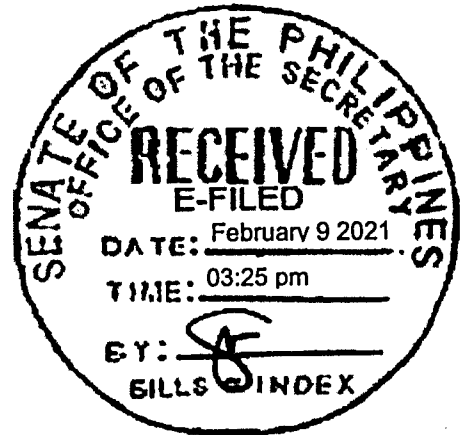


EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)

SENATE

S. No. 2045



Introduced by Senator Ralph G. Recto

AN ACT
IMPOSING AMUSEMENT TAX ON DIGITAL PLATFORM AND OFFSITE
BETTING STATIONS OF LICENSED COCKPITS, AND EARMARKING THE
TOTAL AMUSEMENT TAX COLLECTION FROM COCKPITS FOR UNIVERSAL
HEALTH CARE, AMENDING FOR THIS PURPOSE SECTION 125, AND
CREATING A NEW SECTION 288-B OF THE NATIONAL INTERNAL REVENUE
CODE OF 1997, AS AMENDED

EXPLANATORY NOTE

This proposed measure seeks to impose amusement tax on digital platform and offsite betting stations of licensed cockpits. Likewise, it seeks to earmark the total revenues collected from amusement tax on cockpits for universal health care.

Clearly, cockpit operators are already subject to amusement tax at the rate of 18% based on gross receipts under Section 125 (a) of the National Internal Revenue Code (NIRC) of 1997, as amended. The said tax was first imposed in 1939 through C.A. No. 466 at the rate of 10%.¹ In 1978, it was adjusted to 12% under PD No. 1456, and further increased to 18% in 1984 under PD No. 1959.²

However, with the advent of new technology and in this age of digital economy, borderless economic activities pose a major challenge to international taxation and raise the issue of territorial jurisdiction of the taxing authority.

¹ Assessment of the Amusement Tax under Section 125, NIRC of 1997 (prepared by Ms. Ma. Berlie M. Limon, Tax Specialist II, Indirect Taxes Branch, NTRC).

² Assessment of the Amusement Tax under Section 125, NIRC of 1997 (prepared by Ms. Ma. Berlie M. Limon, Tax Specialist II, Indirect Taxes Branch, NTRC).

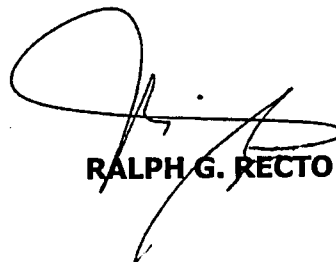
When the NIRC was enacted, what our legislators had in mind at that time with regard to the subject of taxation is the brick-and-mortar activity of selling goods and services. Therefore, it raises a legal question whether our existing tax laws also cover digital economic activities such as betting on cockfights and derbies through online or digital platforms, more popularly known as "e-sabong".

A law will not be construed as imposing a tax unless it does so clearly and expressly.³ In case of doubt, tax laws must be construed strictly against the government and in favor of the taxpayer.⁴ Taxes, as burdens that must be endured by the taxpayer, should not be presumed to go beyond what the law expressly and clearly declares.⁵

Hence, the inclusion of digital platforms and offsite betting stations of licensed cockpit operators in Section 125 of the NIRC of 1997, as amended, is necessary to remove any ambiguity or avoid the confusion whether or not this particular digital economic activity known as "e-sabong" is taxable in our jurisdiction.

The total proceeds from the taxes collected on cockpits shall be earmarked for the *Universal Health Care* in order to provide the poor and marginalized access to quality health and medical services, and to effectively reduce the out-of-pocket expenditures of the people so that they can have some funds left for other essential goods and services.

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



RALPH G. RECTO

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³ *BIR vs. First E-Bank Tower Condominium Corp.*, G.R. Nos. 215801 and 218924, January 15, 2020.

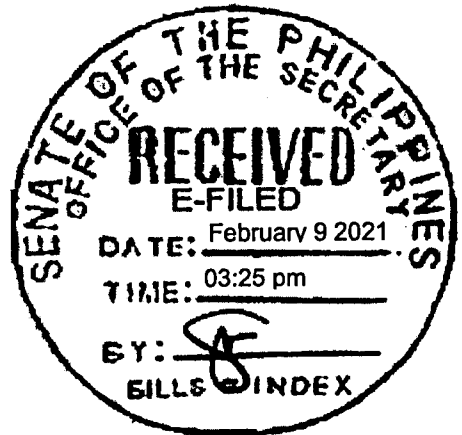
⁴ *CIR v. SM Prime Holdings, Inc.*, 627 Phil. 581 (2010).

