



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Fifteenth Congress

First Regular Session

COMMITTEE REPORT NO. 678

Submitted by the Committee on Ways and Means on 01 MAR 2011

RE : House Bill No. 4302
Recommending its approval in substitution of House Bill No. 3928
Sponsor : Rep. Hermilando I. Mandanas

Mr. Speaker:

The Committee on Ways and Means to which was referred House Bill No. 3928, introduced by Rep. Hermilando I. Mandanas, entitled:

"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"

has considered the same and recommends that the attached House Bill No. 4302, entitled:

"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 approved in substitution of House Bill No. 3928 with Representative Hermilando I. Mandanas as author thereof.

Respectfully submitted,


REP. HERMILANDO I. MANDANAS
Chairman
Committee on Ways and Means

THE HONORABLE SPEAKER
HOUSE OF REPRESENTATIVES
QUEZON CITY

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Senior Vice-Chairman

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Vice Chairman

REP. RODOLFO C. FARIÑAS
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Vice-Chairman

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

FIFTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. **4302**
(in substitution of House Bill No. 3928)

Introduced by the Honorable Hermilando I. Mandanas
[Second District, Batangas]

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:*

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

4
5 **"SEC. 28. Rates of Income Tax on Foreign Corporations. –**
6

7 **"(A) Tax on Resident Foreign Corporations. –**
8

9 **"(1) xxx**
10

11 **"(2) xxx**
12

13 **"(3) International Carrier. –** An international carrier doing business in the
14 Philippines shall pay a tax of two and one-half percent (2 1/2%) on its
15 **'Gross Philippine Billings'** as defined hereunder:
16

17
18 **(a) International Air Carrier. – 'Gross Philippine Billings'** refers
19 to the amount of gross revenue derived from carriage of persons,
20 excess baggage, cargo and mail originating from the Philippines in

1 a continuous and uninterrupted flight, irrespective of the place of
2 sale or issue and the place of payment of the ticket or passage
3 document: *Provided*, That tickets revalidated, exchanged and/or
4 indorsed to another international airline form part of the Gross
5 Philippine Billings if the passenger boards a plane in a port or point
6 in the Philippines: *Provided, further*, That for a flight which
7 originates from the Philippines, but transshipment of passenger
8 takes place at any port outside the Philippines on another airline,
9 only the aliquot portion of the cost of the ticket corresponding to the
10 leg flown from the Philippines to the point of transshipment shall
11 form part of Gross Philippine Billings.
12

13 **(b) International Shipping.** - 'Gross Philippine Billings' means
14 gross revenue whether for passenger, cargo or mail from the
15 Philippines up to final destination, regardless of the place of sale or
16 payments of the passage or freight documents."
17

18 (C) RECOGNITION OF TAX EXEMPTIONS UNDER TAX
19 TREATIES AND INTERNATIONAL AGREEMENTS - AN
20 INTERNATIONAL CARRIER DOING BUSINESS IN THE
21 PHILIPPINES SHALL NOT PAY THE TAX HEREIN PROVIDED
22 WHERE, PURSUANT TO THE PRINCIPLE OF RECIPROCITY,
23 TAX TREATIES AND INTERNATIONAL AGREEMENTS
24 ENTERED INTO BY THE PHILIPPINES PROVIDE FOR SUCH
25 EXEMPTION.
26

27
28 **SEC. 2.** Section 118 of the National Internal Revenue Code of 1997, as
29 amended, is hereby further amended to read as follows:
30

31
32 "Sec. 118. Percentage Tax on International Carriers. -
33

34
35 (A) International air carriers doing business in the Philippines shall pay
36 a tax of three percent (3%) of their quarterly gross receipts.
37

38 (B) International shipping carriers doing business in the Philippines
39 shall pay a tax equivalent to three percent (3%) of their quarterly gross
40 receipts.
41

42 INTERNATIONAL CARRIERS DOING BUSINESS IN THE
43 PHILIPPINES SHALL NOT PAY THE TAX HEREIN PROVIDED WHERE,
44 PURSUANT TO THE PRINCIPLE OF RECIPROCITY, TAX TREATIES
45 AND INTERNATIONAL AGREEMENTS ENTERED INTO BY THE
46 PHILIPPINES PROVIDE FOR SUCH EXEMPTION.

1
2 **SEC. 3. Implementing Rules and Regulations.** - The Secretary of Finance shall,
3 upon the recommendation of the Commissioner of Internal Revenue, promulgate
4 not later than 30 days upon the effectivity of this Act the necessary Rules and
5 Regulations for its effective implementation.
6

7 **SEC. 4. Separability Clause.** - If any provision of this Act is subsequently
8 declared invalid or unconstitutional, other provisions hereof which are not
9 affected thereby shall remain in full force and effect.
10

11 **SEC. 5. Repealing Clause.** - All laws, acts, presidential decrees, executive
12 orders, issuances, presidential proclamations, rules and regulations or parts
13 thereof which are contrary to and inconsistent with any provisions of this Act are
14 hereby repealed, amended or modified accordingly.
15

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

Approved,

Section 28. Rates of Income Tax on Foreign Corporations. -

(A) Tax on Resident Foreign Corporations. -

(1) *In General.* - Except as otherwise provided in this Code, a corporation organized, authorized, or existing under the laws of any foreign country, engaged in trade or business within the Philippines, shall be subject to an income tax equivalent to thirty-five percent (35%) of the taxable income derived in the preceding taxable year from all sources within the Philippines: provided, That effective January 1, 1998, the rate of income tax shall be thirty-four percent (34%); effective January 1, 1999, the rate shall be thirty-three percent (33%), and effective January 1, 2000 and thereafter, the rate shall be thirty-two percent (32%).

