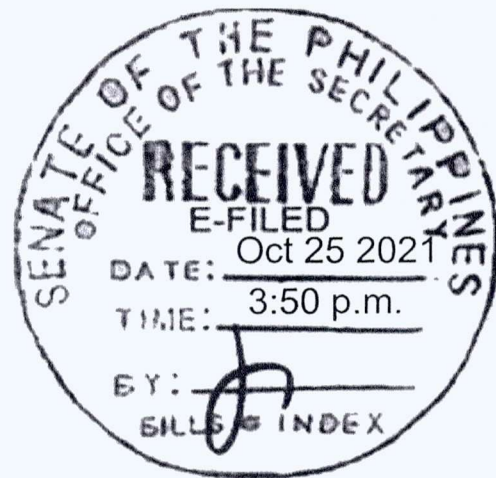


EIGHTEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
*Third Regular Session* )



**SENATE**

**S. No. 2440**

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Introduced by Senator Ralph G. Recto

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**AN ACT  
LOWERING THE COST OF ELECTRICITY AND PETROLEUM PRODUCTS**

EXPLANATORY NOTE

This proposed measure seeks to reduce the excise tax on petroleum products and coal by fifty percent (50%), suspend the imposition of applicable duties on their importation, and exempt the system loss charge in the sale of electricity from the value-added tax (VAT), for a period of three (3) years.

According to the Department of Energy (DOE), world oil prices continue to rise due to its tight supply and improving demand. Among the reasons cited by the DOE for the increase in oil demand are the improving COVID-19 situation, easing of mobility restrictions, and re-opening of borders by many countries.<sup>1</sup> The price of Dubai crude has increased week-on-week by almost US\$3.00 per barrel, and the Mean of Platts Singapore (MOPS) for gasoline and diesel have also increased by nearly US\$5.25 per barrel and around US\$ 3.80 per barrel, respectively.<sup>2</sup>

In the domestic market, oil companies implemented a price increase of P1.80 per liter for gasoline, P1.40-P1.50 per liter for diesel and P1.30 per liter for kerosene effective October 19, 2021.<sup>3</sup> The year-to-date adjustments now stand at a total net

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<sup>1</sup> DOE Oil Monitor as of October 19, 2021 / Asia Pacific Weekly Recap by S & P Global

<sup>2</sup> DOE Oil Monitor as of October 19, 2021

<sup>3</sup> DOE Oil Monitor as of October 19, 2021

increase of P19.65 per liter for gasoline, P18.00 per liter for diesel and P15.49 per liter for kerosene.<sup>4</sup>

Moreover, the looming energy crisis in China and other countries has triggered the rise in demand for coal, thereby increasing its prices in the world market.<sup>5</sup> In the Philippines, coal-type power plants account for 57.17% of the total gross power generation.<sup>6</sup>

The surge in demand for oil and other energy commodities indicates recovery from the crisis brought about by the COVID-19 pandemic. However, the increase in their prices will have an effect on inflation. Each of these commodities is an important component in the production of basic goods and services.

All factors affecting the global prices of oil and coal may not be controlled by our government, but we are not totally helpless in mitigating their adverse effects on the domestic prices of these commodities. The applicable taxes and duties on these products may be partially reduced or removed for a certain period of time while our country is charting its path towards economic recovery.

In 2005, Republic Act No. 9337, otherwise known as the Reformed Value-Added Tax (RVAT) Law, was enacted to widen the tax base by removing a number of products and services including petroleum and electricity from the list of VAT-exempt transactions under the National Internal Revenue Code of 1997, as amended, thereby increasing revenue collections. This is in line with the principle that in order for the VAT system to be effective, it should be broad-based and with limited exemptions.

Undoubtedly, the VAT reform has produced significant and positive effects on our economy. However, as a consequence, such effect is also inflationary. VAT is an

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<sup>4</sup> DOE Oil Monitor as of October 19, 2021

<sup>5</sup> <https://www.manilatimes.net/2021/10/14/opinion/columns/ph-is-facing-an-energy-disaster/1818347>; <https://www.rappler.com/business/china-power-woes-may-worsen-demand-surges-coal-supply-lag-october-18-2021>; <https://www.bloomberg.com/news/articles/2021-10-04/coal-prices-may-have-reached-peak-top-philippine-miner-says>;

<sup>6</sup> DOE 2020 Power Statistics

indirect tax that is passed on to the consumers of goods and services. Therefore, its imposition on the sale of certain products particularly petroleum products and electricity has the effect of increasing the prices of basic goods and services.

In 2017, another revenue generating measure but with inflationary impact was enacted, Republic Act No. 10963, or the Tax Reform for Acceleration and Inclusion (TRAIN) Law. It was intended to finance at least partially the Build, Build, Build Program and other social services of the government. However, it imposes additional excise tax on petroleum products and coal, and just like the VAT, it has the effect of increasing the prices of goods and services. Under this law, the excise tax on gasoline was increased from P4.35 to P10.00, diesel from zero excise tax to P6.00, kerosene from zero excise tax to P5.00, per liter of volume capacity, and coal from P10.00 to P150.00 per metric ton, effective January 1, 2020.<sup>7</sup>

The imposition of VAT and the increased excise taxes on petroleum products and coal are too much of a burden on the consumers and businesses during this time of the COVID-19 pandemic. As a mitigating response, it is high time to reduce the excise tax on these products by 50%, suspend the applicable duties, and exempt the system loss charge from VAT, thereby effectively lowering the prices of electricity and consequently other basic goods and services.

