

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 1625

Introduced by HON. ARNULFO P. FUENTEBELLA

EXPLANATORY NOTE

The cost of electricity in the Philippines is known to be one of the highest in Asia. This bill proposes to mitigate the impact of high electricity prices by removing the sale of electric power from the ambit of the Expanded Value Added Tax Law.

Republic Act No. 9337, otherwise known as the Expanded Value Added Tax Law, amended Section 108 of the National Internal Revenue Code (NIRC) of 1997 by including "sales of electricity by generation companies, transmission, and distribution companies" as part of the definition of 'sale of exchange of services' subject to Value Added Tax (VAT). Said Act also imposed VAT on fuel and oil products used in the production and generation of electricity.

Prior to RA 9337, Section 6 of Republic Act No. 9136 (the EPIRA law) was enacted. Among the objectives of EPIRA are: (i) to ensure the quality, reliability, security and affordability of the supply of electric power; (ii) to ensure transparent and reasonable prices of electricity in a regime of free and fair competition and full accountability to achieve greater operational and economic efficiency and enhance the competitiveness of Philippine products in the global market; and (iii) to enhance the inflow of private capital and broaden the ownership of base of the power generation, transmission and distribution sectors.

To attain the objectives of the EPIRA, it mandated that sales of generation companies shall be value-added tax zero-rated, while the transmission and distribution of electricity were not subject to VAT.

As a result of the enactment of RA 9337, electricity consumers shouldered the impact of the imposition of VAT on all electricity power sectors – generation, transmission and distribution, translating into higher electricity prices for electricity consumers across all sectors.

For commercial and industrial customers, the VAT has resulted to higher

cost of goods and services. It is the residential customers who are hardest hit by the VAT. The impact of the VAT to the ultimate consumer takes various forms and to cite just a few: 1) it is in the manufactured goods that consumers, rich or poor, buy; 2) it is in the services (doctor's consultations, lawyer's fees, etc.) that these consumers avail of; 3) it is component of the electric bill that they pay monthly to the electric utility. Unlike commercial and industrial users of electricity that can pass on the VAT through higher cost of goods and services, it is poor Juan de la Cruz who ultimately bears the full burden of the VAT on power.

These were the very reasons why this representation vehemently opposed to the imposition of VAT on power prior the passage of RA 9337.

The VAT is a tax on the gross selling price, which is the total amount of money or its equivalent which the purchaser pays or is obligated to pay to the seller. The VAT is meant to be a tax on the additional value created at a particular stage of production of a good sold or service rendered. Thus, in the sale of electric service, there is a VAT on the Generation Charge, the Transmission Charge, the Distribution Charge, the Metering Charge, and the Supply Charge. However, the VAT has also been applied on components of the bill that do not represent a service rendered. There is a VAT on the System Loss Charge and a VAT on the Lifeline Subsidy Rate. There is even a VAT on the Local Franchise Tax component of the electric bill.

If the government is serious in lowering power rates, it must remove the VAT on electricity. A residential electricity customer in Luzon consuming 100 kwhs will save around P70 on his monthly bill. One consuming 200 kwh will have his bill reduced by P175 per month. The reduction will be bigger for those in the higher consumption brackets.

Some groups have cited government as collecting P30 billion in VAT from electricity consumers for 2006 and 2007 in the Meralco area alone. This amount divided by Meralco's total sales of 51 billion kwhs for the two years translates to a VAT burden P0.70 per kwh. The burden is bigger for Juan de la Cruz because he too pays for the VAT in electricity of commercial and industrial customers.

In this period of rising prices of rice, petroleum products, other basic commodities, let us give our consumers a break by removing the VAT on electricity.

In view of the foregoing, the approval of this bill is highly and earnestly recommend.

REP. ARNULFO E. FUENTEBELLA



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AN ACT REMOVING THE SALE OF ELECTRICITY POWER FROM THE
COVERAGE OF THE EXPANDED VALUE-ADDED TAX LAW BY
AMENDING CERTAIN PROVISIONS OF THE NATIONAL INTERNAL
REVENUE CODE OF 1997, AS AMENDED BY REPUBLIC ACT NO. 9337,
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: Provided, That the President, upon the
recommendation of the Secretary of Finance, shall, effective January
1, 2006, raise the rate of value-added tax to twelve percent (12%),
after any of the following conditions has been satisfied:

"(i) X X X; or

"(ii) National government deficit as a percentage of GDP of
the previous year exceeds one and one-half percent (1 ½%).

"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, rest-houses, 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 for hire and other domestic common carriers by land relative to their transport of goods or cargoes; common carriers by air and sea relative to their transport of passengers, goods or cargoes from one place in the Philippines to another place in the Philippines; [sales of electricity by generation companies, transmission, and distribution companies;] services of franchise grantees of [electric utilities,] telephone and telegraph, radio and television broadcasting and all other franchise grantees except those under Section 119 of this Code 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:

"(1) X X X;

"(2) X X X;

"(3) X X X;

"(4) X X X;

"(5) X X X;

"(6) X X X;

"(7) X X X;

"(8) X X X;

" X X X.

