

**FIFTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
)**

HOUSE OF THE REPRESENTATIVES

HB. No 5185

Introduced by HONORABLE VICTOR F. ORTEGA

EXPLANATORY NOTE

This bill seeks to clarify the legislative intent of Congress that toll fees on our expressways are not subject to the Value Added Tax (VAT).

Toll fees on our expressways are already a user's tax. To impose VAT on toll fees is to impose tax on tax. This is against the Constitution and public interest.

The issue of whether toll fees on our expressways is subject to the VAT is still pending in the Supreme Court. A petition, G.R. 93007 was filed by Former Congressman Renato V. Diaz of Nueva Ecija and Atty. Aurora Timbol before the Supreme Court questioning the implementation of VAT on toll fees on our expressways.

Based on the Congressional records we have examined, VAT on toll fees was not included in the deliberations of the Expanded VAT law in 1994. The legislators did not expand the coverage to cover toll fees since the basis of the expanded coverage was from a list of items recommended by the Department of Finance and the BIR. The contention of the DOF and BIR is that it is included in the general definition of "sale of services" and operation of toll expressways is an executive franchise.

To allow a tax burden to our people without a clear imposition of Congress sets a very bad precedent. "The power to tax is the power to destroy." It is the essence of democracy that there should be no taxation without representation. As provided by our constitution, all taxes must be proposed and approved by Congress. To expand the scope of taxation purely on interpretation upon review of the law, seventeen (17) years since it was passed in 1994, is definitely not acceptable to our people. The DoF and BIR should defer any implementation until Congress has settled and clarified this issue. President Noynoy Aquino should intervene by deferring implementation of VAT on tolls and allow the democratic process to be followed.

To save the public from the detrimental effects of unjust implementation of "tax on tax" and to settle the issue, we are proposing Congress to clearly stipulate that toll fees paid in our various expressways is not subject to Value Added Tax (VAT)

We, therefore, strongly urge the immediate passage of this Bill.

FIFTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
)

HOUSE OF THE REPRESENTATIVES

HB. No. 5185

Introduced by HONORABLE VICTOR F. ORTEGA

AN ACT
AMENDING SECTIONS 108 AND 109 OF THE NATIONAL INTERNAL
REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER
PURPOSES TO EXCLUDE TOLL FEES FROM VAT

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

Section. 1. Section 108 of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

"SEC. 108. Value-added Tax on Sale of Services and Use or Lease of Properties. –

(A) Rate and Base of Tax. – There shall be levied, assessed, and collected a value-added tax equivalent to ten percent (10%) of gross receipts derived from the sale or exchange of services, including the use or lease of properties: 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 (2 4/5%); or

(ii) National government deficit as a percentage of GDP of the previous year exceeds one and one-half percent (1 ½%)

"The phrase 'sale or exchange of services' means the performance of all kinds of services in the Philippines for others for a fee, remuneration or consideration, including those performed or rendered by construction and service

contractors; stock, real estate, commercial, customs and immigration brokers; lessors of property, whether personal or real; warehousing services; lessors or distributors of cinematographic films; persons engaged in milling; processing, manufacturing or repacking goods for others; proprietors, operators or keepers of hotels, motels, rest-houses, pension houses, inns, resorts; proprietors or operators of restaurants, refreshment parlors, cafes and other eating places, including clubs and caterers; dealers in securities; lending investors; transportation contractors on their transport of goods or cargoes, including persons who transport goods or cargoes for hire and other domestic common carriers by land relative to their transport of goods or cargoes; common carriers by air and sea relative to their transport of passengers, goods or cargoes from one place in the Philippines to another place in the Philippines; sales of electricity by generation companies, transmission, and distribution companies; services of franchise grantees of electric utilities, telephone and telegraph, radio and television broadcasting and all other franchise grantees except those under Section 119 of this code, **TOLLWAY OPERATORS**, and non-life insurance companies (except their crop insurances), including surety, fidelity, indemnity and bonding companies; and similar services regardless of whether or not the performance thereof calls for the exercise or use of the physical and mental faculties. The phrase 'sale or exchange of services' shall likewise include:

"Xxx."