In the case of corporations adopting the fiscal-year accounting period, the taxable income shall be computed without regard to the specific date when sales, purchases and other transactions occur. Their income and expenses for the fiscal year shall be deemed to have been earned and spent equally for each month of the period.

The reduced corporate income tax rates shall be applied on the amount computed by multiplying the number of months covered by the new rates within the fiscal year by the taxable income of the corporation for the period, divided by twelve.

Provided, however, That a resident foreign corporation shall be granted the option to be taxed at fifteen percent (15%) on gross income under the same conditions, as provided in Section 27 (A).

(2) *Minimum Corporate Income Tax on Resident Foreign Corporations.* - A minimum corporate income tax of two percent (2%) of gross income, as prescribed under Section 27 (E) of this Code, shall be imposed, under the same conditions, on a resident foreign corporation taxable under paragraph (1) of this Subsection.

✓ (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 originating from the Philippines up to final destination, regardless of the place of sale or payments of the passage or freight documents.

(4) Offshore Banking Units. - The provisions of any law to the contrary notwithstanding, income derived by offshore banking units authorized by the Bangko Sentral ng Pilipinas (BSP) to transact business with offshore banking units, including any interest income derived from foreign currency loans granted to residents, shall be subject to a final income tax at the rate of ten percent (10%) of such income.

Any income of nonresidents, whether individuals or corporations, from transactions with said offshore banking units shall be exempt from income tax.

(5) Tax on Branch Profits Remittances. - Any profit remitted by a branch to its head office shall be subject to a tax of fifteen (15%) which shall be based on the total profits applied or earmarked for remittance without any deduction for the tax component thereof (except those activities which are registered with the Philippine Economic Zone Authority). The tax shall be collected and paid in the same manner as provided in Sections 57 and 58 of this Code: provided, that interests, dividends, rents, royalties, including remuneration for technical services, salaries, wages premiums, annuities, emoluments or other fixed or determinable annual, periodic or casual gains, profits, income and capital gains received by a foreign corporation during each taxable year from all sources within the Philippines shall not be treated as branch profits unless the same are effectively connected with the conduct of its trade or business in the Philippines.

(6) Regional or Area Headquarters and Regional Operating Headquarters of Multinational Companies. -

(a) Regional or area headquarters as defined in Section 22(DD) shall not be subject to income tax.

(b) Regional operating headquarters as defined in Section 22(EE) shall pay a tax of ten percent (10%) of their taxable income.

(7) Tax on Certain Incomes Received by a Resident Foreign Corporation. -

(a) Interest from Deposits and Yield or any other Monetary Benefit from Deposit Substitutes, Trust Funds and Similar Arrangements and Royalties. - Interest from any currency bank deposit and yield or any other monetary benefit from deposit substitutes and from trust funds and similar arrangements and royalties derived from sources within the Philippines shall be subject to a final income tax at the rate of twenty percent (20%) of such interest: Provided, however, That interest income derived by a resident foreign corporation from a depository bank under the expanded foreign currency deposit system shall be subject to a final income tax at the rate of seven and one-half percent (7 1/2%) of such interest income.

(b) Income Derived under the Expanded Foreign Currency Deposit System. - Income derived by a depository bank under the expanded foreign currency deposit system from foreign currency transactions with local commercial banks including branches of foreign banks that may be authorized by the Bangko Sentral ng Pilipinas (BSP) to transact business with foreign currency deposit system units, including interest income from foreign currency loans granted by such depository banks under said expanded foreign currency deposit system to residents, shall be subject to a final income tax at the rate of ten percent (10%) of such income.

Any income of nonresidents, whether individuals or corporations, from transactions with depository banks under the expanded system shall be exempt from income tax.

(c) Capital Gains from Sale of Shares of Stock Not Traded in the Stock Exchange. - A final tax at the rates prescribed below is hereby imposed upon the net capital gains realized during the taxable year from the sale, barter, exchange or other disposition of shares of stock in a domestic corporation except shares sold or disposed of through the stock exchange:

Not over P100,000.....	5%
On any amount in excess of P100,000.....	10%

(d) Intercompany Dividends. - Dividends received by a resident foreign corporation from a domestic corporation liable to tax under this Code shall not be subject to tax under this Title.

(B) Tax on Nonresident Foreign Corporation. -

(1) *In General.* - Except as otherwise provided in this Code, a foreign corporation not engaged in trade or business in the Philippines shall pay a tax equal to thirty-five percent (35%) of the gross income received during each taxable year from all sources within the Philippines, such as interests, dividends, rents, royalties,

salaries, premiums (except reinsurance premiums), annuities, emoluments or other fixed or determinable annual, periodic or casual gains, profits and income, and capital gains, except capital gains subject to tax under subparagraphs (C) and (d): Provided, That effective 1, 1998, the rate of income tax shall be thirty-four percent (34%); effective January 1, 1999, the rate shall be thirty-three percent (33%); and, effective January 1, 2000 and thereafter, the rate shall be thirty-two percent (32%).

