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SENATE

S. No. 253

RECEIVED BY: *ja*

Introduced by Senator Ralph G. Recto

Explanatory Note

One of the more serious problems besetting a developing nation such as the Philippines is a high unemployment rate. Official statistics as of July 2012 pegged the unemployment rate at 7% corresponding to around 2.8 million unemployed Filipinos¹.

It becomes imperative, therefore, for the State to facilitate the generation of jobs for its citizens through any means that may be within its power. After all, one of the national government's mandates under the present Constitution is to promote full employment for Filipinos by encouraging the growth of the national economy through enterprise.

It is this same mandate that prompted Congress to enact three vital pieces of legislation that advance the welfare of the Filipino enterprise: Republic Act No. 6977 or the Magna Carta for Small Enterprises; RA 9178 or the Barangay Micro Business Enterprises Act of 2002; and RA 9501 or the Magna Carta for Micro, Small and Medium Enterprises.

These laws provide aid and incentives to more than 816,759 micro, small and medium enterprises (MSMEs), which according to latest data comprise 99.6% of all business enterprises in the Philippines².

Records show that in 2011, MSMEs employed a total of 3.9 million individuals, dwarfing that of large-scale industries which only generated 2.5 million jobs as of the same year³. This fact is a testament to the ability of MSMEs to generate employment given the right conditions.

However, stringent regulatory requirements of both the local and national government inhibit the growth of the MSME sector. And unfortunately, most of those who are unable to comply with such painstaking requisites end up either closing shop or joining the informal sector or the underground economy.

This bill aims to prevent this situation from hindering the growth of MSMEs and instead encourage their development by providing more incentives to those who may generate employment by exploring their entrepreneurial spirit.

Aptly entitled "The Jobs Act of 2013," this bill also aims to stimulate the growth of MSMEs by exempting them from certain strict government regulation that would otherwise discourage their proliferation.

¹ See National Statistics Office National Quick Stat as of December 2012 accessed at <http://www.census.gov.ph/sites/default/files/attachments/ird/quickstat/December2012.pdf> on March 11, 2013.

² Department of Trade and Industry, 2011 data on Micro, Small and Medium Enterprises (MSMEs) accessed at www.dti.gov.ph on March 11, 2013.

³ *Ibid.*

It also increases the threshold amount of the assets used in the classification of MSMEs to the following: from not more than P3 million to not more than P5 million for micro enterprises; from P3,000,001 to P15 million, the threshold amount for small enterprises is now from P5,000,001 to P15 million; while it remains the same for medium enterprises, from P15,000,001 to P100,000,000.

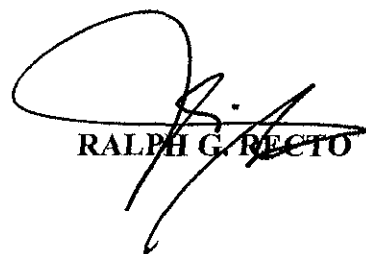
If enacted into law, micro enterprises – which comprise the bulk of MSMEs – will be exempted from income tax and the Minimum Wage Law, provided that they give their employees the same benefits given to any regular employee like social security and healthcare benefits. The bill also exempts micro, small and medium enterprises from Value-Added Tax (VAT) registration and Percentage Tax for those whose annual gross selling price or gross value in money received from the sale, barter, or exchange of goods, as well as the annual gross receipts derived from the sale or exchange of services do not exceed Three Million Pesos (P3,000,000.00).

Moreover, registered small and medium enterprises which shall hire additional employees shall be allowed a deduction from its gross income in the amount of Forty Thousand Pesos (P40,000.00) for each new employee hired. The maximum allowable deduction is pegged at Eighty Thousand Pesos (P80,000.00) for two or more new jobs created.

This bill also encourages micro enterprises from the underground economy to join, or rejoin as the case may be, the formal sector.

In hindsight, MSME is probably the best way of generating much-needed employment in the country. It is therefore the responsibility of government to ensure their viability and continued growth.

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

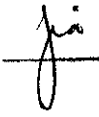


RALPH G. RECTO

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AN ACT
PROMOTING JOB GENERATION BY PROVIDING ADDITIONAL INCENTIVES TO
MICRO, SMALL AND MEDIUM ENTERPRISES

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

1 **SECTION 1. Short Title.** – This Act shall be known as the “Jobs Act of 2013”.

2 **Sec. 2. Declaration of Policy.** - It is hereby declared the policy of the State to hasten
3 economic development by generating employment through the formation and growth of micro,
4 small and medium enterprises (MSMEs) which effectively serve as seedbeds of Filipino
5 entrepreneurial talents, and integrating those in the informal sector with the mainstream economy
6 through the active involvement of the government especially in the local level, the grant of
7 additional incentives and benefits and the rationalization of existing bureaucratic regulations.

8 **Sec. 3. Micro, Small and Medium Enterprises (MSMEs).** - MSMEs shall refer to any
9 business activity or enterprise engaged in the production, processing or manufacturing of
10 products or commodities, trading and services, whether single proprietorship, cooperative,
11 partnership or corporation whose total assets must have value falling under the following
12 categories:

13	Micro	not more than	P5,000,000
14	Small	P5,000,001 -	P15,000,000
15	Medium	P15,000,001 -	P100,000,000

16 The above classification of MSMEs shall be subject to review and adjustments by the
17 Micro, Small and Medium Enterprises Development (MSMED) Council created under Section 6
18 of Republic Act 6977, as amended, or upon recommendation of sectoral organizations
19 concerned, taking into account inflation and other economic indicators.

20 The term “*services*” shall exclude those rendered by any one, who is duly licensed by the
21 government after having passed a government licensure examination, in connection with the
22 exercise of one's profession.

23 The term “*assets*” refers to all kinds of properties, real or personal, owned by the MSME,
24 including those arising from loans, and used for the conduct of its business as defined by the

1 MSMED Council: *Provided*, That for the purpose of exemption from taxes and fees under this
2 Act, this term shall mean all kinds of properties, real or personal, owned and/or used by the
3 MSME for the conduct of its business as defined by the MSMED Council.

4 Notwithstanding the plans and programs set for MSMEs, the Council shall ensure that a
5 set of policies, plans and programs shall be formulated and implemented according to the
6 specific needs of each sector, encouraging MSMEs to graduate to a higher category.

7 **Sec. 4. *Who are Eligible to Register.*** - Any person, natural or juridical, or cooperative, or
8 association, having the qualifications as defined in Section 3 of this Act may apply for
9 registration as MSME.

10 **Sec. 5. *Registration and Fees.*** -

11 (a) *Micro Enterprises.* - The Office of the Treasurer of each city or municipality shall
12 register the micro enterprise and issue a Certificate of Authority to enable the micro enterprise to
13 avail of the benefits under this Act. Any such application shall be processed within fifteen (15)
14 working days upon submission of complete documents. Otherwise, the micro enterprise shall be
15 deemed registered. The Municipal or City Mayor may designate a Micro Enterprise Registration
16 Officer who shall be under the Office of the Treasurer. Local government units (LGUs) shall
17 establish a One-Stop-Business Registration Center to handle the efficient registration and
18 processing of permits/licenses of the concerned enterprises. Likewise, LGUs shall make a
19 periodic evaluation of the micro enterprise's financial status for monitoring and
20 reporting purposes.

21 To defray the administrative costs of registering and monitoring the micro enterprises, the
22 LGUs may charge a fee not exceeding One Thousand Pesos (P1,000.00). The LGU shall then
23 issue a Certificate of Authority effective for a period of two (2) years, renewable every two (2)
24 years.

25 (b) *Small and Medium Enterprises* - The Department of Trade and Industry (DTI), through
26 its field offices, shall register the small and medium enterprises (SMEs) and issue a Certificate
27 of Authority to enable the SME to avail of the benefits under this Act. Any such application shall
28 be processed within fifteen (15) working days upon submission of complete documents.
29 Otherwise, the SME shall be deemed registered. The DTI may designate a SME Registration
30 Officer who shall be under the DTI field office concerned. The DTI field offices shall establish a
31 One-Stop-Business Registration Center to handle the efficient registration and processing of
32 permits/licenses of concerned enterprises. Likewise, the DTI shall make a periodic evaluation of
33 the SME's financial status for monitoring and reporting purposes.

34 To defray the administrative costs of registering and monitoring the micro enterprises,
35 the DTI field office may charge a fee not exceeding One Thousand Pesos (P1,000.00). The DTI
36 shall then issue a Certificate of Authority effective for a period of two (2) years, renewable every
37 two (2) years.

38 **Sec. 6. *Incentives and Benefits.*** -

1 A. *Micro Enterprises*: The following incentives and benefits shall be made available to
2 registered micro enterprises:

3 1. *Exemption from Income Tax*. – All micro enterprises shall be exempt from the
4 payment of income tax with respect to income received from the operations of the
5 enterprise; and

6 2. *Exemption from the Coverage of the Minimum Wage Law*. – All micro enterprises
7 shall be exempt from the coverage of the Minimum Wage Law: *Provided*, That all
8 employees covered under this Act shall be entitled to the same benefits given to any
9 regular employee such as, among others, social security and healthcare benefits.