SEC. 2. Section 109 of the same Code, as amended, is hereby further amended by inserting a new sub-section (F) and re-number the succeeding sub-sections to read as follows:

"SEC. 109. *Exempt Transactions.* – (1) Subject to the provisions of subsection (2) hereof, the following transactions shall be exempt from the value-added tax:

"Xxx;

(F) SERVICES RENDERED BY TOLLWAY OPERATORS;

(G) Services by agricultural contract growers and milling for others of palay into rice, corn into grits, and sugar cane into raw sugar;

Xxx."

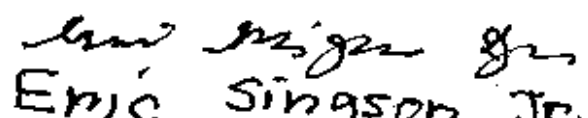
Sec. 3. Repealing Clause. – All laws, presidential decrees and issuances, executive orders, rules, and regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

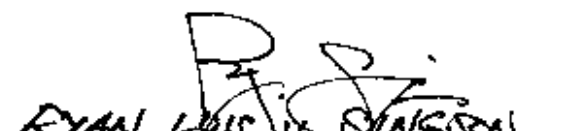
Sec. 4. Separability Clause – If, for any reason or reasons, any part of the provision of this Act shall be held unconstitutional or invalid, other parts or provisions hereof which are not affected thereby shall continue to be in full force and effect.

Sec. 5. Effectivity. – This Act shall take effect fifteen (15) days after its publication in two (2) national newspapers of general circulation. The publication shall not be later than seven (7) days after the approval hereof.



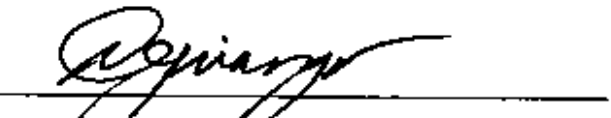
HON. VICTOR F. ORTEGA


Eric Singson Jr.
2nd Dist I. Sur

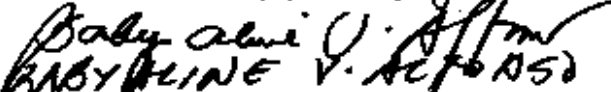

RYAN LUIS V. SINGSON
1ST DISTRICT ILOCOS SUR

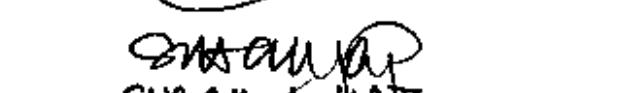

JUAN C. PONCE ENRILE, JR.
12th DIST. CAGAYAN


ROBERT M. ESTROZA
ALIND PARAGUET


Charina D. Umali
CZARINA D. UMALI
3rd District, Nueva Ecija


LEOPOLDO N. BATICULON


Babyeline V. Alfonso
1st DIST. CAGAYAN


SUSAN A. YAP
2ND DISTRICT, TARIAC


Tugna, S. N.
CHIBAC, PL


[illegible]

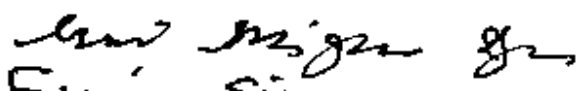

[illegible]

Sec. 3. Repealing Clause. - All laws, presidential decrees and issuances, executive orders, rules, and regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

Sec. 4. Separability Clause - If, for any reason or reasons, any part of the provision of this Act shall be held unconstitutional or invalid, other parts or provisions hereof which are not affected thereby shall continue to be in full force and effect.

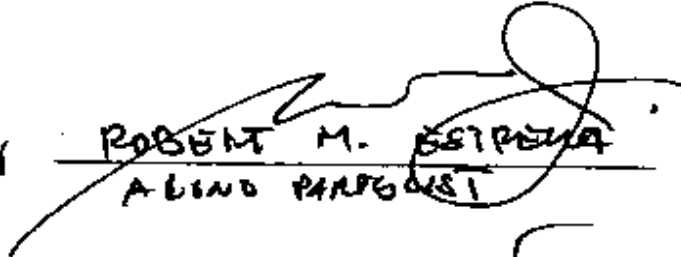
Sec. 5. Effectivity. - This Act shall take effect fifteen (15) days after its publication in two (2) national newspapers of general circulation. The publication shall not be later than seven (7) days after the approval hereof.