(2) *Nonresident Cinematographic Film Owner, Lessor or Distributor.* - A cinematographic film owner, lessor, or distributor shall pay a tax of twenty-five percent (25%) of its gross income from all sources within the Philippines.

(3) *Nonresident Owner or Lessor of Vessels Chartered by Philippine Nationals.* - A nonresident owner or lessor of vessels shall be subject to a tax of four and one-half percent (4 1/2%) of gross rentals, lease or charter fees from leases or charters to Filipino citizens or corporations, as approved by the Maritime Industry Authority.

(4) *Nonresident Owner or Lessor of Aircraft, Machineries and Other Equipment.* - Rentals, charters and other fees derived by a nonresident lessor of aircraft, machineries and other equipment shall be subject to a tax of seven and one-half percent (7 1/2%) of gross rentals or fees.

(5) *Tax on Certain Incomes Received by a Nonresident Foreign Corporation.* -

(a) *Interest on Foreign Loans.* - A final withholding tax at the rate of twenty percent (20%) is hereby imposed on the amount of interest on foreign loans contracted on or after August 1, 1986;

(b) *Intercorporate Dividends.* - A final withholding tax at the rate of fifteen percent (15%) is hereby imposed on the amount of cash and/or property dividends received from a domestic corporation, which shall be collected and paid as provided in Section 57 (A) of this Code, subject to the condition that the country in which the nonresident foreign corporation is domiciled, shall allow a credit against the tax due from the nonresident foreign corporation taxes deemed to have been paid in the Philippines equivalent to twenty percent (20%) for 1997, nineteen percent (19%) for 1998, eighteen percent (18%) for 1999, and seventeen percent (17%) thereafter, which represents the difference between the regular income tax of thirty-five percent (35%) in 1997, thirty-four percent (34%) in 1998, and thirty-three percent (33%) in 1999, and thirty-two percent (32%) thereafter on corporations and the fifteen percent (15%) tax on dividends as provided in this subparagraph;

(c) *Capital Gains from Sale of Shares of Stock not Traded in the Stock Exchange.* - A final tax at the rates prescribed below is hereby imposed

upon the net capital gains realized during the taxable year from the sale, barter, exchange or other disposition of shares of stock in a domestic corporation, except shares sold, or disposed of through the stock exchange:

Not over P100,000.....	5%
On any amount in excess of P100,000.....	10%

X x x

Section 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.

FACT SHEET

HOUSE BILL NO. 3928

“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”

Introduced by: **REP. HERMILANDO I. MANDANAS**

Committee Referral: **WAYS AND MEANS**

Committee Chairperson: **REP. HERMILANDO I. MANDANAS**

OBJECTIVE:

To provide the means through legislation by which the Philippine government through the Bureau of Internal Revenue can recognize, honor and respect the principle of reciprocity in relation to other countries based on tax treaties and international agreements related to international carriers.

KEY PROVISIONS:

- Mandates that international carriers operating in the Philippines whose respective countries of domicile/registry have tax treaties and/or international agreements with the Philippines shall, pursuant to the principle of reciprocity, be exempt from the payment of the two and one-half percent (2 ½%) tax on its gross Philippine billings.
- Mandates that international air carriers as well as international shipping carriers doing business in the Philippines whose respective countries of domicile/registry signed tax treaties and/or international agreements with the Philippines shall, pursuant to the principle of reciprocity, be exempt from the payment of a tax equivalent to three percent (3%) of their quarterly gross receipts.

RELATED LAW:

- Sections 28 and 118 of the National Internal Revenue Code (NIRC) of 1997, as amended.

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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

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

FIFTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 3928

Introduced by the Honorable Hermilando I. Mandanas
Second District, Batangas

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,



Republic of the Philippines
House of Representatives
Quezon City, Metro Manila

Fifteenth Congress
First Regular Session

**MINUTES OF THE MEETING OF THE COMMITTEE ON WAYS AND MEANS
HELD ON FEBRUARY 8, 2011, 9:30 A.M., ROLANDO ANDAYA HALL, HOUSE OF
REPRESENTATIVES, QUEZON CITY**

I. GUESTS/RESOURCE PERSONS

1. Ms. Elsa Agustin	-	DOF
2. Ms. Rowena Sta. Clara	-	DOF
3. Ms. Yolanda Delos Santos	-	DOF
4. Ms. Teresa Mendoza	-	DOF
5. Exec. Dir. Dante Sy	-	NTRC
6. HRFA Conrado Florendo	-	BIR
7. Mr. Conrado Item	-	BIR
8. Atty. Erwin Mendinueto	-	BIR
9. Atty. Theresa Geneveve N. Co	-	BIR
10. Atty. Vicente Lasam	-	NTA
11. Mr. Rex Teoxon	-	NTA
12. Dr. Asuncion M. Anden	-	DOH
13. Mr. Javier Alvarez	-	Embassy of Spain
14. Atty. Bim Galicia	-	DIAGEO
15. Mr. Nestor Mendones	-	Tanduay
16. Mr. Blake Dy	-	Anglo-American
17. Atty. Raul Academia	-	PMFTC, Inc.
18. Ms. Carmen Herce	-	PMFTC, Inc.
19. Atty. Mike Ocampo	-	Mighty Corp.
20. Mr. Julian Linsangan	-	Mighty Corp.
21. Ms. Amparo Villafranca	-	Framework Convention of Tobacco Control
22. Mr. Alexander Obillo	-	FCAP
23. Dr. Maricar Limpin	-	Phil. College of Physicians
24. Dr. Imelda Mateo	-	Phil. College of Chest Physician
25. Ms. Joan Larna	-	Health Justice
26. Mr. Ralph Degollacion	-	Health Justice
27. Mr. Michael Ocampo	-	Action for Economic Reforms
28. Mr. Rolando N. Santiago	-	Board of Airlines Representatives
29. Mr. Jojo Veneracion	-	BAR
30. Mr. Cees Ursem	-	KLM
31. Atty. Enrique Antonio Esquivel	-	PAL
32. Mr. Josen Perez de Tague	-	PAI.