⁵ *Philacor Credit Corporation v. CIR*, 703 Phil. 26, 46 (2013).

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TOTAL AMUSEMENT TAX COLLECTION FROM COCKPITS FOR UNIVERSAL
HEALTH CARE, AMENDING FOR THIS PURPOSE SECTION 125, AND
CREATING A NEW SECTION 288-B OF THE NATIONAL INTERNAL REVENUE
CODE OF 1997, AS AMENDED

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

1 Section 1. Section 125 of the National Internal Revenue Code of 1997, as
2 amended, is hereby further amended to read as follows:

3 "SEC. 125. *Amusement Taxes.* – There shall be collected from the
4 proprietor, lessee or operator of cockpits **INCLUDING THEIR DIGITAL**
5 **PLATFORM AND OFFSITE BETTING STATIONS**, cabarets, night or day
6 clubs, boxing exhibitions, professional basketball games, Jai-Alai and
7 racetracks, a tax equivalent to:

8 "(a) Eighteen percent (18%) in the case of cockpits **INCLUDING**
9 **THEIR DIGITAL PLATFORM AND OFFSITE BETTING STATIONS;**

10 "xxx

11 "(e) Thirty percent (30%) in the case of Jai-Alai and racetracks - of their
12 gross receipts, irrespective, of whether or not any amount is charged for
13 admission.

14 "For the purpose of the amusement tax, the term 'gross receipts'
15 embraces all the receipts of the proprietor, lessee or operator of the

1 amusement place. Said gross receipts also include income from television, radio
2 and motion picture rights, if any. A person or entity or association conducting
3 any activity subject to the tax herein imposed shall be similarly liable for said
4 tax with respect to such portion of the receipts derived by him or it.

5 "xxx"

6 Sec. 2. A new section designated as Section 288-B under Chapter II, Title XI
7 of the National Internal Revenue Code of 1997, as amended, is hereby inserted and
8 shall be read as follows:

9 **"SEC. 288-B. *DISPOSITION OF REVENUES FROM AMUSEMENT***
10 ***TAX ON COCKPITS. – THE PROVISIONS OF EXISTING LAWS TO THE***
11 ***CONTRARY. NOTWITHSTANDING, THE TOTAL REVENUES FROM***
12 ***AMUSEMENT TAX UNDER SECTION 125 OF THIS CODE ON COCKPITS***
13 ***INCLUDING THEIR DIGITAL AND OFFSITE BETTING STATIONS SHALL***
14 ***BE ALLOCATED AND USED EXCLUSIVELY IN THE FOLLOWING***
15 ***MANNER:***

16 **"(A) EIGHTY PERCENT (80%) TO THE PHILIPPINE HEALTH**
17 **INSURANCE CORPORATION (PHILHEALTH) FOR THE**
18 **IMPLEMENTATION OF REPUBLIC ACT NO. 11223, OTHERWISE**
19 **KNOWN AS THE 'UNIVERSAL HEALTH CARE ACT' OF 2019; AND**

20 **"(B) TWENTY PERCENT (20%) SHALL BE ALLOCATED**
21 **NATIONWIDE, BASED ON POLITICAL AND DISTRICT-SUBDIVISIONS,**
22 **FOR MEDICAL ASSISTANCE, THE HEALTH FACILITIES ENHANCEMENT**
23 **PROGRAM (HFEP), THE ANNUAL REQUIREMENTS OF WHICH SHALL**
24 **BE DETERMINED BY THE DEPARTMENT OF HEALTH (DOH)."**

25 *Sec. 3. Implementing Rules and Regulations (IRR).* – Within thirty (30) days
26 from the effectivity of this Act, the Secretary of Finance, upon the recommendation of
27 the Commissioner of Internal Revenue, and the Department of Health shall promulgate
28 the necessary rules and regulations for its effective implementation.

29 *Sec. 4. Separability Clause.* – If any provision or part hereof is declared
30 unconstitutional, the remainder of this Act or any provision not affected thereby shall
31 remain in full force and effect.

1 **Sec. 5. *Repealing Clause.*** – All laws, acts, decrees, executive orders, issuances,
2 and rules and regulations or parts thereof which are contrary to and inconsistent with
3 this Act are hereby repealed, amended or modified accordingly.

4 **Sec. 6. *Effectivity.*** – This Act shall take effect fifteen (15) days after its
5 complete publication in the *Official Gazette* or in at least two (2) newspapers of general
6 circulation.

 Approved,