HON. VICTOR F. ORTEGA


Eric Singson Jr.
2nd dist I. Sur


RYAN LUIS V. SINGSON
1ST DISTRICT ILOCOS SUR

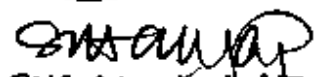

JUAN C. PONCE ENRILE, JR.
12 DIST. CAGAYAN

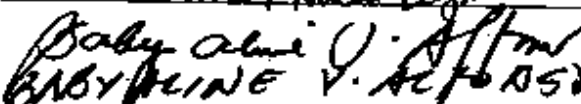

ROBERT M. ESTRELLA
ALIND PARAGUAST


Charina D. Umali

CZARINA D. UMALI
3rd District, Nueva Ecija


L. EDGARDO N. BALLEON


SUSAN A. BAT
2ND DISTRICT, TARIAC


BABY ALVIN V. ALFONSO
Lad 2157. CAGAYAN


TUGNA, S. N.
CIBAC, PL


Andy Solares
3rd Dist. Pamp.


RANDOLPH S. FINK
3RD DIST. CAGAYAN

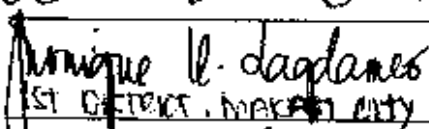

EMMANUELLE RACALIGAN

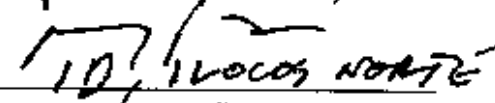

Imelda Embrosia-Dimayon

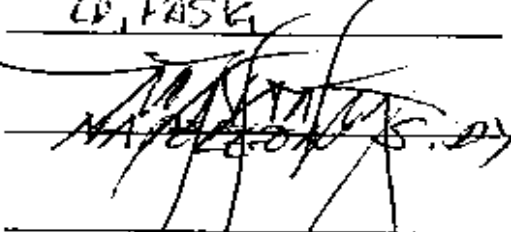

BERNARDO M. VERGARA
LONG DIST. BAGUIO

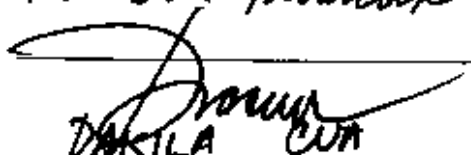

JOSEF F. ZUBIRI III
3RD DIST., BUKID.


