



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

FIFTEENTH CONGRESS
2nd Regular Session

HOUSE BILL NO. 5143

Introduced by:
REP. FRANCISCO T. MATUGAS
1ST District, Surigao del Norte (Siargao Island)

EXPLANATORY NOTE

Section 2, Article XII of the Constitution expressly provides that all lands of the public domain, water, minerals, forest, flora and fauna and other natural resources are owned by the State and that all exploitation, development and utilization of these resources shall be under its full control and supervision.

The Philippines is one of the countries richly endowed with metallic resources. In terms of occurrence per unit area, it ranks third in gold, fourth in copper, fifth in nickel and sixth in chromite. As absolute and complete owner of these minerals and natural resources, it is expected that the country can generate substantial income from the utilization of these resources. However, it must be noted that although the gross production value in mining has been high – Php102.2 Billion in 2007, Php86.9 Billion in 2008, Php106.1 Billion in 2009 and around Php144.4 Billion in 2010, the Government was only able to generate the following amounts in the form of excise taxes paid by mining companies – Php942.1 Million in 2007, Php660.3 Million in 2008 and Php718.8 Million in 2009. For the first quarter of this year, excise tax collected from mining amounted to P833.533 million from an estimated gross production value of Php29.2 Billion.

These amounts can be considered as insignificant considering the fact that under Section 80 of the Philippine Mining Act of 1995 (Republic Act No. 7942), the Government's share in a mineral production agreement is already the excise tax paid on said mineral products. It must also be noted that mining is an extractive activity and greatly

impacts the environment. The Government, as the owner of the mineral lands, must therefore get its just share of revenues from mining activities. There must, therefore, be an increase in the excise tax on minerals and quarry resources, from 2% to 7%.

More importantly, local government units, which host these mining activities, must be the ones most benefited by the same. Thus, majority of the amount collected must be retained by the local government units. They are the ones who, after all, bear the great impacts of mining activities.

Approval of this bill is earnestly sought.

A handwritten signature in black ink, consisting of a large, stylized capital letter 'F' followed by a capital letter 'M' and a small crossbar.

FRANCISCO T. MATUGAS



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Fifteenth Congress
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HOUSE BILL NO. 5143

INTRODUCED BY:
REP. FRANCISCO T. MATUGAS
1st District, Surigao del Norte (Siargao Island)

AN ACT
INCREASING THE EXCISE TAX ON MINERALS, MINERAL PRODUCTS AND QUARRY
RESOURCES, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OF THE NATIONAL
INTERNAL REVENUE CODE OF 1997, AS AMENDED

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

1 **SECTION 1.** Section 151 (A), Chapter VII, Title VI of the National
2 Internal Revenue Code of 1997, as amended, is hereby amended to
3 read as follows:

4
5 “Section 151. *Mineral Products.*

6
7 {A} *Rates of Tax.* - There shall be levied, assessed
8 and collected on minerals, mineral products and quarry
9 resources, excise tax as follows:

10
11 (1) On coal and coke, a tax of Ten pesos (P10.00)
12 per metric ton;

13
14 (2) ON ALL MINERALS, MINERAL PRODUCTS AND
15 QUARRY RESOURCES, A TAX OF SEVEN PERCENT (7%)
16 BASED ON THE ACTUAL MARKET VALUE OF THE GROSS
17 OUTPUT THEREOF AT THE TIME OF REMOVAL, IN THE CASE
18 OF THOSE LOCALLY EXTRACTED OR PRODUCED; OR THE
19 VALUE USED BY THE BUREAU OF CUSTOMS IN
20 DETERMINING TARIFF AND CUSTOMS DUTIES, NET OF

1 EXCISE TAX AND VALUE-ADDED TAX, IN THE CASE OF
2 IMPORTATION.

3
4 Notwithstanding the provision of paragraph (4) of
5 Subsection (A) of Section 151, locally extracted natural
6 gas and liquefied natural gas shall be taxed at the rate
7 of two percent (2%);

8
9 (3) On all metallic minerals, a tax based on the
10 actual market value of the gross output thereof at the
11 time of removal, in the case of those locally extracted or
12 produced; or the value used by the Bureau of Customs in
13 determining tariff and customs duties, net of excise tax
14 and value-added tax, in the case of importation, in
15 accordance with the following schedule;

16
17 (a) Copper and other metallic minerals;

18
19 (i) On the first three (3) years upon the
20 effectivity of Republic Act No. 7729, one percent
21 (1%);

22
23 (ii) On the fourth and the fifth years, one and
24 a half percent (1 ½%); and

25
26 (iii) On the sixth year and thereafter, two
27 percent (2%);

28
29 (b) Gold and chromite, two percent (2%).

