

**SEVENTEENTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES**
Third Regular Session



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SENATE

S. B. NO. 2104

Introduced by **SENATOR JOEL VILLANUEVA**

**AN ACT PROVIDING FOR THE AUTOMATIC REVERSAL OF
THE EXCISE TAX ON FUEL UNDER REPUBLIC ACT NO.10963
OTHERWISE KNOWN AS THE "TAX REFORM FOR
ACCELERATION AND INCLUSION (TRAIN)" AMENDING FOR
THE PURPOSE, THE NATIONAL INTERNAL REVENUE CODE
(NIRC) OF 1997, AS AMENDED**

EXPLANATORY NOTE

In December 2017, Republic Act No. 10963 or the Tax Reform for Acceleration and Inclusion (TRAIN) Law was enacted with the goal of increasing government revenues. Ultimately, the measure seeks to raise adequate public resources needed to boost the country's development and enhance the delivery of public services, particularly to the poorest and most vulnerable Filipinos.

In light of its objective, the TRAIN law raised the excise taxes on petroleum products notwithstanding its foreseeable potential impact on the prices of goods and services. During the deliberations of the measure, the Department of Finance (DOF) ascertained that the fuel tax increase would result in a minimal effect on prices – an estimated additional 0.9 percentage point on the annual inflation rate. The DOF also asserted that the fuel tax hike would result in a "very small impact" on the prices of food and food products.

Months after the law took effect, however, inflation rate stands at a historical-high in recent years. As of September 2018, monthly year-on-year inflation rate soared at 6.7%, the highest rate recorded in the past nine years. This latest figure marks the seventh consecutive month that inflation rate breached the 4% maximum target of the government for the year 2018. In the same month, monthly food inflation stood at a higher rate of 9.7%.

Several factors are at play in the continuous increase of inflation rate in 2018. First is the price hike of crude oil in the world market, which rose to USD80/barrel from USD65/barrel in the early months of 2018. Second is the depreciation of the Philippine peso, which fell to PHP54/USD from PHP50/USD at the beginning of the year, resulting in part from the worsening trade performance of the country. Other factors include food shortage stemming from both natural disaster and inefficient food supply management, which caused an upward strain to the inflation figure. Certainly, the direct and indirect effect of fuel price increase following the excise tax hike provided under the TRAIN Law also contributed (and still is contributing) significantly to accelerating prices.

This measure intends to help temper inflation by recognizing the significant impact of the TRAIN Law to the country's inflation problem, and thereby seeks to effectively and immediately reverse the tax increase stipulated in the TRAIN Law. Cognizant of the current economic situation, which was initially unforeseen during crafting of the TRAIN Law, this measure seeks to revert the petroleum excise tax rates back to their pre-2018 levels if all the following three (3) conditions are satisfied for three (3) consecutive months:

1. *Headline inflation exceeds annual target by the government:* The Development Budget Coordination Committee (DBCC) sets a range of annual headline inflation target that serves as a macroeconomic parameter of the policies of the government, as well as a benchmark for the business sector. Breaching the maximum targets suggests a higher-than-expected inflation rate that may be detrimental not only for the government, but also for the economy as a whole, and therefore warrants intervention to minimize economic losses.
2. *Food inflation exceeds seven percent (7%):* Food accounts for half of the total spending of an average Filipino family. Among poorest households, food spending takes as much as 60% of total expenditure. Rising food prices can exacerbate the condition of poor Filipinos, especially for those who already fail to meet their basic food needs. As of 2015, around 1.3 million Filipinos are considered food poor, or those whose income fall below the amount needed to afford the minimum subsistence requirement. A 7% increase in food prices can increase the number of food poor Filipinos by at least 300,000 families or around one million Filipinos, thus necessitating the need to keep food prices manageable.
3. *Crude oil exceeds PHP4,080 per barrel:* Movement in crude oil price in the world market largely determine the general price of goods and services in the Philippine economy. As crude oil is sourced abroad, its price is affected not only by the world supply and demand, but also by the value of Philippine peso in terms of US dollars. A peso-denominated threshold thus takes into account not only the price of crude oil in the world market, but also the price faced by the Philippines given foreign exchange movement. The

PHP4,080 threshold is equivalent to USD 80/barrel threshold (the same threshold that warrant the tax hike suspension under TRAIN) valued in peso terms given the PHP51/USD foreign exchange rate – the lowest value of peso assumed by the DBCC for the calendar years 2018 to 2022.

It is prudent for the State to take an active role in balancing its goals to achieve our country's macroeconomic goals, and to fulfill our responsibility in ensuring the provision of equitable distribution of opportunities, income and wealth to our fellow countrymen.

In view of the foregoing, the immediate approval of this bill is highly recommended.


SENATOR JOEL VILLANUEVA

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EXCISE TAX ON FUEL UNDER REPUBLIC ACT NO.10963
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AND INCLUSION (TRAIN)" AMENDING FOR THE PURPOSE, THE
NATIONAL INTERNAL REVENUE CODE (NIRC) OF 1997, AS
AMENDED**

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

SECTION 1. Section 148 of the National Internal Revenue Code (NIRC) of 1997, as amended by Republic Act No. 10963, is hereby amended to read as follows:

"SEC. 148. Manufactured Oils and Other Fuels. –

x x x

For the period covering 2018 to 2020, the scheduled increase in the excise tax on fuel as imposed in this Section shall be suspended when the average Dubai crude oil price based on Mean of Platts Singapore (MOPS) for three (3) months prior to the scheduled increase of the month reaches or exceeds Eighty dollars (USD 80) per barrel.

Provided, That the Department of Finance shall perform an annual review of the implementation of the excise tax on fuel and shall, based on projections provided and recommendations of the Development Budget Coordination Committee, as reconciled from the conditions as provided above, recommend the implementation or suspension of the excise tax on fuel: Provided, further, That the recommendation shall be given on a yearly basis: Provided, FURTHER, That any suspension of the increase in excise tax shall not result in any reduction of the excise

tax being imposed at the time of the suspension, EXCEPT AS PROVIDED HEREIN.

PROVIDED, FINALLY, THAT IN THE EVENT THAT ALL THE FOLLOWING THREE (3) CONDITIONS ARE PRESENT FOR A PERIOD OF THREE (3) CONSECUTIVE MONTHS WITHIN ANY PERIOD PRIOR TO JANUARY 1, 2021:

- (1) AVERAGE HEADLINE INFLATION RATE EXCEEDS THE MAXIMUM ANNUAL INFLATION TARGET SET BY THE DEVELOPMENT BUDGET COORDINATION COMMITTEE (DBCC) FOR A GIVEN CALENDER YEAR;
- (2) AVERAGE FOOD INFLATION, BASED ON THE PHILIPPINE CONSUMER PRICE INDEX, EXCEEDS SEVEN PERCENT (7%), AS CERTIFIED BY THE PHILIPPINE STATISTICS AUTHORITY; AND
- (3) AVERAGE DUBAI CRUDE OIL PRICE EXCEEDS FOUR THOUSAND AND EIGHTY PESOS (PHP 4,080) PER BARREL

THE SCHEDULED INCREASES IN THE EXCISE TAX ON FUEL AS PRESCRIBED UNDER SECTION 148 OF THIS ACT SHALL NOT BE IMPLEMENTED AND THE FOLLOWING RATES SHALL THEREATER APPLY TO REFINED AND MANUFACTURED MINERAL OILS AND MOTOR FUELS:

- (a) LUBRICATING OILS AND GREASES, INCLUDING BUT NOT LIMITED TO, BASESTOCK FOR LUBE OILS AND GREASES, HIGH VACUUM DISTILLATES, AROMATIC EXTRACTS AND OTHER SIMILAR PREPARATIONS, AND ADDITIVES FOR LUBRICATING OILS AND GREASES, WHETHER SUCH ADDITIVES ARE PETROLEUM BASED OR NOT, PER LITER AND KILOGRAM, RESPECTIVELY, OF VOLUME CAPACITY OR WEIGHT, FOUR PESOS AND FIFTY CENTAVOS (P4.50);
- (b) PROCESSED GAS, PER LITER OF VOLUME CAPACITY, FIVE CENTAVOS (P0.05);
- (c) WAXES AND PETROLATUM, PER KILOGRAM, THREE PESOS AND FIFTY CENTAVOS (P3.50);
- (d) ON DENATURED ALCOHOL TO BE USED FOR MOTIVE POWER, PER LITER OF VOLUME CAPACITY, FIVE CENTAVOS (P0.05): PROVIDED, THAT UNLESS OTHERWISE PROVIDED BY SPECIAL LAWS, IF THE DENATURED ALCOHOL IS MIXED WITH GASOLINE, THE EXCISE TAX ON WHICH HAS ALREADY BEEN PAID, ONLY THE ALCOHOL CONTENT SHALL BE SUBJECT TO THE TAX HEREIN PRESCRIBED. FOR PURPOSES OF THIS SUBSECTION, THE REMOVAL OF DENATURED ALCOHOL OF NOT LESS THAN ONE HUNDRED EIGHTY DEGREES (180°) PROOF (NINETY PERCENT (90%) ABSOLUTE ALCOHOL) SHALL BE DEEMED TO HAVE BEEN REMOVED FOR MOTIVE POWER, UNLESS SHOWN OTHERWISE;

