# 43rd NTRC ANNUAL REPORT

# 2015 Tax Reforms and Developments

NATIONAL TAX RESEARCH CENTER
Department of Finance
2016

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HIS Excellency
The President of the Republic
of the Philippines
Malacañang, Manila

Thru: The Secretary of Finance

SIR:

I have the honor to submit the 2015 Annual Report of the National Tax Research Center (NTRC). This report briefly presents the Studies conducted by the NTRC, as well as the various technical assistance rendered by this office to different government and private entities Including some international bodies. A brief description of the training programs and activities of the staff during the year is also presented.

Very truly yours,

tarodriguez

TRINIDAD A. RODRIGUEZ
Acting Executive Director

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# INTRODUCTION

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In 2015, the Philippine economy remained stable as Gross Domestic Product (GDP) in real terms grew by 5.8% during the year, albeit slower than the 6.1% growth in 2014. On the other hand, the net primary income (NPI) from the rest of the world grew by 3.6% from 4.1% the previous year, which resulted in a 5.4% growth in Gross National Income (GNI), which is slightly lower than the 5.8% growth recorded in the previous year.

By industry, the service sector which comprised 47.5% of total GNI, remained as the top driver of the economy with a 6.7% growth in 2015 from 5.9% in 2014. Major contributors to the sector were transport, storage, communication, real estate, renting and business activities. On the other hand, the growth of the industry sector which shared 27.9% of total GNI, slipped down to 6.0% from 7.9% the previous year. Mining and quarrying suffered a decline during the year while manufacturing and construction contributed substantially to the growth of this sector. The agriculture, hunting, forestry and fishing (AHFF) sector which accounted for 7.9% of total GNI, slowed down to 0.2% from previous year's growth of 1.6%. The contraction in palay, corn, sugarcane, coconut including copra, cassava and the fishing and forestry sectors pulled down the overall growth of AHFF sector.

The concerted efforts of the country's revenue collecting agencies yielded positive results as total revenues of the national government (NG) increased by 10.5%, from PhP1.9 trillion in 2014 to PhP2.1 trillion in 2015. Of the total NG revenue, 86.1% or PhP1.8 trillion came from tax revenues and 13.9% or PhP293.5 billion, from non-tax revenues. The revenue effort or the ratio of total revenue to GDP at current prices increased from 15.1% in 2014 to 15.9% in 2015. However, the tax effort or the ratio of tax revenue to GDP at current prices was almost static from 13.6% in 2014 to 13.7% in 2015.

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The Bureau of Internal Revenue (BIR), the major revenue generating agency of the government, contributed 78.9% to total tax revenues. It posted PhP1.4 trillion collection in 2015, higher by 7.7% from the 2014 collection of PhP1.3 trillion. The increase in collection was due to the Bureau's continued administrative reforms that lead to service improvement and good governance. Said collection, however, fell short of its target of PhP1.7 trillion by PhP0.3 trillion or 17.6%.

The Bureau of Customs (BOC) which is the second largest contributor to the NG coffers, collected PhP367.5 billion in 2015 or 20.2% of the total tax revenues. However, this was 0.5% lower than last year's collection and 15.8% short of its target collection of PhP436.5 billion. The decrease in collection was mainly due to low commodity prices brought about by declining prices of oil in the international market resulting in lower valuations and duties.

Other government collecting agencies such as the Bureau of Immigration (BI); Bureau of Fire Protection (BFP); Department of Environment and Natural Resources (DENR) and the Land Transportation Office (LTO), among others collected PhP14.6 billion during the period.

Non-tax revenues which comprised collections from the Bureau of Treasury (BTr) income, fees and charges, privatization, grants and other non-tax sources, posted an aggregate amount of PhP293.5 billion in 2015, 55.8% higher than the PhP188.4 billion collected in 2014. BTr income (PhP110 billion) contributed 37.5%; fees and charges (PhP36.4 billion), 12.4%; and privatization of government assets (PhP62.9 billion), 21.4%. Other non-tax revenues which include grants (PhP84.3 billion) shared 28.7%.

For the year 2015, the National Tax Research Center (NTRC), in accordance with its mandate conducted continuing research on taxation as a basis for tax policy formulation/legislation aligned to the key result area (KRA) of Rapid, Inclusive and Sustained Economic Growth. In the preparation of studies, the NTRC took into consideration the macro-economic goals

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and objectives of the government enunciated in the Philippine Development Plan 2011-2016 and other policy pronouncements of the current Administration.

During the year, the NTRC conducted basic studies on taxation supportive of national goals and priorities, to wit: revenue enhancement; improvement in tax structure; promotion of equity; improvement in taxpayers' compliance; and efficiency in tax administration. The major studies include, among others: Philippines Small-Scale Mining, Tax Issues and Concerns; Tax Performance Analysis of the National Government (NG): 1998-2014; Revenue Performance of the National Government: CY 2014; Estimates of the Individual Tax Gap: 2013-2014; Review of the Philippine Initial Public Offering (IPO) Tax; Issues and Concerns on the Valuation of Real Property for Estate Tax Purposes; Taxability or Exemption from VAT of Different Types of Sugar Under Various Laws and Issuances; Profile and Taxation of Selected Gambling and Betting Activities in the Philippines; Tax Treatment of Commissions Under the National Internal Revenue Code (NIRC) of 1997, as Amended; Feasibility of Levying a National Surtax on Real Property; Briefer on the Taxation of Petroleum Products; Comparative Financial Transaction Taxes Imposed on the Sale of Shares of Stock Listed and Traded Through the ASEAN Stock Exchange; Comparative Taxation of Life and Non-Life Insurance in ASEAN Countries; Comparative Documentary Stamp Tax (DST) Imposed by ASEAN Countries; Comparative Individual Income Tax System of ASEAN Member Countries; Review of Foreign Direct Investment (FDI) Flows and Tax Incentives in the Philippines and in the ASEAN Region; and Comparative Real Property Taxation of ASEAN Member Countries.

The NTRC assessed the impact of Republic Act (RA) No. 10351 or the Sin Tax Law which was promulgated in 2012. It also assessed issuances that comprise tax, tariff, grant of fiscal incentives and administrative reforms promulgated in 2015.

The NTRC evaluated 114 Senate and House Bills and other tax proposals coming from Congress as well as from other government agencies and the private sector. Some of these bills

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have passed into laws such as RA 10653 or "Adjusting the 13th Month Pay and Other Benefits Ceilings Excluded from the Computation of Gross Income" signed on February 12, 2015 and RA 10708 or the "Tax Incentives Management and Transparency Act (TIMTA)" enacted on December 8, 2015.

The NTRC also provided technical inputs and support to the Department of Finance (DOF) Proposed Legislative Agenda as well as to Congress through the preparation of concept papers, notes, revenue estimation/simulations on various priority revenue measures.

As Secretariat to the Task Force on the Revision of Fees and Charges, the NTRC monitored the compliance of the national government agencies (NGAs) in the revision of fees and charges pursuant to Administrative Order (AO) No. 31. It prepared the Report on the Collection from Fees and Charges of NGAs, and Revenue Performance and Status of Revision of Top Fee Collecting Agencies. It also prepared the projections on the fee collections of the NGAs for 2016 to 2019 for the inclusion in the Revenue Program of the national government. The NTRC also rendered technical assistance in the revision of fees and charges to various government agencies such as the TESDA, SEC, POEA, among others.

As Secretariat to the Fiscal Incentives Review Board (FIRB), the NTRC processed and evaluated applications for tax subsidy by government-owned and controlled corporations (GOCCs) for consideration of the FIRB Technical Committee and the Board Proper. A total of seven (7) Certificates of Entitlement to Subsidy (CES) and nine (9) FIRB Resolutions were issued by the Board. Specifically, the FIRB granted CES to the following: National Food Authority (NFA), Philippine National Railways (PNR), Millennium Challenge Account-Philippines, Duty Free Philippines Corporation and Armed Forces of the Philippines Commissary and Exchange Services (AFPCES).

The NTRC also provided technical support to the Working Group of the Development Budget Coordination Committee/ Executive Technical Board (DBCC/ETB) and the DOF Gender and

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Development (GAD). It also served as a consultant to the Executive Committee on Real Property Valuation pursuant to DOF Order No. 6-2010 (March 12, 2010) and BIR Revenue Memorandum Order No. 41-2010 (April 23, 2010). As regards its GAD commitment, the NTRC prepared a study entitled, "Gender Bias in the National Internal Revenue Code (NIRC) of 1997, as Amended".

The NTRC published the NTRC Tax Research Journal (Bimonthly)-January-February issue, March-April issue, May-June issue, July-August issue, September-October issue and November-December Issue of 2015; 2014 NTRC Annual Report: Compendium of Philippine Travel Tax Laws and Issuances, 1956-2015; NTRC Operations Manual; Compilation of 2014 BIR Revenue Regulations; and Various Public Finance and Other Related Statistics, 2000-2014.

The NTRC continued the enhancement of its computerization program which is aimed at improving its technical, administrative support and service delivery. In compliance with Joint Memorandum Circular No. 2014-01 dated January 22, 2014 by the Office of the Presidential Spokesperson (OPS), Department of Budget and Management (DBM), and Presidential Communications Development and Strategic Planning Office (PCDSPO), the NTRC migrated its website to the government portal or the IGOV. The NTRC received laptops and PCs from the Government Wide Medium-Term Information and Communications Technology Harmonization Initiative (MITHI) for the use of its personnel.

As part of its mission to provide continuing staff development, the NTRC sent some of its officials and staff to international and local study grants, seminars and conferences. Also, members of the NTRC Executive Staff attended local seminars/workshops, team building sessions and performance evaluation in furtherance of their professional development and leadership training. A member of the staff was granted post-graduate scholarship for a course on Public Policy in the Australia National University, Canberra, Australia from January 8, 2014 to December 31, 2015 through the Philippines Australia Human Resources and Organization Development Facility (PAHRODF).

