

1 Republic of the Philippines
2 HOUSE OF REPRESENTATIVES
3 Quezon City
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5 FIFTEENTH CONGRESS
6 First Regular Session
7

8 House Bill No. 06 **4704**
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12 Introduced by Representatives EMMI A. DE JESUS and LUZVIMINDA C. ILAGAN
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15 EXPLANATORY NOTE
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17 The House of Representatives has been given the exclusive mandate of originating tariff bills.
18 Both the 1973 (Article VIII, Section 17) and the 1987 (Article VI, Section 28) Philippine
19 constitutions directed Congress to "evolve a progressive system of taxation."
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21 A progressive system of taxation assumes the imposition of a heavier tax burden for those who
22 have larger incomes. Progressive taxes attempt to reduce the tax incidence of people with a
23 lower ability-to-pay, as they shift the incidence increasingly to those with a higher ability-to-
24 pay.
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26 However, bowing under pressures from the International Monetary Fund, successive
27 administrations post-Martial Law instituted a regressive system of taxation where the relative
28 tax rate or burden increases as an individual's ability to pay it decreases, thereby imposing
29 enormous tax burdens on the poorest of the poor.
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31 The value-added tax (VAT) as a regressive form of taxation was first imposed under the
32 Philippine taxation system by President Corazon Aquino in July 1987 when she signed
33 Executive Order 273 into law. The VAT was further institutionalized when former president
34 Fidel Ramos signed RA 8424 or the Tax Reform Act of 1997 into law.
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36 R.A. 8424 expanded the coverage of VAT to basic necessities and prime commodities that poor
37 families consume on a daily basis, such as processed meat, canned fish, coconut and vegetable
38 oil, bakery products, noodles, milk, dairy products, coffee, sugar, clothing, footwear, tannery and
39 leather products and drugs and medicine, among others.
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41 This was further exacerbated when the value-added tax was perpetuated and its coverage
42 expanded by Republic Act (RA) No. 9337, which was signed into law by former President Gloria
43 Macapagal Arroyo on May 24, 2005. Worse, under RA 9337, VAT now was imposed on such
44 socially volatile products as gasoline and other petroleum products.
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46 According to IBON, Foundation, Inc., an economic and political research group, consumers of
47 regular gasoline would have paid only Php48.26 per liter and not the current Php54.85 without
48 the VAT. Diesel, meanwhile, would have been priced at only Php41.45 per liter without the
49 VAT. There have been nine rounds of increases in diesel prices and eight rounds of gasoline
50 price hikes since January 2011. These increased the pump price of diesel to Php6 Php8.35 per
51 liter and regular gasoline by Php6.25 in the first quarter of 2011 alone.
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53 In an attempt to convince the public on the merits of VAT, the Department of Finance claimed
54 that since VAT is a consumption tax, those who consume more will be taxed more. "In the case
55 of fuel," the DOF primer reads, "the richest 30% of Filipino families consume about 65% of the
56 total fuel used in the country while the poorest 30% only account for about 8% of the total
57 consumption."

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59 IBON clarified that the issue is not who consumes more but the impact of the price hike on the
60 actual income of the poor, which is the most important case against the VAT. Even if poor
61 families consume less fuel than the rich, the effect on them of higher oil prices because of the
62 VAT is greater because of their smaller incomes compared to those of the rich.

63
64 This can be seen in the percentage distribution of family expenditures by major expenditure
65 group and income class according to the 2009 Family Income and Expenditure Survey (FIES).
66 For those belonging to the bottom 30% of the income groups, the expenditure groups affected
67 by VAT make up more than 72.5% of their total expenses.

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69 Any increase in the cost of goods falling under these expenditure groups would represent a
70 burden, especially since their monthly incomes are not enough to enable a poor family to meet
71 its basic needs. Almost 9 out of every 10 Filipino households earn less than what is needed for a
72 decent standard of living. Thus, every peso added to the expenses not only of the poorest
73 households puts great pressure on a family's daily budget and further pushes them into debt.

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75 Women are the first to feel the crunch of the increase in oil prices and the consequent hike in
76 the prices of basic commodities and services. As family budget shrinks, food on the table
77 becomes scarce, access to health services becomes nil and education for children becomes a
78 luxury. Women have to find ways to augment the family incomes or in most instances poor
79 women just have to contend themselves with sacrificing their own needs just so their families
80 could survive the daily economic hardships.

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82 The additional revenues from the VAT on oil have not alleviated the poverty of our people but
83 have in fact continued to restrict their purchasing power. In the long run, this will further retard
84 economic growth.

85
86 In a 2009 survey¹, 48.73% of mothers come from families without any form of income, while
87 15.23% come from families who earn only a maximum of PhP100.00 a day. Under these
88 circumstances, 36% of the mothers surveyed cope by reducing their food budget, while 21.72%
89 of mothers and their family cope by having only one or two meals a day. In fact, among urban
90 poor families, such is the crisis level of their economic condition that in order to survive, they
91 resort to 'rescuing' left-over food from fastfood chains, 'dusting off' dirt (thus the label 'pagpag')
92 that may have stuck to it, and reheating them.

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94 Meanwhile, wages continue to be depressed for workers earning minimum wage income at
95 P404.00. IBON, estimates a cost of living of PhP 983.00 for a family of six living in the National
96 Capital Region.

97
98 Inflation has averaged some 3.7% since July 2010, reaching 4.5% in April 2011, bringing down
99 the real value of the mandated wage by PhP10.50 since the start of the Aquino administration.
100 This has brought down the current minimum wage in the National Capital Region (NCR) of
101 PhP404 to just PhP234.90 in real terms as of April 2011, measured in 2000 prices.

¹ Survey on the Economic and Living Conditions of Urban and Rural Poor Women, CWR, January – June 2009

103 The Arroyo government also used the justification of needing the RVAT as a revenue measure
104 supposedly to fund much needed social services. Yet, in the 2007 budget, real public spending
105 for education fell to PhP 1,331.00 per Filipino from PhP 1,503.00 in 2002. Government budget
106 for health has also decreased in real terms to just PhP 111.78 per Filipino. Clearly, the
107 generation of RVAT as sources of revenue was never meant to adequately fund social services as
108 out of the total of PhP367.28 billion generated from November 2005 until December 2009 (data
109 for 2010 were not available up until the period of drafting this bill), less than 3% were allocated
110 for social services.

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112 Various sectors of society have opposed the RVAT and strongly criticized the current tax system
113 of the country as regressive, corrupt and inefficient. Those opposed pointed out that instead of
114 burdening the poor with increases in taxes, the government could have reviewed the tax
115 exemptions being provided to large corporations amounting to around P229.1 billion (US\$4.373
116 billion) in potential revenues in 2003 alone. A study of the House of Representatives in 2006
117 on foregone revenue due to incentives found that this amounted to P150 billion (\$2.9
118 billion).

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120 IBON asserts that removing the VAT on oil would stimulate economic activity through savings to
121 consumers on their fuel bills. They estimate that without the 12% VAT, oil pump prices would
122 go down by as much as P6 per liter. These savings mean more money for consumers to spend
123 directly on their needs, and less production costs for fuel-intensive businesses.

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125 If needed, there are available alternatives to VAT – alternatives that do not promote a regressive
126 form of taxation but rather a progressive system of taxation that our Constitution mandates this
127 august body to evolve. There are available revenue measures that do not further burden the
128 poorest of our constituents.

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130 IBON Foundation, further pointed out that reduction in tariffs is costing the government losses
131 of up to P100 billion a year, while tax leakages on the other hand, costs the country about P215
132 billion to P285 billion in lost revenues.

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134 Meanwhile, corruption in government siphons about 20 to 30 percent of the national budget
135 based on a study by the National Tax Research Center. These alone are enough measures to
136 counterbalance the unjust imposition of VAT on oil and petroleum products as well as basic
137 necessities and prime commodities that poor families consume on a daily basis.

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139 It is in this light that immediate passage of this bill which exempts the imposition of the value-
140 added tax on basic necessities, prime commodities, oil and petroleum products is earnestly
141 sought.

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144 REP. EMMI A. DE JESUS
145 Gabriela Women's Party
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144 REP. LUZviminda C. ILAGAN
145 Gabriela Women's Party
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HOUSE OF REPRESENTATIVES
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House Bill No. 4704

Introduced by Representatives EMMI A. DE JESUS and LUZVIMINDA C. ILAGAN

"AN ACT AMENDING SECTION 4 OF REPUBLIC ACT 9337, EXEMPTING BASIC NECESSITIES,
PRIME COMMODITIES, AND OIL AND PETROLEUM PRODUCTS
FROM THE IMPOSITION OF THE VALUE-ADDED TAX,
AS AMENDED, AND FOR OTHER PURPOSES"

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

SECTION 1. Definition of Terms - As used in this Act, the term:

- (a) "BASIC NECESSITIES" include: rice; corn; bread; fresh, dried and canned fish and other marine products, fresh pork, beef and poultry meat; fresh eggs; fresh and processed milk; fresh vegetables; root crops; coffee; sugar; cooking oil; salt; laundry soap; detergents; firewood; charcoal; candles; and drugs classified as essential by the Department of Health; and
- (b) "PRIME COMMODITIES" include fresh fruits; flour; dried, processed and canned pork; beef and poultry meat; dairy products not falling under basic necessities; noodles; onions; garlic; vinegar; patis; soy sauce; toilet soap; fertilizer; pesticides; herbicides; poultry; swine and cattle feeds; veterinary products for poultry, swine and cattle; paper; school supplies; nipa shingles; sawali; cement; clinker; GI sheets; hollow blocks; plywood; plyboard; construction nails; batteries; electrical supplies; light bulbs; steel wire; and all drugs not classified as essential drugs by the Department of Health

SECTION 2. Section 4 of RA 9337 is hereby amended to read as follows:

SEC. 4. Section 106 of the same Code, as amended, is hereby further amended to read as follows:

"SEC. 106. *Value-Added Tax on Sale of Goods or Properties.* -

"(A) *Rate and Base of Tax.* - There shall be levied, assessed and collected on every sale, barter or exchange of goods or properties, a value-added tax equivalent to ten percent (10%) of the gross selling price or gross value in money of the goods or properties sold, bartered or exchanged, such tax to be paid by the seller or transferor: 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) Value-added tax collection as a percentage of Gross Domestic product (GDP) of the previous year exceeds two and four-fifth percent (24/5%); or

"(ii) National government deficit as a percentage of GDP of the previous year exceeds one and one-half percent (1 1/2%).

