

SENATE

11 NOV 21 P 4:00

S. No. 3065

Introduced by Senator Ralph G. Recto

EXPLANATORY NOTE

Over the years, the Philippine government has been unsuccessful in its campaign to promote our tourism industry that is susceptible to external economic factors. It alternately depends on and affects other industries particularly the labor export and business-process outsourcing (BPO) industries of which Philippines-based BPOs account for about 15% of global market. One vital strategy to invigorate the tourism industry is to increase aviation and shipping activities that will boost foreign exchange earnings and job opportunities.

Conversely, our tax policies make our country an unappealing market for international carriers who are critical players in trade and tourism. Under the National Internal Revenue Code, international carriers must pay a Common Carriers Tax (CCT) of 3% of gross receipts and 2.5% on its Gross Philippine Billings (GPB) on all cargo and passenger revenues originating from the Philippines in an uninterrupted flight irrespective of the place of sale or issue and the place of payment of the ticket or passage document.

The Philippines is the sole country imposing these taxes. The International Air Transportation Association (IATA) study asserted that these taxes are discriminatory and their pertinent regulations are inconsistent with the principles of the World Trade Organization of which the Philippines is a member and the resolution of the International Civil Aviation Organization to which the country is a signatory. The aforementioned tax policies serve as investment barriers by making our country the most expensive investment destination for airlines in the Association of Southeast Asian Nation (ASEAN) region.

Due to sizeable decline in their commercial yields, the number of foreign airlines operating in the Philippines continues to dwindle. Various international carriers, especially those from Europe, that operate longer flights and have higher ticket prices, have had to pay more taxes. Consequently, many have halted their Philippine operations. Those who stay offer significantly reduced capacity and opt to reallocate capacity to Malaysia, Thailand, Singapore, and even to latecomers Vietnam and Cambodia. Tourism, trade and investment prospects suffer, since travelers especially those to and from Europe or the US choose to avoid rather than endure costlier and inconvenient connecting flights to and from the Philippines.

The IATA study shows that on the first year of the elimination of CCT and GPB, the number of international arrivals and departures will increase by 230,000 passengers, or grow by 1.90 percent. The number of international visitors is also expected to rise by 70,000 with potential gain of about \$45 million for the national economy from increased tourism activity. Subsequently, the increase in tourism arrivals will create an additional 70,000 jobs, \$214 million in employee compensation and \$5.40 million in tourism tax revenues. Likewise, lower cargo transport costs are expected to boost export earnings by \$1 billion.

We certainly cannot afford to overlook these trade, tourism and investment prospects that the Philippines can realize only when we respect and recognize our commitments and obligations under treaties and international agreements.

The approval of this bill seeks to end the exodus of international common carriers from the Philippines and in turn promote the progressive development of existing air and shipping carriers, strengthen the country's competitive edge as a prime tourist hub in Asia and further diversify trade and the national economy.

With the foregoing considered, the approval of this bill is earnestly sought.



RALPH G. RECTO

NOV 21 4:00

SENATE

S. No. **3065**

RECORDED & INDEXED

Introduced by Senator Ralph G. Recto

AN ACT
RECOGNIZING THE TAX EXEMPTIONS UNDER TAX TREATIES AND
INTERNATIONAL AGREEMENTS RELATED TO INTERNATIONAL CARRIERS
THE PHILIPPINES HAS ENTERED INTO, AND FOR OTHER PURPOSES

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

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

3 “SEC. 28. Rates of Income Tax on Foreign Corporations. –

4 “(A) Tax on Resident Foreign Corporations. -

5 “(1) x x x

6 “(2) x x x

7 “(3) **International Carrier.** - An international carrier doing business in the
8 Philippines shall pay a tax of two and one-half percent (2 1/2%) on its ‘**Gross Philippine**
9 **Billings**’ as defined hereunder:

10 “(a) **International Air Carrier.** – ‘**Gross Philippine Billings**’ refers to the
11 amount of gross revenue derived from carriage of persons, excess baggage, cargo and
12 mail originating from the Philippines in a continuous and uninterrupted flight,
13 irrespective of the place of sale or issue and the place of payment of the ticket or
14 passage document: Provided, That tickets revalidated, exchanged and/or indorsed to
15 another international airline form part of the Gross Philippine Billings if the
16 passenger boards a plane in a port or point in the Philippines: Provided, further, That
17 for a flight which originates from the Philippines, but transshipment of passenger
18 takes place at any port outside the Philippines on another airline, only the aliquot

1 portion of the cost of the ticket corresponding to the leg flown from the Philippines to
2 the point of transshipment shall form part of Gross Philippine Billings.

3 “(b) **International Shipping.** – ‘**Gross Philippine Billings**’ means gross revenue
4 whether for passenger, cargo or mail originating from the Philippines up to final
5 destination, regardless of the place of sale or payments of the passage or freight
6 documents.

7 “*PROVIDED*, THAT INTERNATIONAL CARRIERS DOING BUSINESS IN
8 THE PHILIPPINES SHALL NOT BE LIABLE TO PAY THE TAX HEREIN
9 STATED WHERE, PURSUANT TO THE LAW ON RECIPROCITY, TAX
10 TREATIES AND INTERNATIONAL AGREEMENTS ENTERED INTO BY THE
11 PHILIPPINES PROVIDE FOR SUCH EXEMPTION.

12 “(4) x x x.”

13 **SEC. 2.** Section 118 of the National Internal Revenue Code of 1997, as amended, is
14 hereby amended to read as follows:

15 “SEC. 118. Percentage Tax on International Carriers. –

16 “(A) International air carriers doing business in the Philippines shall pay a tax of three
17 percent (3%) of their quarterly gross receipts.

18 “(B) International shipping carriers doing business in the Philippines shall pay a tax
19 equivalent to three percent (3%) of their quarterly gross receipts.

20 “*PROVIDED*, THAT INTERNATIONAL CARRIERS DOING BUSINESS IN
21 THE PHILIPPINES SHALL NOT BE LIABLE TO PAY THE TAX HEREIN STATED
22 WHERE, PURSUANT TO THE PRINCIPLE OF RECIPROCITY, TAX TREATIES
23 AND INTERNATIONAL AGREEMENTS ENTERED INTO BY THE PHILIPPINES
24 PROVIDE FOR SUCH EXEMPTION.”

25 **SEC. 3.** *Implementing Rules and Regulations.* – The Secretary of Finance shall, upon
26 the recommendation of the Commissioner of Internal Revenue, promulgate the necessary rules
27 and regulations for the effective implementation of this Act.

28 **SEC. 4.** *Separability Clause.* – If any provision of this Act is declared unconstitutional
29 or invalid, other parts or provisions hereof not affected thereby shall continue to be in full force
30 and effect.

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

4 **SEC. 6. *Effectivity.*** – This Act shall take effect fifteen (15) days after its publication in
5 the Official Gazette or in any two newspapers of *general circulation*, whichever comes earlier.

Approved,