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This annual report summarizes the work undertaken by the NTRC during the year under review in its effort to make the tax system a more effective tool of the government for economic development, viz:

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| Chapter I | - | discusses the implications of tax, tariff and other reform measures legislated and adopted during the year. |
| Chapter II | - | presents the highlights of basic studies undertaken during the year, together with their objectives, findings and recommendations. |
| Chapter III | - | describes the various technical assistance rendered in the form of researches, studies, comments and similar undertakings to Congress and other government agencies, regional and international bodies, and the private sector. |
| Chapter IV | - | dwells on staff development and similar activities through participation of NTRC officials and employees in study grants, seminars, conferences and other activities here and abroad. |

# IMPLICATIONS OF TAX LEGISLATION AND ISSUANCES PROMULGATED IN 2015

Presented in this Chapter are the salient features and implications of the laws and issuances that comprise tax, tariff and administrative reforms legislated and/or adopted during the period under review.

**Republic Act (RA) No. 10653**
An Act Adjusting the 13th Month Pay and Other Benefits Ceiling Excluded from the Computation of Gross Income for Purposes of Income Taxation, Amending for the Purpose Section 32(B), Chapter VI of the National Internal Revenue Code of 1997, As Amended, and Revenue Regulations (RR) No. 3-2015

## A. Features

RA 10653 amends Section 32(B) of the National Internal Revenue Code (NIRC) of 1997, as amended by increasing the ceiling of exempt 13th month pay and other benefits received by officials and employees of public and private entities that are excluded from the computation of gross income for purposes of income taxation from PhP30,000 to PhP82,000. The Act also provides that the President of the Philippines shall adjust the amount of tax-exempt ceiling to its present value using the consumer price index (CPI), as published by the National Statistics Office (NSO), every three (3) years after its effectivity.

The BIR issued RR 3-2015 to implement the provisions of RA 10653. It provides that the ceiling of PhP82,000 shall apply to the 13th month pay and other benefits paid or accrued beginning January 1, 2015. It further clarifies that the threshold amount of PhP82,000 shall only apply to the 13th month pay and other benefits prescribed under the provisions of Section 2.78.1. (B) (11) of RR 2-98 , as amended, to wit:

a. Thirteenth-month pay equivalent to the mandatory one (1) month basic salary of officials and employees of the government (whether national or local), including government-owned or -controlled corporations (GOCCs), and or private offices received after the 12th month pay; and

b. Other benefits, such as Christmas bonus, productivity incentive bonus, loyalty award, gifts in cash or in kind and other benefits of similar nature actually received by officials and employees of both government and private offices, including the additional compensation allowance (ACA) granted and paid to all officials and employees of the national government agencies (NGAs) including state universities and colleges (SUCs), GOCCs, government financial institutions (GFIs) and local government units (LGUs).

It is further emphasized in the regulations that the exempt ceiling shall not apply to other compensation received by an employee under an employer-employee relationship, such as basic salary and other allowances, and that the exclusion from gross income is not applicable to self-employed individuals and income generated from business.

## B. Implications

The adjustment of the cap on exempt 13th month pay and other benefits from PhP30,000 to PhP82,000 will lessen the likelihood that 'de minimis' benefits received by an employee in excess of the ceiling set under RR 5-2011, as amended by RRs 8-2012 and 1-2015, will be subject to tax. Under the present regime, the amounts of 'de minimis' benefits up to the prescribed ceilings are excluded from gross income. However, the excess of the 'de minimis' benefits over their respective ceilings shall be considered as part of 'other benefits' and the employee receiving it will be subject to tax only on the excess over the PhP82,000 ceiling.

The increased cap on exempt 13th month pay and other benefits will provide reprieve to ordinary Filipino workers. It will give employees additional take home pay which they can use to provide for the needs of their families. In particular, it will benefit those who enjoy 13th month pay and other benefits that are higher than the previous ceiling of PhP30,000.00. The adjustment is deemed irrelevant however, to workers who are earning minimum wage or below and who are therefore already exempt from income tax as provided under the NIRC of 1997, as amended, as well as other salaried workers whose bonuses and other benefits do not exceed PhP30,000.00.

The increase in the threshold amount of exempt 13th month pay and other benefits will result in an estimated revenue loss of PhP30 billion on account of a narrowed base in the computation of income tax due of individual taxpayers.

Moreover, under RA 10653, the President was given the authority to adjust the amount of tax-exempt benefits ceiling to its present value using the CPI without the need for legislative action. It should be recalled, that under Sec. 32(B)(7)(e)(iv) of the NIRC of 1997, as amended, the authority to increase the ceiling was originally lodged with the Secretary of Finance through the issuance of rules and regulations, upon recommendation of the BIR Commissioner. The change could be the result of the non-adjustment of the tax-exempt ceiling by the Secretary of Finance, despite the grant of authority under the NIRC of 1997, as amended.

However, despite the transfer of the authority to the President to adjust every three (3) years the tax-exempt benefits ceiling to its present value using the CPI, the President will definitely seek the advice of the Secretary of Finance and/or the Commissioner of Internal Revenue prior to adjusting the said ceiling in order to take into account revenue collection targets especially that individual income taxpayers contribute significantly to the collection of the BIR.

Lastly, the automatic indexing to inflation every three (3) years of the tax-exempt benefits ceiling will make the threshold amount regularly updated. It should be noted that it took more than two (2) decades before the PhP30,000 ceiling which was put in place in 1994 via RA 7833 was adjusted. It will likewise save time and effort on the part of the labor sector to urge Congress for its adjustment and legislation.

**RA 10693**
An Act Strengthening Nongovernment Organizations (NGOs) Engaged in Microfinance Operations for the Poor (Approved on November 3, 2015)

## A. Features

RA 10693, otherwise known as the “Microfinance NGOs Act”, seeks to pursue a program of poverty eradication wherein poor Filipino families shall be encouraged to undertake entrepreneurial activities to meet their minimum basic needs including income security. In order to achieve this goal, the Act engages *microfinance NGOs*, which as defined under Section 3(h) of the Act refer to nonstock, nonprofit organizations duly registered with the Securities and Exchange Commission (SEC) with the primary purpose of implementing a microenterprise development strategy and providing microfinance programs, products, and services, such as microcredit and microsavings, for the poor and low-income clients.

Section 3(f) of the Act defines *microfinance* to be the viable and sustainable provision of a broad range of financial services to poor and low-income individuals engaged in livelihood and microenterprise activities. It uses nontraditional and innovative methodologies and approaches, namely: the extension of small loans, simplified loan application procedures, group character loans, collateral-free arrangements, cash flow-based lending, alternative loan repayments, minimum requirements for capital build-up/ minimum balance retention, and small denominated savers’ instruments aimed at improving their asset base and expanding their access to capital and savings.

Section 9 of RA 10693 provides for the establishment of the Microfinance NGO Regulatory Council which shall be the accrediting entity and shall establish a system of accreditation for microfinance NGOs. It shall have as permanent members the Chairperson of the SEC (as Chairperson of the Council) and the Secretaries of the Department of Trade and Industry, Department of Finance and Department of Social Welfare and Development or their respective designated representatives. Three (3) representatives from the microfinance NGO sector shall be chosen by at least majority of the permanent members of the Council. In order for microfinance NGOs to avail of the incentives under the Act, they are required to obtain accreditation from the Microfinance NGO Regulatory Council.

Section 20 of the Act provides that duly registered and accredited microfinance NGOs shall pay a two percent (2%) tax based on their gross receipts from microfinance operations in lieu of all national taxes, provided, that such preferential tax treatment shall only be accorded to NGOs whose primary purpose is microfinance and only on their microfinance operations catering to the poor and low-income individuals. Because the Act does not preclude microfinance NGOs from performing such services or exercising such powers as may be granted by law or as may be necessary or incidental to their activities as nonstock, nonprofit organizations, their non-microfinance activities shall be subject to all applicable regular taxes. Furthermore, the Act requires that duly registered and accredited microfinance NGOs, as well as their clients, must secure a Tax Identification Number (TIN). In order to facilitate such undertaking, the Act provides that said requirement shall be accomplished within a reasonable time as prescribed by the Microfinance NGO Regulatory Council and that relevant government agencies, in coordination with the Council, shall provide simplified forms and procedures for securing the TIN.

## B. Implications

According to the Bangko Sentral ng Pilipinas (BSP), microfinance services in the Philippines are mainly provided by banks (mainly rural and thrift), NGOs, and cooperatives and that such services are seen to provide on a sustainable basis, help to the poor for them to increase their income, build viable businesses, reduce vulnerability to external shocks, be empowered, and improve the quality of their lives.[1]

The BSP further noted that despite the continuous expansion of the microfinance operations in the country which reflects the need for specialized financial services to low-income individuals, much of the microfinance loans contracted were from microfinance NGOs as millions of clients still shy away from borrowing from microfinance services of banks and microfinance institutions. According to the BSP 2014 Report on the State of Financial Inclusion in the Philippines, microfinance NGOs had an outstanding

[1] Source: BSP website. Facts about microfinance. <http://www.bsp.gov.ph/about/advocacies_micro_facts.asp>, viewed on April 20, 2016.

microfinance loans amounting to PhP11.6 billion[2] which is PhP200 million higher than the microcredit portfolio of banks with microfinance activities. For the same period, the surveyed microfinance NGOs served about 2.5 million borrowers as against the 1.2 million borrowers of 176 banks with microfinance operations.[3]

The enactment of RA 10693 into law is seen to promote programs that will alleviate Filipinos living in poverty. With the declared policy of the law to support and work in partnership with qualified NGOs, these institutions will further their efforts to provide a wide range of financial services that will encourage poor and low-income individuals to undertake livelihood, microenterprise and entrepreneurial activities thereby improving their quality of life and well-being.

