



'13 JUL -4 A10 :25

SENATE

S. No. 461

RECEIVED BY: *Ja*

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Introduced by Senator Ralph G. Recto

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### Explanatory Note

The contribution of Micro and Small Enterprises (MSEs) to the country's economic development cannot be overemphasized. Based on 2011 figures, MSEs generated a total of 3,420,845 jobs<sup>1</sup>, spanning regions and sectors nationwide. Moreover, industries falling under this category propel economic growth by promoting development in the rural areas, thereby dispersing employment opportunities, decentralizing economic activities and redistributing wealth throughout the country.

Skillful, innovative and adaptive as they may be, MSEs find their wheels of growth gradually decelerated by the rigorous accounting and reporting requirements prescribed by the National Internal Revenue Code (NIRC). Under Section 236 of the NIRC, any person who exceeds or expects to exceed his annual gross sales or receipts by One Million Five Hundred Thousand Pesos (P1,500,000) are mandated to register for Value-Added Tax (VAT). At the same time, Section 109 of the same Code provides that transactions of goods and services that do not exceed the amount of One Million Five Hundred Thousand Pesos (P1,500,000) are exempted from VAT. Such amount shall be adjusted to its present value using the Consumer Price Index (CPI) published by the National Statistics Office (NSO). Entities falling below the threshold are mandated instead to pay 3% percentage tax.

Despite the issuance of Bureau of Internal Revenue (BIR) Revenue Regulations No. 16-2011, which adjusts the VAT threshold amount from One Million Five Hundred Thousand Pesos (P1,500,000) to One Million Nine Hundred Nineteen Thousand Five Hundred Pesos (P1,919,500), a good number of MSEs still find themselves unable to free themselves from the domain of VAT and are without the administrative capacity to comply with the rigorous requirements mandated by the NIRC.

In fact, in a 2013 World Bank report, the Philippines garnered a very low ranking (161 out of 185 economies) in terms of starting a business in the country. Among the factors considered in measuring the ranking were all the procedures officially required or commonly done in practice by an entrepreneur to start up and formally operate an industrial or commercial business—as well as the time and cost required to complete these procedures.<sup>2</sup> Therefore, it is imperative that the MSEs be given adequate support by reducing the tax impediments, among other burdensome registration procedures, that hinder them to accelerate economic development.

This bill aims to protect MSEs by amending sections 109 (W) and 236 (F) & (G) of the NIRC, thereby increasing the VAT threshold to Three Million Pesos (P3,000,000). The increase in the VAT threshold is warranted in order to support entrepreneurs, who have proven to be among the significant drivers of the country's economic growth, by freeing them from rigorous tax procedures. MSEs will, in effect, be unburdened from the administrative and accounting

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<sup>1</sup> Source: <http://www.dti.gov.ph/dti/index.php?p=321> (Accessed on March 20, 2013)

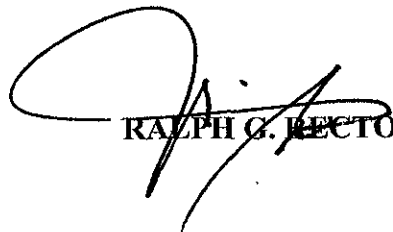
<sup>2</sup> Source: Doing Business 2013, Accessed on March 20, 2013

<http://www.doingbusiness.org/~media/giawb/doing%20business/documents/profiles/country/PHL.pdf>

requirements prescribed by the NIRC to VAT-registered entities, while at the same time MSEs will be able to focus on maximizing their resources towards intensifying economic activity and creating more jobs.

Although the proposed measure may result in lower VAT revenues, MSEs will have lower operating expenses, which will translate to lower consumer prices. In effect, the end-consumers will ultimately benefit from this legislation through increased purchasing power. Likewise, businesses will be able to provide more investments in labor and capital resulting to accelerated job generation.

In view of the foregoing, immediate passage of the bill is earnestly sought.



RAZPH G. RECTO



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S. No. 461

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**AN ACT**  
**INCREASING THE THRESHOLD FOR CERTAIN NON-VAT TAXPAYERS,**  
**AMENDING FOR THE PURPOSE SECTIONS 109 AND 236 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 109 of the National Internal Revenue Code of 1997, as amended by  
2 Republic Act No. 9337, is hereby further amended to read as follows:

3           **“SEC. 109. Exempt Transactions. –**

4           (1) Subject to the provisions of Subsection (2) hereof, the following  
5 transactions shall be exempt from the value-added tax:

6           “(A) xxx;

7           “xxx

8           “(W) Sale or lease of goods or properties or the performance of  
9 services other than the transactions mentioned in the preceding  
10 paragraphs, the gross annual sales and/or receipts do not exceed the  
11 amount of THREE MILLION PESOS (P3,000,000) [One million five  
12 hundred thousand pesos (P1,500,000)]; *Provided*, That not later than  
13 THREE (3) YEARS AFTER THE EFFECTIVITY OF THIS ACT  
14 [January 31, 2009] and every three (3) years thereafter, the amount  
15 herein stated shall be adjusted to its present value using the Consumer  
16 Price Index, as published by the National Statistics Office (NSO).

