



Republic of the Philippines

HOUSE OF REPRESENTATIVES
Quezon City

Fifteenth Congress
Second Regular Session



COMMITTEE REPORT NO. 1479

Submitted by the Committee on Ways and Means on

Re. : House Bill No. **5382**
Recommending its approval in substitution of House Bill Nos.
4971, 5171, 5185, 5303

Sponsors : Representatives Hermilando I. Mandanas, Arthur C. Yap,
Homer Mercado, Victor F. Ortega, Eric G. Singson, Jr., Teddy
F. Casifio

Mr. Speaker:

The Committee on Ways and Means to which were referred House Bill No.
4971, introduced by Representative Arthur C. Yap, entitled:

**"AN ACT PROMOTING THE WELFARE OF MOTORISTS AND
THE COMMUTING PUBLIC, ADVANCING COUNTRYSIDE
DEVELOPMENT BY EXEMPTING FROM PAYMENT OF THE
EXPANDED VALUE ADDED TAX THE USE OF TOLL WAYS,
AMENDING FOR THE PURPOSE SECTION 109 OF THE
NATIONAL INTERNAL REVENUE CODE, AS AMENDED, AND
FOR OTHER PURPOSES"**

House Bill No. 5171, introduced by Representative Homer Mercado entitled:

**"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)"**

House Bill No. 5185, introduced by Representative Victor F. Ortega, Eric G.
Singson, Jr., Juan C. Ponce-Enrile, Jr., Czarina D. Umali, Baby Aline Vargas-
Alfonso, Emmanuel D. Pacquiao, Robert Raymund M. Estrella,
Leopoldo N. Bataoil, Susan A. Yap, Sherwin Tugna, Randolph S. Ting,
Imelda Quibranza Dimaporo, Bernardo M. Vergara, Emil L. Ong, Jose F.

Zubiri, III, Francisco Emmanuel R. Ortega III, Rex Gatchalian, Arthur B. Robes, Manuel S. Agyao, Monique Q. Lagdameo, Juliet R. Cortuna, Rodolfo C. Fariñas, Agapito H. Guanlao, Roman T. Romulo, Godofredo V. Arquiza, Napoleon S. Dy, Ponciano D. Payuyo, Angelo B. Palmones, David L. Kho, Ma. Victoria R. Sy-Alvarado, Eleanor C. Bulut-Begtang, Dakila Carlo E. Cua, Teddy B. Baguilat, Jr., Ma. Theresa B. Bonoan-David, Maximo B. Dalog, Eufanio C. Eriguel, Jane T. Castro, Wilfredo Mark M. Enverga, Mohammed Hussein P. Pangandaman, Salvador H. Escudero, III, Raul A. Daza, Aurora E. Cerilles, Diosdado Macapagal Arroyo, Rodolfo B. Albano, Carmelo F. Lazatin, Arthur R. Defensor, Jr., Amelita C. Villarosa, Ronald M. Cosalan, Maria Jocelyn V. Bernos, Martyn L. Primicias-Agabas, Simeon A. Datumanong, Victor J. Yu, Lani Mercado-Revilla, Reena Concepcion G. Obillo, Ana Cristina Siquian Go, Herminia B. Roman, Salvio B. Fortuno, Daryl Grace J. Abayon, Vicente F. Belmonte, Jr., Henry Pryde A. Teves, Florencio T. Miraflores, Alfredo B. Benitez, Lucy Marie Torres-Gomez, Catalina C. Bagasina, Cesar V. Sarmiento, Rodel M. Batocabe, Cresente C. Paez, Rene L. Relampagos, Alfredo B. Maranon III, Joaquin Carlos Rahman A. Nava, Mel Senen S. Sarmiento, Carlos M. Padilla, Jr., entitled:

"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" and,

House Bill No. 5303, introduced by Representative Teddy F. Casiño entitled:

"AN ACT CLASSIFYING SERVICES RENDERED BY TOLLWAY OPERATORS AS VALUE-ADDED TAX EXEMPT TRANSACTIONS, AMENDING FOR THE PURPOSE SECTION 109 (1) OF THE NATIONAL INTERNAL REVENUE CODE, AS AMENDED BY REPUBLIC ACT NO. 9337, AND FOR OTHER PURPOSES."

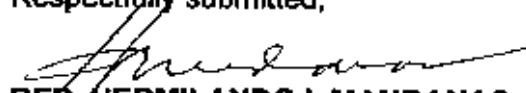
has considered the same and recommends that the attached House Bill No. 5382, entitled:

"AN ACT EXEMPTING THE SERVICES RENDERED BY TOLLWAY OPERATORS FROM THE VALUE-ADDED TAX, AMENDING FOR THE PURPOSE, SECTIONS 108 AND 109 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED"

be approved in substitution of House Bill Nos. 4971, 5171, 5185, 5303, with Representatives Arthur C. Yap, Homer Mercado, Victor F. Ortega, Eric G. Singson, Jr., Teddy F. Casiño, Juan C. Ponce-Enrile, Jr., Czarina D. Umali, Baby Aline Vargas-Alfonso, Emmanuel D. Pacquiao, Robert Raymund M. Estrella, Leopoldo N. Bataoil, Susan A. Yap, Sherwin Tugna, Randolph S. Ting, Imelda Quibranza Dimaporo, Bernardo M. Vergara, Emil L. Ong, Jose F. Zubiri, III, Francisco Emmanuel Ortega III, Rex Gatchalian, Arthur B. Robes, Manuel S. Agyao, Monique Q. Lagdameo, Juliet R. Cortuna, Rodolfo C. Fariñas, Agapito H.

