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

SENATE

S. No. 1977

Introduced by Senator JUAN MIGUEL F. ZUBIRI

EXPLANATORY NOTE

This year has seen one of the steepest climbs of oil prices in the world market. In a short-term tracking of oil prices covering three years from December 2004 to the first week of December this year, oil prices have been peaking progressively higher and stabilizing or settling down at higher and higher levels. The giant appetites of China, India and the United States, instability in Iran, Nigeria, Russia and Venezuela all exert upward pressure on prices.

Oil was at its lowest in January this year at $61.59 per barrel Mean of Platts Singapore (MOPS) and domestic price was also at a low P35.75 per liter. In November, oil was at $100.29 per barrel. Consequently, oil rose to P43.95 per liter. The effect of a stronger peso mitigated the price increase by P8 per liter but the trend was unmistakable.

If the highest price was the mountain peak and the lowest price the valley in one price cycle, each succeeding valley is always higher. Even if you track only the lowest prices, you would still in fact be climbing to the top.

The same peaking movement of oil prices was reflected in the local market since prices were determined by supply, demand and competition. The Department of Energy has stated that "any changes in international oil prices directly affect pump prices" since the country "imports practically all our oil requirements because our own total production is less than one half of the county's needs for half a day." In addition, the landed prices of imported oil and oil products were inclusive of the effects of speculation in the foreign markets.

The Energy department also estimated the effect of a P1 per unit increase in diesel price on generation cost of electricity, as follows: Luzon, 0.0002; Visayas, 0.0015; Mindanao, 0.0002;and, the Philippines, 0.0004. Likewise, a P1 per unit increase in bunker price increased generation cost, as follows: Luzon, 0.0002; Visayas, 0.0198; Mindanao, 0.0659; and, the Philippines, 0.0161.

Unfortunately, with the costly price of imported oil, our government aggravated the effects of peaking oil prices when it enacted R. A. 9337 or the Reformed VAT Law (RVAT) in July 1, 2005 and imposed Value-Added Tax on oil and oil products and on the sales of electricity by generation companies and transmission and distribution utilities.

Initially, the VAT rate was 10 percent and was increased to 12% in 2006. The Reformed VAT Law provided so-called mitigating measures to soften the impact of the VAT imposition. It removed the excise tax on diesel, kerosene and fuel oil for power generation, reduced the excise tax for unleaded gasoline, and removed the national franchise tax of distribution utilities. Executive Order No. 440 also reduced the import duty of crude and petroleum products from 5% to 3% and, on LPG to 0%.

Just before the imposition of the RVAT, the Energy department in June 2005 outlined the components of the price per liter of gasoline, diesel, kerosene and liquefied petroleum gas (LPG), using price of Crude based on March 2005 Dubai and of Product based on April 11-15, 2005 MOPS. The price components for each commodity were as follows:

For gasoline at P31.18 per liter, with import dependence at 50%:
Industry paid for dealer/hauler take, 3 %; oil company take, 16 %; crude/ product cost 64%; and duty and taxes, 17%. The importer paid: dealer/hauler take, 3%; oil company take, 8%; crude/product cost, 72%, and duty & taxes, 17%.

For diesel at P27.31 per liter, with import dependence at 55%:
Industry paid for dealer/hauler take, 3 %; oil company take, 9 %; crude/ product cost 78%; and duty and taxes, 10%. The importer paid: dealer/hauler take, 3%; oil company take, (2%); crude/product cost, 89%, and duty & taxes, 10%.

Kerosene at P27.94 per liter, with import dependence at 50%:
Industry paid for dealer/hauler take, 2 %; oil company take, 15 %; crude/ product cost 76%; and duty and taxes, 7%. The importer paid: dealer/hauler take, 2%; oil company take, 1%; crude/product cost, 90%, and duty & taxes, 7%.

LPG at P31.41 per kilogram, with import dependence at 69%:
Industry paid for oil company take, 12 %; crude/ product cost 85%; and duty and taxes, 3%. The importer paid: oil company take, 18%; crude/product cost, 79%, and duty & taxes, 3%.

Five months later in November 2005, the Energy department presented the impact of the 10% VAT on pump prices, as follows:
Unleaded gasoline at P38.42 per liter, the VAT impact was P3.49/liter
Regular gasoline at P36.37 / liter, the VAT impact was P3.31/liter
Diesel at P33.17 / liter, the VAT impact was P3.02/liter
Kerosene at P34.91 / liter, the VAT impact was P3.17/liter
Bunker at P22.80 / liter, the VAT impact was P2.07/liter
LPG at P487.27 per cylinder, the VAT impact was P44.30/cylinder
LPG at P493.87 / cylinder, the VAT impact was P44.90/cylinder

According to the Energy department just before the imposition of the additional 2% VAT, the impact of VAT on local retail prices of oil and oil products will be less than 2% and only about 1% for electricity. Using prevailing average pump price in Metro Manila as of January 31, 2006, the VAT components were as follows: diesel, 58 centavos per liter; kerosene, 60 centavos/ liter; fuel oil, 40 centavos / liter; regular gasoline, 63 centavos /liter; unleaded gasoline, 67 centavos / liter; LPG, about P8.90 – P9.83 per 11 kg cylinder.

On electricity, using MERALCO figures as of January 31, 2006, estimated increase per month on electricity rates in the MERALCO franchise areas are as follows: P4.85 for those consuming 0-50 kWh per month; P6.78 for 51-70 kWh; P9.68 for 71-100 kWh; P19.37 for 101-200 kWh; P29.06 for 201-300 kWh; P38.75 for 301-400 kWh; P48.44 for 401-500 kWh; P58.13 for 501-600 kWh; P67.81 for 601-700 kWh; and P77.50 for 701-800 kWh per month.