30
31 (4) On indigenous petroleum, a tax of three
32 percent (3%) of the fair international market price
33 thereof, on the first taxable sale, barter, exchange or
34 such similar transaction, such tax to be paid by the buyer
35 or purchaser before removal from the place of
36 production. The phrase 'first taxable sale, barter,
37 exchange or similar transaction' means the transfer of
38 indigenous petroleum in its original state to a first taxable
39 transferee. The fair international market price shall be
40 determined in consultation with an appropriate
41 government agency.

42
43 For the purpose of this Subsection, 'indigenous
44 petroleum' shall include locally-extracted mineral oil,

1 hydrocarbon gas, bitumen, crude asphalt, mineral gas
2 and all other similar or naturally associated substances
3 with the exception of coal, peat, bituminous shale
4 and/or stratified mineral deposits."

5
6
7 **SECTION 2.** Section 287, Chapter II, Title XI of the National Internal
8 Revenue Code of 1997, as amended, is hereby amended to read as
9 follows:
10

11 "Section 287. *Shares of Local Government Units in the*
12 *Proceeds from the Development and Utilization of the*
13 *National Wealth.* - Local Government units shall have an
14 equitable share in the proceeds derived from the
15 utilization and development of the national wealth, within
16 their respective areas, including sharing the same with
17 the inhabitants by way of direct benefits.

18 (A) AMOUNT OF SHARE OF LOCAL GOVERNMENT
19 UNITS. - LOCAL GOVERNMENT UNITS SHALL, IN ADDITION
20 TO THE INTERNAL REVENUE ALLOTMENT, HAVE A SHARE OF
21 FORTY PERCENT (40%) OF THE GROSS COLLECTION
22 DERIVED BY THE NATIONAL GOVERNMENT FROM THE
23 PRECEDING FISCAL YEAR FROM ROYALTIES, TAXES, FEES OR
24 CHARGES, INCLUDING RELATED SURCHARGES, INTERESTS
25 OR FINES, AND FROM ITS SHARE IN ANY CO-PRODUCTION,
26 JOINT VENTURE OR PRODUCTION SHARING AGREEMENT IN
27 THE UTILIZATION AND DEVELOPMENT OF THE NATIONAL
28 WEALTH WITHIN THEIR TERRITORIAL JURISDICTION, EXCEPT
29 FOR EXCISE TAX ON MINERAL PRODUCTS WHERE THE
30 SHARE OF THE LOCAL GOVERNMENT UNITS SHALL BE SIXTY
31 PERCENT (60%) OF THE GROSS COLLECTION DERIVED
32 FROM SAID EXCISE TAXES ON MINERALS.

33 (B) Share of the Local Governments from Any
34 Government Agency or Government-owned or -
35 Controlled Corporation. - Local Government Units shall
36 have a share, based on the preceding fiscal year, from
37 the proceeds derived by any government agency or
38 government-owned or controlled corporation engaged
39 in the utilization and development of the national wealth
40 based on the following formula, whichever will produce a
41 higher share for the local government unit:

1 (1) One percent (1%) of the gross sales or receipts of
2 the preceding calendar year, or

3 (2) Forty percent (40%) of the excise taxes on
4 mineral products, royalties, and such other taxes, fees or
5 charges, including related surcharges, interests or fines
6 the government agency or government-owned or -
7 controlled corporations would have paid if it were not
8 otherwise exempt.

9 (C) Allocation of Shares. - THE SHARE IN THE
10 PRECEDING SECTION, EXCEPT FOR THE SHARE OF LOCAL
11 GOVERNMENTS FROM THE EXCISE TAX ON MINERALS,
12 MINERAL PRODUCTS AND QUARRY RESOURCES, SHALL BE
13 DISTRIBUTED IN THE FOLLOWING MANNER:

14 (1) Where the natural resources are located in the
15 province:

16 (a) Province - twenty percent (20%)

17 (b) Component city/municipality - forty-five percent
18 (45%); and

19 (c) Barangay - thirty-five percent (35%)

20 Provided, however, That where the natural
21 resources are located in two (2) or more provinces, or in
22 two (2) or more component cities or municipalities or in
23 two (2) or more barangays, their respective shares shall
24 be computed on the basis of: (1) Population – seventy
25 percent (70%); and (2) Land Area – thirty percent (30%).

26 (2) Where the natural resources are located in a
27 highly urbanized or independent component city:

28 (a) City - sixty - five percent (65%); and

29 (b) Barangay - thirty - five percent (35%)

30 Provided, however, That where the natural
31 resources are located in two (2) or more cities, the
32 allocation of shares shall be based on the formula on
33 population and land area as specified in subsection
34 (c)(1) hereof.

(3) THE SHARE OF THE LOCAL GOVERNMENT UNITS IN THE EXCISE TAX ON MINERALS, MINERAL PRODUCTS AND QUARRY RESOURCES SHALL BE DISTRIBUTED IN THE FOLLOWING MANNER:

(A) WHERE THE NATURAL RESOURCES ARE LOCATED IN THE PROVINCE

(I) PROVINCE - FORTY PERCENT (40%)

(II) COMPONENT CITY/MUNICIPALITY - THIRTY PERCENT (30%); AND

(III) BARANGAY - THIRTY PERCENT (30%)

PROVIDED, HOWEVER, THAT WHERE THE NATURAL RESOURCES ARE LOCATED IN TWO (2) OR MORE PROVINCES, OR IN TWO (2) OR MORE COMPONENT CITIES OR MUNICIPALITIES OR IN TWO (2) OR MORE BARANGAYS, THE ALLOCATION OF SHARES SHALL BE BASED ON THE FORMULA ON POPULATION AND LAND AREA AS SPECIFIED IN SUBSECTION (C)(1) HEREOF.

(B) WHERE THE NATURAL RESOURCES ARE LOCATED IN A HIGHLY URBANIZED OR INDEPENDENT COMPONENT CITY:

(I) CITY - SIXTY - FIVE PERCENT (65%); AND

(II) BARANGAY - THIRTY - FIVE PERCENT (35%)

PROVIDED, HOWEVER, THAT WHERE THE NATURAL RESOURCES ARE LOCATED IN TWO (2) OR MORE CITIES, THE ALLOCATION OF SHARES SHALL BE BASED ON THE FORMULA ON POPULATION AND LAND AREA AS SPECIFIED IN SUBSECTION (C)(1) HEREOF.

THE REVENUES FROM THE EXCISE TAX ON MINERALS, MINERAL PRODUCTS AND QUARRY RESOURCES ALLOCATED TO THE LOCAL GOVERNMENT UNITS, AS INDICATED IN THE FOREGOING, SHALL BE SET ASIDE AND USED EXCLUSIVELY FOR HEALTH, EDUCATION AND LIVELIHOOD PROJECTS OF THE LOCAL GOVERNMENT UNITS CONCERNED."

1 **SECTION 3. *Implementing Rules and Regulations.*** – The Secretary
2 of Finance shall, upon recommendation of the Commissioner of Internal
3 Revenue, promulgate the necessary rules and regulations for the
4 effective implementation of this Act.

5
6 **SECTION 4. *Separability Clause.*** If any clause, section or provision
7 of this Act is held or declared to be unconstitutional or invalid by a
8 competent court, the remaining parts shall not be affected thereby.

9
10 **SECTION 5. *Repealing Clause.*** Any law, presidential decree or
11 issuance, executive order, rules or regulation contrary to or inconsistent
12 with the provisions of this Act is hereby repealed, modified or amended
13 accordingly.

14
15 **SECTION 6. *Effectivity.*** This Act shall take effect fifteen (15) days
16 after its publication in the *Official Gazette* or in at least two newspapers
17 of general circulation.

18
19 *Approved,*
20