REX GATCHALIAN
1ST District Valenzuela
ARTHUR R. ROSES
LONG DIST. BULACAN

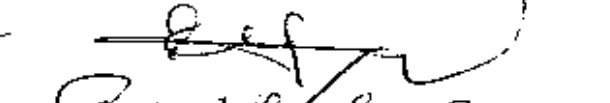

Enrique V. Lagdames
1ST DISTRICT, MAKATI CITY

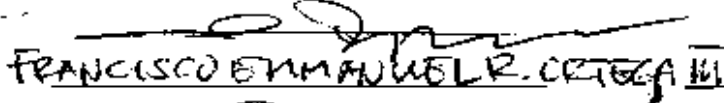

ID, ILOCOS NORTE
R. P. P.
CP, PASIG

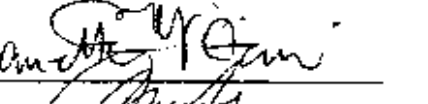

ANGELO R. PAIMONES
4th DIST. MANILA

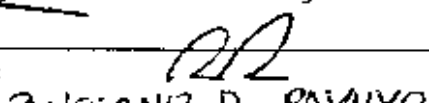

MA-VICTORIA R. SY-ALVARADO
1st - Dist. Bulacan

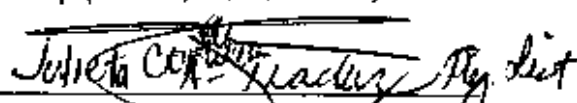

DAKILA
LD Quirino

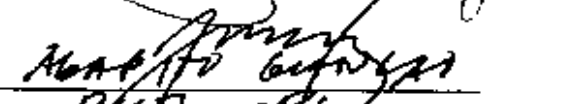

Emilio L. Ong
2nd DIST N. Samar

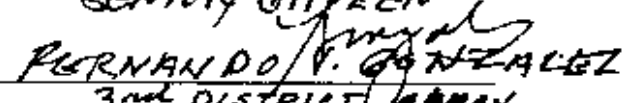

FRANCISCO ENMANUEL R. CRTEGA III


Manuel S. Aggab
Kalinga Phoe.


RONCIANO D. PAVUYO
APEZ PARTY LIST

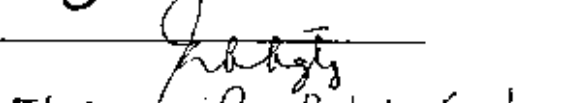

Julieta C. Xader
Reg. List


AGAPITO GONZALEZ
BUTIC
GODFREDO V. AROQUIZA
SENIOR CITIZEN


FERNANDO V. GONZALEZ
3rd DISTRICT, ABAAY


D. L. KKO
SUNICA, PH.


TEDDY BAGHILAT


Eleanor O. Bulut-Kegtang
LD APAYAO

~~MARKING~~ B. D. ALON

EUFRANIO C. ERIGUEL
2nd DIST. LA UNION
JANE T. CASTRO

~~Amable J. Jod~~ 1st District
- Pangasinan
- Cong. Mark
Erangas

MOHAMMED HUSEIN P. PAUGANDAMAN
1st DISTRICT, LANA DEL SUR

~~Amable J. Jod~~

~~Amable J. Jod~~

~~Amable J. Jod~~

SHERCENDRO III
Sorsogon 1st

RAYE DAZA
N Samar, 1st

~~Amable J. Jod~~

AURORA E. CERILLES
2nd DIST. ZAMBO DEL SUR

VICTOR J. TU
1st DIST. ZAMBO DEL SUR

Dato Arroyo Dato
2nd Dist. Cam Sur

~~Amable J. Jod~~
2ND DISTRICT OF CAMR

~~Amable J. Jod~~ 1st DIST

~~Amable J. Jod~~
1st DIST Panganga

~~Amable J. Jod~~

~~Amable J. Jod~~

REENA CONCEPCION C. BOLD
1st Family 1st City

~~Amable J. Jod~~

NASSER C. PAUGANDAMAN
AA-KASOYO ARTIST

~~Amable J. Jod~~ 1st DIST

ARTHUR DEFENSOR, JR

~~Amable J. Jod~~
MA AMELITA C. VILLAROSA

~~Amable J. Jod~~
MA JOCELYN BERNOS - ABRA

Annulment
ANA CRISTINA SIBUIAN-GO

Hermia B. Roman
HERMIA B. ROMAN

DEODORAS P. PANGOS JR

Fernando C. Gonzales
3rd DISTRICT ALBAY

SALVIO B. FORTUNO
5TH DIST., CAM. SUR

DARYL GABE J. ABAYIN
AT (AANGAT TAGI) PL

WIGATE BECERRA
SUGAO CITY - COME

HERNANDEZ
3rd DIST., NG. OR.

PROKOP J. LUCAPARES

AYOBE BENITEZ
2nd DIST., NEG. OCC

LUCY TORRES GOMEZ
4TH DIST. OF LEYTE

CATALINA C. BACASIDA

Cesar V. Sarmiento
LONG DISTRICT, Catanduanes

RODEL M. BATOCABE
AKO BILAL

CRESENTE C. PAEZ
COOP - NATALL

RENE L. REUTIMPAES
BOMOL FIRST DIST.

ALFREDO A. MARTINEZ
2nd DIST NEG. OCC.

U. SARMIENTO

CARLOS M. PADILLA
LONG DISTRICT, H. Visayas