"(1) The term 'goods or properties' shall mean all tangible and intangible objects which are capable of pecuniary estimation and shall include:

"(a) Real properties held primarily for sale to customers or held for lease in the ordinary course of trade or business;

"(b) The right or the privilege to use patent, copyright, design or model, plan secret formula or process, goodwill, trademark, trade brand or other like property or right;

"(c) The right or the privilege to use in the Philippines of any industrial, commercial or scientific equipment;

"(d) The right or the privilege to use motion picture films, films, tapes and discs; and

"(e) Radio, television, satellite transmission and cable television time.

"The term 'gross selling price' means the total amount of money or its equivalent which the purchaser pays or is obligated to pay to the seller in consideration of the sale, barter or exchange of the goods or properties, excluding the value-added tax. The excise tax, if any, on such goods or properties shall form part of the gross selling price.

"(2) The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:

"(a) *Export Sales*. - The term 'export sales' means:

"(1) The sale and actual shipment of goods from the Philippines to a foreign country, irrespective of any shipping arrangement that may be agreed upon which may influence or determine the transfer of ownership of the goods so exported and paid for in acceptable foreign currency or its equivalent in goods or services, and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas, (BSP);

"(2) Sale of raw materials or packaging materials to a nonresident buyer for delivery to a resident local export-oriented enterprise to be used in manufacturing, processing, packing or repacking in the Philippines of the said buyer's goods and paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP):

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"(3) Sale of raw materials or packaging materials to export-oriented enterprise whose export sales exceed seventy percent (70%) of total annual production;

"(4) Sale of gold to the Bangko Sentral ng Pilipinas (BSP);

"(5) Those considered export sales under Executive Order No. 226, otherwise known as the Omnibus Investment Code of 1987, and other special laws; and

"(6) The sale of goods, supplies, equipment and fuel to persons engaged in international shipping or international air transport operations;

"(b) *Foreign Currency Denominated Sale*. - The phrase 'foreign currency denominated sale' means sale to a nonresident of goods, except those mentioned in Sections 149 and 150, assembled or manufactured in the Philippines for delivery to a resident in the Philippines, paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP).

"(c) Sales to persons or entities whose exemption under special laws or international agreements to which the Philippines is a signatory effectively subjects such sales to zero rate.

["(d) **THE SALE OF BASIC NECESSITIES AND PRIME COMMODITIES; AND**

"(e) THE SALE OF OIL, GASOLINE, KEROSENE AND OTHER PETROLEUM PRODUCTS.]

"(B) *Transactions Deemed Sale*. - The following transactions shall be deemed sale:

"(1) Transfer, use or consumption not in the course of business of goods or properties originally intended for sale or for use in the course of business;

"(2) Distribution or transfer to:

"(a) Shareholders or investors as share in the profits of the VAT-registered persons: or

"(b) Creditors in payment of debt;

"(3) Consignment of goods if actual sale is not made within sixty (60) days following the date such goods, were consigned; and

"(4) Retirement from or cessation of business, with respect to inventories of taxable aoods existing as of such retirement or cessation.

"(C) *Changes in or Cessation of Status of a VAT-registered Person*. - The tax imposed in Subsection (A) of this Section shall also apply to goods disposed of or

existing as of a certain date if under circumstances to be prescribed in rules and regulations to be promulgated by the Secretary of Finance, upon recommendation of the Commissioner, the status of a person as a VAT-registered person changes or is terminated.

"(D) *Sales Returns, Allowances and Sales Discounts.* - The value of goods or properties sold and subsequently returned or for which allowances were granted by a VAT-registered person may be deducted from the gross sales or receipts for the quarter in which a refund is made or a credit memorandum or refund is issued. Sales discount granted and indicated in the invoice at the time of sale and the grant of which does not depend upon the happening of a future event may be excluded from the gross sales within the same quarter it was given.

"(E) *Authority of the Commissioner to Determine the Appropriate Tax Base.* - The Commissioner shall, by rules and regulations prescribed by the Secretary of Finance, determine the appropriate tax base in cases where a transaction is deemed a sale, barter or exchange of goods or properties under Subsection (B) hereof, or where the gross selling price is unreasonably lower than the actual market value."

SECTION 3. Implementing Rules and Regulations - The Secretary of Finance shall, upon the recommendation of the Commissioner of Internal Revenue, promulgate not later than June 30, 2005, the necessary Rules and Regulations for the effective implementation of this Act. Upon issuance of the said Rules and Regulations, all former rules and regulations pertaining to value-added tax shall be deemed revoked.

SECTION 4. Effectivity Clause - This Act shall take effect fifteen (15) days after its complete publication in the Official Gazette or in a newspaper of general circulation.

Approved,