As regards the taxation of microfinance NGOs, it is to be noted that under Section 5 of Revenue Regulations (RR) No. 14-2007[4], income of NGOs from microfinance activities, and which are not in respect of their registered activities covered by Section 30 of the Tax Code of 1997, as amended, regardless of the disposition made of such income, are subject to tax under the NIRC of 1997, as amended. Similarly, non-stock, non-profit NGOs, whether or not engaged in microfinance activities, are also required to file withholding tax returns and remit withholding taxes on all income payments that are subject to withholding as specified in Revenue Memorandum Circular (RMC) No. 76-2003[5].

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[2] Based on a survey of 16 microfinance NGOs with 2.5 million borrowers. These microfinance NGOs are considered as the key players in the microfinace NGO sector and are members of the Microfinance Council of the Philippines (MCPI).

BSP website. Report on the State of Financial Inclusion in the Philippines 2014. Inclusive Finance and Advocacy Staff.

Source: < http://www.bsp.gov.ph/downloads/Publications/2014/Financial%20 Inclusion.pdf>, viewed on July 14, 2016.

[3] Ibid.

[4] Subject: Tax on Non-Governmental Organizations (NGOs) and Cooperatives Engaged in Microfinance Activities. Issued on December 12, 2007.

[5] Subject: Tax Exemptions of Non-Stock, Non-Profit Corporations Under Section 30, Tax Code of 1997 and Non-stock, Non-Profit Educational Institutions under Paragraph 3, Section 4, Article XIV of the Constitution. Issued on November 17, 2003.

Under RA 10693, however, it is specifically stated that duly registered and accredited microfinance NGOs whose primary purpose is microfinance and only on their microfinance operations catering to the poor and low-income individuals shall pay a two percent (2%) tax based on its gross receipts from microfinance operations in lieu of all national taxes. The preferential tax treatment will be most welcomed by said NGOs as they will now be paying a lower amount of income tax on their gross receipts from transactions with poor and low-income individuals. This reduction in income tax payment might also prompt microfinance NGOs to give back to its clients such benefit in the form of reduced interest rates on credit or loan availments, among other microfinance program and services.

Administration-wise, since the preferential tax treatment shall apply only to microfinance operations that cater to poor and low-income individuals, it shall be necessary for said NGOs to keep separate records of the following for taxation purposes: (a) gross receipts from microfinance operations that cater to the poor and low-income individuals; and (b) gross receipts from non-microfinance activities.

The requirement that a microfinance NGO shall obtain accreditation from the Microfinance NGO Regulatory Council to avail of the incentives under RA 10693 is designed to ensure that only those that comply with the provisions of the law are entitled to the incentives. While the said accreditation is deemed reasonable, the same is an additional burden for microfinance NGOs which are also required to be accredited with the Philippine Council for NGO Certification (PCNC) in order that donations thereof be exempt from the donor's tax and deductible from the gross income of the donor for income tax purposes. Hence, a microfinance NGO needs two (2) accreditations in order for it to be entitled to incentives under RA 10693, and to be donor's tax-exempt and be deductible from gross income the donations made thereto. There is therefore a need to unify and rationalize these accreditation requirements in order to lessen the obligations of microfinance NGOs.

On the requirement that duly registered and accredited microfinance NGOs, as well as their clients, secure a TIN, this feature of the law will be a good monitoring tool on the part of tax administrators as this will provide a database on microfinance NGOs operating in the country as well as the number of poor and low-income individuals that avail of their programs and services. The profile of those who avail of the programs and services of microfinance

NGOs can also be a useful tool in monitoring whether the objective of lifting the plight of the poor through microfinance programs and services is really being achieved.

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**RA 10699**
An Act Expanding the Coverage of Incentives Granted to National Athletes and Coaches, Appropriating Funds Therefor, Repealing for the Purpose RA 9064, Also Known as the "National Athletes, Coaches and Trainers Benefits and Incentives Act of 2001" or "Sports Benefits and Incentives Act of 2001" (Approved on November 13, 2015)

## A. Features

RA 10699 repealed RA 9064, otherwise known as the "National Athletes, Coaches and Trainers Benefits and Incentives Act of 2001" or "Sports Benefits and Incentives Act of 2001." The following are the major amendments made under the Act, among others.

1. Redefinition of the terms 'national athletes' to also include athletes with disabilities (AWDs) or those referring to persons with disabilities who are Filipino citizens and who are recognized and accredited by the Philippine Sports Commission (PSC) and the National Paralympic Committee of the Philippines (NPC PHIL), and who have represented the country in international sports competitions. The term 'national coaches' under the Act removed the term 'trainers' and limited the incentives only to national coaches of national athletes, who are Filipino citizens, members of the national coaches training pool, recognized and accredited by the PSC and the POC or NPC PHIL and who have represented the country as official coaches to national athletes in international sports competitions.

2. Enumeration of the categories of international sports competitions[6] to which cash incentives will be given to national athletes if they win gold, silver and bronze medals.

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[6] Regular major competition such as the Summer Olympic Games, Winter Olympic Games, Asian Games, Asian Winter Games, Southeast Asian (SEA) Games, Youth Olympic Games, Paralympic Games, Asian Para Games, Asian Indoor and Martial Arts Games, Asian Beach Games and Association of Southeast Asian Nations (ASEAN) Para Games; World-level championships held at least every two (2) years with at least forty-five (45) countries participating by sport; Asian-level competitions held at least every two (2) years with at least twenty-five (25) countries participating by sport; and Qualifying competitions for World-level games with at least ten (10) countries participating.

3. In terms of benefits and privileges, those provided under the Act are basically similar to those under RA 9064, except that the law expressly provides that such benefits and privileges is only for the actual and exclusive use or enjoyment of national athletes and coaches.

4. The Act allows privately-owned establishments granting the 20% discount to national athletes and coaches relative to the utilization of transportation services, hotels and other lodging establishments, restaurants and recreation centers; purchase of medicine and sports equipment; admission fees charged by theaters, cinema houses, concert halls, circuses, carnivals and other similar places of culture, leisure and amusement, for their exclusive use and enjoyment, to claim the cost of the discount as tax deduction instead of tax credit.

5. In the availment of benefits and privileges, national athletes and coaches shall be required to present a valid identification card to be issued by the PSC and which is renewable every year. Such benefits and privileges may not be availed by national athletes and coaches in combination with similar benefits and privileges under other existing laws.

6. Provides for penalties to persons found violating the provisions of Section 4(a) and (b) (on benefits and privileges) as well as the cancellation or revocation of business permit, permit to operate, franchise and other similar privileges of business entities for failure to abide by the provisions of the Act.

7. The PSC is also required to submit a report not later than three (3) years after the effectivity of the Act and every three (3) years thereafter, on the benefits, privileges and incentives granted under the Act to national athletes and coaches, to the Department of Finance, the Department of Budget and Management, the PAGCOR, the Senate Committee on Games, Amusement and Sports Development for purposes of monitoring the implementation of the Act.

## B. Implications

Based on data gathered from the National Sports Affairs Office of the PSC, there were a total of 791 national athletes and 277 national coaches in the country in 2015. The NPCPHIL, on the other hand, provides that as of December 2015, there were 115 national AWDs competing in 19 different sports and represent the country in various Paralympic competitions. These AWDs are under the guidance and training of 27 coaches. These are the number of national athletes and coaches who are expected to enjoy the expanded benefits and privileges provided under RA 10699. This is especially most significant to qualified Filipino AWDs as they will be enjoying such incentives for the first time and it is only fitting that such incentives be extended to them as they have also brought honor and prestige to the country by winning in their respective sports. It can also encourage and inspire more individuals with disabilities to hone their capabilities in terms of sports and eventually represent the country in international competitions.

The provision allowing private establishments granting discounts to national athletes and coaches to claim the cost of the discount as tax deduction instead of tax credit is consistent with the tax treatment of the cost of the discount granted also by private establishments to senior citizens under RA 7432, as amended by RAs 9257 and 9994, otherwise known as the Senior Citizen's Act and to PWDs under RA 7277, as amended by RA 9442, otherwise known as the Magna Carta for Disabled Persons. Considering that some of the goods/ services subject to the discount under the law are the same as those of senior citizens and PWDs, it is thus only appropriate that the tax treatment of the discount be similarly aligned for purposes of consistency.

The provisions of RA 10699 are more specific compared to the provisions of RA 9064 which incidentally, had no implementing rules and regulations up to this writing. The clarificatory provision of the Act that the 20% discount on good and services shall only be for the actual and exclusive use or enjoyment of the national athletes and coaches and that a valid I.D. duly issued by the PSC is necessary to avail the benefits and privileges only ensures that such incentives shall not be extended to other family members of the national athletes/coaches. The provision for penalties on violation of the provisions of the Act likewise ensures that individuals or business entities comply with what is required of them to accord to national athletes and coaches under the law. Similarly, the provision that the benefits and privileges under the law cannot be availed in combination with similar benefits and privileges under existing laws is meant to deter abuse in the availment of said incentives which have consequent impact on the income of private establishments granting the discount and on government revenues. Lastly, the requirement under Section 15 of the Act that the PSC must submit a report to various agencies of the government and to the Senate Committee on Games, Amusement and Sports Development as regards the benefits, privileges and incentives granted to national athletes and coaches is a means to monitor the proper implementation of the Act.