Guanlao, Roman T. Romulo, Godofredo V. Arquiza, Napoleon S. Dy, Ponciano D. Payuyo, Angelo B. Palmones, David L. Kho, Ma. Victoria R. Sy-Alvarado, Eleanor C. Bulut-Begtang, Dakila Carlo E. Cua, Teddy B. Baguilat, Jr., Ma. Theresa B. Bonoan-David, Maximo B. Dalog, Eufanio C. Eriguel, Jane T. Castro, Wilfredo Mark M. Enverga, Mohammed Hussein P. Pangandaman, Salvador H. Escudero, III, Raul A. Daza, Aurora E. Cerilles, Diosdado Macapagal Arroyo, Rodolfo B. Albano, Carmelo F. Lazatin, Arthur R. Defensor, Jr., Amelita C. Villarosa, Ronald M. Cosalan, Maria Jocelyn V. Bernos, Marilyn L. Primicias-Agabas, Simeon A. Datumanong, Victor J. Yu, Lani Mercado-Revilla, Reena Concepcion G. Obillo, Ana Cristina Siquian Go, Herminia B. Roman, Salvio B. Fortuno, Daryl Grace J. Abayon, Vicente F. Belmonte, Jr., Henry Pryde A. Teves, Florencio T. Miraflores, Alfredo B. Benitez, Lucy Marie Torres-Gomez, Catalina C. Bagasina, Cesar V. Samiento, Rodel M. Batocabe, Cresente C. Paez, Rene L. Relampagos, Alfredo B. Maranon III, Joaquin Carlos Rahman A. Nava, Mel Senen S. Samiento, Carlos M. Padilla, Jr., Hermilando I. Mandanas, Andres D. Salvacion, Jr., Deogracias B. Ramos, Jr., Jose F. Zubiri, III, Ryan Luis V. Singson and Fernando V. Gonzales as authors thereof.

Respectfully submitted,


REP. HERMILANDO I. MANDANAS

Chairman

Committee on Ways and Means

The HONORABLE SPEAKER
House of Representatives
Quezon City



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Fifteenth Congress
Second Regular Session

HOUSE BILL NO. 5382

(In Substitution of House Bill Nos. 4971, 5171, 5185, 5303)

Introduced by Representatives Arthur C. Yap, Homer Mercado, Victor F. Ortega, Eric G. Singson, Teddy F. Casiño, Juan C. Ponce-Enrile, Jr., Czarina D. Umali, Baby Aline Vargas-Alfonso, Emmanuel D. Pacquiao, Robert Raymund M. Estrella, Leopoldo N. Bataoil, Susan A. Yap, Sherwin Tugna, Randolph S. Ting, Imelda Quibranza Dimaporo, Bernardo M. Vergara, Emil L. Ong, Jose F. Zubiri, III, Francisco Emmanuel R. Ortega III, Rex Gatchalian, Arthur B. Robes, Manuel S. Agyao, Monique Q. Lagdameo, Juliet R. Cortuna, Rodolfo C. Fariñas, Agapito H. Guanlao, Roman T. Romulo, Godofredo V. Arquiza, Napoleon S. Dy, Ponciano D. Payuyo, Angelo B. Palmones, David L. Kho, Ma. Victoria R. Sy-Alvarado, Eleanor C. Bulut-Begtang, Dakila Carlo E. Cua, Teddy B. Baguilat, Jr., Ma. Theresa B. Bonoan-David, Maximo B. Dalog, Eufanio C. Eriguel, Jane T. Castro, Wilfredo Mark M. Enverga, Mohammed Hussein P. Pangandaman, Salvador H. Escudero, III, Raul A. Daza, Aurora E. Cerilles, Diosdado Macapagal Arroyo, Rodolfo B. Albano, Carmelo F. Lazatin, Arthur R. Defensor, Jr., Amelita C. Villarosa, Ronald M. Cosalan, Maria Jocelyn V. Bernos, Martyn L. Primicias-Agabas, Simeon A. Datumanong, Victor J. Yu, Lani Mercado-Revilla, Reena Concepcion G. Obillo, Ana Cristina Siquian Go, Herminia B. Roman, Salvio B. Fortuno, Daryl Grace J. Abayon, Vicente F. Belmonte, Jr., Henry Pryde A. Teves, Florencio T. Miraflores, Alfredo B. Benitez, Lucy Marie Torres-Gomez, Catalina C. Bagasina, Cesar V. Samiento, Rodel M. Batocabe, Cresente C. Paez, Rene L. Relampagos, Alfredo B. Maranon III, Joaquin Carlos Rahman A. Nava, Mel Senen S. Samiento, Carlos M. Padilla, Jr., Hermilando I. Mandanas, Andres D. Salvacion, Jr., Deogracias B. Ramos, Jr., Jose F. Zubiri, III, Ryan Luis V. Singson and Fernando V. Gonzales

**“ACT EXEMPTING THE SERVICES RENDERED BY TOLLWAY
OPERATORS FROM THE VALUE-ADDED TAX, AMENDING FOR
THE PURPOSE, SECTIONS 108 AND 109 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:*

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, resthouses, 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 SERVICES RENDERED BY TOLLWAY OPERATORS AND those under Section 119 of this Code; 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 (V) 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

(V) SERVICES RENDERED BY TOLLWAY OPERATORS;

[(V)] (W) Sale or lease of goods or properties or the performance of services other than the transactions mentioned in the preceding paragraphs, the gross annual sales and/or receipts do not exceed the amount of One million five hundred thousand pesos (P1,500,000): *Provided*, That not later than January 31, 2009 and every three (3) years thereafter, the amount herein stated shall be adjusted to its present value using the Consumer Price Index, as published by the National Statistics Office (NSO).
xxx."