Government was able to raise hefty revenues through the Reformed VAT Law. In 2006, total RVAT collection was P76.9 Billion of which P49.15 Billion came from VAT on crude and petroleum products. From January to June this year, total RVAT collection was P43.7 Billion of which P18.6 B came from VAT on crude and petroleum products.

The problem is that increasing oil prices and the additional impact of VAT translates to higher consumer prices. Monitoring of consumer prices for the whole of 2006 and from January to October this year shows consumer prices following on the heels of oil prices. Prices of food, beverages & tobacco; clothing; housing & repairs services; and fuel, light and water all track the price of oil.

An increase in electricity rates also results to rising cost of production, rising prices and rising consumer expenditures. The additional 2% VAT imposed in 2006 increased household expenditures by an average of 1.4%; prices of commodities by an average of 1.8% and total cost of production by an average of 1.5%.

The RVAT has made crude and petroleum products and electricity highly-taxed commodities. Increased collection from RVAT is a gain for government coffers but it has caused much pain to consumers since its imposition. Every peso raked in by government is an additional burden shouldered by the consumer especially in times of rising oil prices.

This bill seeks to offer relief to the consumers by restoring the Value-Added Tax exemption on sales of petroleum and petroleum products and of electricity.

JUAN MIGUEL F. ZUBIRI

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Introduced by Senator JUAN MIGUEL F. ZUBIRI

AN ACT AMENDING 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:

SECTION 1. Section 109, Chapter 1 of Title IV - Value-Added Tax of the NIRC As Amended is hereby amended to read as follows:

Sec. 109. ***Exempt Transactions.*** – The following shall be exempt from the value- added tax:

(a) xxx

(b) xxx

(c) xxx

(d) xxx

After paragraph (d), insert the following paragraph (e).

(e) SALE OR IMPORTATION OF COAL AND NATURAL GAS, IN WHATEVER FORM OR STATE, AND PETROLEUM PRODUCTS (EXCEPT LUBRICATING OIL, PROCESSED GAS, GREASE, WAX AND PETROLATUM) SUBJECT TO EXCISE TAX IMPOSED UNDER TITLE VI;

And re-letter the succeeding paragraphs, from (f) to (r) and insert the following paragraph (s) after the re-lettered (r).

(s) SALES BY DISTRIBUTION UTILITIES RELATIVE TO THE GENERATION AND DISTRIBUTION OF ELECTRICITY AS WELL AS THEIR IMPORTATION OF MACHINERIES AND EQUIPMENT, INCLUDING SPARE PARTS, WHICH SHALL BE DIRECTLY USED IN THE GENERATION AND DISTRIBUTION OF ELECTRICITY;

And re-letter the succeeding paragraphs.

SEC. 2. Section 119, Title V - *Other Percentage Taxes is hereby amended to* read as follows:

Section 119. Tax on Franchises. - Any provision of general or special law to the contrary notwithstanding, there shall be levied, assessed and collected in respect to all franchises on radio and/or television broadcasting companies whose annual gross receipts of the preceding year do not exceed Ten million pesos (P10,000.00), subject to Section 236 of this Code, a tax of three percent (3%) and on ELECTRIC, gas and water utilities, a tax of two percent (2%) on the gross receipts derived from the business covered by the law granting the franchise: *Provided, however,* That radio and television broadcasting companies referred to in this Section shall have an option to be registered as a value-added taxpayer and pay the tax due thereon: *Provided, further,* That once the option is exercised, said option shall be irrevocable.

The grantee shall file the return with, and pay the tax due thereon to the Commissioner or his duly authorized representative, in accordance with the provisions of Section 128 of this Code, and the return shall be subject to audit by the Bureau of Internal Revenue, any provision of any existing law to the contrary notwithstanding.

SEC. 3. Section 148, Chapter V of Title VI - Excise Taxes on Certain Goods is hereby amended to read as follows:

Chapter V – Excise Tax on Petroleum Products

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

(a) xxx ;

(b) xxx ;

(c) xxx ;

(d) xxx ;

(e) Naphtha, regular gasoline and other similar products of distillation, per liter of volume capacity, [Four pesos and thirty-five centavos (P4.35)] FOUR PESOS AND EIGHTY CENTAVOS (P4.80) : *Provided, however,* That naphtha, when used as a raw material in the production of petrochemical 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 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) xxx ;

(g) xxx ;

(h) Kerosene, per liter of volume capacity, [zero centavos (0.00)] SIXTY CENTAVOS (0.60): *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), 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 centavos (P0.00)] ONE PESO AND SIXTY-THREE CENTAVOS (P1.63);

(j) xxx ;

(k) xxx ;

(l) Bunker fuel oil, and on similar fuel oils having more or less the same generating power, per liter of volume capacity, [zero centavos (P0.00)] THIRTY CENTAVOS (P0.30).

SEC. 4. *Implementing Rules and Regulations.* – The Secretary of Finance, shall, upon the recommendation of the Commissioner of Internal Revenue, promulgate not later than 90 days upon the effectivity of this Act, the rules and regulations for the effective implementation of this Act.

SEC. 5. *Repealing Clause.* – All laws, executive orders, rules or regulations, or any part thereof, inconsistent with any provisions of this Act are hereby repealed or modified accordingly.

SEC. 6. *Effectivity.* – This Act shall take effect immediately upon its approval.

Approved,