"(B) *Transactions Subject to Zero Percent (0%) Rate.* - The following services performed in the Philippines by VAT-registered persons shall be subject to zero percent (0%) rate:

"(1) X X X;

"(2) X X X;

"(3) X X X;

"(4) X X X;

"(5) X X X;

"(6) X X X; and

"(7) Sale of [power or fuel generated through renewable sources of energy such as, but not limited to biomass, solar, wind, hydropower, geothermal, ocean energy, and other emerging energy sources using technologies such as fuel cell and hydrogen fuels]
**GENERATED POWER BY GENERATION COMPANIES
REGARDLESS OF SOURCE."**

SECTION 2. A new paragraph is hereby inserted in Section 109 of the same Code, as amended, and the succeeding paragraph is hereby renumbered accordingly to read as follows:

"SEC. 109. *Exempt Transactions.* - (1) Subject to the provisions of subsection (2) hereof, the following transactions shall be exempt from the value-added tax:

"(A) X X X;

"(B) X X X;

"(C) X X X;

"(D) X X X;

"(E) X X X;

"(F) X X X;

"(G) X X X;

"(H) X X X;

"(I) X X X;

"(J) X X X;

"(K) X X X;

"(L) X X X;

"(M) TRANSMISSION OF ELECTRICITY BY THE NATIONAL TRANSMISSION CORPORATION OR ITS CONCESSIONAIRE AND THE SALE AND DISTRIBUTION OF ELECTRICITY BY DISTRIBUTION UTILITIES REGARDLESS OF CONSUMPTION AND CUSTOMER CLASS;

"(N) [(M)] Gross receipts from lending activities by credit or multi-purpose cooperatives duly registered with the Cooperative Development Authority;

"(O) [(N)] Sales by non-agricultural, non-electric and non-credit cooperatives duly registered with the Cooperative Development Authority: Provided, That the share capital contribution of each member does not exceed Fifteen Thousand Pesos (P15,000.00) and regardless of the aggregate capital and net surplus ratably distributed among the members;

"(P) [(O)] Export sales by persons who are not Vat- registered;

"(Q) [(P)] Sale of real properties not primarily held for sale to customers or held for lease in the ordinary course of trade or business, or real property utilized for low -cost and socialized housing as defined by Republic Act No. 7279, otherwise known as the Urban Development Housing Act of 1992, and other related laws, residential lot valued at One Million Five Hundred Thousand Pesos (P1,500,000) and below, house and lot, other residential dwellings valued at Two Million Five Hundred Thousand Pesos (P2,500,000) and below: Provided, That not later than January 31, 2009 and every three (3) years thereafter, the amounts herein stated shall be adjusted to their present values using the Consumer Price Index, as published by the National Statistics Office (NSO);

"(R) [(Q)] Lease of a residential unit with a monthly rental not exceeding Ten Thousand Pesos (P10,000) Provided, That not later than January 31, 2009 and every three (3) years thereafter, the amount herein stated shall be adjusted to its present value using the Consumer Price Index as published by the National Statistics Office (NSO);

"(S) [(R)] Sale, importation, printing or publication of books and any newspaper, magazine, review or bulletin which appears at regular intervals with fixed prices for subscription and sale and which is not devoted principally to the publication of paid advertisements;

"(T) [(S)] Sale, importation or lease of passenger or cargo vessels and aircraft, including engine, equipment and spare parts thereof for domestic or international transport operations;

"(U) [(T)] Importation of fuel, goods and supplies by persons engaged in international shipping or air transport operations;

"(V) [(U)] Services of banks, non-bank financial intermediaries performing quasi-banking functions, and other non-bank financial intermediaries; and

"(W) [(V)] Sale or lease of goods or properties or the performance of services other than the transactions mentioned in the preceding paragraphs, the gross annual sales and/or receipts do not exceed the amount of One Million Five Hundred Thousand Pesos (P1,500,000): Provided, That not later than January 31, 2009 and every three (3) years thereafter, the amount herein stated shall be adjusted to its present value using the Consumer Price Index as published by the National Statistics Office (NSO);

"(2) X X X ."

SECTION 3. *Implementing Rules and Regulations.* The Secretary of the Department of Finance, shall, upon the recommendation of the Commissioner of the Internal Revenue , promulgate, not later than ninety (90) days upon the effectivity of this Act, the necessary rules and regulations for the effective implementation of this Act.

SECTION 4. *Repealing Clause.* All laws, executive orders, rules or regulations, or any part thereof, that are inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SECTION 5. *Effectivity Clause.* This Act shall take effect within fifteen (15) day following its publication in the Official Gazette or in any newspaper of general circulation.

Approved,