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**RA 10708**
An Act Enhancing Transparency In The Management and Accounting of Tax Incentives Administered by Investment Promotion Agencies
(December 9, 2015)

## A. Features

RA 10708 requires all registered business entities to file their tax returns and pay their tax liabilities, on or before the deadline as provided under the NIRC, as amended, using the electronic system for filing and payment of taxes of the BIR. For registered business entities availing of incentives administered by the Investment Promotion Agencies (IPAs), they shall file with their respective IPAs a complete annual tax incentives report of their income-based tax incentives, value-added tax and duty exemptions, deductions, credits or exclusions from the tax base as provided in the charter of the IPA concerned, within thirty (30) days from the statutory deadline for filing of tax returns and payment of taxes. In turn, the IPAs shall, within sixty (60) days from the end of the statutory deadline for filing of the relevant tax returns, submit to the BIR, their respective annual tax incentives reports based on the list of the registered business entities who have filed said tax incentives report.

RA 10708 mandates the BIR and BOC to submit to the Department of Finance (DOF): (a) the tax and duty incentives of registered business entities as reflected in their filed tax returns and import entries; and (b) actual tax and duty incentives as evaluated and determined by the BIR and the BOC. The DOF shall maintain a single database for monitoring and analysis of tax incentives granted.

Further, the DOF shall submit to the Department of Budget and Management (DBM) the aggregate data on a sectoral and per industry basis of: (a) the amount of tax incentives availed by registered business entities; (b) the estimate claims of tax incentives immediately preceding the current year; (c) the programmed tax incentives for the current year; and (d) the projected tax incentives for the following year. The aforesaid data shall be reflected by the DBM in the annual Budget of Expenditures and Sources of Financing (BESF), which shall be known as the Tax Incentives Information (TII) section.

The National Economic and Development Authority (NEDA) is mandated to conduct cost-benefit analysis on the investment incentives to determine the impact of tax incentives on the Philippine economy. For this purpose, all heads of the IPAs shall submit to the NEDA the aggregate tax incentives, based on the submissions of registered business entities and aggregate investment-related data, both on a sectoral or per industry basis, which may include, but not limited to, investment projects, investment cost, actual employment and export earnings.

## B. Implications

The law is a breakthrough to the present system of accounting for tax expenditures in the annual budget. Before the passage of the law, only tax incentives[7] granted to national government agencies (NGAs) and government-owned or -controlled corporations (GOCCs) are accounted for while the bulk of tax incentives which are granted to individuals and private corporations are not. Hence, the magnitude of these incentives remains largely unknown. The inclusion of the TII in the annual BESF would thus provide additional check and balance as the government will be able to analyze the benefit incidence, the economic impact and the fiscal cost of these incentives.

The provision for a timetable for registered business entities availing of incentives administered by the IPAs to file with their respective IPAs a complete annual tax incentives report of their income-based tax incentives, value-added tax and duty exemptions, deductions, credits or exclusions from the tax base as provided in the charter of the IPA concerned, and for the IPAs to submit to the BIR their respective annual tax incentives reports based on the list of the registered business entities who have filed said reports are worthy developments since the same may be used as real-time points of reference of the BIR in its revenue collection reporting.

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[7] Refers to tax expenditure subsidy or tax subsidy granted to NGAs and GOCCs pursuant to EO 93 and the annual GAA.

The set up on the administration, implementation and monitoring of the availment of tax incentives, as well as the cost-benefit analysis based on empirical data are necessary to ensure a better review and evaluation of government's tax incentives policy and the formulation of reforms, if needed, to make tax incentives a more useful tool for growth and development.

Overall, the law is in harmony with the government thrust of transparency, accountability and good governance. For administrative feasibility, it is recommended that in the drafting of the implementing rules and regulations, simple and uniform procedures and guidelines on reportorial requirements must be adopted in order to foster investments while instilling transparency.

## A. Features

**Executive Order (EO) No. 185, series of 2015**
Modifying the Nomenclature and Rates of Duty on Certain Imported Articles as Provided for Under the Tariff and Customs Code of the Philippines, as Amended, in Order to Implement the Philippine Tariff Commitments on Certain Products Included in the Environmental Goods List Under the Asia-Pacific Economic Cooperation

EO 185 issued on June 26, 2015, modifies the nomenclature and the rates of duty of a number of imported articles in order to put into effect the Philippine tariff commitments on certain products included in the environmental goods list under the Asia-Pacific Economic Cooperation Environmental Goods and Services (APEC-EGS) Work Program. The APEC-EGS aims to address environmental challenges such as climate change and to achieve green growth[8] in the region.

## B. Implications

The Asia-Pacific Economic Cooperation (APEC) is committed, among others, to address issues on climate change. APEC plays an important role in

[8] "Green growth" is APEC's agenda that helps the world economies transition to a clean energy future and confront the challenges of climate change through addressing barriers to trade in environmental goods by removing tariffs and non-tariff barriers related to advance technology demonstration vehicles and remanufactured goods and by exploring ways to combat trade in illegal forestry products and encourage the development, investment, and trade of renewable energy and clean technologies (Bureau of East Asian and Pacific Affairs, U.S. Department of State, viewed at: http://fpc.state.gov/documents/organization/164354.pdf. March 1, 2016).

making green growth a reality, consistent with their World Trade Organization (WTO) obligations. Their common approach to environmental challenges, such as the promotion of trade and investment in goods and services designed to protect the environment, and the development and dissemination of relevant technologies, help to pursue not only green growth in the region but sustainable development as well.

The APEC leaders made a commitment in 2007 Sydney and 2011 Honolulu declarations, to address issues on climate change, review the progress of the WTO Doha Development Agenda[9] negotiations in environmental goods and services, and take concrete steps to achieve past ambitions and green growth. With the objective of pursuing green growth, the APEC Committee on Trade and Investment endorsed the APEC EGS Work Program[10] in its 2009 Annual Report to help in reaching an agreement on actions to support sustainable growth in the region, advance work to increase utilization and dissemination of EGS, reduce existing barriers and refrain from introducing new barriers to trade and investment in EGS, and enhance the capabilities of economies to develop their EGS sectors.[11] To attain the objective, the APEC leaders, under the 2012 Vladivostok Declaration, endorsed the APEC List of Environmental Goods (EGs) enumerating 54 environmental goods that directly and positively contribute to green growth and sustainable development

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[9] WTO Doha Development Agenda or Doha Round is the latest round of trade negotiations among the World Trade Organization (WTO) membership. It aims to achieve major reform of the international trading system through the introduction of lower trade barriers and revised trade rules. The work program covers about 20 areas of trade and its fundamental objective is to improve the trading prospects of developing countries (World Trade Organization, viewed at: https://www.wto.org/english/tratop_e/dda_e/dda_e.htm, March 01, 2016).

[10] The APEC Environmental Goods and Services or APEC EGS Work Program is a program that advances APEC work on EGS. Its main objective is to support the development of the EGS sector in APEC and the secondary objective is to link up the projects related to EGS in separate APEC working groups under a coherent and holistic framework. It has four components, namely: research and development, supply, trade and demand (Asia-Pacific Economic Cooperation EGS Information for a Sustainable Economy website, viewed at: http://egs.apec.org/apecegs-news/4-news-article-2, March 1, 2016).

[11] EGS is an industry sector devoted to solving, limiting or preventing environmental problems. These companies may be involved in manufacturing and/or services related to water or air pollution, waste management, recycling, renewable energy, monitoring, analysis and assessment, or a number of other goods and services (Asia-Pacific Economic Cooperation EGS Information for a Sustainable Economy website, viewed at: http://egs.apec.org/, March 1, 2016).

objectives, with a commitment to reduce applied rates to five percent (5%) or less on these goods by the end of 2015, taking into account "economies' economic circumstances, without prejudice to their position in the WTO." The reduction will also increase demand for stronger environmental protection and set new targets in areas like carbon emissions and renewable energy. The undertaking is estimated to boost a $500 billion global industry and with it, jobs and economic growth in the region.[12]

Of the fifty four (54) environmental goods listed in the APEC-EGS, more than seventy percent (70%) are used for environmental monitoring, analysis and assessment, or strengthen air pollution controls.[13] These 54 APEC EGs may be categorized into seven groups based on specific problem area: (1) Air Pollution Control (APC); (2) Environmental Monitoring Analysis and Assessment Equipment (EMAAE); (3) Environmentally Preferable Products (EPP); (4) Natural Risk Management (NR); (5) Renewable Energy and Clean Technology Production (REP & CTP); (6) Waste Water Management and Potable Water Treatment (WWM & PWT); and (7) Management of Solid and Hazardous Waste and Recycling Systems (S/H).[14] The articles listed under EO 185 whose tariff rates are reduced can be categorized under the APC, S/H and WWM & PWT, respectively.

On the other hand, the articles specifically modified under EO 185 are in three (3) main headings:

(1) Heading No. 84.04 – Goods under this heading include auxiliary plant for use with boilers of heading 84.02 or 84.03, e.g., economisers, super-heaters, soot removers, gas recoverers. The use of these EGs minimizes the release of pollutants into the atmosphere. Only the Most Favored Nation (MFN) rate of duty of Subheading No. 8404.20.00 or condensers for steam or other vapor power units is reduced from 10% to 5%.

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12 Ibid.

13 APEC Moves to Cut Environmental Goods Tariffs as Deadline Looms, Issued by the APEC Committee on Trade and Investment (viewed at: http://www.apec.org/Press/News-Releases/2015/0518_EG.aspx. February 01, 2016

14 George Manzano, et al, "Evaluation of the APEC Environmental Goods Initiative: A Dominant Supplier Approach (Discussion Paper Series No. 2015-34 (Revised)), Philippine Institute for Development Studies.