Sec. 3. Implementing Rules and Regulations. - The Secretary of Finance shall, in coordination with the Commissioner of Internal Revenue, promulgate the necessary rules and regulations for the effective implementation of this Act.

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

Sec. 6. Effectivity Clause. - This Act shall take effect fifteen (15) days after its publication in the Official Gazette, or in at least two (2) newspapers of general circulation.

Approved,

FACT SHEET

5382
HOUSE BILL NO.

(In Substitution of House Bill Nos. 4971, 5171, 5185 and 5303)

**"AN ACT EXEMPTING THE SERVICES RENDERED BY
TOLLWAY OPERATORS FROM THE VALUE-ADDED TAX,
AMENDING FOR THE PURPOSE, SECTIONS 108 AND 109
OF THE NATIONAL INTERNAL REVENUE CODE OF 1997,
AS AMENDED"**

Introduced by Reps. Arthur C. Yap, Homer Mercado, Victor F. Ortega, Eric G. Singson, Teddy F. Casiño, Juan C. Ponce-Enrile, Jr., Czarina D. Umali, Baby Aline Vargas-Alfonso, Emmanuel D. Pacquiao, Robert Raymund M. Estrella, Leopoldo N. Bataoil, Susan A. Yap, Sherwin Tugna, Randolph S. Ting, Imelda Quibranza Dimaporo, Bernardo M. Vergara, Emil L. Ong, Jose F. Zubiri, III, Francisco Emmanuel R. Ortega III, Rex Gatchalian, Arthur B. Robes, Manuel S. Agyao, Monique Q. Lagdameo, Juliet R. Cortuna, Rodolfo C. Fariñas, Agapito H. Guanlao, Roman T. Romulo, Godofredo V. Arquiza, Napoleon S. Dy, Ponciano D. Payuyo, Angelo B. Palmones, David L. Kho, Ma. Victoria R. Sy-Alvarado, Eleanor C. Bulut-Begtang, Dakila Carlo E. Cua, Teddy B. Baguilat, Jr., Ma. Theresa B. Bonoan-David, Maximo B. Dalog, Eufanio C. Eriguel, Jane T. Castro, Wilfredo Mark M. Enverga, Mohammed Hussein P. Pangandaman, Salvador H. Escudero, III, Raul A. Daza, Aurora E. Cerilles, Diosdado Macapagal Arroyo, Rodolfo B. Albano, Carmelo F. Lazatin, Arthur R. Defensor, Jr., Amelita C. Villarosa, Ronald M. Cosalan, Maria Jocelyn V. Bernos, Marilyn L. Primicias-Agabas, Simeon A. Datumanong, Victor J. Yu, Lani Mercado-Revilla, Reena Concepcion G. Obillo, Ana Cristina Siquian Go, Herminia B. Roman, Salvio B. Fortuno, Daryl Grace J. Abayon, Vicente F. Belmonte, Jr., Henry Pryde A. Teves, Florencio T. Miraflores, Alfredo B. Benitez, Lucy Marie Torres-Gomez, Catalina C. Bagasina, Cesar V. Sarmiento, Rodel M. Batocabe, Cresente C. Paez, Rene L. Relampagos, Alfredo B. Maranon III, Joaquin Carlos Rahman A. Nava, Mel Senen S. Sarmiento, Carlos M. Padilla, Jr., Hermilando I. Mandanas, Andres D. Salvacion, Jr., Deogracias B. Ramos, Jr., Jose F. Zubiri, III, Ryan Luis V. Singson and Fernando V. Gonzales

*Committee Referral: Committee on Ways and Means
Chairman: HERMILANDO I. MANDANAS*

OBJECTIVES

- To alleviate the plight of the motorists and the commuting public due to increase in transport costs.
- To avoid an increase in the cost of basic commodities and other goods and services caused by the VAT on toll fees.

KEY PROVISIONS

- Seeks to amend Section 108 of the National Internal Revenue Code of 1997, as amended, by excluding services rendered by toll way operators from the definition of 'sale or exchange of services' covered by the value-added tax on the sale of services.
- Seeks to amend Section 109 of the same Tax Code by considering those services rendered by toll way operators as a transaction exempt from the coverage of the value-added tax.

RELATED LAW

- National Internal Revenue Code of 1997, as amended

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS

Second Regular Session

House Bill No. 4971

INTRODUCED BY REPRESENTATIVE ARTHUR C. YAP

EXPLANATORY NOTE

In very recent years, most especially during the previous administration, much emphasis was placed on the construction, development (and re-development) of expressways, highways or toll ways.