II. CALL TO ORDER/PRELIMINARY REMARKS

The meeting was called to order by Chairman Hermilando I. Mandanas at 9:45 a.m.. Upon motion of Rep. Tomas V. Apacible, the roll call was dispensed with. Copies of the minutes held on February 1, 2011 was not available yet, however, upon motion of Rep. Apacible, the minutes of the meeting on the said date was approved subject to amendment if the same is not in order.

Chairman Mandanas requested for a one minute silence to pray for the soul of Ret. Gen. Angelo Reyes.

The Chair then declared the presence of a quorum. The Committee Secretary proceeded to acknowledge the presence of the guests and resource persons.

The Chair also informed the body that scheduled meetings on the measures referred to the Committee on Ways and Means are posted in the website of the House of Representatives and that deliberations are open to the public but the Committee Secretary in addition thereto send invitations to those specifically needed.

III. FIRST DELIBERATION ON HB NO. 3928 RE: RECOGNIZING THE TAX EXEMPTION UNDER TAX TREATIES AND INTERNATIONAL AGREEMENTS RELATED TO INTERNATIONAL CARRIERS TO WHICH THE PHILIPPINES IS A SIGNATORY

Initially, Chairman Mandanas explained House Bill No. 3928 that effectively as the title of the bill indicates the country has to recognize, honor and respect the tax exemptions under tax treaties and international agreement related to international carriers referring both to air and sea, to which the Philippines is a signatory like the WTO, and other bilateral or multilateral agreements. And to put them into effect, he added, this bill seeks that the Bureau of Internal Revenue, the Bureau of Customs and all other taxing agencies under the Department of Finance be authorized to amend existing laws or provisions related to international carriers in the National Internal Revenue Code and to issue rules and regulations to make the Philippines compliant to the said agreements.

Chairman Mandanas added that this bill is not regarding increasing revenue or preventing graft and corruption nor promoting tourism, but more an omnibus authority so that the country will be compliant with the international treaties or agreements to which the Philippines is a party. And as a member of the international society and global business community, we, therefore, participate and sign agreements. But then, he continued, these agreements require some amendments and thus, this bill recognizes that we have all the desires and intentions to put things into effect. He concluded by saying that this is the advantage of Congress being open to suggestions/comments to public where this matter is one of those things brought to his attention. To put all the spirits into action, he sought the approval of the bill.

Given the floor, Executive Director Dante Sy of the National Tax Research Center representing the DOF manifested that we have to first classify the carriers whether off-line or on-line because it is only the on-line carriers (one that has flight operations to and from the Philippines) that is subject to the Gross Philippine Billings Tax (PGBT) and the common carriers tax (CCT). An off-line carrier (one that has no flight operations to and from the Philippines) are not subject to PGBT and CCT. In any case, he added, that if there are exemptions provided for in the treaty, it is incumbent upon the Philippine government to recognize the exemptions provided in the tax treaty and the BIR honors what is in the treaty.

Exec. Director Sy confirmed the clarificatory statement of the Chair that DOF has all the intentions to respect and recognize international treaties and agreements that have been signed. He took exception, however, to tax treaties that have provisions on income taxation and very likely that what may be waived in the tax treaty is the income tax or its equivalent where in the Philippine setting is the GPBT and that CCT is not included in the tax treaty. Thus, he said, the on-line carrier will still be subject to CCT and that the NIRC recognizes only the exemption on the tax on petroleum used for international carriers to the extent that the country of origin of that international carrier allows the same treatment to a Philippine based carrier under the principle of reciprocity.

Mr. Jojo Veneracion representing the Board of Airlines Representatives (BAR) which is the group of international carriers operating in the Philippines where the association includes the Philippine Airlines and Cebu Pacific, manifested apologies for non-attendance of Mr. Steven Crowdey who has urgent matters to attend overseas. Nevertheless, he expressed gratitude to the invitation sent to them to comment on the matter. One concern though of the BAR members is the timing on the potential relief of the proposed legislation to the international carriers. He added that there is urgency on the part of the international airlines operating in the Philippines as exemption from these taxes would be a good incentive to airlines to continue its operations in the Philippines. He said the current structure of the proposed legislation requires the negotiation of the treaties, and this might take time before such treaties are agreed upon by two states.