(2) Heading No. 84.17 – This heading includes industrial or laboratory furnaces and ovens including incinerators which can help destroy solid and hazardous wastes. The MFN rate of duty of Subheading No. 8417.80.00A or waste incinerators is reduced from 7% to 5%, while other articles under Subheading No. 8417.80.00B are imposed the same MFN rate of duty of 7%; and

(3) Heading No. 84.21 – This heading covers devices like centrifuges, including centrifugal dryers; filtering or purifying machinery and apparatus for liquids and gases which are essential components for filtration and purification of drinking water, physical, mechanical, chemical or electrostatic filters and purifiers for the removal of pollutants solid or liquid particles in gases, etc. and are beneficial in air pollution control. The MFN rate of duty of Subheading Nos. 8421.21.11 (filtering machinery and apparatus for domestic use), 8421.21.19 (other), 8421.22 (electrically operated) and 8421.23 (not electrically operated) is reduced from 7% to 5%.

The Philippines is a net importer of APEC-EGs in 2013 with exports of about USD54,000 million and imports of about USD65,000 million. The country's exports and imports of EGs specifically listed in EO 185 are recorded at USD10 million and USD35 million in 2013, respectively (Table 1).

Philippine exports and imports of APEC-EGs is about 0.64% and 0.69% of APEC partners, respectively. On the other hand, Philippine exports and imports of EGs specifically listed in EO 185 is about 0.56% and 9.68% of APEC partners, respectively.

Despite being a net importer of APEC-EGs and those EGs specifically listed in EO 185, the country's total exports of EGs has been improving since 2001. Data from the Trade Mark – International Trade Commission (TM-ITC) show that from a low record of less than USD1 billion in 2001, EGs exports of the Philippines reached more than USD2.5 billion in 2012. The development can be attributed to the increase of the total imports of photovoltaic cells[15] brought about by the increase in number of companies all over the world

[15] Photovoltaic cell or a solar cell is an electrical device that converts the energy of light directly into electricity by the photovoltaic effect which is a physical and chemical phenomenon. Photovoltaic cell is a form of photoelectric cell, defined as a device whose electrical characteristics, such as current, voltage, or resistance, vary when exposed to light (Wikipedia).

outsourcing parts of their manufacturing process in the Philippines, making the country a major exporter of semiconductors. Photovoltaic cells are listed in APEC EGs with AHTN Code No. 854140 and are subject to zero percent (0%) duty rate under ATIGA and MFN for years 2012 to 2015.

**Table 1. PHILIPPINE TRADE OF APEC-EGs LISTED UNDER EO 185 RELATIVE TO APEC PARTNERS, 2013**

| APEC Environmental Goods Under EO 185 | AHTN Code | Philippine Exports | | Philippine Imports | |
|---|---|---|---|---|---|
| | | Amount (Million USD) | As a Percentage of APEC Exports | Amount (Million USD) | As a Percentage of APEC Imports |
| Condensers for steam or other vapour power units | 8404.20.00 | - | - | 16.63 | 8.88% |
| Waste incinerators<br>Other | 8417.80.00A<br>8417.80.00B | 1.16 | 0.27% | 2.20 | 0.31% |
| Filtering Machinery and apparatus for domestic use<br><br>Other<br><br>Electrically Operated<br><br>Not Electrically Operated | 8421.21.11<br><br>8421.21.19<br><br>8421.21.22<br><br>8421.21.23 | 8.88 | 0.29% | 16.17 | 0.49% |
| **TOTAL** | | **10.04** | **0.56%** | **35.00** | **9.68%** |
| **ALL** | - | **53,978.27** | **0.64 %** | **65,097.37** | **0.69%** |

Source: Philippine Institute for Development Studies

The elimination of trade barriers for EGs could serve as an impetus to Philippine local industry exporting EGs such as waste incinerators, and filtering machinery and apparatus, and be able to compete globally and take advantage of the potential market access. On the other hand, it could also pave the way for more imports of EGs thereby possibly flooding the local market. However, this would make imported EGs more accessible as they become cheaper; thus, promoting the use of more environment-friendly equipment and machinery.

The potential revenue impact of tariff reductions on articles listed in Annex A of EO 185 may not be significant since the Philippines, in general, already levies low import tariffs for the 54 APEC EGs. All listed goods under ASEAN Trade in Goods Agreement (ATIGA) are subject to zero percent (0%) tariff duty rates while the same goods under the Most Favored Nation (MFN), are subject to zero to ten percent (0-10%) duty rates. Articles which are specifically listed in Annex A of EO 185 whose MFN duty rates were subjected to 7-10% in years 2012 to 2015 and zero percent (0%) under ATIGA, are reduced to 5% or 7% under EO 185.

The Philippine government's effort to reduce the EGs' tariff rates to five percent (5%) or less is made within the context of the country's commitment with the other APEC members, of promoting green growth and sustainability in the region and addressing the effects of climate change. Reducing the trade barriers in EGs would decrease the cost of deployment of cleaner technologies and would facilitate adoption by domestic industries. It widens the economic linkages between the ASEAN and APEC member nations, hence, opens up greater economies of scale of business that could lead to increases in trade and investments.

While the reduction of tariff rates on EGs would help liberalize trade among ASEAN nations, the continuous exploration and development of renewable energy (RE) sources through policy implementation such as providing fiscal and non-fiscal incentives for developers of RE sources are recommended to support trade in EGs in the Philippines. As liberalization and advancement in environmental goods continue, the country would clearly benefit from green growth and sustainable economic development.

CHAPTER 2

# MAJOR STUDIES AND OTHER RESEARCHES

## *1. Comparative Individual Income Tax System of ASEAN Member Countries*

The paper compares the individual income tax system, particularly on employment and business income among ASEAN member countries which may serve as input in formulating tax policies.

For tax purposes, an individual is classified as resident or nonresident. In ASEAN member countries an individual is considered a resident if he or she is present in that country for 180 days or more (Lao PDR and Thailand) or 182 or 183 days or more (in the case of Cambodia, Malaysia, Indonesia, Myanmar, and Vietnam) within a calendar year or in a continuous 12-month period (in the case of Vietnam). In the Philippines, a resident is further classified into resident citizen or resident alien while a nonresident is further classified into nonresident citizen or nonresident alien. A nonresident alien shall be deemed a "nonresident alien doing business in the Philippines" if he or she comes to the Philippines and stays therein for an aggregate period of more than 180 days during any calendar year.

The Philippines taxes residents on their worldwide income and resident aliens and nonresidents on Philippine-source income only. Cambodia, Indonesia, Lao PDR, Myanmar, and Vietnam likewise tax residents on their worldwide income and nonresidents on income sourced within their respective countries. On the other hand, Malaysia, Singapore and Thailand tax both residents and nonresidents only on income earned within their respective territories.

Among the ASEAN countries, only Lao PDR and Thailand apply a uniform tax schedule for both residents and nonresidents. In the case of the Philippines, both residents and nonresidents are likewise subject to a uniform tax schedule except nonresident aliens not engaged in business in the Philippines and aliens employed by regional or area headquarters and regional operating headquarters of multinational companies and offshore banking units and petroleum service contractors and subcontractors who are subject to a flat income tax rate.

## COMPARATIVE INCOME TAXABILITY OF RESIDENTS AND NONRESIDENTS IN ASEAN COUNTRIES

| Country | Taxable Base | |
|---|---|---|
| | Resident | Nonresident |
| Philippines | Citizen: worldwide income<br>Alien: Philippine-source | Philippine-source |
| Cambodia | worldwide income | Cambodian-source |
| Indonesia | worldwide income | Indonesian-source |
| Lao PDR | worldwide income | Lao-source |
| Malaysia | Malaysian-source | Malaysian-source |
| Myanmar | worldwide income | Myanmar-source |
| Singapore | Singapore-source | Singapore-source |
| Thailand | Thailand-source | Thailand-source |
| Vietnam | worldwide income | Vietnam-source |

Source: Ernst & Young 2013-2014 Worldwide Personal Tax Guide.
Downloaded from www.ey.com/publication

All ASEAN countries impose progressive rates on resident individuals except Lao PDR which imposes a flat rate for business income earners. Thailand and Vietnam impose the highest top marginal rate of 35% followed by the Philippines at 32%. Cambodia, Myanmar (for employment income) and Singapore impose a top marginal rate of 20%. Moreover, Cambodia, Lao PDR, Malaysia, Singapore, and Thailand exempt (with zero tax rate) certain threshold income from tax.

Most ASEAN member countries' income tax schedules have seven (7) taxable income brackets, e.g., Philippines, Lao PDR, Malaysia, and Vietnam. Myanmar has the highest with 12 income brackets. All ASEAN member countries provide tax exemptions/exclusions from income of taxpayers. Common items of income which are exempt from income tax are retirement benefits and contribution to pension fund, and certain minimal allowances.

## COMPARATIVE TAX RATES OF ASEAN COUNTRIES

| Country | Tax Rates | |
|---|---|---|
| | Resident | Nonresident |
| Philippines | 5% - 32% | Citizen: 5% - 32%<br>Alien:<br>Engaged in business in Phil.: 5% - 32%<br>Not engaged in business in Phil.: 25%<br>Aliens employed by Regional or Area Headquarters of Multinational Corp., Offshore Banking Units, Petroleum Service Contractor and Subcontractor: 15% |
| Cambodia | 0% - 20% | 20% |
| Indonesia | 5% - 30% | 20% |
| Lao PDR | Employment Income: 0% - 24%<br>Business Income: 24% | Employment Income: 0% - 24%<br>Business Income: 24% |
| Malaysia | 0% -26% | 26% |
| Myanmar | Employment Income: 1% - 20%<br>Business Income: 2% - 30% | 35% |
| Singapore | 0% - 20% | Employment Income: 15%<br>Business Income: 20% |
| Thailand | 0% - 35% | 0% - 35% |
| Vietnam | 5% - 35% | Business in goods and production: 1%<br>Services: 5%<br>Construction, transportation and other business activities: 2% |

Source: Ernst & Young 2013-2014 Worldwide Personal Tax Guide. Downloaded from www.ey.com/publication

In the Philippines, taxpayers are allowed to deduct personal and additional exemption (PAE) allowances for dependent children. This is also the practice in Indonesia, Malaysia, Thailand and Vietnam. Instead of the personal exemption allowance, Singapore provides earned income allowance based on the age of taxpayer as a deduction from gross income. In addition, it grants allowance for unemployed spouse. Cambodia and Myanmar do not provide personal allowance. Instead, Cambodia provides allowance for unemployed spouse while Myanmar provides allowance for spouse regardless of whether the spouse is unemployed or not. In the case of Lao PDR, a living cost allowance equivalent to the exempt or zero rated taxable monthly income is provided to the taxpayers.