Thus, we have seen the North Luzon Expressway, being re-developed and becoming a world class superhighway, making travel up north very fast and comfortable. Almost simultaneous is the upgrading of the South Luzon Expressway, parallel with the elevated Skyway, which was also extended up to Alabang, Muntinlupa, thus trips to Southern Luzon are now a first class cruise.

Likewise, we have seen the inauguration of the Subic Clark Tarlac Expressway, connecting two very important transport and industrial hubs, the Diosdado Macapagal International Airport and the rest of the Clark Ecozone, to the Subic Bay Freeport. The said highway likewise extended the NLEX further up to northern portions of the Tarlac Province. In the South, the SLEX has been extended by the Southern Tagalog Arterial Road, thus making travel to Batangas City and the international port therein, also a breeze. Last would be the Manila-Cavite Expressway which has now been extended also up to Cavite City.

Soon, other toll ways, conceptualized and initiated during the previous administration would be unveiled and operated. This would include a highway connecting the progressive southern provinces of Cavite and Laguna, and another in the north that would commence from Tarlac to Pangasinan and all the way to La Union.

For those living in suburban Metro Manila and nearby provinces, the use of expressways has become, not just a luxury, but a necessity. They now go to work, school and other daily and routine place of destinations with ease and speed using the toll ways.

For those from the provinces, these expressways have been catalysts of their local industries' growth and development. Investments are now flourishing in the countryside connected by these highways, generating income for the government, and more important, creating jobs by the millions. The goods from the provinces, especially the perishable ones like agricultural produce, are brought cheaper and faster to the center of

trade and commerce, which is Metro Manila. Also, international and domestic tourism thrives as travel destinations can easily be reached.

However, since government coffers are very inadequate, if not scarce, most of these projects are undertaken using the Build Operate and Transfer or similar schemes. Private funding and undertaking is utilized, similar to the Public Private Partnership being advocated by the present administration.

In such cases, even though these expressways are basic government infrastructures, they cannot be used for free. Motorists and the commuting public pay toll fees for their use.

Yet, there are many people who complain about the expensive toll fees for the use of the above mentioned expressways. And indeed this assertion is not without basis. The toll fees of around P3 per kilometer for small or class 1 vehicles, P6 for medium sized vehicles and P9 for large trucks, are quite costly.

And now, there is the impending imposition of the Expanded Value Added Tax (EVAT) on toll fees.

On July 13, 2010, the incumbent Commissioner of the Bureau of Internal Revenue issued Revenue Memorandum Circular 63-2010. This Circular imposed the payment of EVAT on toll fees. The Commissioner justified this imposition by stating that that Section 108 of the National Internal Revenue Code (NIRC) allows the imposition of EVAT on all services for a fee.

A petition was filed with the Supreme Court against the said Memorandum Circular. Unfortunately, the highest court of the land recently denied the petition and upheld the imposition of EVAT on toll fees.

The decision noted the absence of legislation against VAT on toll and said that every activity that can be imagined as a form of service rendered for a fee should be deemed included or "VATable" unless some provision of law especially excludes it.

This proposed legislation would now be the legislation against EVAT on toll.

In the most recent State of the Nation Address, the President mentioned that his administration would not pursue the passage of new tax laws.

However, contrary to such pronouncement, the BIR is still contemplating on pursuing the imposition of the EVAT on toll.

Of course, technically, it is true that the EVAT on toll is not a new tax imposition. This is because the SC decision stated that it can be imposed without the passage of a new tax measure. Nevertheless, its implementation now would be, for all intents and purposes, amount to a new tax imposition on the public. This is since said tax has not been previously imposed.

And unfortunately, the reality is that the motorists and the commuting public can no longer afford an increase in the price of toll fees. This is especially in these trying times when prices of basic goods and services are skyrocketing. There is no abatement in the increase in the prices of food and groceries, petroleum or gasoline, and utilities such as electricity and water.

Furthermore, an increase in the price of the toll fees, brought about by the imposition of EVAT, would bring a rippling effect of increasing transport fares and prices of other basic commodities and services. And, coupled by the inelasticity of wages,

the ordinary consumer and the general public would not just be overwhelmed, but may simply break down.

It is conceded that the government is in dire need of additional revenue to finance its operations. Maybe, the option for the government is the much bandied about plugging of loopholes in the tax collection system. It cannot be in the form of new impositions to the general public, whether it would be in a new tax law or in an administrative circular interpreting an existing tax law.

The Highest Court noted that the executive exercises exclusive discretion in matters pertaining to the implementation and execution of tax laws. Consequently, the executive is more properly suited to deal with the immediate and practical consequences of the EVAT imposition.

This representation cannot risk a decision of the executive to impose this EVAT on toll ways and is even of the strong opinion that Congress should preemptively act against it. It is in this view that the immediate passage of the bill is earnestly sought.


ARTHUR C. YAP
Representative

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS

First Regular Session

House Bill No. 4971

INTRODUCED BY REPRESENTATIVE ARTHUR C. YAP

AN ACT
PROMOTING THE WELFARE OF MOTORISTS AND THE
COMMUTING PUBLIC, ADVANCING COUNTRYSIDE
DEVELOPMENT BY EXEMPTING FROM PAYMENT OF THE
EXPANDED VALUE ADDED TAX THE USE OF TOLL WAYS,
AMENDING FOR THE PURPOSE SECTION 109 OF THE
NATIONAL INTERNAL REVENUE CODE, AS AMENDED, AND
FOR OTHER PURPOSES

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

1 **SECTION 1. *Short Title.*** - This Act shall be known as the "EVAT Exemption on
2 Toll Ways Act of 2011".

