

THIRTEENTH CONGRESS

First Regular Session

House Bill No. 3382

Introduced by Hon. Jacinto V. Paras

EXPLANATORY NOTE

Fiscal incentives are widely used to promote social, political, an economic objectives. Some of these objectives are promotion of domestic and foreign investments, reducing regional disparities, and creation of jobs. But there have been questions surrounding the efficacy of fiscal incentives offered by the Government, and the cost effectiveness of providing them investment promotion, social and economic development. They have been attacked on various grounds including among others: the ensuing revenue loss; its relative ineffectiveness in achieving intended goals; distortions in resource allocation; and vulnerability of tax incentive systems to syndicated crimes, graft and corruption.

The current fiscal incentives structure in the country is complicated, fragmented, inefficient and costly in administrative and revenue terms. The fiscal incentives system has long been suffering from policy overload. The general practice of picking winners and losers in the grant of fiscal incentives has been muddled and in its stead, incentives were given to those sectors that can effectively lobby.

The government has attempted reforms on the fiscal incentives system several times in the past. In 1984, Presidential Decree Nos. 1931 and 1955 withdrew all tax and duty exemptions granted to government and private entities, subject to certain exceptions. However, there remained a mechanism which allowed the withdrawn incentives to be restored either through the decision of the Fiscal Incentives Review Board or Presidential approval. As a result, the incentives system reverted to its previous situation of being too many and unwieldy. Hence, in December 1986, EO 93 was issued, which again withdrew all fiscal incentives granted to government and private sectors, except those covered by the Constitution; granted to enterprises registered with the BOI, EPZA and PHIVIDEA; conferred by international agreements; and provided under the four basic Tax Codes, i.e., the Tariff and Customs Code, National Internal Revenue Code, Real Property Tax Code and Local Tax Code. The tax and duty exemption of the government-owned and controlled corporations were subjected to FIRB decision.

Notwithstanding the reforms that have been undertaken, the grant of fiscal incentives has through the years continued to be cumbersome. In addition to the BOI incentives, special laws granting fiscal incentives mushroomed. To date, there are 124 laws and provisions of laws granting tax and duty exemption privileges to private and government sectors. This has resulted in a tax incentives regime competing against one another, opportunities for incentives-shopping by firms, or double availment of tax incentives. Tax incentives have also been granted to activities that do not promote the country's development objectives.

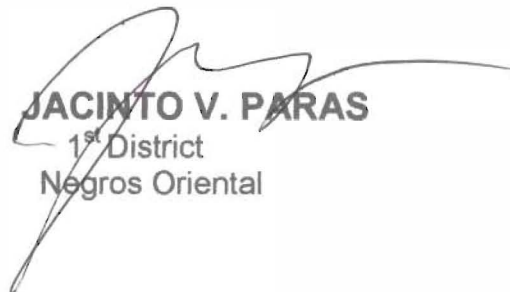
On top of the problems posed by the grant of fiscal incentives on monitoring and management, is the problem of revenues foregone of the National Government. Last year, the cost to the government of the grant of fiscal incentives amounted to P229.4 billion or 5.33% of GDP. The grant of fiscal incentives even outgrew the country's production. The grant of fiscal incentives grew by 61% from 2002 to 2003 while GDP grew by a meager 9%.

The revenue foregone from various investments incentives laws last year could have been enough to cover the budget deficit of P199.9 billion. The government is presently faced with serious budgetary constraints to adequately finance all the priority programs and projects of social importance such as housing, health, food, and education, among others. I cannot afford to continue losing legitimate revenues from various inefficient investment incentives package.

The continuous grant of fiscal incentives results inequity because some sectors become "free riders". It also places the heavy burden of financing basic services to salaried individuals that are caught in the tax net. It is about time for a paradigm shift.

This bill proposes a reform in the fiscal incentives, zeroing in on the special laws or provision of laws granting fiscal incentives. This bill proposes the express repeal of the fiscal incentives provisions in 25 Republic Acts and 1 Presidential Decree. This proposed legislation on the fiscal incentives will save the government sufficient revenues to help ease the fiscal burden. More that P5 billion in revenue savings can be expected from this proposal. What cannot be quantified, but surely are benefits from this proposal, would be the administrative simplicity and reduction in implementation costs that this proposal will likewise bring. This proposed repeal is also intended to pave the way for an incentive system that is highly focused on certain areas of investment, and one that is easy to manage, administer and monitor.

Thus, we urge the early passage of this bill.



JACINTO V. PARAS
1st District
Negros Oriental

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS

First Regular Session

HOUSE BILL NO. 3382

Introduced by Hon. Jacinto V. Paras

AN ACT
RATIONALIZING THE FISCAL INCENTIVES SYSTEM BY WITHDRAWING
THE TAX AND DUTY EXEMPTIONS AND PREFERENTIAL TREATMENT
GRANTED TO GOVERNMENT AND PRIVATE ENTITIES UNDER SPECIAL
LAWS, WITH CERTAIN EXCEPTIONS, MANDATING THE FISCAL
INCENTIVES REVIEW BOARD (FIRB) TO OVERSEE THE ADMINISTRATION
OF ALL FISCAL INCENTIVES, AND FOR OTHER PURPOSES.

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

Sec. 1. *Declaration of Policy.* – It shall be the policy of the State to rationalize the fiscal incentives system to make it efficient, a relevant and effective tool to promote social and economic objectives, transparent, and simple to administer. The State shall provide fiscal incentives without prejudice to the provision of basic services to the greater number of Filipinos. It shall encourage investments without disregard to government revenue. It shall likewise uphold the preferential tax and duty treatment expressed in the Philippine Constitution, and those covered by the non – impairment clause of the Constitution, those conferred by international and regional agreements to which the Philippine Government is a signatory.

