer. The State shall provide the fiscal incentives without prejudice to the provision of basic services to the greater number of Filipinos. It shall uphold the preferential tax and duty treatment expressed in the Philippine Constitution, and those covered by the non-impairment clause of the Constitution, those conferred by international and regional agreements to which the Philippine Government is a signatory.

Section 2. *Repeal of Special Fiscal Incentive Laws and Provisions* – The provisions of any general or special laws to the contrary notwithstanding, all tax and duty incentives granted to government and private entities under the following laws and / or provisions, are hereby withdrawn / repealed :

1. Section 14 of Republic Act No. 7308 (An Act to Promote and Develop the Seed Industry in the Philippines and Create a National Seed Industry Council and For Other Purposes)
2. Section 18 of Republic Act No. 7884 (An Act Creating the National Dairy Authority to Accelerate the Development of the Dairy Industry in the Philippines, Providing for a Dairy Development Fund, and For Other Purposes)

3. Sections 9 (e), (f), and (i) of Republic Act No. 7900 (An Act to Promote the Production, Processing, Marketing and Distribution of High- Valued Crops, Providing Funds Therefor and For Other Purposes)
4. Sections 35 (b), (c) and (d) of Republic Act No. 8550 (An Act Providing for the Development, Management and Conservation of the Fisheries and Aquatic Resources, Integrating all Laws Pertinent Thereto, and For Other Purposes);
5. Section 5 of Republic Act No. 8367 (An Act Providing for the Regulation of the Organization and Operation of Non-Stock Savings and Loan Associations);
6. Sections 8 and 12 of Republic Act No. 8047 (An Act Providing for the Development of the Book Publishing Industry through the Formulation and Implementation of a National Book Policy and a National Book Development Plan) ;
7. Section 14 of Republic Act No. 7354 (An Act Creating the Philippine Postal Corporation, Defining its Powers, Functions and Responsibilities, Providing for Regulation of the Industry and For Other Purposes Connected Therewith);
8. Section 23 of Republic Act No. 7925 (An Act to Promote and Govern the Development of Philippine Telecommunication and the Delivery of Public Telecommunications Services) ;
9. Sections 9 and 21 of Republic Act No. 7306 (An Act Providing for the Establishment of the People's Television Network, Inc. Defining its Powers and Functions, Providing for its Sources of Funding and For Other Purposes) ;
10. Sections 61 and 62 of Republic Act No. 6938 (An Act to Ordain a Cooperative Code of the Philippines);
11. Section 9 of Republic Act No. 7355 (An Act Providing for the Recognition of Living Treasures, Otherwise Known as the Manlilikha ng Bayan, and the Promotion and Development of Traditional Folk Arts, Providing Funds Therefor and For Other Purposes) ;
12. Section 21 of Republic Act No. 7356 (An Act Creating the National Commission for the Culture and the Arts, Establishing a National Endowment Fund for Culture and the Arts, and For Other Purposes);
13. Section 25 of Republic Act No. 8492 (An Act Establishing a National Museum System, Providing for its Permanent Home and For Other Purposes);
14. Section 16 of Republic Act No. 7844 (An Act to Develop Exports as a Key Towards the Achievement of the National Goals Towards the Year 2000);

15. Section 10 of Republic Act No. 7079 (An Act Providing for the Development and Promotion of Campus Journalism and For Other Purposes) ;
16. Sections 5, 6 and 7 of Republic Act No. 7459 (An Act Providing Incentives to Filipino Inventors and Expanding the Functions of the Technology Application and Promotion Institute, Appropriating Funds Therefor and For Other Purposes) ;
17. Section 13 of Presidential Decree No. 1869 (Consolidating and Amending Presidential Decree Nos. 1067-A, 1067-B, 1067-C, 1399 and 1632 Relative to the Franchise and Powers of the Philippine Amusement and Gaming Corporation (PAGCOR)) ;
18. Section 13 of Republic Act No. 7600 (An Act Providing Incentives to all Government and Private Health Institutions with Rooming-In and Breast Feeding Practices and For Other Purposes);
19. Section 6 of Republic Act No. 7471 (An Act to Promote the Development of Philippine Overseas Shipping) ;
20. Section 2 of Republic Act No. 9301 (An Act Amending Certain Provisions of Republic Act No. 7471, entitled “An Act to Promote the Development of Philippine Overseas Shipping and For Other Purposes”) ;
21. Sections 4 and 19 of Republic Act No. 9295 (An Act Promoting the Development of Philippine Domestic Shipping, Shipbuilding, Ship Repair and Ship Breaking, Ordaining Reforms in Government Policies Towards Shipping in the Philippines, and For Other Purposes) ;
22. Sections 18, 19 and 20 of Republic Act No. 6847 (An Act Creating and Establishing the Philippine Sports Commission, Defining its Powers, Functions and Responsibilities, Appropriating Funds Therefor and For Other Purposes) ;
23. Paragraph 8 of Section 4 of Republic Act No. 9064 (An Act Granting Cash and Other Non-Monetary Benefits and Incentives to National Athletes, Coaches and Trainers, Appropriating Funds Therefor and For Other Purposes) ;
24. Section 3 of Republic Act No. 9290 (An Act Promoting the Development of the Footwear, Leather Goods and Tannery Industries, Providing Incentives Therefor and For Other Purposes);
25. Section 18 of Republic Act No. 8044 (An Act Creating the National Youth Commission, Establishing a National Comprehensive and Coordinated Program on Youth Development, Appropriating Funds Therefor, and For Other Purposes) ; and
26. Sections 13 and 17 of Republic Act No. 7820 (An Act Creating the Partido Development Administration, Defining its Powers and Functions, Providing Funds Therefor and For Other Purposes).

Section 3. Industries whose tax and duty incentives are herein withdrawn may qualify for fiscal incentives from the government if so listed in the Investment Priorities Plan (IPP) formulated by the Board of Investments for the purpose of granting fiscal, as well as non-fiscal, incentives under Executive Order No. 226 or the Omnibus Investments Code.

Section 4. The Fiscal Incentives Review Board, created under Presidential Decree No. 776, is hereby mandated to oversee the administration of all fiscal incentives remaining in force.

Section 5. If any provision of this Act shall be held to be unconstitutional or not valid, no other provision shall be affected thereby.

Section 6. 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 7. 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,