3 **SECTION 2. *Declaration of Policy.*** - It is hereby declared the policy of the State
4 to promote the welfare and alleviate the burden of motorists and the commuting public
5 and to advance the development of the countryside by making the use of basic public
6 infrastructure, including toll ways, inexpensive. The use of toll ways shall hereinafter be
7 exempted from payment of the expanded value added tax (EVAT), other taxes and duties.

8 **SECTION 3. *Amendment of Section 109 of the National Internal Revenue***
9 ***Code.*** - Section 109 of the National Internal Revenue Code or Presidential Decree No.
10 - 1158, as, as amended by among others, Republic Act No. 8424 or the Tax Reform Act of
11 1997, and Republic Act No. 9337 or the Value Added Tax Reform Act, is hereby further
12 amended, to read as follows:

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

4 "(A) xxx

5 (W) Fees and other charges collected from the use of toll ways or
6 similar expressways that are constructed, maintained and operated by
7 private tollway operators at their own expense under the Build Operate
8 and Transfer and other similar schemes.

9 xxx"

10 **SECTION 4. *Separability Clause.*** - If any provision of this Act, or any parts
11 thereof, is declared unconstitutional, the same shall not affect the validity and effectivity
12 of the other portions.

13 **SECTION 5. *Repealing Clause.*** - All laws, executive orders, presidential
14 decrees, proclamations, rules, regulations, issuances and enactments of parts thereof
15 inconsistent with this Act are hereby repealed or modified accordingly.

16 **SECTION 6. *Effectivity.*** - This Act shall take effect fifteen (15) days from its
17 complete publication in the Official Gazette or in a newspaper of general circulation in
18 the Philippines, whichever comes earlier.

APPROVED.

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.

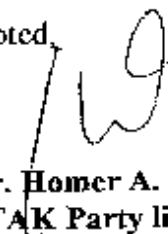
Upon assumption of office by President Benigno C. Aquino III in June 2010, the BIR revived the idea and set to impose the tax on toll fees starting 15 August 2010. A petition for declaratory relief was then filed before the Supreme Court assailing the validity of the impending imposition of VAT on the 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,



Engr. Homer A. Mercado
1-UTAK Party list

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

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:

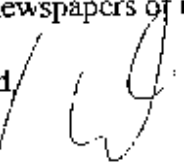
SECTION 1. The tollway operations are excluded from, and hence, not covered within, the meaning of "sale of services" that are subject to VAT under Section 108 of the National Internal Revenue Code (NIRC)

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

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 Noyonoy 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."

EC. 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;

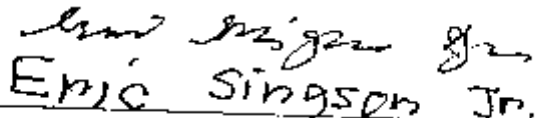
Xxx."

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.

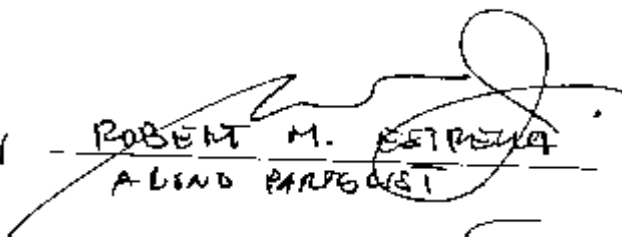
Sec. 5. *Effectivity.* - This Act shall take effect fifteen (15) days after its publication in two (2) national newspapers of general circulation. The publication shall not be later than seven (7) days after the approval hereof.

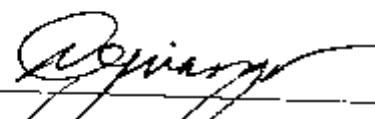

HON. VICTOR F. ORTEGA


Eric Singson Jr.
2nd Dist I. Sur

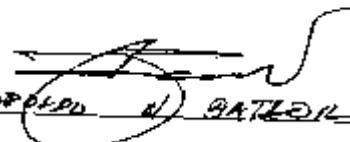

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1ST DISTRICT ILOCOS SUR

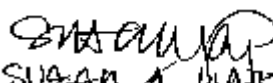

JUAN C. PONCE ENRILE, JR.
1ST DIST. CAGAYAN

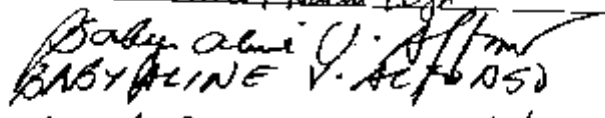

ROBERT M. ESTRELLA
ALIND PARAGUAST


Charina D. Umali

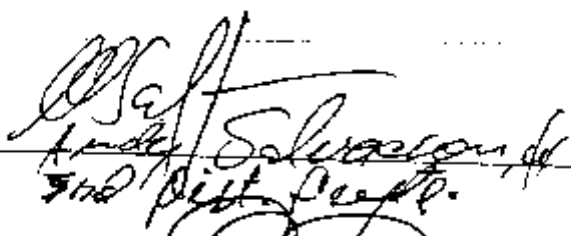
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3RD DISTRICT, Nueva Ecija