In Indonesia, an additional allowance for the wife is provided if her income is not related to her husband's (the taxpayer) or other family members' income. In Malaysia, an additional allowance equivalent to personal exemption is given to a taxpayer with disability. It also provides additional allowance for a disabled child on top of the regular child allowance. Moreover, it provides exemption allowance for a child in full-time tertiary education and for a disabled child studying in a recognized institution of learning in or outside Malaysia. Meanwhile, Singapore provides higher allowance for a disabled child than the regular child allowance. It also provides allowance for dependent parents. Moreover, working mothers who are giving care to a grandparent can claim additional exemption.

As to the limit in the number and age of child dependents that can be claimed for additional exemption, five (5) countries namely Cambodia, Malaysia, Myanmar, Singapore and Vietnam do not set limitations. As long as the child is not yet earning income and/or is still studying, the taxpayer can claim for additional allowance or relief.

# COMPARATIVE PERSONAL AND ADDITIONAL EXEMPTION IN ASEAN MEMBER COUNTRIES

| PHILIPPINES | CAMBODIA | INDONESIA |
|---|---|---|
| 1. Personal Exemption - PHP50,000<br>2. Additional Exemption for each dependent (maximum of 4) - PHP25,000 | 1. Unemployed spouse - KHR75,000; and<br>2. Minor dependent children - KHR75,000 each | 1. Personal allowance - IDR24,300,000<br>2. Additional allowance for each dependent family member in direct bloodline and for adopted children (maximum of 3) - IDR2,025,000<br>3. Wife's additional allowance if receiving income not related to husband's or other family member's income - IDR24,300,000 |
| **LAO PDR** | **MALAYSIA** | **MYANMAR** |
| Living Cost Allowance - LAK 1,000,000 per month or LAK12,000,000 annually | 1. Self - RM9,000<br>2. Additional relief for personal disability - RM 9,000<br>3. Child<br>Younger than 18 years of age or older, receiving full-time education - RM 1,000<br>18 years of age or older, receiving full-time tertiary education - RM 4,000 | 1. Spouse - MMK 500,000<br>2. Each child under the age of 18 who earn no income and each child above 18 who are studying - MMK 300,000 |

| LAO PDR | MALAYSIA | MYANMAR |
|---|---|---|
| | 4. For each disabled child studying in a recognized institution of higher learning in or outside Malaysia - RM 4,000<br><br>5. Disabled child (in addition to child deductions) - RM 5,000 | |
| **SINGAPORE** | **THAILAND** | **VIETNAM** |
| 1. Earned income allowance:<br>• Under 55 years of age - S$1,000<br>• 55 to 59 years of age - S$6,000<br>• 60 years of age and older - S$8,000<br>2. Handicapped earned income allowance:<br>• Under 55 years of age - S$1,000<br>• 55 to 59 years of age - S$6,000<br>• 60 years of age and older - S$8,000<br>3. Spouse allowance - S$2,000 only if the spouse is supported by the taxpayer<br><br>4. Child - S$4,000 each (16 yo & below) | 1. Personal allowance - THB 30,000<br>2. Spouse allowance - THB 30,000<br>3. Child allowance (maximum of 3) - THB 15,000 per child<br>4. Education allowance for children studying in Thailand (maximum of 3) - THB 2,000 per child<br>5. Parental support allowance - THB 30,000 per parent<br>6. Patronage of disabled spouse/parent/child allowance - THB 30,000 per person (with certain conditions)<br><br>*Specific Allowances*<br><br>7. Provident fund (PF) allowance (contribution must not exceed 15% of | 1. Personal relief - VND 9,000,000 per month or VND 108,000,000 annually<br>2. Dependent relief - VND 3,600,000 per month for each eligible dependent or VND 43,200,000 annually |

| SINGAPORE | THAILAND | VIETNAM |
|---|---|---|
| 5. Handicapped child - S$5,500<br>6. Dependent parents (maximum of two):<br>• Living with taxpayer - S$7,000<br>• Not living with taxpayer - S$4,500<br>7. Handicapped dependent parents:<br>• Living with taxpayer - Additional S$4,000<br>• Not living with taxpayer - Additional S$3,500<br>8. Grandparent caregiver relief - (for working mothers) S$3,000 | assessable income) - Up to THB 500,000<br>8. Retirement Mutual Fund (RMF) [contribution (sum of RMF allowance and PF allowance) must not exceed 15% of assessable income] - Up to THB 500,000<br>9. Long-Term Equity Fund (LTF) (contribution must not exceed 15% of assessable income) - Up to THB 500,000<br>10. Interest allowance (housing loans) - Up to THB 100,000 (with certain conditions)<br>11. Donations allowance - Up to 10% of net assessable income<br>12. Social security fund allowance - Actual amount | |

Sources: Earnst & Young 2013 - 2014 Worlwide Personal Tax Guide. Accessed from http://www.ey.com/publication
PricewaterhouseCooper Worldwide Tax Summaries. Accessed from http://taxsummaries.pwc.uk/taxsummaries/wwts.nsf/ID/JDCN-89HSEY

The PAE are not available to nonresident taxpayers in Malaysia, Singapore, Thailand and Vietnam. In the Philippines, personal exemption is available to nonresident citizens, resident aliens and nonresident aliens engaged in business in the Philippines. Aside from the PAEs, there are other deductions allowable for resident individuals of ASEAN countries. Malaysia provides various allowable deductions for taxpayers while the Philippines and Singapore allow health premium and life insurance premium, respectively, as a deductible item from the individual's taxable employment income. Cambodia allows repayment made by employees of advance on loans while Lao PDR monies allows monies withheld for pension fund and other welfare funds as deduction. Indonesia, Myanmar, and Thailand provide standard deductions with certain limitations.

On the other hand, aside from PAEs, self-employed and professionals are allowed to deduct from their business income necessary and ordinary expenses incurred in the production of income and other expenses such as interest, depreciation, taxes, losses and charitable contributions, among others.

## *2. Comparative Taxation of Life and Non-Life Insurance in ASEAN Countries*

The paper presents the comparative national taxes on life and non-life insurance among the ASEAN member-countries which can serve as baseline information for policymakers and researchers on the topic in the light of the insurance sector moving towards ASEAN integration.

### A. Life Insurance

All member countries in the ASEAN impose corporate income tax on life insurance with the Philippines having the highest tax rate of 30% of net taxable income. A minimum corporate income tax (MCIT) of 2% of gross income is also imposed in the Philippines when the minimum income tax exceeds the regular corporate income tax.

It is noted that three (3) ASEAN member countries have preferential income tax rate provisions for life insurance companies, namely, Cambodia, Malaysia and Singapore. For Cambodia, a reduced rate of 5% is imposed on gross premiums of an enterprise having principal activity in the insurance or reinsurance of life while Malaysia distinguishes between the life fund and shareholder's fund of a life insurance company with the former taxed at 8% and the latter at 25%. For Singapore, a 17% regular corporate income tax rate is imposed on life insurers, however, policyholder's income and offshore life business are taxed at reduced rate of 10%.

On the other hand, the remaining seven (7) member countries do not impose preferential income tax rates for life insurance companies. However, Brunei and Vietnam have specific provisions on income taxation for life insurance companies.

Meanwhile, the value-added tax (VAT) is not a favored imposition on life insurance among the ten-member countries in the ASEAN. Instead of the VAT, life insurance in the Philippines is subject to a 2% tax on gross premiums, which is collected from every person, company or corporation doing life insurance business of any sort in the country. In Thailand, a specific business tax (SBT) is imposed on life insurance at 2.5% of the gross receipts from the operation of the business while in Malaysia life insurance is subject to a 6% service tax.

