



LEGISLATIVE RESEARCH SERVICE QUICK NOTES *Second Regular Session, 19th Congress*

Public Hearing of the Committee on Ways and Means

Chairperson: Sen. Win Gatchalian

21 March 2024, Thursday, 1:30 p.m., Sen. Padilla Room, Senate

Re: H. No. 8937 – An Act Enhancing the Fiscal Regime for the Mining Industry—Representatives Salceda, Suansing (M.A.), Dalipe, et. al.

Background¹

President Ferdinand R. Marcos Jr.'s administration aims to position the mining industry as one of the cornerstones of the economy. To achieve this objective, President Marcos has prioritized the streamlining of the mining fiscal regime.

In line with the President's agenda, the House of Representatives passed on Third Reading House Bill No. 8937, also known as the Act Enhancing the Fiscal Regime for the Mining Industry, on September 25, 2023.

Mining reservation areas are locations identified by the government as economically viable and rich in minerals. Presently, there are nine such areas designated in the Philippines.

Beyond revenue considerations, the proposal for a new mining fiscal regime comes at a time of increasing demand for minerals to support countries transitioning to clean technologies. A 2017 World Bank report concluded that the increased use of low carbon technologies in the areas of wind, solar and energy storage will serve to increase the demand for mineral and metal products.²

Following its passage in the House, Speaker Martin Romualdez expressed agreement with the Chamber of Mines, stating that the proposed fiscal regime would aid the country in its post-pandemic recovery efforts.

¹ Sourced and paraphrased from <https://www.rappler.com/newsbreak/explainers/is-mining-fiscal-regime-bill-good-philippine-economy-climate-agenda/>

² <https://mining.ca/our-focus/climate-change/mining-and-its-role-in-clean-technology/#:~:text=There%20is%20a%20natural%20synergy%20between%20mining%20and,world%20to%20transition%20to%20a%20low%20carbon%20future.>

Highlights of the Bill³

- Tax provisions are, as follows:
 - Lowers royalty rate of mining operations within mining reservations from 5% to 4%;
 - Imposes profit-based royalty for mining operations outside mining reservations; the current fiscal regime does not levy taxes for operations outside mining reservations;
 - Subjects companies to a windfall profits tax;
 - Subjects small-scale mining operations with royalty rate equivalent to one-tenth of 1% of gross minerals output; and
 - Does not impose export tax.
- With a margin of 1% to 10%, a mining company operating outside a mineral reservation will pay 1% royalty. At best, the government would get 5% royalty from a company that has a margin of above 70%.
- With the windfall profit tax system, the government can start taking taxes from companies only after they make at least a 35%-40% margin.
- Creation of a mechanism that would compel mining firms to disclose all mining-related data, including tax and revenue data.
- Mining firms will be exempted from the application of confidentiality clauses of the National Internal Revenue Code.

Possible Points for Discussion⁴

- Whether or not the proposed measure will still impose risks and irreversible damage on the environment.
- Will the decrease in taxes result in the increase of mineral production?
- Will the proposed measure leave local communities exposed and uncompensated to the impact and risks of mining?
- Whether or not margin-based taxation give mining companies greater incentive and more opportunities to obscure their financial data, leading to potential tax evasion or avoidance.
- Will policy instability and conflicts between the national and local governments hinder ease of doing business?
- Will reduction in taxes, and consequently in the share of communities, affect their ability to mitigate damage and risks posed by mining operations?

³ Is the mining fiscal regime bill good for the economy and climate agenda? (rappler.com) (as paraphrased)

⁴ Ibid.

- Were local communities given ample access to information to make an objective decision whether mining is good for them or not?
- Back in 2018, the Commission on Audit released a report saying the government lost at least P2.67 billion from 2012 to 2016 because a 5% royalty was not levied on five mining companies operating outside mineral reservation areas in Caraga.⁵

⁵ <https://www.rappler.com/newsbreak/explainers/is-mining-fiscal-regime-bill-good-philippine-economy-climate-agenda/>