- (e) NAPHTHA, REGULAR GASOLINE, PYROLYSIS GASOLINE AND OTHER SIMILAR PRODUCTS OF DISTILLATION, PER LITER OF VOLUME CAPACITY, FOUR PESOS AND THIRTY-FIVE 29 CENTAVOS (P4.35): PROVIDED, HOWEVER, THAT NAPHTHA AND PYROLYSIS GASOLINE, WHEN USED AS A RAW MATERIAL IN THE PRODUCTION OF PETROCHEMICAL PRODUCTS, OR IN THE REFINING OF PETROLEUM PRODUCTS, OR AS REPLACEMENT FUEL FOR NATURAL-GAS-FIRED-COMBINED CYCLE POWER PLANT IN LIEU OF LOCALLY-EXTRACTED NATURAL GAS DURING THE NON-AVAILABILITY THEREOF, SUBJECT TO THE RULES AND REGULATIONS TO BE PROMULGATED BY THE SECRETARY OF ENERGY, IN CONSULTATION WITH THE SECRETARY OF FINANCE, PER LITER OF VOLUME CAPACITY, ZERO (P0.00): PROVIDED, FURTHER, THAT THE PRODUCTION OF PETROLEUM PRODUCTS, WHETHER OR NOT THEY ARE CLASSIFIED AS PRODUCTS OF DISTILLATION AND FOR USE SOLELY FOR THE PRODUCTION OF GASOLINE SHALL BE EXEMPT FROM EXCISE TAX: PROVIDED, FURTHERMORE, THAT THE BY-PRODUCT INCLUDING FUEL OIL, DIESEL FUEL, KEROSENE, PYROLYSIS GASOLINE, LIQUEFIED PETROLEUM GASES, AND SIMILAR OILS HAVING MORE OR LESS THE SAME GENERATING POWER, WHICH ARE PRODUCED IN THE PROCESSING OF NAPHTHA INTO PETROCHEMICAL PRODUCTS SHALL BE SUBJECT TO THE APPLICABLE EXCISE TAX SPECIFIED IN THIS SECTION, EXCEPT WHEN SUCH BY PRODUCTS ARE TRANSFERRED TO ANY OF THE LOCAL OIL REFINERIES THROUGH SALE, BARTER OR EXCHANGE, FOR THE PURPOSE OF FURTHER PROCESSING OR BLENDING INTO FINISHED PRODUCTS WHICH ARE SUBJECT TO EXCISE TAX UNDER THIS SECTION;
- (f) UNLEADED PREMIUM GASOLINE, PER LITER OF VOLUME CAPACITY, FOUR PESOS AND THIRTY-FIVE CENTAVOS (P4.35);
- (g) AVIATION TURBO JET FUEL, PER LITER OF VOLUME CAPACITY, THREE PESOS AND SIXTY-SEVEN CENTAVOS (P3.67);
- (h) KEROSENE, PER LITER OF VOLUME CAPACITY, ZERO (P0.00): PROVIDED, THAT KEROSENE, WHEN USED AS AVIATION FUEL, SHALL BE SUBJECT TO THE SAME TAX ON AVIATION TURBO JET FUEL UNDER THE PRECEDING PARAGRAPH [(G)] (F), SUCH TAX TO BE ASSESSED ON THE USER THEREOF;
- (i) DIESEL FUEL OIL, AND ON SIMILAR FUEL OILS HAVING MORE OR LESS THE SAME GENERATING POWER, PER LITER OF VOLUME CAPACITY, ZERO (P0.00)
- (j) LIQUEFIED PETROLEUM GAS, PER KILOGRAM, ZERO (P0.00):

- (k) ASPHALTS, PER KILOGRAM, FIFTY-SIX CENTAVOS (P0.56);
- (l) BUNKER FUEL OIL, AND ON SIMILAR FUEL OILS HAVING MORE OR LESS THE SAME GENERATING POWER, PER LITER OF VOLUME CAPACITY, ZERO (P0.00): PROVIDED, HOWEVER, THAT THE EXCISE TAXES PAID ON THE PURCHASED BASESTOCK (BUNKER) USED IN THE MANUFACTURE OF EXCISABLE ARTICLES AND FORMING PART THEREOF SHALL BE CREDITED AGAINST THE EXCISE TAX DUE THEREFROM; AND
- (m) PETROLEUM COKE, PER METRIC TON, ONE PESO AND SEVENTY-FIVE CENTAVOS (P1.75): PROVIDED, HOWEVER, THAT, PETROLEUM COKE, WHEN USED AS FEEDSTOCK TO ANY POWER GENERATING FACILITY, PER METRIC TON, (P0.00)

SEC. 2. Implementing Rules and Regulations. – Within thirty (30) days from the effectivity of this Act, the Secretary of Finance shall, upon recommendation of the Commissioner of Internal Revenue, promulgate the necessary rules and regulations for the effective implementation of this Act.

SEC. 3. Separability Clause. - If any provision of this Act or the application such provision to any person or circumstances is declared unconstitutional, the remainder of the Act or the application of such provision to other person or circumstances shall not be affected by such declaration.

SEC. 4. Repealing Clause. – Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule or regulation of the contrary to or inconsistent with any provision of this Act is hereby repealed or modified accordingly.

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

Approved,