With regard to other impositions such as the documentary stamp tax (DST), four (4) ASEAN countries, namely Cambodia, LAO PDR, Singapore, and Vietnam exempt insurance transactions from said tax. On the other hand, six (6) member-countries impose DST on life insurance, which include the Philippines, Brunei, Indonesia, Malaysia, Myanmar and Thailand.

| Country | Nature and Rate of Tax | | |
|---|---|---|---|
| | Corporate Income Tax | Value Added Tax (VAT) / VAT- Like Taxes/Other Business Taxes | Documentary Stamp Tax (DST) / Stamp Duty |
| **Philippines** | **Regular Income Tax on Domestic Corporation** – 30% on taxable income.<br><br>**Regular Income Tax on Foreign Corporation** – 30% on taxable income. | Exempt from the VAT since they are subject to other percentage taxes (i.e., Premium Tax).<br><br>**Tax on Life Insurance Premiums** – 2% of the gross premium | PhP 10.00 – PhP100.00 depending on amount of insurance;<br><br>Insurance of PhP100,000.00 and below is exempt |

| Country | Nature and Rate of Tax | | |
|---|---|---|---|
| | Corporate Income Tax | Value Added Tax (VAT) / VAT- Like Taxes/Other Business Taxes | Documentary Stamp Tax (DST) / Stamp Duty |
| **Philippines (cont.)** | **Minimum Corporate Income Tax (MCIT)** – 2% of the gross income of domestic and resident foreign corporations | collected from every person, company or corporation | |
| **Brunei Darussalam** | **Tax Rate:** 18.5% | | BRD 0.10 for every BRD 1,000 insured |
| **Cambodia** | For an enterprise having principal activity in the insurance or reinsurance of life:<br>➢ 5% of the gross premiums received in the tax year<br>➢ 20% for non-insurance income | Insurance services are non-taxable | |
| **Indonesia** | 25% of the taxable income<br>Companies that list at least 40% of their shares on the Indonesian Stock Exchange will have a tax cut of 5% from the top rate. | Insurance services are exempt from VAT | a) Insurance contract value between IDR250,000 and IDR1 million - IDR 3,000<br>b) Insurance contract value more than IDR 1 million - IDR6,000 |
| **Lao People's Democratic Republic (Lao PDR)** | **Regular Rate:** 24% of profits gained through all categories and levels of business operations. | Operations relating to the insurance of health and life – exempt | |

| Country | Nature and Rate of Tax | | |
|---|---|---|---|
| | Corporate Income Tax | Value Added Tax (VAT) / VAT- Like Taxes/Other Business Taxes | Documentary Stamp Tax (DST) / Stamp Duty |
| | **Reduced Rate:** Companies listed on the stock market receive the policy/ incentive of reduced profit tax rate of 5% from the normal rate for a period of four years, commencing from the date of registration, and after which the rate of 24% is applied. | | |
| **Malaysia** | **Tax Rate:**<br>➢ Life fund – 8%<br>➢ Shareholder's fund – 25% | **Service Tax** – 6% of the premium | Life policy - RM 10.00<br><br>Insurance not exceeding RM 5,000 is exempt |
| **Myanmar** | ➢ 25% – Resident company and non-resident branch operating under the Foreign Investment Law (FIL)<br>➢ 35% – Non-resident branch not operating under FIL | **Commercial Tax** – exempt | K10.00 – K30.00 depending on amount of insurance, with certain exemption. |
| **Singapore** | **Regular Corporate Income Tax** – 17% of the life insurers profits | **Goods and Service Tax** – the provision, transfer of ownership, of a life insurance | |

| Country | Nature and Rate of Tax | | |
|---|---|---|---|
| | Corporate Income Tax | Value Added Tax (VAT) / VAT- Like Taxes/Other Business Taxes | Documentary Stamp Tax (DST) / Stamp Duty |
| | **On Policyholders' Income** – 10% on income of a life insurer<br><br>**On Offshore Life Business** – 10% of the income derived by an approved insurer from carrying on offshore life business within the meaning of Section 26 of the Income Tax of Singapore. | contract is exempt from GST.<br><br>However, this is not extended to brokerage services and services of arranging for sale of life policies | |
| **Thailand** | 20% on net profit | Life insurance is exempt from VAT.<br><br>**Specific Business Tax (SBT)** – 2.5% of the interest, service fees and other fees.<br><br>Certain businesses exempt from VAT are subject to the SBT. | For every 2,000 baht or fraction thereof of the amount insured - 1 Baht |
| **Vietnam** | 25% of the whole amount of money earned from the provision of insurance services, goods and other services, including VAT-exclusive surcharges and additional charges which insurance enterprises are entitled to. | Life insurance, health insurance and human accident insurance within life insurance coverage are non-taxable. | Vietnam does not have stamp duty. |

### B. Non-Life Insurance

The corporate income tax rate of non-life insurance companies is the same as that of the life insurance companies in eight (8) of the ASEAN member countries namely, Philippines, Brunei, Cambodia, Indonesia, LAO PDR, Myanmar, Thailand, and Vietnam.

For two (2) member countries, a preferential tax rate is imposed on certain types of non-life insurance. In Malaysia, non-life insurance is subject to the regular corporate income tax rate of 25%; however, the taxable income of an insurer from inward re-insurance business or offshore insurance business is subject to a reduced rate of 5%. Likewise, in Singapore, non-life insurers are subject to the regular corporate income tax rate of 17% while tax exemption or a reduced rate of 5%-10% is imposed on offshore insurance risk, insurance and reinsurance business, and marine hull and liability insurance and reinsurance business, are either tax exempt or subject to a reduced rate of 5%-10%.

With regard to the business taxes, four (4) countries, namely Brunei, Cambodia, Indonesia, and Lao PDR exempt non-life insurance services/transactions from the VAT and other VAT-like/business tax.

In the case of the Philippines, non-life transactions are subject to 12% VAT based on gross premiums collected by non-life insurance companies (except crop insurance), including surety, fidelity, indemnity and bonding companies. Thailand imposes a 7% VAT based on premiums. However, a non-life insurance company that provides insurance on overseas asset or on goods exported outside of Thailand is zero-rated. Vietnam imposes a 10% VAT on non-life insurance premiums except for certain types of general insurances that are exempt from the VAT and zero-rated premiums received from providing non-life insurance for export processing enterprises.

On the other hand, instead of the VAT, Malaysia imposes a service tax of 6% of the premium while Myanmar imposes a 5% commercial tax of the premiums. Singapore, likewise, subjects non-life insurance to a 7% goods and services tax (GST) based on premiums. However, if the policyholder is outside of Singapore, the general insurance contract is zero-rated. Nonetheless, some policyholders within Singapore can also be subject to zero-rate if their policies are related to international transportation, export of goods, and land or goods outside of Singapore.

Non-life insurance transactions are exempt from DST in Cambodia, LAO PDR, Singapore, and Vietnam but taxable in the Philippines, Brunei, Indonesia, Malaysia, Myanmar and Thailand. It is noted that the Philippines is the only country imposing a fire service tax.

| Country | Nature and Rate of Tax | | | |
|---|---|---|---|---|
| | Corporate Income Tax | Value-Added Tax (VAT) VAT-Like Taxes/ Other Business Taxes | Documentary Stamp Tax (DST)/ Stamp Duty | |
| **Philippines** | **Regular Income Tax on Domestic Corporation** – 30% on the taxable income derived during each taxable year from all sources within and without the Philippines by every corporation, organized in, or existing under the laws of the Philippines.<br><br>**Regular Income Tax on Foreign Corporation** - 30% on taxable income derived during the taxable year from all sources within the Philippines by a corporation organized, authorized, or existing under the laws of any foreign country, engaged in trade or business within the Philippines | 12% VAT on the gross premium<br><br>Municipal Tax On Insurance Premium – rate not exceeding 50% of 1% of the gross receipts of the preceding calendar year<br><br>Fire Service Tax 2% of all premiums, excluding re-insurance premiums | Policies of insurance upon property<br><br>Fidelity bonds and other insurance policies<br><br>Policies of annuities | PhP0.50 on each PhP4.00, or fraction thereof, of the amount of premium charged<br><br>PhP0.50 on each PhP4.00, or fraction thereof, of the amount of premium charged<br><br>PhP0.50 per PhP200, or fraction thereof, of the premium or installment payment or contract price collected |

| Country | Nature and Rate of Tax | | | |
|---|---|---|---|---|
| | Corporate Income Tax | Value-Added Tax (VAT)<br>VAT-Like Taxes/Other Business Taxes | Documentary Stamp Tax (DST)/ Stamp Duty | |
| | Minimum Corporate Income Tax (MCIT)– 2% of the gross income of domestic and resident foreign corporations is imposed beginning on the 4th taxable year immediately following the year in which said corporations commenced their business operations. The MCIT is payable only when the minimum income tax exceeds the regular corporate income tax | | Policies of pre-need plans<br><br>Indemnity bonds | PhP0.20 per PhP200, or fraction thereof, of the premium or contribution collected<br><br>PhP0.30 on each PhP4.00, or fraction thereof, of the premium charged |
| **Brunei Darussalam** | 18.5% For an insurance company, whether mutual or proprietary, the gains or profits accruing in, derived from, or received in Brunei Darussalam<br><br>For gains or profits accruing in part outside Brunei Darussalam the gains or profits on which tax is payable shall be ascertained by taking the gross | | Sea insurance policy<br><br>Fire policy<br><br>Accident policy | BRD 0.10 to BRD 0.25<br><br>BRD 0.25<br><br>BRD 0.25 |

| Country | Nature and Rate of Tax | | |
|---|---|---|---|
| | Corporate Income Tax | Value-Added Tax (VAT) VAT-Like Taxes/Other Business Taxes | Documentary Stamp Tax (DST)/ Stamp Duty |
| | premiums and interest and other income received or receivable in Brunei Darussalam (less any premium returned to the insured and premiums paid on re-insurances), and deducting from the balance so arrived at a reserve for unexpired risks at the percentage adopted by the company in relation to its operations as a whole for such risks at the end of the period for which the gains or profits are being ascertained, and adding thereto a reserve similarly calculated for unexpired risks outstanding at the commencement of such period, and from the net amount so arrived at deducting the actual losses (less the amount recovered in respect thereof | | |