Sec 2. *Repeal of Special Fiscal Incentive Laws and Provisions.* – The provisions of any general or special laws to the contrary notwithstanding, all tax and duty incentives granted to government and private entities under the following laws and / or provisions, are hereby withdrawn / repealed:

1. Section 14 of RA 7308, “ An Act to Promote and Develop The Seed Industry In The Philippines and Create A National Seed Industry Council And For Other Purposes”,
2. Section 18 of RA 7884, “ An Act Creating the National Dairy Authority To Accelerate the Development of the Dairy Industry in the Philippines, Providing for a Dairy Development Fund, and For Other Purposes”;
3. Section 99 (e), (f), and (i) of RA 7900, “ An Act to Promote the Production, Processing, marketing, and Distribution of High Value Crops, Providing Funds Therefor, and for Other Purposes”;
4. Sections 35 (b), (c), and (d) of RA 8550, “ An Act Providing for the Development, Management and Conservation of the Fisheries and Aquatic Resources, Integrating All laws Pertinent Thereto, and for other Purposes”;

5. Section 5 of RA 8367, " An Act Providing for the Regulation of the Organization and Operation of Non- Stock Savings and Loan Associations";
6. Sections 8 and 12 of RA 8047, " An Act Providing for the Development of the Book Publishing Industry Through the Formulation and Implementation of a National Book Policy and a National Book Development Plan";
7. section 14 of RA 7354, " An Act Creating the Philippine Postal Corporation, Defining its Powers, Functions and Responsibilities, Providing for Regulation";
8. Section 23 of RA 7925, " An Act to Promote and Govern the Development of Philippine Telecommunications and the Delivery of Public Telecommunications Services (Public Telecommunications Policy Act of the Philippines)";
9. Sections 9 and 21 of RA 7306, " An Act Providing for the Establishment of the People's Television Network, Inc., Defining its Powers and Functions, Providing for its Sources of Funding and For Other Purposes";
10. Articles 61 and 62 of RA 6938, " An Act to Ordain a Cooperative Code of the Philippines";
11. Section 9 of RA 7355, " An Act Providing for the Recognition of National Living Treasures, Otherwise known as the Manlilikha ng Bayan, and the Promotion and Development of Traditional Folk Arts, Providing Funds Therefor, and For Other Purposes";
12. Section 21 of RA 7356, "An Act Creating the National Commission for Culture and the Arts, Establishing a National Endowment Fund for culture and Arts, and for Other Purposes";
13. Section 25 of RA 8492, "An act Establishing a National Museum System, Providing for its Permanent Home and for Other Purposes";
14. Section 16 of RA 7844, "An Act to Develop Exports as a Key towards the Achievement of the national Goals Towards the Year 2000";
15. Section 10 of RA 7079, "An Act Providing for the Development and Promotion of Campus Journalism and for other Purposes";
16. Sections 5,6, and 7 of RA 7459, "An act Providing Incentives to Filipino Inventors and Expanding the Functions of the Technology Application and promotion Institute, Appropriating Funds therefore and for other Purposes";
17. Section 13 of PD 1869, "Consolidating and Amending Presidential Decree Nos. 1067-A, 1067-B, 1067-C, 1399 and 1632 relative to the Franchise and Powers of the Philippine Amusement and Gaming Corporation (PAGCOR)";
18. Section 13 of RA 1600, "An act Providing Incentives to All Government and Private Health Institutions with Rooming-In and Breastfeeding Practices and other Purposes";
19. Section 6 of RA 7471, "An act to Promote the Development of Philippine Overseas Shipping, and for other Purposes";
20. Section 2 of RA 9301, "An Act Amending Certain Provisions of RA 7471, entitled "An Act to Promote the Development of Overseas Shipping and for other Purposes";
21. Sections 4 and 19 of RA 9295, "An act Promoting the Development of Philippine Domestic Shipping, Shipbuilding, Ship Repair and Ship Breaking, Ordaining Reforms in Government Policies Towards Shipping in the Philippines, and for other Purposes";
22. Sections 18, 19, and 20 of RA 6847, "An Act Creating and Establishing the Philippine Sports Commission, defining its Powers, Functions and Responsibilities, Appropriating Funds therefor and for other Purposes";

23. Paragraph 8 of Section 4 of RA 9064, "An Act Granting Ash and Other Non-Monetary Benefits and Incentives to national Athletes, Coaches and Trainers, Appropriating funds therefore and for other Purposes";
24. Section 23 of RA 9290, "An Act Promoting the Development of the Footwear, Leather Goods and tannery Industries, Providing Incentives therefor and for other Purposes";
25. Section 18 of RA 8044, "An Act Creating the national Youth Commission, Establishing a national Comprehensive and Youth Development, Appropriating Funds therefor and for other Purposes"; and
26. Section 13 an 17 of RA 7820, "An Act Creating the Partido Development Administration, Defining its Powers and Functions, Providing Funds therefor and for other Purposes".

SEC. 3. Industries whose tax and duty incentives are herein withdrawn may qualify for fiscal incentives from the government if so listed in the Investments Priorities Plan (IPP) formulated by Board of Investments for the purpose of granting fiscal, as well as non-fiscal, incentives under EO 226 or the Omnibus Investments Code.

SEC. 4. The fiscal Incentives Review Board, created under Presidential Decree No. 776, is hereby mandated to oversee the administration of all fiscal incentives remaining in force.

SEC. 5. All laws, decrees, executive orders, administrative orders, regulation or parts thereof which are inconsistent with this Act are hereby repealed, amended or modified accordingly.

SEC. 6. This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in any two (2) newspapers of general circulation.

Approved,