

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 3928

Introduced by Honorable Hermilando I. Mandanas
Second District, Batangas

EXPLANATORY NOTE

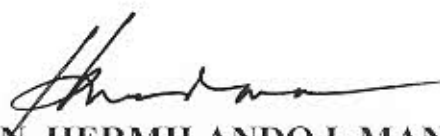
International air and sea transport connectivity plays an important role in a country's economic growth. Material economic benefits from increased tourism and export trade activities are, without a doubt, among the consequences of a vibrant air and sea transport industry. For one, it allows for the much needed flow of the country's overseas workers, who are among its economic assets, to their destinations abroad. Another boon it gives is the accessibility to business travelers and investors of the Philippine market. Particular of these are those in service export business such as business process outsourcing (BPO) customers whose primary requirement is the easy entry and exit from the host country.

Notwithstanding these perceived gains, however, the Philippines has not done much to cultivate a conducive climate for these sectors. At present the taxes the country levies on the international air and sea transport sectors are the 2 1/2% Gross Philippine Billings Tax (GPBT) and the 3% Common Carrier's Tax (CCT), which are both levied on all revenues, passenger, cargo and excess baggage leaving the Philippines, irrespective of the point of sale or payment of the ticket, passage or freight documents, whichever is the case. However, the Philippines is the only country that charges these taxes on international civil aviation and sea travel; and from the viewpoint of international carriers, such impositions violate the non-discrimination principle of the World Trade Organization (WTO) which states that a member state such as the Philippines should not discriminate between its own and foreign products and services. Also, the GPBT and CCT are perceived to be in contravention of the International Civil Aviation Organization (ICAO) resolution, to which the country is a signatory, on the

waiver of taxation on international air transportation. And this has so far caused at least four countries to take reciprocal actions against Philippine carriers. To make matters worse, the lamentable economic result of such a policy is that it makes other countries like Malaysia and Thailand more attractive to foreign carriers. This, in turn, provides meager economic opportunities for the country's tourism and export trade sectors as compared to its neighbors in the region.

Given these considerations, it is high time that this inequity be addressed. Doing so will convincingly and unequivocally demonstrate the country's willingness to rightfully honor its commitments and obligations under treaties and international agreements it has entered into. As data analysis shows, having a more fair treatment with regard to GPBT and CCT on international air carriers alone would mean a potential gain for the revenue-generating efforts of the government in the amount of US\$38-78 million from rejuvenated tourism, and an additional US\$1 billion on account of boosted export earnings resulting from lower cargo transport costs. And, expectedly, more revenues would flow with international shipping carriers being taken into account.

Accordingly, passage of the bill is earnestly sought.



HON. HERMILANDO I. MANDANAS

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Quezon City, Metro Manila

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HOUSE BILL NO. 3928

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AN ACT
RECOGNIZING THE TAX EXEMPTIONS UNDER TAX TREATIES AND
INTERNATIONAL AGREEMENTS RELATED TO INTERNATIONAL
CARRIERS TO WHICH THE PHILIPPINES IS A SIGNATORY, AND FOR
OTHER PURPOSES

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

SEC. 1. Section 28 (A) (3) of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

"SEC. 28. Rates of Income Tax on Foreign Corporations. –

"(A) Tax on Resident Foreign Corporations. –

"(1) xxx

"(2) xxx

"(3) *International Carrier.* - An international carrier doing business in the Philippines shall pay a tax of two and one-half percent (2 1/2%) on its '**Gross Philippine Billings**' as defined hereunder:

(a) International Air Carrier. - '**Gross Philippine Billings**' refers to the amount of gross revenue derived from carriage of persons, excess baggage, cargo and mail originating from the Philippines in a continuous and uninterrupted flight, irrespective of the place of

sale or issue and the place of payment of the ticket or passage document: *Provided*, That tickets revalidated, exchanged and/or indorsed to another international airline form part of the Gross Philippine Billings if the passenger boards a plane in a port or point in the Philippines: *Provided, further*, That for a flight which originates from the Philippines, but transshipment of passenger takes place at any port outside the Philippines on another airline, only the aliquot portion of the cost of the ticket corresponding to the leg flown from the Philippines to the point of transshipment shall form part of Gross Philippine Billings.

(b) International Shipping. - '**Gross Philippine Billings**' means gross revenue whether for passenger, cargo or mail from the Philippines up to final destination, regardless of the place of sale or payments of the passage or freight documents."

(C) RECOGNITION OF TAX EXEMPTIONS UNDER TAX TREATIES AND INTERNATIONAL AGREEMENTS - AN INTERNATIONAL CARRIER SHALL NOT PAY THE TAX HEREIN PROVIDED WHERE TAX TREATIES AND INTERNATIONAL AGREEMENTS ENTERED INTO BY THE PHILIPPINES PROVIDE FOR EXEMPTION FROM SUCH.

SEC. 2. Section 118 of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

"Sec. 118. Percentage Tax on International Carriers. -

(A) International air carriers doing business in the Philippines shall pay a tax of three percent (3%) of their quarterly gross receipts.

(B) International shipping carriers doing business in the Philippines shall pay a tax equivalent to three percent (3%) of their quarterly gross receipts.

(C) RECOGNITION OF TAX EXEMPTIONS UNDER TAX TREATIES AND INTERNATIONAL AGREEMENTS - INTERNATIONAL CARRIERS SHALL NOT PAY THE TAX HEREIN PROVIDED WHERE TAX TREATIES AND INTERNATIONAL AGREEMENTS ENTERED INTO BY THE PHILIPPINES PROVIDE FOR EXEMPTION FROM SUCH.

SEC. 3. Implementing Rules and Regulations. - The Secretary of Finance shall, upon the recommendation of the Commissioner of Internal Revenue, promulgate not later than 30 days upon the effectivity of this Act the necessary Rules and Regulations for its effective implementation.

SEC. 4. Repealing Clause. - All laws, acts, presidential decrees, executive orders, issuances, presidential proclamations, rules and regulations or parts thereof which are contrary to and inconsistent with any provisions of this Act are hereby repealed, amended or modified accordingly.

SEC. 5. Separability Clause. - If any provision of this Act is subsequently declared invalid or unconstitutional, other provisions hereof which are not affected thereby shall remain in full force and effect.

SEC. 6. Effectivity Clause. - This Act shall take effect fifteen (15) days after its complete publication either in the Official Gazette, or in at least two (2) newspapers of general circulation.

Approved,