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



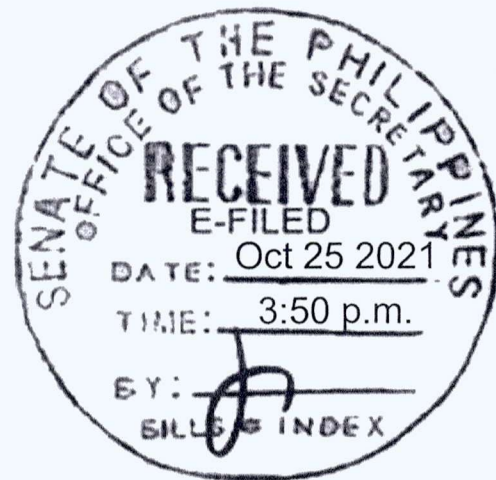
**RALPH G. RECTO**

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<sup>7</sup> Sections 148 and 151 of the National Internal Revenue Code of 1997, as amended.

EIGHTEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
*Third Regular Session* )



**SENATE**

**S. No. 2440**

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Introduced by Senator Ralph G. Recto

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**AN ACT**  
**LOWERING THE COST OF ELECTRICITY AND PETROLEUM PRODUCTS**

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

1           Sec. 1. Section 109 of the National Internal Revenue Code of 1997, as  
2 amended, 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           (AA) xxx;

9           "(BB) xxx;

10           "**(CC) SYSTEM LOSS CHARGE IN THE SALE OF ELECTRICITY**  
11 **FOR A PERIOD OF THREE (3) YEARS FROM THE DATE OF**  
12 **EFFECTIVITY OF THIS ACT; AND**

13           "~~{CC}~~ **(DD)** Sale or lease of goods or properties or the performance of  
14 services other than the transactions mentioned in the preceding paragraphs,  
15 the gross annual sales and/or receipts do not exceed the amount of Three  
16 million pesos (P3,000,000)."

17           Sec. 2. Section 148 of the National Internal Revenue Code of 1997, as  
18 amended, is hereby further amended to read as follows:

1           "SEC. 148. *Manufactured Oils and Other Fuels.* – There shall be  
2 collected on refined and manufactured mineral oils and motor fuels, the  
3 following excise taxes which shall attach to the goods hereunder enumerated  
4 as soon as they are in existence as such:

5           "xxx

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

11           "~~[Provided, That the Department of Finance shall perform an annual  
12 review of the implementation of the excise tax on fuel and shall, based on  
13 projections provided and recommendations of the Development budget  
14 coordination Committee, as reconciled from the conditions as provided above,  
15 recommend the implementation or suspension of the excise tax on fuel:  
16 Provided, further, That the recommendation shall be given on a yearly basis:  
17 Provided, finally, That any suspension of the increase in excise tax shall not  
18 result in any reduction of the excise tax being imposed at the time of the  
19 suspension.]~~

20           "**PROVIDED, THAT BEGINNING FROM THE DATE OF**  
21 **EFFECTIVITY OF THIS ACT, THE EXCISE TAXES IMPOSED ON**  
22 **PETROLEUM PRODUCTS UNDER THIS SECTION SHALL BE REDUCED**  
23 **BY FIFTY PERCENT (50%) AND THE IMPOSITION OF APPLICABLE**  
24 **DUTIES THEREOF SHALL BE SUSPENDED, FOR A PERIOD OF THREE**  
25 **(3) YEARS."**

26           Sec. 3. Section 151 of the National Internal Revenue Code of 1997, as  
27 amended, is hereby further amended to read as follows:

28           "SEC. 151. *Mineral Products.* –

29           "(A) *Rates of Tax.* – There shall be levied, assessed and collected on  
30 minerals, mineral products and quarry resources, excise tax as follows:

31           "(1) On domestic or imported coal and coke, notwithstanding any  
32 incentives granted in any law or special law:

1 "Effective January 1, 2018, Fifty pesos (P50.00) per metric ton;

2 "Effective January 1, 2019, One hundred pesos (P100.00) per metric  
3 ton; and

4 "Effective January 1, 2020, One hundred fifty pesos (P150.00) per  
5 metric ton.

6 **"PROVIDED, THAT BEGINNING FROM THE DATE OF**  
7 **EFFECTIVITY OF THIS ACT, THE EXCISE TAX IMPOSED ON COAL AND**  
8 **COKE UNDER THIS SECTION SHALL BE REDUCED BY FIFTY PERCENT**  
9 **(50%), AND THE IMPOSITION OF APPLICABLE DUTIES THEREOF**  
10 **SHALL BE SUSPENDED, FOR A PERIOD OF THREE (3) YEARS."**

11 "xxx"

12 *Sec. 4. Implementing Rules and Regulations (IRR).* – Within thirty (30) days  
13 from the effectivity of this Act, the Secretary of Energy and the Secretary of Finance,  
14 upon the recommendation of the Commissioner of Internal Revenue, shall  
15 promulgate the necessary rules and regulations for its effective implementation.

16 *Sec. 5. Separability Clause.* – If any provision or part hereof is declared  
17 unconstitutional, the remainder of this Act or any provision not affected shall remain  
18 in full force and effect.

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

22 *Sec. 7. Effectivity.* – This Act shall take effect fifteen (15) days after its  
23 complete publication in the *Official Gazette* or in at least two (2) newspapers of  
24 general circulation.

Approved,