On the point raised by Rep. Danilo Suarez regarding the treatment of the neighboring countries, Mr. Veneracion who is also from Delta Airlines replied that they are not required to pay income tax in Australia. In addition thereto, Mr. Rolando Santiago of BAR said that as far as Singaporean or Malaysian models are concerned, if there is no double taxation treaty, the basis of taxation is the gross margin for sales in that country which means that they are deducting from the gross turn-over the operational expenses to arrive at the gross margin multiplied by 5% or 2%. In the Philippines, the tax is based on flown revenue regardless of where it is sold. In other countries, they use maritime formula or Californian formula, for Asean, it is based on local sales and for the Philippines the same is based on worldwide sales or for tickets

originating in Manila to their final destinations. Also other Asean countries do not impose CCT which is a business tax. Another aspect is that Philippine carriers are not paying percentage tax on international operations while international carriers are subject to percentage tax on their operations, thus, the discrimination.

Mr. Cees Ursem of KLM, the only airline that flies directly to Europe, pointed out that when passengers are leaving for Amsterdam, they pay the normal departure tax but not CCT or GPBT. He added that the tax has a huge impact in the profitability of their operations. In other countries they do not pay the same tax because of the tax treaty agreement while in the Philippines, they pay the GPBT and the CCT. The tax issue was the reason why all European carriers have left the Philippines.

Rep. Suarez then commented that in the consideration of some of the measures to make the Philippines an attractive investment destination by making the industry financially viable for some airlines that will be bringing in passengers; the Committee must also consider the tax laws.

On the query of Rep. Suarez regarding the annual revenue of the government on these taxes, Executive Director Sy said that based on the available data on international air carrier, the 2007 collection was P1.1 billion where landing, take-off rights, parking fee, etc. are reported separately as other revenues of the concerned government agency. He added that in 2009 for airlines industry alone, the collection for GPBT is P1.05 billion, and P1.86 billion for CCT.

Atty. Erwin Mendinueto of BIR acceded to the manifestation of the Chairman that there is only one airline going to Europe from the Philippines at present and that the collection data mentioned meant that there were higher revenues on GPBT and CCT before coming from the industry. And that if KLM decide not to fly direct to Europe, the tax collection will go down. Domestic carriers are covered by the 30% income tax and the VAT but not the CCT because both are business taxes. Atty. Mendinueto also welcomed the filing of the house bill. He opined that BIR, BOC and the DOF even without the bill, have been honoring the principle of reciprocity.

At the instance of the Chairman, Mr. Jojo Veneracion of BAR agreed with the observation of BIR that the principle of reciprocity in the tax being imposed now on international carrier is being applied, specifically with the United States, considering that there is a double taxation treaty between the two countries. Mr. Veneracion also confirmed that there is reduction in GPBT rate from 2.5% to 1.5%. However, the existence of other taxes like GPBT and CCT per se, are not consistent at least with our agreement with the US since they are not imposed in the US and not being applied to Philippine carriers operating in the US.

On the question of Chairman Mandanas, if Delta Airlines is being charged GPBT and CCT, Mr Veneracion replied in the affirmative.

On the query of the Chairman if PAL is being charged in the US of the 3% CCT and on the gross billing, the Philippine Airline representatives confirmed that they pay similar taxes in all the points they operate like China, Saudi Arabia, USA, etc., though not exactly the same as what is being imposed in the Philippines but in accordance with the provisions of the tax treaties that we have in those countries and in some cases they pay even other business taxes. She added that there should be reciprocity to level the playing field. So if foreign airlines are exempted from taxes in the Philippines, they would like to see that Philippine carriers are also exempted from paying such taxes in the home country of the foreign airlines concerned. Hence, they support the language of the bill. She then suggested that the word "reciprocal" be added in the proposed amendment.

As a rejoinder, Rep Suarez said that the principle of reciprocity should be applied in equal footing. He then asked the reasons why almost all international airlines left the Philippines.

Mr. Ursem of KLM replied that indeed, Alitalia, British Airways, Lufthansa, Swiss Air, Egypt Air, among others, had left the Philippines. KLM is the only one operating in the Phils. PAL is always welcome to fly to Amsterdam but it was for commercial reasons that it stopped its operations a couple of years ago. He added that KLM is very interested to fly to the Phils. and aims to stay here for 60 years more.

Chairman Mandanas added that there are various reasons why other foreign carriers left the Philippines like commercial which include taxation, political and force majeure. He further said that KLM, the only one flying direct to Europe at present, will cease its operations, transfer its office in other part of the region if we do not honor and recognize these treaties and agreements in the WTO. Mr. Ursem replied in a lighter note, that they might reconsider their operations in the Phils. considering that they have increased destinations in China, Vietnam, Cambodia and Indonesia except unfortunately in the Phils.

Atty. Theresa Geneveve Co of the International Tax Affairs Division of the BIR manifested that the bill is in recognition of the tax exemptions in tax treaties. Tax treaties cover only taxes on income and capital, and not CCT and if the bill is passed into law we do not have exemptions to CCT. The Explanatory Note of the bill also mentions Convention about Civil Aviation Organization, the Chicago Convention of 1944 which the country has already applied as provided in Sec. 135 of the NIRC on Petroleum Tax and the only tax exemption provided in Art. 24 of the said convention. She emphasized that the Phils. is compliant with the international agreements that we have entered into.

On the query of the Chair that Atty. Co. shifted from tax treaty to international agreement, Atty. Co. replied that tax treaty covers only taxes on income specifically dividends, royalties, capital gains, etc. and as to international agreements referred to in the Explanatory Note, the Convention on Civil Aviation only speaks of exemption on

fuel tax which the Phils. has already recognized in the Tax Code. As the Chairman requested, Mr. Veneracion of Delta Airlines confirmed the statement that they needed a tax treaty or international agreement regarding common carriers to benefit if the bill becomes a law.