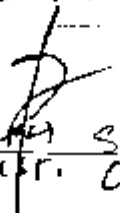

L. EDWARD M. BATTELL


SUSAN A. BAT
2ND DISTRICT, TARIAC

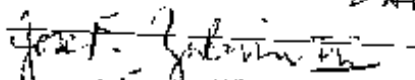

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Lind 2nd DIST. CAGAYAN

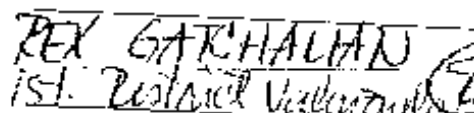

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CHIBAC PL

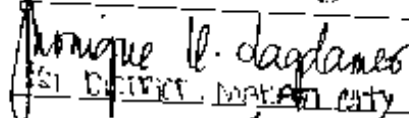

Randolph S. Fink
3RD DIST. CAGAYAN

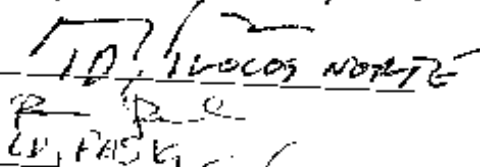

RANDOLPH S. FINK
3RD DIST. CAGAYAN

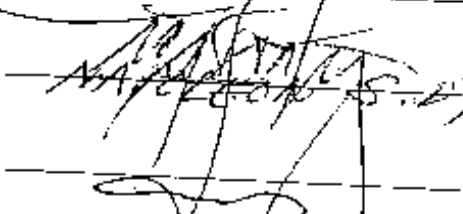

BERNARDO M. XERCARA
LONG DIST. BAGUIO

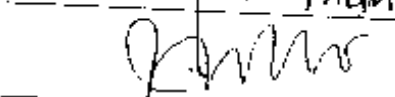

JOSEF F. LUBIRI III
3RD DIST. BUKID.

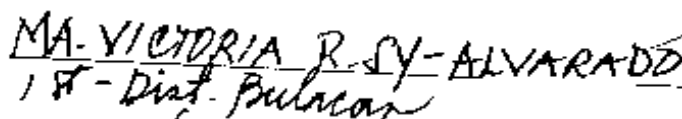

REX GARCHALMAN
1ST DISTRICT VALHART
ADAMSON U. BAGUIO
LONG DIST. BAGUIO

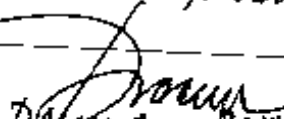

ENRIQUE B. LAGDAMES
1ST DISTRICT, MANILA CITY

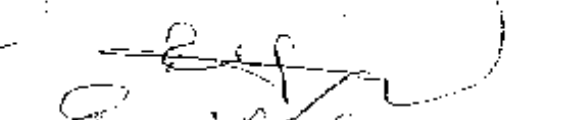

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R. P. C.
LO, PASIG

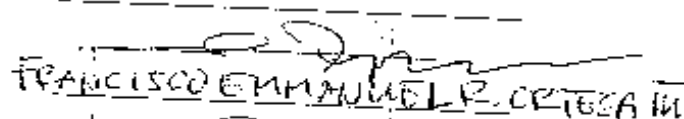

ANGELO B. PALMONES

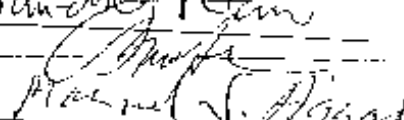

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MA. VICTORIA R. SY-ALVARADO
1ST DIST. PULMAN

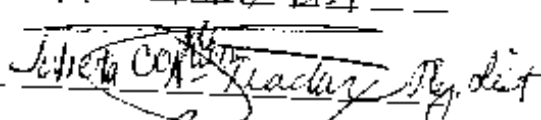

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LO, QUERINO

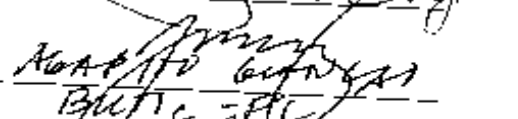

EDMUNDO L. MERY
2ND DIST. N. S. MERY

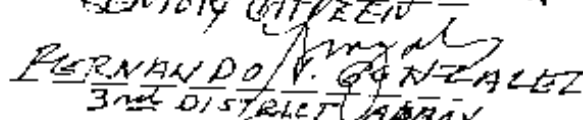

FRANCISCO ENMANUEL R. CRISTALIN

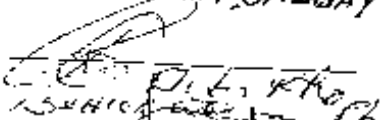

MANUEL S. AGGAR
Kalinga Prov.


RENCIANO D. PAVUYO
APEZ PARTY LIST

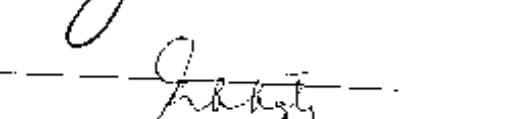

JULIETA C. MERY
Kalinga Prov.


