

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS

First Regular Session

HOUSE BILL NO. 1469

Introduced by HON. ERIC D. SINGSON

EXPLANATORY NOTE

The telecommunications industry is considered to be the fastest growing industry in the recent years. The global advancement in technology has reinvented the industry from a mere provider of basic telephony to being central to most office/business operations and personal undertakings. There has never been so much development in a particular industry as rapid as the expansion of telecommunication companies in the last five years.

Despite their profitability, however, it has been noted that the industry remains to lag behind other industries in terms of tax payments to the government. Their corporate taxes are significantly reduced by the huge amount they spent in advertising and procurement of capital equipment. Recent studies show that with gross profit rate that can go as high as 69.88%, the effective income tax rates or the relation of the income tax payment to gross receipts of leading telecommunication companies ranges only from 0% to 8.09%. Even the value-added tax proved to be an inefficient tax system in terms of its ability to capture the income of telecommunication companies. Information data on the value-added tax (VAT) payments for the year 2002 show that the industry paid only an effective VAT rate (EVR) of -5.10%, with only two companies posting positive EVRs. This low EVR is primarily due to the large amounts of input tax credit claims on the capital purchases of telecommunication companies which are applied against their output VAT. Other contributory factors include the inability of the Bureau of Internal Revenue (BIR) to determine the correct tax base in view of the diversity of products being offered by several telecommunication companies which are subjected to different tax treatment. This is made far more complicated by the introduction of the use of prepaid cards, proceeds from the sales of which continue to be unmonitored by the Bureau.

To ensure that the telecommunication industry is adequately taxed, this bill seeks to subject companies which are granted a franchise to operate telephone and telegraph services to a franchise tax equivalent to five percent (5%) of their gross receipts. This proposed tax is in lieu of the present VAT imposition on these companies. With the re-imposition of the franchise tax, the entire amount of gross receipts from all of services

provided by telecommunication companies will form part of the tax base. This will eliminate the three-tier tax treatment of such services under the VAT which has made tax assessment and collection a tedious process on the part of both the BIR and the telecommunication companies. And since the franchise tax is based on gross, the government will be guaranteed of a steady collection of taxes from this sector.

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



HON. ERIC D. SINGSON
2nd District, Ilocos Sur

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AN ACT
PROVIDING FOR THE REIMPOSITION OF THE FRANCHISE TAX ON
TELECOMMUNICATION COMPANIES, AMENDING FOR THE PURPOSE
SECTIONS 108 AND 119 OF THE NATIONAL INTERNAL REVENUE CODE OF
1997, AS AMENDED AND FOR OTHER PURPOSES

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

SECTION 1. Section 108 of the National Internal Revenue Code of 1997, as
amended, is hereby further amended to read as follows:

*“SEC. 108. Value-added Tax on Sale of Services and Use or Lease
of Properties. –*

*“(A) Rate and Base of Tax. - There shall be levied, assessed and
collected, a value-added tax equivalent to ten percent (10%) of gross
receipts derived from the sale or exchange of services, including the use or
lease of properties.*

*“The phrase ‘sale or exchange of services’ means the
performance of all kinds of services in the Philippines for others for a fee,
remuneration or consideration, including those performed or rendered by
construction and service contractors; stock, real estate, commercial,
customs and immigration brokers; lessors of property, whether personal or
real; warehousing services; lessors or distributors of cinematographic
films; persons engaged in milling, processing, manufacturing or repacking
goods for others; proprietors, operators or keepers of hotels, motels,
resthouses, pension houses, inns, resorts; proprietors or operators of
restaurants, refreshment parlors, cafes and other eating places, including
clubs and caterers; dealers in securities; lending investors; transportation
contractors on their transport of goods or cargoes, including persons who*

transport goods or cargoes for hire and other domestic common carriers by land, air and water relative to their transport of goods or cargoes; services of franchise grantees of [telephone and telegraph,] radio and television broadcasting and other franchise grantees except those under Section 119 of this Code; SERVICES OF [and] non-life insurance companies (except their crop insurances), including surety, fidelity, indemnity and bonding companies; and similar services regardless of whether or not the performance thereof calls for the exercise or use of the physical or mental faculties. The phrase 'sale or exchange of services' shall likewise include:

x x x"

SEC. 2. Section 119 of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

"SEC. 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 TELEPHONE AND TELEGRAPH SERVICES, A TAX OF FIVE PERCENT (5%), on radio and/or television broadcasting companies whose annual gross receipts of the preceding year does not exceed Ten million pesos (P10,000,000), 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, it shall not be revoked.

x x x"

SEC. 3. *Implementing Rules and Regulations.* - The Secretary of Finance shall, upon the recommendation of the Commissioner of Internal Revenue, promulgate the necessary rules and regulations for the effective implementation of this Act.

SEC. 4. *Repealing Clause.* - All laws, decrees, executive orders, rules and regulations or parts thereof which are contrary to or inconsistent with this Act are hereby repealed, amended or modified accordingly.

SEC. 5. *Effectivity.* - This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in any two newspapers of general circulation, whichever comes earlier.

Approved,