Deputy Speaker Remulla manifested that there is no level playing field in the international airlines. He then asked what other aspects are skewed against international airlines in favor of domestic carriers.

Mr. Santiago replied that the issue of level playing field is on the CCT, that while the Philippine carriers flying internationally do not pay VAT on their international operations, foreign carriers for international operations pay 3% CCT. He added that under the NIRC they have an option to register under the VAT system to which they applied and BIR has not acted on their application since 2006.

On the observation of Deputy Speaker Remulla that BIR is acting in favor of local airlines to the detriment of the international airlines operating in the Philippines, the BIR representative replied that they are just following the law. Domestic carriers are covered by the VAT system while the international carriers are covered by the percentage tax as provided in Sec. 118 of the NIRC. He said that the law is clear, there is no option and that there is no discrimination.

Deputy Speaker Remulla then requested that a position paper be submitted by all concerned airlines based on the issue so that the Committee will be guided and to determine where the fineline is drawn regarding tax incidence.

The Chair then reiterated that said issues are not within the intentions of the bill because the bill's objective is to recognize, honor and respect the tax exemptions under tax treaties and international agreement related to international carriers to which the Philippines is a signatory like the WTO, and other bilateral or multilateral agreements.

The Chair declared that, upon motion of Rep. Suarez duly seconded by Deputy Speaker Crispin Remulla, there being no objection, House Bill No. 3928 was approved subject to style. A Technical Working Group was tasked to draft the substitute bill.

IV. DELIBERATION ON THE FOLLOWING MEASURES

1. HOUSE BILL NO. 2484 entitled "AN ACT PROVIDING FOR AN ADDITIONAL EXCISE TAX OF TEN PERCENT (10%) ON ALCOHOL PRODUCTS, AMENDING FOR THE PURPOSE THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED BY RA 9334, TO GENERATE FUNDS FOR THE INFORMATION COMMUNICATION TECHNOLOGY (ICT) PROGRAM OF PUBLIC ELEMENTARY AND SECONDARY SCHOOLS AND CONSTRUCTION OF NEW SCHOOL BUILDINGS, HIRING OF NEW TEACHERS PREFERABLY WITH ICT PROFICIENCY, ENGLISH, MATH AND SCIENCE MAJORS, AND FOR OTHER PURPOSES" by Rep. Erico B. Aumentado

2. HOUSE BILL NO. 2485 entitled "AN ACT PROVIDING FOR AN ADDITIONAL TAX OF P3.00 PER PACK ON CIGAR AND CIGARETTES, AMENDING FOR THE PURPOSE THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED BY RA 9334, TO GENERATE FUNDS FOR THE PHILHEALTH UNIVERSAL COVERAGE OF INDIGENT FAMILIES, BARANGAY OFFICIALS, HEALTH AND DAY CARE WORKERS, AND FOR OTHER PURPOSES" by Rep. Aumentado
3. HOUSE BILL NO. 2687 entitled "AN ACT RESTRUCTURING THE EXCISE TAX ON ALCOHOL AND TOBACCO PRODUCTS" by Reps. Limkaichong, Arnaiz and Teves
4. HOUSE BILL NO. 3059 entitled "AN ACT TO PROMOTE EQUITABLE SHARING OF COSTS AND BENEFITS IN THE ALCOHOL AND TOBACCO INDUSTRY, AMENDING FOR THE PURPOSE SECTIONS 141, 142, 143 AND 145 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED" by Rep. Mandanas
5. HOUSE BILL NO. 3183 entitled "AN ACT AMENDING SECTIONS 141, 142, 143 AND 145 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED" by Rep. Suárez
6. HOUSE BILL NO. 3332 entitled "AN ACT INCREASING THE EXCISE TAX RATES IMPOSED ON ALCOHOL AND TOBACCO PRODUCTS, AMENDING FOR THE PURPOSE SECTIONS 141, 142, 143, 144 AND 145 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED" by Rep. Singson (E.)
7. HOUSE BILL NO. 3465 entitled "AN RESTRUCTURING THE EXCISE TAX ON TOBACCO PRODUCTS AND AMENDING FOR THE PURPOSE PERTINENT SECTIONS OF THE NATIONAL INTERNAL REVENUE CODE, AS AMENDED." by Rep. Abad
8. HOUSE BILL NO. 3489 entitled "AN RESTRUCTURING THE EXCISE TAX ON TOBACCO PRODUCTS AND AMENDING FOR THE PURPOSE PERTINENT SECTIONS OF THE NATIONAL INTERNAL REVENUE CODE, AS AMENDED." by Rep. Tupas
9. HOUSE BILL NO. 3666 entitled "AN ACT INCREASING THE EXCISE TAX RATES IMPOSED ON TOBACCO PRODUCTS, AMENDING FOR THE PURPOSE SECTIONS 145 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED" by Rep. Javier

Chairman Mandanas declared, to apprise the Committee on the status of the deliberation, that the excise tax rates on alcohol and tobacco products will definitely be

increased. He officially took note of the submission by the Bureau of Internal Revenue of the results of the survey on the current retail prices of alcohol and tobacco products which will be the basis of the amendment. He said, all Members of the Committee will be provided copies of the results of the survey. As the basis of the excise tax law on alcohol and tobacco products is the net retail price (less the excise tax and the value-added tax) he requested BIR to submit the current net retail prices of the surveyed retail prices directly to the Subcommittee on National Internal Revenue.