NORA ID GUTIERREZ
BUSTO JPL
GODFREDO V. A. ROLIZA
SENIOR CITIZEN


FERNANDO V. GONZALEZ
3RD DISTRICT, ABBAY


D. L. KROK
SENIOR CITIZEN, PL.


TEDDY BACHINI

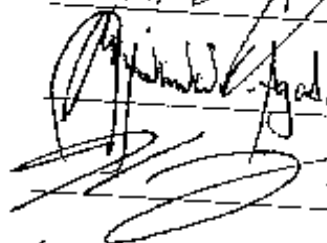

ELEANOR O. BULUT - BEGTANG
LO APAYAO

~~MARKED~~ B. DALOG

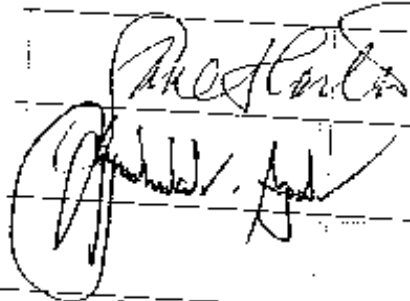
EUFRANIO C. ERIGUEL

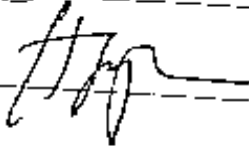
2nd DIST. LA UNION

JANE T. CASTRO

 6th District
Pangasinan
cong. Mark Chavez

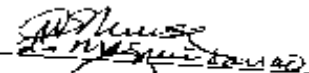
MOHAMMED HUSSEIN P. PAUGANDAMAN
1st DISTRICT, LANA DEL SUR





SHERCORDERO III
Sampaga 1st.

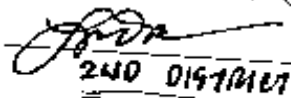
RALPH DAZA
N. Tamar, 1st

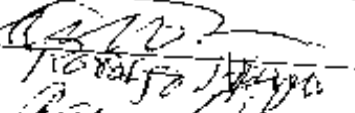


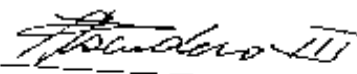
ALBERT E. CERILLES
2nd DIST. ZAMBO. DEL SUR

VICTOR J. IN
1st DIST. ZAMBO DEL SUR

Dato Arroyo Dato
2nd Dist. Cam Sur

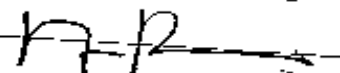

2ND DISTRICT OF CAVITE


1st DIST. PANGASINAN

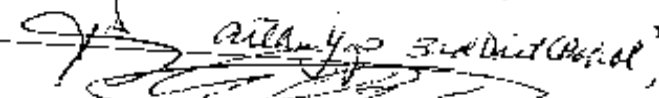




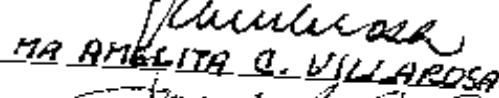
REENA CONLEYMAN C. BILLO
1st Family Party list

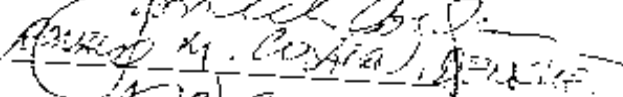


NASSER C. PAUGANDAMAN
AA-KASOTO PARTYLIST



ARTHUR DEFENSOR, JR


MA AMELITA C. VILLAROSA


MA JOCELYN FIERMOS

MA JOCELYN FIERMOS - ABC-A

Amalinda
ANA CRISTINA SIQUAN-GO

Herman B. Roman
HERNANDEZ B. ROMAN

Georgina B. Ramos Jr
GEORGINA B. RAMOS JR

Luis B. Borgez
3rd DISTRICT ALBAY
SALVIO B. FORTUÑO
1ST DIST. CANT. SLOA

L. Borgez
DARYL GRACE S. ABAYON
AD (ANACAT TAY) PL

Vicente B. Borgez
SUGAR CITY - LONG

Hernando B. Borgez
3rd DIST. CANT. SLOA

Florencia B. Borgez
2nd DIST. NEG. OCC
AUGUSTO B. BORGES
2nd DIST. NEG. OCC

Luis B. Borgez
LUCY BORGES BORGES
4th DIST. OF LEYTE

Catalina C. Borgez
CATALINA C. BORGES

Cesar V. Sarmiento
CESAR V. SARMIENTO
Long District, Catanduanes

Rodel M. Batocabe
RODEL M. BATOCABE
AKO BICOL

Jose M. Borgez
2nd DIST. CANT. SLOA

Gregorio C. Borgez
GREGORIO C. BORGES
CANT. SLOA

Rene U. Borgez
RENE U. BORGES
BICOL FIRST DIST.

Alfredo D. Borgez
ALFREDO D. BORGES
2nd DIST. NEG. OCC

R. Borgez
R. BORGES

M. Borgez
M. BORGES

Carlos M. Borgez
CARLOS M. BORGES
Long District, N. Visayas

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS
Second Regular Session

HOUSE BILL No. 5303

Introduced by BAYAN MUNA Rep. TEDDY A. CASIÑO

EXPLANATORY NOTE

This bill seeks to amend the National Internal Revenue Code of 1997, as amended by Republic Act No. 9577, by exempting tollway services and the fees tollway operators collect from the value-added tax (VAT).

According to the Bureau of Internal Revenue (BIR), the government's move to collect VAT on tollway operations will earn P2.3 to P3 billion a year to ostensibly help fund the Aquino government's social services and infrastructure projects.

