

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 4444

Introduced by Hon. Jerry P. Treñas

Explanatory Note

International air transport connectivity is the most critical infrastructure linking the Philippines to the global export markets of tourism and international business. It enables movement of our network of 8.2 million Overseas Filipinos Workers (OFW), including workers in ship crewing, healthcare, IT, and hospitality industries. The airlines are providing seamless travel connections for customers and suppliers of service exporters (e.g. health tourism, retirement, logistics, creative industries, business process outsourcing (BPO), high yield backroom operations and regional headquarters) that require direct access and easy entry and exit to and from the Philippines. These are industries being developed and promoted in order to generate much needed investments, foreign exchange and for Filipinos, both here and abroad. It is clear that the tourism industry in the Philippines is highly dependent on the country's access provided by international airlines operating to and from the Philippines.

The exit of international carriers from the Philippines, where foreign carriers are taxed, has been in stark contrast to the growth in services experienced by neighboring Asian countries that either incent or do not tax foreign carriers. The heretofore restricted markets of China and Japan are liberalizing access and have invested in infrastructure to attract foreign carriers. Carriers with extensive global networks have already left the Philippines, shifting capacity to benefit neighboring countries' tourism and trade. The country's links with global markets in tourism and in trade are poor relative to neighboring countries and will suffer substantial further deterioration.

One of the main reasons why the number of airlines operating in the Philippines has decreased is the grossly onerous tax regime for foreign airlines. The

current tax regime consists of the Common Carriers Tax ("CCT"), which is 3 percent of the gross turnover, and the Gross Philippine Billings ("GPB") a tax which is 2% percent of the gross turnover.

It has to be emphasized that the 5.5 percent is based on GROSS turnover and NOT on GROSS INCOME or TAXABLE INCOME. Industry margins have rarely reached these percentages.

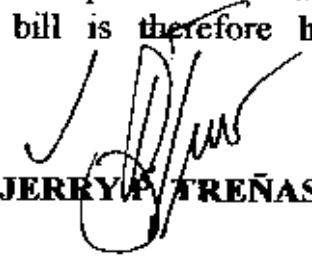
Both CCT and GPB are levied on all revenues, passenger, cargo and excess baggage for air transportation leaving the Philippines, irrespective of the point of sale of the air transportation. These taxes are also in possible violation of the non-discrimination principle of the World Trade Organization (WTO), which stipulates that a member state should not discriminate foreign products, services and nationals.

International tourists contribute at least US\$2.3 Billion in export receipts (2009 data). Potential tourists avoid the Philippines due to the lack of non-stop connections from/to the USA and Europe. Every missing tourist translates into one lost revenues and jobs. The lack of non-stop services also negatively impacts airfreight, penalizing existing and potential exporters of electronics, fashion items, seafood and vegetables. These taxes increase the air freight cost and business development costs for exporters, particularly the small and medium-sized enterprises from the countryside seeking access in new markets like Europe and the Americas.

Without a healthy airline industry, Philippine tourism will never flourish. All the incentives granted under the Tourism Act of 2009 to increase the country's capacity to generate investments, employment and reduce poverty will simply be rendered worthless. The same is true for the other government plans to develop export industries and services.

Elimination of these taxes would result in greater receipts for the BIR from sustained economic activity.

This bill seeks to advance Philippine tourism, trade, employment and economic integration with the rest of the world eliminating the negative impact of CCT and GPB on Philippines' international connectivity and competitiveness as an international investment destination. Approval of this bill is therefore highly encouraged.



JERRY A. TREÑAS

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 4444

Introduced by Hon. Jerry P. Treñas

AN ACT
RATIONALIZING THE TAXES IMPOSED ON INTERNATIONAL AIR
CARRIERS OPERATING IN THE PHILIPPINES, AMENDING FOR THE
PURPOSE SECTIONS 28, AND 118 OF THE NATIONAL INTERNAL
REVENUE CODE OF 1997, AS AMENDED.

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

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

(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.* - **ANY INCOME DERIVED BY AN INTERNATIONAL AIR CARRIER FROM DOING BUSINESS IN THE PHILIPPINES SHALL BE EXEMPT FROM INCOME TAX.** ["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.]

INTERNATIONAL AIR CARRIER DOING BUSINESS IN THE PHILIPPINES SHALL INCLUDE BOTH A FOREIGN AIRLINE CORPORATION THAT HAS BEEN GRANTED LANDING RIGHTS IN ANY PHILIPPINE PORT TO PERFORM INTERNATIONAL AIR TRANSPORTATION SERVICES OR FLIGHT OPERATIONS, AND A FOREIGN AIRLINE CORPORATION WITHOUT LANDING RIGHTS BUT MAINTAINING A BUSINESS ESTABLISHMENT, AGENT OR REPRESENTATIVE OFFICE IN THE PHILIPPINES FOR THE SALE OF TICKET OR PASSAGE DOCUMENTS TO EVIDENCE THE INTERNATIONAL AIR TRANSPORTATION SERVICES OR FLIGHT OPERATIONS OF THE INTERNATIONAL AIR CARRIER.

INTERNATIONAL AIR TRANSPORT SERVICES SHALL MEAN THE CARRIAGE OF PASSENGERS AND/OR CARGO ON AN AIRCRAFT OPERATED OR ENGAGED BY THE INTERNATIONAL AIR CARRIER FOR SUCH CARRIAGE BETWEEN ANY PORT OR POINT WITHIN THE TERRITORIAL JURISDICTION OF THE PHILIPPINES AND ANY PORT OR POINT OUTSIDE SUCH JURISDICTION WHILE FLIGHT OPERATIONS REFER TO ANY OTHER ACTIVITY OF THE INTERNATIONAL AIR CARRIER ARISING FROM, RELATING TO OR CONNECTED WITH SUCH CARRIAGE.

(b) *International Shipping.* - AN INTERNATIONAL SHIPPING CARRIER DOING BUSINESS IN THE PHILIPPINES SHALL PAY A TAX OF TWO AND ONE-HALF PERCENT (2 AND

**½%) ON ITS 'GROSS PHILIPPINE BILLINGS' AS DEFINED
HEREIN: "**

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.

Section 2. Section 118 of the National Internal Revenue Code, 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.

Section 3. *Implementing Rules and Regulations.* - The Secretary of Finance shall, in consultation with the Commissioner of Internal Revenue, promulgate the necessary rules and regulations to effectively implement the provisions of this Act.

Section 4. *Separability Clause.* - If any part, section or provision of this Act is held invalid or unconstitutional, other provisions not affected thereby shall remain in full force and effect.

Section 5. Repealing Clause. – All laws, decrees, orders, rules and regulations or other issuances inconsistent with the provisions of this act are hereby repealed, amended or modified accordingly.

Section 6. Effectivity. – This Act shall take effect fifteen (15) days after publication in two (2) national newspapers of general circulation.

Approved,