

SENATE

S. No. 1019

Introduced by Senator Ralph G. Recto

AN ACT  
ENHANCING THE EASE OF DOING BUSINESS BY EXEMPTING MICRO AND  
SMALL ENTERPRISES FROM THE PAYMENT OF PERCENTAGE TAX,  
AMENDING FOR THE PURPOSE THE NATIONAL INTERNAL REVENUE CODE OF  
1997, AS AMENDED

Explanatory Note

The contribution of micro and small enterprises (MSEs) to the country's economic development cannot be overemphasized. In terms of employment, MSEs generated 4.36 million jobs or roughly 55.9% of total jobs generated by all types of business establishments created in 2014, i.e. 2.37 million jobs in micro and 1.98 million in small enterprises<sup>1</sup>. Moreover, industries falling under these categories propel economic growth by promoting development in the rural areas, thereby bringing in employment opportunities, decentralizing economic activities and redistributing wealth throughout the country.

In the 2016 Doing Business Report of the World Bank Group, the Philippines fared low and ranked 165<sup>th</sup> out of 189 economies in terms of starting a business in the country, and 126<sup>th</sup> in terms of businesses paying taxes. Among the factors considered in measuring the ranking were all the procedures officially required or commonly practiced 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>

Percentage tax is a business tax imposed on persons or entities who sell or lease goods, properties or services in the course of trade or business. Section 116 of the National Internal Revenue Code of 1997 (NIRC), as amended, imposed a three percent (3%) percentage tax on persons or entities whose gross annual sales or receipts are exempt from the payment of value-added tax (VAT) as provided under Section 109 (1)(W) of the NIRC, and who are not VAT-registered.

MSEs whose gross annual sales or receipts do not exceed P1,919,500 are exempt from the payment of VAT, however they are still liable to pay the three percent (3%) percentage tax. By the nature of percentage tax as a business tax, its imposition may be more burdensome than VAT because the liability to pay and the burden of the said tax may fall on one and the same person or entity.

Aside from the burden of paying the percentage tax, MSEs also find it difficult to comply with the complicated requirements of existing tax laws and regulations for the payment of taxes. This would entail additional cost of doing business and such cost may be substantial to some taxpayers especially to small businessmen and entrepreneurs.

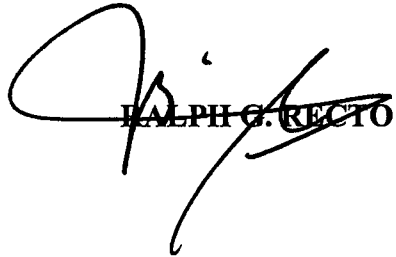
This bill seeks to exempt MSEs from the payment of percentage tax by repealing Section 116 of the NIRC on Tax on Persons Exempt from VAT. The purpose and intent of this proposed

<sup>1</sup> 2014 MSME Statistics, Department of Trade and Industry (<http://www.dti.gov.ph>)

<sup>2</sup> Doing Business Report 2016 (<http://www.doingbusiness.org>)

measure is to lessen the burden of MSEs in paying the tax and in complying with the requirements of the law for its payment. The objective is to help these industries maximize their time, effort and resources in expanding business operations, thereby stimulating economic growth and generating more jobs throughout the country.

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



RALPH G. RECTO

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

1           **SECTION 1.** Section 116 of the National Internal Revenue Code of 1997, as amended,  
2 is hereby repealed and the succeeding Sections are hereby renumbered accordingly.

3           **SEC. 2.** Section 128 (A)(1) of the National Internal Revenue Code of 1997, as amended  
4 is hereby further amended to read as follows:

5           “Sec. 128. *Returns and Payment of Percentage Taxes.* –

6           “(A) *Returns of Gross Sales, Receipts or Earnings and Payment of Tax.* –

7           “(1) *Persons Liable to Pay Percentage Taxes.* – Every person subject to the  
8 percentage taxes imposed under this Title shall file a quarterly return of the  
9 amount of his gross sales, receipts or earnings and pay the tax due thereon within  
10 twenty-five (25) days after the end of each taxable quarter [*: Provided, That in the*  
11 *case of a person whose VAT registration is cancelled and who becomes liable to*  
12 *the tax imposed in Section 116 of this Code, the tax shall accrue from the date of*  
13 *cancellation and shall be paid in accordance with the provisions of this Section.*”

14           **SEC. 3. *Implementing Rules and Regulations.*** – The Secretary of Finance shall, upon the  
15 recommendation of the Commissioner of Internal Revenue, promulgate not later that thirty (30)  
16 days upon the effectivity of this Act the necessary rules and regulations for its effective  
17 implementation.

18           **SEC. 4. *Repealing Clause.*** - All other laws, decrees, orders, issuances and rules and  
19 regulations or parts thereof inconsistent with this Act are hereby amended or repealed  
20 accordingly.

21           **SEC. 5. *Effectivity.*** - This Act shall take effect fifteen (15) days after its publication  
22 either in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,