But the VAT on tollway operations will jack up all the present toll fee rates wherein Class 1 vehicles travelling on the North Luzon Expressway (NLEX) from Balintawak to Sta. Ines will have to pay a total of P212 from the current P195, while the highest toll for Class 1 is P272 from Tipu to Tarlac from the current P243.

An ordinary car taking the South Luzon Expressway (SLEX) would have to pay P96 from Alabang to Cidamba from the current P86 while the Skyway would charge P165 for the elevated portion from Marikina to Alabang from the current P147. Rates for trucks and buses are greater and will become even more expensive with the imposition of the VAT on tollway operations.

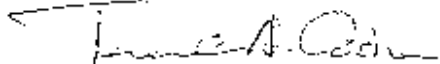
Imposing the VAT on tollway operations will definitely be another burden on the already over-taxed shoulders of our people, especially for those whose incomes are barely enough to cover their basic needs.

In these times of unbridled hikes in the prices of oil, food, other commodities and services, it is the duty of Congress to work for economic relief to Filipino citizens. The clear-cut removal of VAT on tollway services in the current internal revenue law is the most logical option for Congress to act on.

Furthermore, in light of the recent Supreme Court decision favoring the imposition of the VAT on tollway services, the burden is on Congress to protect the people by removing tollway services from the VAT as a direct form of economic relief for the Filipino people. Whatever government revenue losses incurred will be offset by the increased purchasing power of all Filipino citizens that will prove better in the long run in making the economy a vibrant and equitable one.

In view of the foregoing, approval of this bill is earnestly sought.

Approved,


REP. TEDDY A. CASIÑO
Bayan Muna Party-list

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS
Second Regular Session

HOUSE BILL No. 5303

Introduced by BAYAN MUNA Rep. TEDDY A. CASIÑO

AN ACT
CLASSIFYING SERVICES RENDERED BY TOLLWAY OPERATORS AS VALUE-ADDED TAX
EXEMPT TRANSACTIONS, AMENDING FOR THE PURPOSE SECTION 109 (1) OF THE
NATIONAL INTERNAL REVENUE CODE, AS AMENDED BY REPUBLIC ACT NO. 9337,
AND FOR OTHER PURPOSES.

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

SECTION 1. Section 109 (1) of the National Internal Revenue Code, as amended by Republic Act No. 9337, is hereby further amended 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:

“(A) xxx

“(B) xxx

“xxx

“(U) xxx

“(V) xxx

“(W) SERVICES RENDERED BY TOLLWAY OPERATORS.

SECTION 2. *Repealing Clause.* - All other laws, acts, decrees, executive orders, issuances, and rules and regulations or parts thereof which are contrary to and inconsistent with any provisions of this Act are hereby repealed, amended, or modified accordingly.

SECTION 3. *Separability Clause.* - If any provision of this Act is subsequently declared unconstitutional, the validity of the remaining provisions hereof shall remain in full force and effect.

SECTION 4. *Effectivity Clause.* - This Act shall take effect immediately after its publication either in the Official Gazette or in a newspaper of general circulation in the Philippines.

Approved.



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



Fifteenth Congress
Second Regular Session
COMMITTEE ON WAYS AND MEANS

FOR **HON. FELICIANO BELMONTE, JR.**
Speaker

THRU **ATTY. ARLENE C. DADA-ARNALDO**
Deputy Secretary General
Committee Affairs Department

RE **SPOT REPORT ON THE MEETING OF THE COMMITTEE ON WAYS AND MEANS HELD ON OCTOBER 4, 2011, 9:30 A.M., ROLANDO R. ANDAYA HALL, HOUSE OF REPRESENTATIVES, QUEZON CITY**

DATE **OCTOBER 4, 2011**

- I. First deliberation on the unnumbered substitute bill to House Bill Nos. 3765, 4026, 4793 and 5100 re: Additional Exemption for Dependents with Disability
The Committee approved the substitute bill to House Bill Nos. 3765, 4026, 4793 and 5100 Re: Additional Exemption for Dependents with Disability
- II. First deliberation on House Bill Nos. 4971, 5171, 5185 and 5303 Re: VAT Exemption of Toll Fees
After hearing the comments of the authors of the bills, representatives of the government as well as the private sectors and former Congressman Renato Diaz, the Committee approved the substitute bill exempting the services of tollway operators from value-added tax.
- III. Second deliberation on House Bill Nos. 4794, 5139 and 5161 Re: Tax incentives for the manufacture, assembly, conversion and importation of electric, hybrid and other alternative fuel vehicles
The Committee approved the preparation of the substitute bill to House Bill Nos. 4794, 5139 and 5161 granting tax incentives for the manufacture, assembly, conversion and importation of electric, hybrid and other alternative fuel vehicles, subject to approval in the next joint public hearing of the Committees on Ways and Means and Trade and Industry.

Certified Correct:

[Signature]
MAURICIO R. PULHIN
Legislative Committee Secretary

Noted by *[Signature]*
ATTY. PANCHITO A. BELEN
Service Director

[Signature]
DONALD Z. MARASIGAN
Director IV

Cc: The Deputy Speakers, The Chairperson, Committee on Rules, The Secretary General, The Executive Director, CADD, The Deputy Executive Director, CADD, The Service Director, CASS