In the computation of the net retail price, Mr. Conrado Item of the BIR manifested that he personally has apprehension in calculating the NRP because of the VAT component as it is difficult to ascertain the true VAT at the point of the manufacturer's sale. The Chair commented that said statement should be retracted because it is an admission that there is discretion. He added that if the main administrator of the law finds it difficult to comply, then the same is an admission that the taxpayers are placed in a tremendous burden and exposed them to harassment and possible corruption. As the Chair prodded, BIR will submit the NRP.

Mr. Item of BIR affirmed the statement of Rep. Suarez that adopting the provisions of House Bill No. 3183 will address the arbitration issue of the WTO. Chairman Mandanas added that the bill of Rep. Henedina Abad also addresses the same issue. The Chair then requested BIR to submit a comparative study on the effects of the bills filed and how much revenues will be generated on February 15, 2011.

On the query of Rep. Eric G. Singson, Jr., Mr. Item replied that BIR used the weighted average retail price of the 20 supermarkets in Metro Manila and 5 supermarkets outside Metro Manila. He then requested that they be given 2 to 3 weeks to comply with the request.

Rep. Paolo Everardo S. Javier inquired if there is something wrong with the existing tax system given the fact that the actual collection of BIR on cigarettes in 2010 is P31.6 billion exceeded its target of P25.8 billion. Mr. Item replied that there is a significant increase both in collections and removals because of frontloading as manufacturers anticipated the 2011 increase in the excise tax rates.

Given recognition, Mr. Michael Ocampo from non-government organization of Action for Economic Reforms who work both on expenditures and fiscal policy in response to the query of Rep. Javier manifested that the trends over the years must be looked-up to analyze the effectivity of the current four-tiered tax system as against the growth of the economy or compute the tax effort. An increase in the tax effort is good for the government as it increases taxes. He then stated that one of the problems in the present excise tax system is the multi-tiered tax rate classification.

On the query of Chairman Mandanas on what tax classification will be left if we will use the current net retail price as the basis of classification, Ms. Joan Latuja of Health Justice stated that in their computation using the NSO data, three-tiers will be

left. The lowest priced category will be eliminated. She echoed that their position is to remove the price classification freeze because they also have health target to reach. If the three-tiered tax system will remain there will only be shifting to low-priced cigarettes, thus, she said, it is not an effective measure to stop cigarette consumption. She recommended that we should adopt a uniform tax rate system.

Rep. Javier cautioned the Committee to be sensitive in changing the rules in the middle of the game as the objective of generating revenue may be compromised considering that the business community will be wary. He then suggested that in due time, the Committee will come-up with a tax system that is efficient, effective, address the health concerns, and generate revenues for the government. Chairman Mandanas subscribed and agreed to the point raised by Rep. Javier, that an abrupt change in the system would have an impact on other elements of the economy.

Rep. Singson suggested that in the analysis of the system based on GDP or GNP, the growth rate of both the alcohol and tobacco and its relation to tax rate must also be considered. He added that if we are going to remove the multi-tiered tax classification we have to have a price sensitivity analysis of the consumers. He said that other factors contribute to the health issue and not solely to blame on the tobacco or alcohol consumption.

Mr. Blake Dy of Associated Anglo American Corporation echoed that the multi-tiered tax system helps as it serves competition. A shift to a single tax system will only benefit one company which will effectively eliminate the three smaller cigarette manufacturers which is contrary to the provisions of the Constitution. He then reacted to the points raised by Health Justice Representative regarding alternative livelihood for the farmers. He said that a farmer cannot be convinced to shift to another crop if he is able to sell tobacco produce at a much higher price.

Mr. Dy also challenged the efficacy of the use of retail price as an indicator for tax because under the Civil Code by contract of sale you transfer ownership of an item to another person for consideration. He shared that the court has reiterated that when you have ownership you can do whatever you want with the product including selling it at a price you want. How can the manufacturer expect to pay the tax for a retailer whom they have no legal remedy to control. Any person can sell at any price as long as he can find a buyer. He then expressed his opposition to the use of retail price as the gauge for the tax.

Dr. Asuncion M. Anden of the Department of Health manifested her submission of the position paper signed by Secretary Enrique Ona. She was also requested by the Chairman to submit a study on the effect of distilled spirits consumption.

On the query of Rep. Fernando V. Gonzales, Chairman Mandanas said that raising revenue for the government is the primordial concern of the Committee on Ways and Means.

Dr. Limpin of the Philippine College of Physicians shared information on some of the queries, like the multi-tiered system. She stated that the multi-tiered system does not help the tobacco farmers because tobacco produce will still be bought from them by the manufacturers even with a unitary tax rate. The multi-tiered system supports the tobacco companies and not the tobacco farmers. As far as revenue is concerned, the low-tiered tax rate encourages people to shift from a high-priced tobacco to a low-priced tobacco. The consumer will still continue to smoke by shifting to low-priced tobacco. On the health aspect, the multi-tiered system does not help the most vulnerable sector of the society. She recommended that the revenues that can be generated from these products be used in PhilHealth and on programs that prevent tobacco related diseases.

