

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

Seventeenth Congress
First Regular Session

HOUSE BILL NO. 5444



Introduced by Representative Sharon S. Garin

EXPLANATORY NOTE

The telecommunications industry has immensely grown in recent years. With the advancement of technology and the ever growing demand for telecommunications service, this industry undoubtedly has become a significant sector for the country's economic growth.

Considering the country's newfound drive for progress, it is therefore imperative that getting hold of the just share of government in the form of taxes in the profits emanating from this industry be maximized to secure the continuous development of the country's economy. It is on this account that the measure is being proposed.

This bill seeks to amend Sections 108 and (A) and 119 of the National Internal Revenue Code (NIRC) of 1997, as amended, by re-imposing the franchise tax at the rate of eight percent (8%) on the gross receipts of telecommunications companies in lieu of the Value-Added tax (VAT) to which these entities' earnings are presently subjected. With this proposal, simplified and uniform taxation will be achieved and the problems related to tax administration such as tax evasion and undue tax crediting, among others, that result in poor tax collection will be adequately addressed.

Accordingly, passage of the measure is earnestly sought.


SHARON S. GARIN
AAMBIS-Owa Party-list



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House Bill No. **5444**

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**AN ACT REIMPOSING FRANCHISE TAX ON TELEPHONE, TELEGRAPH
AND TELECOMMUNICATIONS ENTITIES, AMENDING FOR THE
PURPOSE SECTIONS 108 (A) AND 119 OF REPUBLIC ACT NO. 8424, AS
AMENDED OTHERWISE KNOWN AS "THE NATIONAL INTERNAL
REVENUE CODE OF 1997"**

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

1 **SECTION 1.** Section 108 (A) of Republic Act No. 8424, as amended,
2 otherwise known as the National Internal Revenue Code of 1997, is hereby
3 further amended to read as follows:
4

5
6 **"SEC. 108. Value-added Tax on Sale of Services and Use or Lease of**
7 **Properties. -**
8

9 **(A) Rate and Base of Tax. - xxx**
10

11 (i) xxx

12 (ii) xxx
13

14 The phrase '**sale or exchange of services**' means the performance of all
15 kinds of services in the Philippines for others for a fee, remuneration or
16 consideration, including those performed or rendered by construction
17 and service contractors; stock, real estate, commercial, customs and
18 immigration brokers; lessors of property, whether personal or real;
19 warehousing services; lessors or distributors of cinematographic films;
20 persons engaged in milling, processing, manufacturing or repacking

1 goods for others; proprietors, operators or keepers of hotels, motels,
2 resthouses, pension houses, inns, resorts; proprietors or operators of
3 restaurants, refreshment parlors, cafes and other eating places,
4 including clubs and caterers; dealers in securities; lending investors;
5 transportation contractors on their transport of goods or cargoes,
6 including persons who transport goods or cargoes for hire and other
7 domestic common carriers by land relative to their transport of goods or
8 cargoes; common carriers by air and sea relative to their transport of
9 passengers, goods or cargoes from one place in the Philippines to another
10 place in the Philippines; sales of electricity by generation companies,
11 transmission, and distribution companies, services of franchise grantees
12 of electric utilities, [telephone and telegraph,] radio and television
13 broadcasting and all other franchise grantees except those under Section
14 119 of this Code and non-life insurance companies (except their crop
15 insurances), including surety, fidelity, indemnity and bonding
16 companies; and similar services regardless of whether or not the
17 performance thereof calls for the exercise or use of the physical or mental
18 faculties. The phrase '**sale or exchange of services**' shall likewise
19 include:
20

21 (1) xxx

22 (2) xxx

23 (3) xxx

24 (4) xxx

25 (5) xxx

26 (6) xxx

27 (7) xxx

28 (8) xxx

30 xxx

32 xxx

34 (B) xxx."

37 **SEC. 2.** Section 119 of Republic Act No. 8424, amended, otherwise known
38 as the National Internal Revenue Code of 1997, is hereby further amended
39 to read as follows:
40

41
42 "**SEC. 119. Tax on Franchises.** – Any provision of general or special law
43 to the contrary notwithstanding, there shall be levied, assessed and
44 collected in respect to all franchises on radio and/or television
45 broadcasting companies whose annual gross receipts of the preceding
46 year do not exceed Ten million pesos (P10,000,000.00), subject to Section
47 236 of this Code, a tax of three percent (3%)[,]; ON TELEPHONE,
48 TELEGRAPH AND TELECOMMUNICATIONS, A TAX OF EIGHT PERCENT
49 (8%) ON THE GROSS RECEIPTS OF BUSINESS TRANSACTED; and on

1 gas and water utilities, a tax of two percent (2%) on the gross receipts
2 derived from the business covered by the law granting the franchise:
3 Provided, however, That the radio and television broadcasting companies
4 referred to in this Section shall have an option to be registered as a
5 value-added taxpayer and pay the tax due thereon: Provided, further,
6 That once the option is exercised, said option shall be irrevocable.

7
8 xxx.”
9

10
11 **SEC. 3. *Implementing Rules and Regulation.*** – The Secretary of Finance
12 shall, upon the recommendation of the Commissioner of Internal Revenue,
13 promulgate upon the effectivity of this Act the necessary Rules and
14 Regulations for its effective implementation.
15

16
17 **SEC. 4. *Separability Clause.*** – If any provision of this Act is subsequently
18 declared invalid or unconstitutional, other provisions hereof which are not
19 affected thereby shall remain in full force and effect.
20

21
22 **SEC. 5. *Repealing Clause.*** – All other laws, acts, presidential decrees,
23 executive orders, issuances, presidential proclamations, rules and
24 regulations or parts thereof which are contrary to and inconsistent with any
25 provisions of this Act are hereby repealed, amended or modified accordingly.
26

27
28 **SEC. 6. *Effectivity Clause.*** – This Act shall take effect fifteen (15) days after
29 its complete publication in the Official Gazette or in at least two (2)
30 newspapers of general circulation.
31

32
33 Approved.