10 B. *Small and Medium Enterprises*. – Registered small and medium enterprises which shall
11 hire additional employees subsequent to its registration under this Act, shall be allowed a
12 deduction from its gross income in the amount of Forty Thousand Pesos (P40,000.00) for each
13 new employee hired: *Provided*, That the maximum allowable deduction from gross income shall
14 not exceed Eighty Thousand Pesos (P80,000.00): *Provided, further*, That the employment must
15 be continuous for a period of at least one (1) year: *Provided, finally*, That the incentive shall no
16 longer be applicable upon the termination of the employee.

17 This incentive can only be availed of for a period of five (5) years from the effectivity of
18 this Act.

19 C. *Micro, Small and Medium Enterprises*. – In addition to the above incentives, MSMEs
20 shall be entitled to the following:

21 1. *Exemption from Value-Added Tax (VAT) Registration and Percentage Tax*. –
22 Registered MSMEs whose annual gross selling price or gross value in money received
23 from the sale, barter, or exchange of goods, as well as the annual gross receipts derived
24 from the sale or exchange of services do not exceed Three Million Pesos (P3,000,000.00)
25 shall not be required to be a VAT-registered entity and shall likewise be exempt from the
26 payment of percentage tax under the National Internal Revenue Code, as amended; and

27 2. *Local Taxes and Fees*. – Local Government Units are encouraged either to reduce
28 the amount of applicable local taxes, fees and charges imposed or to exempt the MSMEs
29 from the payment of local taxes, fees and charges.

30 **Sec. 7. Mandatory Allocation of Credit Resources to Micro, Small and Medium**
31 *Enterprises*. - For a period of ten (10) years from the date of the effectivity of this amendatory
32 Act, all lending institutions as defined under Bangko Sentral ng Pilipinas rules, whether public or
33 private, shall set aside at least eight percent (8%) for micro, small and medium enterprises of
34 their total loan portfolio based on their balance sheet as of the end of the previous quarter, and
35 make it available for MSME credit as provided under Sec. 15 of Republic Act No. 6977, as
36 amended.

1 Any existing laws to the contrary notwithstanding, interests, commissions and discounts
2 derived from the loans by any lending institutions granted to MSMEs under this Act shall be
3 exempt from gross receipts tax (GRT).

4 **Sec. 8. Information Dissemination.** - The Philippine Information Agency (PIA), in
5 coordination with DTI, BSP, Department of Labor and Employment (DOLE), and DILG shall
6 ensure the proper and adequate information dissemination of the contents and benefits of this Act
7 to the general public especially to its intended beneficiaries specifically in the barangay level.

8 **Sec. 9. Annual Report.** - The DTI, BSP, DOLE and DILG, shall submit an annual report
9 to Congress on the status of the implementation of this Act.

10 **Sec. 10. Implementing Rules and Regulations.** - The Secretary of the Department of
11 Trade and Industry, in consultation with the Secretaries of DILG, DOF, DOLE and BSP
12 Governor shall formulate the necessary rules and regulations to implement the provisions of this
13 Act within ninety (90) days after its approval. The rules and regulations issued pursuant to this
14 Act shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

15 **Sec. 11. Penalties.** -

16 a) Any person who shall willfully violate any provision of this Act or who shall in any
17 manner commit any act to defeat any provision of this Act shall, upon conviction, be punished by
18 a fine of not less than Twenty-five Thousand Pesos (P25,000.00) but not more than Fifty
19 Thousand Pesos (P50,000.00) and suffer imprisonment of not less than six (6) months but not
20 more than two (2) years.

21 b) In case of non-compliance with the provisions of Section 7 of this Act, the BSP shall
22 impose administrative sanctions and other penalties on the concerned lending institutions,
23 including a fine of not less than Five hundred thousand pesos (P500,000.00).

24 Penalties on noncompliance shall be directed to the development of the MSME sector.
25 Ninety percent (90%) of the penalties collected should go to the MSMED Council Fund, while
26 the remaining ten percent (10%) should be given to the BSP to cover for administrative
27 expenses.

28 **Sec. 12. Separability Clause.** - If any provision of this Act shall be held unconstitutional,
29 the remainder of the Act not otherwise affected shall remain in full force and effect.

30 **Sec. 13. Repealing Clause.** - Provisions of Republic Act No. 6977, as amended by
31 Republic Act No. 8289 and Republic Act No. 9501, Republic Act No. 9178, and all other
32 existing laws, presidential decrees, executive orders, proclamations or administrative regulations
33 that are inconsistent with the provisions of this Act are hereby amended, modified, superseded,
34 or repealed accordingly.

35 **Sec. 14. Effectivity.** - This Act shall take effect fifteen (15) days after its publication in
36 the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,