

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Philippines

SIXTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. **5611**



INTRODUCED BY REP. JOSEPH GILBERT F. VIOLAGO

EXPLANATORY NOTE

Philippine Airlines, Inc. (PAL) was originally established as a private corporation under the general laws of the Republic of the Philippines in February 1941. The government, through the Government Service Insurance System (GSIS), acquired the majority shares in PAL in November 1977. As such, PAL was then a government-owned and controlled corporation when Presidential Decree No. 1590, "An Act Granting a New Franchise to Philippine Airlines, Inc. to Establish, Operate, and Maintain Air-Transport Services in the Philippines and Other Countries" was enacted on January 1, 1978. As the official flag carrier of the country, PAL was granted various tax privileges and exemptions under its franchise.

In January 1992, the government opted to privatize PAL, with the sale of its 67% share to local consortium PR Holdings. Since then until the present date, the franchise of PAL has not been amended. Although already a private corporation, PAL continues to enjoy the same rights and privileges under the terms and conditions under its franchise.

For two decades following the grant of its franchise by P.D. No. 1590, PAL was only being held liable for the basic corporate income tax or franchise tax, whichever was lower. Its payment of either tax was also in lieu of all other taxes, except real property tax as provided in Section 13 of P.D. No. 1590.

This house bill seeks to amend Section 13 of P.D. No. 1590. To level the playing field with the rest of the private air carriers in the airline industry, it is necessary to withdraw the tax privileges and exemptions which have been granted to PAL as a government-owned and controlled corporation. In consonance with the equal protection of the law clause – since PAL is already a private corporation, it should be subject to the same taxes, duties, charges, royalties, and fees, as that imposed on other private corporations in the airline industry.

As held in *Inchong v. Hernandez*¹ – *The equal protection of the law clause is against undue favor and individual or class privilege, as well as hostile discrimination or the oppression of inequality. It is not intended to prohibit legislation which is limited either [by] the object to which it is directed or by [the] territory within which it is to operate. It does not demand absolute equality among residents; it merely requires that all persons shall be treated alike, under like circumstances and conditions both as to privileges conferred and liabilities enforced.*

In view of the foregoing, passage of this house bill, amending Section 13 of P.D. No. 1590 is urgently sought.



JOSEPH GILBERT F. VIOLAGO

Representative

2nd District, Nueva Ecija

¹ *Inchong v. Hernandez*, G.R. No. L-7995, May 31, 1957

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Philippines

SIXTEENTH CONGRESS

Second Regular Session

HOUSE BILL NO. **5611**

INTRODUCED BY REP. JOSEPH GILBERT F. VIOLAGO

**AN ACT AMENDING SECTION 13 OF THE FRANCHISE GRANTED TO THE
PHILIPPINE AIRLINES, INC. UNDER PRESIDENTIAL DECREE NO. 1590**

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

SEC. 1. Section 13 of Presidential Decree No. 1590 is hereby amended to read as follows:

[In consideration of the franchise and rights hereby granted, the grantee shall pay to the Philippine Government during the life of this franchise whichever of subsections (a) and (b) hereunder will result in a lower tax:

(a) The basic corporate income tax based on the grantee's annual net taxable income computed in accordance with the provisions of the National Internal Revenue Code; or

(b) A franchise tax of two per cent (2%) of the gross revenues derived by the grantee from all sources, without distinction as to transport or nontransport operations; provided, that with respect to international air-transport service, only the gross passenger, mail, and freight revenues from its outgoing flights shall be subject to this tax.

The tax paid by the grantee under either of the above alternatives shall be in lieu of all other taxes, duties, royalties, registration, license, and other fees and charges of any kind, nature, or description, imposed, levied, established, assessed, or collected by any municipal, city, provincial, or national authority or government agency, now or in the future, including but not limited to the following:

1. All taxes, duties, charges, royalties, or fees due on local purchases by the grantee of aviation gas, fuel, and oil, whether refined or in crude form, and whether such taxes, duties, charges, royalties, or fees are directly due from or imposable upon the purchaser or the seller, producer, manufacturer, or importer of said petroleum products but are billed or passed on the grantee either as part of the price or cost thereof or by mutual agreement or other arrangement; provided, that all such purchases by, sales or deliveries of aviation gas, fuel, and oil to the grantee shall be for exclusive use in its transport and nontransport operations and other activities incidental thereto;

2. All taxes, including compensating taxes, duties, charges, royalties, or fees due on all importations by the grantee of aircraft, engines, equipment, machinery, spare parts, accessories, commissary and catering supplies, aviation gas, fuel, and oil, whether refined or in crude form and other articles, supplies, or materials; provided, that such articles or supplies or materials are imported for the use of the grantee in its transport and transport operations and other activities incidental thereto and are not locally available in reasonable quantity, quality, or price;

3. All taxes on lease rentals, interest, fees, and other charges payable to lessors, whether foreign or domestic, of aircraft, engines, equipment, machinery, spare parts, and other property rented, leased, or chartered by the grantee where the payment of such taxes is assumed by the grantee;

4. All taxes on interest, fees, and other charges on foreign loans obtained and other obligations incurred by the grantee where the payment of such taxes is assumed by the grantee;

5. All taxes, fees, and other charges on the registration, licensing, acquisition, and transfer of aircraft, equipment, motor vehicles, and all other personal and real property of the grantee; and

6. The corporate development tax under Presidential Decree No. 1158-A.

The grantee, shall, however, pay the tax on its real property in conformity with existing law.

For purposes of computing the basic corporate income tax as provided herein, the grantee is authorized:

(a) To depreciate its assets to the extent of not more than twice as fast the normal rate of depreciation; and

(b) To carry over as a deduction from taxable income any net loss incurred in any year up to five years following the year of such loss.]

"SECTION 13. THE GRANTEE, ITS SUCCESSORS OR ASSIGNS, SHALL BE LIABLE TO PAY THE SAME TAXES ON THEIR REAL ESTATE, BUILDINGS AND PERSONAL PROPERTY, EXCLUSIVE OF THIS FRANCHISE, AS OTHER PERSONS OR CORPORATIONS ARE NOW OR HEREAFTER MAY BE REQUIRED BY LAW TO PAY. IN ADDITION THERETO, THE GRANTEE, ITS SUCCESSORS OR ASSIGNS, SHALL PAY THE VALUE-ADDED TAX UNDER REPUBLIC ACT NO. 7716, AS AMENDED: PROVIDED, THAT THE GRANTEE, ITS SUCCESSORS OR ASSIGNS, SHALL CONTINUE TO BE LIABLE FOR INCOME TAXES PAYABLE UNDER TITLE II OF THE NATIONAL INTERNAL REVENUE CODE PURSUANT TO SEC. 2 OF EXECUTIVE ORDER NO. 72 UNLESS THE LATTER ENACTMENT IS AMENDED OR REPEALED, IN WHICH CASE THE AMENDMENT OR REPEAL SHALL BE APPLICABLE THERETO."

SEC. 2. Separability Clause. – Should any provision of this Act be declared invalid or unconstitutional, the validity or constitutionality of the other provisions shall not be affected thereby.

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

SEC. 4. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved,