


FOURTEENTH CONGRESS OF THE REPUBLIC)
 OF THE PHILIPPINES)
 First Regular Session)

7 NOV -6 P3:28

SENATE

RECEIVED BY: S. No. 1819

Introduced by Senator **GREGORIO B. HONASAN II**

EXPLANATORY NOTE

During the early part of the 13th Congress, our legislators passed into law priority revenue measures that can help subsidize the meager income of the government in solving the country's ballooning public sector deficit. In 2005, the country's deficit reached almost P200 billion, not to mention the accumulated \$600 billion NAPOCOR debt which the national government is obligated to shoulder.

In order to alleviate if not totally eliminate the looming economic crisis out of proportion, Congress passed three revenue measures hoping to put the country's financial position to a balanced budget within ten years as follows:

- Indexation of Sin Taxes Law
- Lateral Attrition Law; and
- Reformed Value Added Tax (RVAT) Law

RA 9337 or more popularly known as the Reformed Value Added Tax (RVAT) was perceived to be the highest income generating scheme for the government from among the three measures passed into law during the last Congress. It is said that RVAT can easily propel an additional estimated amount between P55 to 60 billion every year.

After 2 years of implementation, the Department of Finance has reported that the effect of the law placed our country back into a positive outlook. In fact, MOODY'S CREDIT RATING AGENCY" and "STANDARDS & POOR" has upgraded its credit ratings to our country from a point that almost reached a critical level.

The RVAT law actually plays a pivotal role in salvaging the country from falling into a deeper crisis. However, its repercussions in increasing the amount of commodity prices including prices of basic goods in the market brought ordinary citizens particularly the poor and the working class into an outrage.

This proposed legislation intends to remedy the predicaments of our citizens particularly on the inflationary effects of RVAT by introducing amendments to RA 9337. A devise technically known to economist as "absorption method", will be put in place to derail the impact of the VAT measure directly to the end consumers. The scheme will simply divide the burden of the levied 12% VAT between the sellers and the buyers in equal proportion to prevent end consumers from paying the entire VAT charges on commodities.

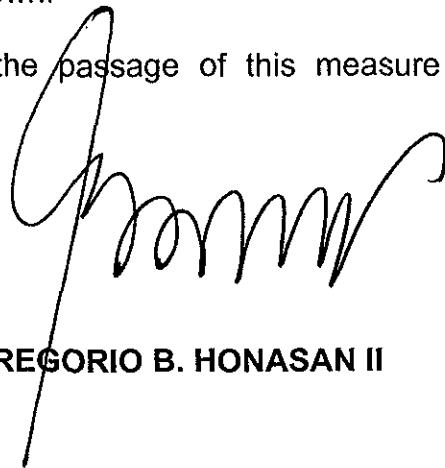
The suggested 50-50 method will not in any way decrease the present 12% VAT being collected. As compared to the traditional method in applying VAT charges, the implications of this proposal will be:

- BUSINESS/TRADERS WILL START SHARING BURDEN OF VAT PAYMENT WITH BUYERS;
- INCREASE OR DECREASE OF BUSINESS/TRADERS' SHARE IN OUTPUT TAX AS PRICE MARK-UP OF GOODS FOR SALE INCREASES OR DECREASES;
- SAME VAT INCOME ON THE PART OF THE GOVERNMENT; and
- **LOWER PRICE OF GOODS ON THE PART OF THE FINAL CONSUMERS**

With this method, the seller cannot increase their price as a strategy to recover their supposed 50% share of output VAT considering that any amount of increase of goods for sale would correspondingly increase their 50% share of tax levied. While a lower price imposition can possibly totally eliminate payment of VAT.

This proposal is actually nothing as compared to the way other countries would protect their citizens from VAT impositions. As testified during the hearings on RVAT law during the last Congress, in China the VAT slapped on Capital Equipment of corporations were not allowed to be passed to the market and yet it did not bring the business activity into a slow down.

Considering the urgency of this bill, the passage of this measure is earnestly sought.




GREGORIO B. HONASAN II

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AN ACT

PROVIDING FOR A DEVISE TO MITIGATE THE IMPACT OF THE REFORMED VALUE ADDED TAX (RVAT) TO THE PRICE OF BASIC COMMODITIES BY WAY OF ADOPTING A SCHEME TO DIVIDE THE PAYMENT OF VAT BETWEEN THE SELLER AND BUYER, AMENDING FOR THE PURPOSE CERTAIN PROVISIONS OF REPUBLIC ACT NO. 9337 OTHERWISE KNOWN AS AN ACT AMENDING SECTIONS 27, 28, 34, 106, 107, 108, 109, 110, 111, 112, 113, 114, 116, 117, 119, 121, 148, 151, 236, 237 AND 288 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES

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

SECTION. 1. – In order for the end-consumers to avoid and eliminate the burden of shouldering in its entirety the additional charges brought about by the imposition of Value Added Tax on the price of commodities, Sec. 4 of RA 9337 is hereby amended to read as follows:

Sec. 4. Section 105 of the same Code, as amended, is hereby further amended to read as follows:

“SEC. 105. Persons Liable. - Any person who, in the course of trade or business, sells, barter, exchanges, leases goods or properties, renders services, and any person who imports goods shall be subject to the value-added tax (VAT) imposed in Sections 106 to 108 of this Code.

*The value-added tax is an indirect tax and the amount of tax may be shifted or passed **TO NO MORE THAN FIFTY PERCENT (50%) AS PART OF OUTPUT TAX** on to the buyer, transferee or lessee of the goods, properties or services. This rule shall likewise apply to existing contracts of sale or lease of goods, properties or services at the time of the effectivity of Republic Act No. 7716.*

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SECTION. 2. – Sec. 8 of RA 9337 is hereby amended to read as follows:

"SEC 8. Section 110 of the same Code, as amended, is hereby further amended to read as follows:

"Sec. 110. Tax Credits. -

"(A) Creditable Input Tax. -

"(1) Any input tax evidenced by a VAT invoice or official receipt issued in accordance with Section 113 hereof on the following transactions shall be creditable against the output tax:

"(a) Purchase or importation of goods:

"(i) For sale; or

"(ii) For conversion into or intended to form part of a finished product for sale including packaging materials; or

"(iii) For use as supplies in the course of business; or

"(iv) For use as materials supplied in the sale of service; or

"(v) For use in trade or business for which deduction for depreciation or amortization is allowed under this Code.

"(b) Purchase of services on which a value-added tax has actually been paid.

"(2) The input tax on domestic purchase or importation of goods or properties by a VAT-registered person shall be creditable:

"(a) To the purchaser upon consummation of sale and on importation of goods or properties; and

"(b) To the importer upon payment of the value-added tax prior to the release of the goods from the custody of the Bureau of Customs.

"Provided, That the input tax on goods purchased or imported in a calendar month for use in trade or business for which deduction for depreciation is allowed under this Code, shall be spread evenly over the month of acquisition and the fifty-nine (59) succeeding months if the aggregate acquisition cost for such goods, excluding the VAT component thereof, exceeds One million pesos (P1,000,000): Provided, however, That if the estimated useful life of the capital good is less than five (5) years, as used for depreciation purposes, then the input VAT shall be spread over such a shorter period: Provided, finally, that in the case of purchase of services, lease or use of properties, the input tax shall be creditable to the purchaser, lessee or licensee upon payment of the compensation, rental, royalty or fee.

"(3) A VAT-registered person who is also engaged in transactions

not subject to the value-added tax shall be allowed tax credit as follows:

"(a) Total input tax which, can be directly attributed to transactions subject to value-add tax; and

"(b) A ratable portion of any input tax which cannot be directly attributed to either activity.

"The term 'input tax' means the value-added tax due from or paid by a VAT-registered person in the course of his trade or business on importation of goods or local purchase of goods or services, including lease or use of property, from a VAT-registered person. It shall also include the transitional input tax determined in accordance with Section 111 of this Code.

"The term 'output tax' means the value-added tax due on the sale or lease of taxable goods or properties or services by any person registered or required to register under Section 236 of this Code.

PROVIDED, HOWEVER, THAT THE FIFTY PERCENT (50%) SHARE OF THE VAT-REGISTERED PERSON OR SELLER, TRANSFEROR, LESSOR IN ACCORDANCE TO SECTION 1 HEREOF SHALL BE TREATED AS PART OF THE INPUT TAX CREDITABLE AGAINST THE OUTPUT TAX

"(B) Excess Output or Input Tax. - If at the end of any taxable quarter the output tax exceeds the input tax, the excess shall be paid by the VAT-registered person. If the input tax exceeds the output tax, the excess shall be carried over to the succeeding quarter or quarters: Provided, That the input tax inclusive of input VAT carried over from the previous quarter that may be credited in every quarter shall not exceed seventy percent (70%) of the output VAT: Provided, however, That any input tax attributable to zero-rated sales by a VAT-registered person may at his option be refunded or credited against other internal revenue taxes, subject to the provisions of Section 112.

"(C) Determination of Creditable Input Tax. - The sum of the excess input tax carried over from the preceeding month or quarter and the input tax creditable to a VAT-registered person during the taxable month or quarter shall be reduced by the amount of claim for refund or tax credit for value-added tax and other adjustments, such as purchase returns or allowances and input tax attributable to exempt sale.

"The claim for tax credit referred to in the foregoing paragraph shall include not only those filed with the Bureau of Internal Revenue but also those filed with other government agencies, such as the Board of Investments and the Bureau of Customs."

SEC. 3. Repealing Clause. - All laws, Presidential Decrees, Issuances, Executive Orders, Letters of Instruction, rules or regulations inconsistent with the provision of this Act is hereby repealed or modified accordingly.

SEC. 4. *Effectivity Clause.* – This Act shall take effect fifteen (15) days from the date of its publication in at least two (2) newspapers of general circulation.

Approved,