Ms. Carmen Herce of PMFTC, Inc., the new company that was created when Fortune Tobacco Corporation and Philip Morris combined its assets and liabilities, manifested that based on the PMI 2010 Report they have 93% share of the market. She said that on the objective of raising revenue and discouraging consumption of cigarettes, PMFTC does not support any proposal that will introduce drastic change in the tax system or provide an unreasonably high tax rate. She explained that based on experience in other countries drastic change in the tax system as well as the shifting to a unitary rate will consequently have a tremendous increase in the prices of the product. There will be unintended consequences, like the increase in smuggling and counterfeit cigarettes. Using the compounded annual growth rate (CAGR), from 1997 to 2004, the increase in withdrawals is 5.4% and in collection, also 5.4%. It appears that there is parallel growth both in withdrawals and collection. Looking at the 2004 - 2010 period, the CAGR for withdrawal is 1.3% VS 5.4% which appears that it addressed the issues raised by the health advocates that there might be reduction in consumption.

On the issue of frontloading, Ms. Herce assured the body that the frontloaded quantity of PMFTC amounts to only two months withdrawals which is around P2 billion. She also assured the BIR representatives that they will not have a tremendous drop in collection for 2011.

Mr. Nestor Mendones of Tanduary reiterated their request to refrain as much as possible from commenting that will in anyway affect the WTO case that is now due for second hearing and decision by middle of this year. His assessment so far is that they presented a very good case. He added that so much focus is given on the taxation of distilled spirits as a revenue generation measure when the distilled spirits industry contributed only 4% in the total excise tax collection. He then recognized the fact that the rates must be adjusted in accordance with the movement of prices of the products but changing the tax structure at present will be very disadvantageous to the industry. In addition, he requested that manufacturer's wholesale price as registered in the BIR be used as the basis of tax classification.

Mr. Bim Galicia of Diageo opined that they are aware of the pending WTO case, the non-discriminatory tax between local and imported, the right of government to raise revenues to defray the cost of running the government and the responsible drinking. He shared that in the instances of alcohol abuse, their company has rolled-out programs, and that they strictly abide in the marketing code where they do not sell their products to minors. He further stressed that the present system is complex that even the process of determining the net retail price is cumbersome. He suggested that the Committee recommends a system that is simple, gives the industry a clear direction, and addresses the issue of smuggling.

Mr. Roberto Eugenio of British American Tobacco manifested that the unintended consequence in alcohol consumption was a sort of discrimination between the local and imported products. He mentioned that in the case of imported tobacco the unintended consequence is the price classification freeze accorded to old brands which serves as a barrier in the entry of new players because as new player, no brand is listed in the Annexes of the law which effectively the excise tax rate will be based on the current net retail price as against the 1996 price of the old brands. He concluded that the present tax system is a barrier to entry of new players.

Chairman Mandanas, however, assured Mr. Eugenio that the price classification will surely change and that all the House Bills are pegged on current retail prices and not on the 1996 price.

Atty. Raul Academia of PMFTC, Inc. stated that the issues raised by the BAT were fully resolved in a Supreme Court decision that upheld the current tax system and said that the same was not discriminatory. Between the existing and old brands, the SC ruled that when the survey was done in 1996 there were no new brands to speak of at that time and that there was valid distinction between new and old brands.

Atty. Academia added that there is a provision under Revenue Regulation 3-2006 that basically allows new brands to be classified. All they have to do is maintain a specific price up to a certain period of time in the initial tax classification that was provided by the BLR until it becomes the final tax classification. He said, it is not as if there is no level playing field. On the point of having a single tax rate, he requested that the Committee should also evaluate whether or not the parties who will be most benefited by such a system are the imported products. He echoed the argument of former Rep. Exequiel Javier who is a renowned tax expert that under the Philippine Constitution what it advocates is a progressive system of taxation and a single tax rate goes against this principle.

Mr. Eugenio interjected that it is true that the SC ruled on the constitutionality of the price classification on the basis that Congress as policy maker has the power and authority to make that determination of policy. And if this policy needs to be rectified, the parties have to go back to Congress. This is precisely the reason why they are

bringing the issue to Congress to revisit the policy and address the issue of level playing field.

Atty. Vicente Lasam of the National Tobacco Administration commented that drastic change in the tax structure is not called for. He proposed that the bill authored by Rep. Singson be adopted. He added that a unitary tax rate will put tobacco farmers producing low grade tobacco which is mostly used in the medium and low-priced cigarettes to a grave disadvantage. Adopting a uniform percentage increase per category will be fair and equitable to all.

Due to time constraint, Chairman Mandanas referred back all the House Bills to the Subcommittee on National Internal Revenue to deliberate and finish before adjournment on March 25, 2011. The Mother Committee, he said, is scheduled to finish and submit the report within the first year of Congress.

The Chair then requested BIR to provide the Committee a soft copy of the net retail price of all the alcohol and tobacco products for posting in the website.

V. ADJOURNMENT

The Chairman, upon motion of Rep. Apacible, adjourned the meeting at 1:15p.m..

I hereby certify to the correctness and accuracy of the foregoing minutes.



MAURICIO R. PULHIN
Legislative Committee Secretary

/lhl

Approved by:

REP. HERMILANDO I MANDANAS

Chairman

Committee on Ways and Means