

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. **5883**



INTRODUCED BY REPRESENTATIVE WILFREDO S. CAMINERO

EXPLANATORY NOTE

On September 7, 1979, Batas Pambansa Blg. 36 was approved imposing an Energy Tax on residential customers with a monthly electric power consumption of at least 650 kilowatt-hours (650 kW/h). The rates vary according to a schedule.¹ The avowed purpose of the law is to conserve energy and promote efficient utilization thereof.

Thirty five (35) years later, the Philippine population has reached the one hundred million mark and ranked 12th worldwide; the world population is now more than seven (7) billion.² The Filipino lifestyle has changed dramatically, too. But despite the exponential population growth, the world has shrunk, in a manner or speaking, due to advances in telecommunications and aviation.

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If the Monthly KWH Consumption is
Not over 650 kilowatt-hours
Over 650 kilowatt-hours but not over 1,000 kilowatt-hours
Over 1,000 kilowatt-hours but not over 1,500 kilowatt-hours
Over 1,500 kilowatt hours

The tax shall be
Exempt
P0.10 per kilowatt-hour in excess of 650 kilowatt hours
P35.00 plus P0.20 per kilowatt-hour in excess of 1,000 kilowatt-hours
P135.00 plus P0.35 per kilowatt-hour in excess of 1,500 kilowatt-hours

Provided, however, That in areas outside Metro Manila where the electric power rates (excluding the energy tax) are equal to or higher than the electric power rates (including the energy tax) prevailing in Metro Manila, the energy tax referred to in this section shall not apply: Provided, further, That in areas outside Metro Manila where the prevailing electric power rates (excluding the energy tax) are less than the prevailing electric power rates (including the energy tax) in Metro Manila, then the energy tax to be imposed in the former shall be equal to the difference or the full amount of energy tax, whichever is lower; Provided, finally, That the tax paid under this Act shall not be allowed as a deduction for income tax purposes.

² www.worldometers.info/world-population accessed on September 1, 2014.

When BP Blg. 36 was passed, it was the time of oil crisis and when power generation and transmission were in the hands of the government through the National Power Corporation (NPC). At that time when supply was limited, imposing an additional Energy Tax was a valid means to encourage energy conservation.

With the implementation of Republic Act No. 9136 or the *Electric Power Industry Reform Act (EPIRA)*, the generation, transmission and distribution of electricity have been unbundled and NPC ceased to have monopoly in power generation. Nowadays, the demand of residential consumers has outpaced the industrial and commercial consumers. Electricity has become a necessity. Thus demand is said to be inelastic, that is, the quantity demanded is relatively unresponsive to change in price or a price change causes less of a change in quantity demanded.³ Energy consumption is driven by the need of the consumers who will use it to meet their needs regardless of the cost. Thus, the correlation between the Energy Tax and its purpose of energy conservation and efficient utilization has become weak.

In a study prepared by the National Tax Review Center (NTRC), it appears that the average Energy Tax collected by the Bureau of Internal Revenue (BIR) from 2004-2010 is P298.40 million⁴, 52% of which was collected by the Manila Electric Company (MERALCO).⁵ NTRC stated that MERALCO, the chief collector of Energy Tax, was of the opinion that the additional Energy Tax is not an effective energy conservation strategy because it only affects a very insignificant number of consumers, *i.e.*, 3.8% (or 162,121) of MERALCO residential consumers with a total consumption of 23%.⁶ Moreover, there are other electric rate mechanisms to incentivize residential energy consumption.

With the minimum consumption of 650kWh per month, it is reasonable to assume that the Energy Tax affects only on the middle and affluent sectors of the society who can presumably afford the additional charge. However, their ability to pay does not justify its continued imposition simply because the rationale for the law has ceased to exist.

³ *A Review of the Energy Tax on Power Consumption* published by NTRC Tax Research Journal Volume XXIII 5 September –October 2011. www.ntrc.gov.ph/files accessed September 1, 2014.

⁴ In a letter dated February 26, 2015 of BIR Comm. Kim S. Jacinto-Henares to Rep. Wilfredo S. Caminero, the average Energy Tax collection from 2000-2013 is P160.954 million.

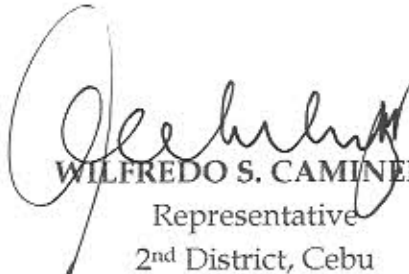
⁵ *Ibid.*, citing the Statistics Division, Bureau of Internal Revenue.

⁶ *Ibid.*

The proposal for the repeal of BP Blg. 36 should not be interpreted to mean that the goal of energy conservation should be discarded. More than ever, conservation and efficient utilization of electricity and of all resources for that matter must be supported and encouraged. But considering the fact that the Filipinos now carry the burden of paying one of the most expensive power rates in the world, the government must craft a conservation and efficiency program that incentivizes consumers instead of penalizing them and that applies to all electricity users, not only the residential consumers.

After 35 years, it becomes crystal clear that BP Blg. 36 fails to meet its objectives. It is no longer an effective incentive to conserve energy nor does it promote efficient utilization of electricity. At present, the Energy Tax is nothing but a revenue measure that further burdens the Filipino consumers already saddled with one of the highest electricity rate in the world. With the collection of 12% Value-Added Tax (VAT) on electricity, local franchise tax and other taxes, the government will not be placed at a disadvantaged with the scrapping of the Energy Tax.

Thus, the passage of this bill is earnestly sought.



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INTRODUCED BY REPRESENTATIVE WILFREDO S. CAMINERO

AN ACT
REPEALING BATAS PAMBANSA BLG. NO. 36 OTHERWISE KNOWN AS AN
ACT IMPOSING AN ENERGY TAX ON ELECTRIC POWER CONSUMPTION

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

SECTION 1. Batas Pambansa Blg. No. 36 otherwise known as "An Act Imposing an Energy Tax on Electric Power Consumption" is hereby repealed.

SECTION 2. All previous or existing laws, decrees, executive orders, rules and regulations or parts thereof inconsistent with this Act are hereby repealed or amended accordingly.

SECTION 3. This Act shall take effect within fifteen (15) days after its publication in the Official Gazette or in at least two (2) newspapers of general circulation, whichever comes earlier.

Approved.