

REPUBLIC OF THE PHILIPPINES
HOUSE OF REPRESENTATIVES
Batasan Complex, Quezon City

FIFTEENTH CONGRESS
Second Regular Session

House Bill No. 5171

Introduced by 1-UTAK Party-List Representative
ENGR. HOMER MERCADO

EXPLANATORY NOTE

On 05 May 1994, the Congress of the Philippines enacted Republic Act No. 7716 (the 1994 Expanded VAT Law or E-Vat Law). From the time of its enactment, the imposition of the Value-Added Tax on toll fees was never implemented until sometime in 2009, during the incumbency of Former President Gloria Macapagal-Arroyo, when the Bureau of Internal Revenue (BIR) attempted to impose VAT on toll fees. However, due to strong opposition from motorists and other affected sectors, the imposition of VAT on toll fees was deferred.

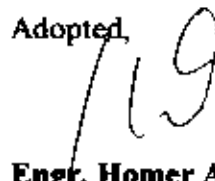
Upon assumption of office by President Benigno C. Aquino III in June 2010, the BIR revived the idea and set to impose the tax on toll fees starting 15 August 2010. A petition for declaratory relief was then filed before the Supreme Court assailing the validity of the impending imposition of VAT on the collections of tollway operators. Thereafter, the Supreme Court, on 13 August 2010, issued a Temporary Restraining Order (TRO) enjoining the implementation of the VAT on toll fees. However, in a decision promulgated on 19 July 2011, the Supreme Court dismissed the afore-stated petition for lack of merit and set aside the afore-stated TRO issued on 13 August 2010.

There is now a mounting opposition to the implementation of VAT on toll fees and thus, the need to further defer its implementation despite the recent ruling by the Supreme Court. Several groups have likewise called the BIR and the Toll Regulatory Board (TRB) to conduct further consultations to include also stakeholders in provinces who will be directly affected by the impact of VAT-inclusive toll fees that would consequently push up the costs of agricultural produce, bus fares, and basic goods being transported through the major expressways from the nearby provinces. Recent pronouncements by the BIR indicate their intention to impose the VAT on toll fees starting on 01 October 2011.

The issue at hand is impressed with public interest as it will not only affect the hundreds of thousands of motorists who directly use the major expressways but potentially millions who will be indirectly affected by the huge increase in VAT-inclusive toll fees.

As such, in these times of economic hardship, not to mention the advent of typhoons affecting the capital region and the nearby provinces, in order to ensure that no further unnecessary burden be permitted by the government to aggravate and worsen the already poor conditions of the majority of our people, there should be an amendment to the pertinent provisions of the National Internal Revenue Code and the EVAT Law, to the effect that tollway operations be excluded from, and hence, not covered within, the meaning of "*sale of services*" and that the tollway operators be excluded from the coverage of "franchise grantees" under Section 108 of the National Internal Revenue Code (NIRC).

Adopted,

A handwritten signature in black ink, appearing to read 'H. Mercado', is written over the word 'Adopted,'.

Engr. Homer A. Mercado
1-UTAK Party list

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**EXEMPTING TOLL FEES COLLECTED BY TOLLWAY OPERATORS FROM THE
COVERAGE OF REPUBLIC ACT 7716 (THE 1994 EXPANDED VAT LAW OR
EVAT LAW) AND REPUBLIC ACT 8284 (THE 1997 NATIONAL INTERNAL
REVENUE CODE OR THE NIRC).**

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

SECTION 1. The tollway operations are excluded from, and hence, not covered within, the meaning of "sale of services" that are subject to VAT under Section 108 of the National Internal Revenue Code (NIRC).

SECTION 2. The tollway operators are excluded from the coverage of "franchise grantees" under Section 108 of the National Internal Revenue Code (NIRC).

SECTION 3. Repealing Clause – All other laws, decrees, orders, issuances, rules and regulations which are inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

SECTION 4. Separability Clause – If, for any reason, any provision of this Act, or any part thereof, is declared invalid or unconstitutional, all other sections or provisions not affected thereby shall remain in force and effect.

SECTION 5. Effectivity – This Act shall take effect fifteen (15) days after publication in two (2) newspapers of national circulation.

Approved, 

Engr. HOMER A. MERCADO
1-UTAK Party-list