17           “(2) xxx.”

1           **SEC. 2.** Section 236 paragraph (F) subparagraph (2)(a) and paragraph (G) subparagraph  
2 (1) of the National Internal Revenue Code of 1997, as amended by Republic Act No/ 9337, are  
3 hereby further amended to read as follows:

4           ***“SEC. 236. Registration Requirements. –***

5           “(A) xxx;

6           “xxx

7           ***“(F) Cancellation of Registration. –***

8           “(1) xxx

9           “(2) Cancellation of Value-added Tax Registration. – A VAT-  
10 registered person may cancel his registration for VAT if:

11           “(a) He makes written application and can demonstrate to  
12 the Commissioner’s satisfaction that his gross sales or  
13 receipts for the following twelve (12) months, other than  
14 those that are exempt under Section 109 (A) to (V), will not  
15 exceed THREE MILLION PESOS (P3,000,000): [One  
16 million five hundred thousand pesos (P1,500,000)]  
17 *PROVIDED, THAT NOT LATER THAN THREE (3)*  
18 *YEARS AFTER THE EFFECTIVITY OF THIS ACT AND*  
19 *EVERY THREE (3) YEARS THEREAFTER, THE*  
20 *AMOUNT HEREIN STATED SHALL BE ADJUSTED TO*  
21 *ITS PRESENT VALUE USING THE CONSUMER PRICE*  
22 *INDEX, AS PUBLISHED BY THE NATIONAL*  
23 *STATISTICS OFFICE (NSO);*

24           “(b) xxx.”

25           ***“(G) Persons Required to Register for Value-Added Tax. –***

26           “(1) Any person who, in the course of trade or business, sells, barter  
27 or exchanges goods or properties, or engages in the sale or exchange  
28 of services, shall be liable to register for value-added tax if:

1                   “(a) His gross sales or receipts for the past twelve (12) months,  
2                   other than those that are exempt under Section 109 (A) to (V),  
3                   have exceeded THREE MILLION PESOS (3,000,000): [One  
4                   million five hundred thousand pesos (P1,500,000)] *PROVIDED*,  
5                   THAT NOT LATER THAN THREE YEARS AFTER THE  
6                   EFFECTIVITY OF THIS ACT AND EVERY THREE (3)  
7                   YEARS THEREAFTER, THE AMOUNT HEREIN STATED  
8                   SHALL BE ADJUSTED TO ITS PRESENT VALUE USING  
9                   THE CONSUMER PRICE INDEX, AS PUBLISHED BY THE  
10                  NATIONAL STATISTICS OFFICE (NSO); or

11                  “(b) There are reasonable grounds to believe that his gross sales  
12                  or receipts for the next twelve (12) months, other than those that  
13                  are exempt under Section 109 (A) to (V), will exceed THREE  
14                  MILLION PESOS (P3,000,000): [One million five hundred  
15                  thousand pesos (P1,500,000)] *PROVIDED*, THAT NOT  
16                  LATER THAN THREE YEARS AFTER THE EFFECTIVITY  
17                  OF THIS ACT AND EVERY THREE (3) YEARS  
18                  THEREAFTER, THE AMOUNT HEREIN STATED SHALL  
19                  BE ADJUSTED TO ITS PRESENT VALUE USING THE  
20                  CONSUMER PRICE INDEX, AS PUBLISHED BY THE  
21                  NATIONAL STATISTICS OFFICE (NSO).

22                  “(2) xxx

23                  “(H) xxx

24                  “(I) xxx

25                  “xxx.”

26                  **SEC. 3. *Implementing Rules and Regulations (IRR).*** – Within sixty (60) days upon  
27 approval of this Act, the Secretary of Finance, upon recommendation by the Commissioner of  
28 Internal Revenue, shall issue the IRR for the effective implementation of this Act.

1           **SEC. 4. *Separability Clause.*** – Any portion or provision of this Act that may be declared  
2 unconstitutional or invalid shall not have the effect of nullifying other portions or provisions  
3 hereof, as long as such remaining portions or provisions can still subsist and be given effect in  
4 their entirety.

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

8           **SEC. 6. *Effectivity.*** - This Act shall take effect fifteen (15) days after its complete  
9 publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,