| Country | Nature and Rate of Tax | | | |
|---|---|---|---|---|
| | Corporate Income Tax | Value-Added Tax (VAT)<br>VAT-Like Taxes/Other Business Taxes | Documentary Stamp Tax (DST)/ Stamp Duty | |
| | under re-insurance) the agency expenses in Brunei Darussalam and a fair proportion of the expenses of the head office of the company | | | |
| **Cambodia** | For an enterprise having principal activity in the insurance or reinsurance of property, or other risks:<br><br>5% of the gross premiums received in the tax year of the insurance or reinsurance of risk in the Kingdom of Cambodia<br><br>20% for non-insurance income | Insurance services are non-taxable | | |
| **Indonesia** | 25% of the taxable income which is defined as any increase in economics capacity received by or accrued by a taxpayer from Indonesia as well as from offshore, which may be utilized for consumption or increasing the taxpayer's wealth, in | Insurance services are exempt from VAT | Insurance contract value between IDR250,000 and IDR1 million<br><br>Insurance contract value more than IDR 1 million | IDR3,000<br><br>IDR6,000 |

| Country | Nature and Rate of Tax | | | |
|---|---|---|---|---|
| | Corporate Income Tax | Value-Added Tax (VAT) VAT-Like Taxes/Other Business Taxes | Documentary Stamp Tax (DST)/ Stamp Duty | |
| | whatever name and form<br><br>Companies that list at least 40% of their shares on the Indonesian Stock Exchange will have a tax cut of 5% from the top rate | | | |
| **Lao People's Democratic Republic**<br>**(Lao PDR)** | Normal Rate: 24% of profits gained through all categories and levels of business operations.<br><br>Reduced Rate: Companies listed on the stock market receive the policy/ incentive of reduced profit tax rate of 5% from the normal rate for a period of four years, commencing from the date of registration, and after which the rate of 24% is applied | Business Turnover Tax – activities relating to health insurance, livestock and insurance of plantations are exempt | | |
| **Malaysia** | 25% on income accruing in or derived from Malaysia. For resident company carrying on a business of insurance, on world income scope | Service Tax – 6% of the premium | All non-life insurance policy such as but not limited to fire policy, accident policy and comprehensive policy | RM 10.00 |

| Country | Nature and Rate of Tax | | | |
|---|---|---|---|---|
| | Corporate Income Tax | Value-Added Tax (VAT) VAT-Like Taxes/Other Business Taxes | Documentary Stamp Tax (DST)/ Stamp Duty | |
| | 5% on the chargeable income of an insurer from inward re-insurance business or offshore insurance business | | | |
| **Myanmar** | 25% – Resident company and non-resident branch operating under the Foreign Investment Law (FIL)<br><br>35% – Non-resident branch not operating under FIL | Commercial Tax – 5% of premium | Sea insurance policy | 10% |
| | | | Fire insurance and other classes of insurance covering goods, merchandise, personal effects, crops and other property against loss or damage | K 50.00 to K100.00 |
| | | | Accident and sickness insurance | K 10.00 to K 30.00 |
| | | | For passenger travelling by the intermediate or the 3rd class in any railway for a single journey | Exempt |
| | | | Insurance by way of indemnity | Exempt |

| Country | Nature and Rate of Tax | | | |
|---|---|---|---|---|
| | Corporate Income Tax | Value-Added Tax (VAT)<br>VAT-Like Taxes/Other Business Taxes | Documentary Stamp Tax (DST)/ Stamp Duty | |
| **Singapore** | **Normal Corporate Income Tax** – 17% of the insurers profits under Section 26(3) to (4) of the Income Tax of Singapore.<br><br>**On Offshore Risks** – 10% of the income derived by an approved insurer from carrying on business of insuring and reinsuring offshore risks.<br><br>**On Insurance and Reinsurance**<br><br>**Business** – exemption from tax of any income derived by an approved insurer from insurance and reinsurance business.<br><br>**On Marine Hull Insurance** – 5% or tax exemption as the Minister may specify on income that is derived by an approved insurer from carrying on marine hull and liability insurance and reinsurance business | **Goods and Service Tax** – 7% based on premiums.<br><br>General insurance contracts such as but not limited to motor, fire, personal accident, medical and health, workmen's compensation, professional indemnity, fidelity guarantee insurance are taxable supply of services<br><br>If the policyholder belongs outside of Singapore, the general insurance contract is zero-rated.<br><br>However, some policyholders belonging in Singapore can also be zero-rated if their policies are related to international transportation, export of goods, land or goods outside Singapore | | |
| **Thailand** | 20% on net profit | 7% based on premium and stamp duty on the policy which insurer collects | Insurance policy against loss | 1 Baht |

<table>
<tr><th rowspan="2">Country</th><th colspan="4">Nature and Rate of Tax</th></tr>
<tr><th>Corporate Income Tax</th><th>Value-Added Tax (VAT)<br>VAT-Like Taxes/Other Business Taxes</th><th colspan="2">Documentary Stamp Tax (DST)/ Stamp Duty</th></tr>
<tr><td></td><td></td><td>from insured<br><br>0% for non-life insurance company that provides insurance on overseas asset or on goods exported outside of Thailand</td><td>Any other insurance policy<br><br>Annuity policy<br><br>Insurance policy where reinsurance is made by an insurer to another person<br><br>Renewal of insurance policy</td><td>1 Baht<br><br>1 Baht<br><br>1 Baht<br><br>½ of the rate for the original policy</td></tr>
<tr><td>Vietnam</td><td>25% of the whole amount of money earned from the provision of insurance services, goods and other services, including VAT-exclusive surcharges and additional charges which insurance enterprises are entitled to</td><td>10% based on premiums<br><br>0% premiums received from providing non-life insurance for export processing enterprises<br><br>Exempt –<br>student insurance, personal insurance services, insurance covering hospitalization and surgical expenses, and vasectomy insurance, among others</td><td colspan="2">Vietnam does not have stamp duty</td></tr>
</table>

## 3. *Comparative Documentary Stamp Tax Imposed by ASEAN Member-Countries*

The paper provides a comparative Documentary Stamp Tax/Stamp Duty (DST/SD) rates imposed on transactions, documents and instruments by ASEAN countries as inputs to fiscal policymakers for possible amendments to the DST in preparation for the ASEAN Economic Integration (AEI) in 2015.

All ASEAN countries impose DST/SD except for Vietnam. Albeit said tax is termed differently, all ASEAN countries treat documents evidencing such transactions legally enforceable only if they are stamped to show that the proper amount of tax has been paid.

Myanmar was the first ASEAN country that imposed an SD on July 1, 1899 followed by the Philippines under Act 1189 or the Internal Revenue Law of 1904. Brunei Darussalam implemented its SD on July 1, 1909 while Indonesia's Stamp Duty Regulation (Zegelverordening 1921) was executed in 1921 but revoked by Law Number 13 of 1985 (Undang-undang Bea Meterai). Singapore imposed SD via its Stamp Duties Act on November 1, 1929 and Thailand issued the Revenue Code of 1938 which provided the imposition of the SD. Malaysia, and Cambodia imposed said tax on December 5, 1949 and February 15, 1991, respectively. Although Lao PDR imposes SD, the law promulgating its imposition could not be determined.

Various amendments and revisions to the DST/SD had taken place. The latest SD amendments were made by Myanmar on March 28, 2014 and Singapore on January 1, 2014. Brunei Darussalam, Malaysia and Cambodia revised their SD on April 1, 2013, January 11, 2013 and December 26, 2012, respectively. The Philippines last amended its DST on March 8, 2010 while Indonesia has not revised its SD law since 2000.

ASEAN-member countries levy DST/SD on various types of documents/instruments/transactions. Brunei Darussalam has the longest list subject to the SD at 72, Myanmar with 65, Malaysia, 55, Thailand, 28, Philippines, 25, Indonesia, 5, and Singapore, 4. ASEAN countries impose the DST/SD at varying rates either at ad valorem and/or fixed rates.

The common documents/instruments/transactions subject to the DST/SD are the following: original issue of shares of stock, sale of shares of stock, bonds, checks, bills of exchange, letters of credit, insurance policies, warehouse receipts, bills of lading, proxies, powers of attorney, leases, promissory notes, partnership, and counterpart or duplicate of any instrument chargeable with duty. Of these documents/instruments/transactions, insurance policy has a very detailed coverage of the DST/SD as it is further classified into life, non-life insurance in the case of the Philippines and sea insurance, fire insurance policy and accident and sickness, to name a few, in other ASEAN countries.

Most ASEAN countries have provisions for DST/SD exemptions. Some exemptions are peculiar to the following ASEAN countries, to wit: (a) Brunei Darussalam exempts certificate of an architect or engineer as to the value of work done under a building or engineering contract; (b) Myanmar exempts from SD the deed of dower executed on the occasion of marriage between Muhammadans; (c) In the Philippines, remittances made by Overseas Filipino Workers (OFWs) are not liable to DST; (d) Thailand does not collect SD on insurance of beasts of burden used for agricultural purposes; and (e) Indonesia exempts bill of lading and all forms of diplomas from SD.

Although the DST/SD is considered to be a relatively small revenue producer, ASEAN countries still regard the said tax as one of their stable sources of revenue.

### 4. *Issues and Concerns on the Valuation of Real Property for Estate Tax Purposes*

The paper reviews the valuation of real property for estate tax purposes in terms of uniformity, equity, and revenue productivity and recommends relevant reform options thereto.

One of the taxes that has a potential to improve its contribution to government coffers is the estate tax. It is a tax on the right of the deceased person to transmit his/her estate to his/her lawful heirs and beneficiaries at the time of death and on certain transfers which are made by law as equivalent to testamentary disposition. It is computed by determining first the gross estate of the decedent, and by deducting therefrom the allowable deductions to arrive at the net taxable estate upon which the tax rate will be applied. Section 85 of the National Internal Revenue Code (NIRC) of 1997, as amended, provides that the value of the gross estate of the decedent shall be determined by including the value, at the time of death, of all property, real or personal, tangible or intangible, wherever situated. For real property owned by the decedent, Section 88 of the NIRC of 1997, as amended, provides that the value of real property as of the time of death shall be whichever is higher of: (a) the fair market value as determined by the Commissioner of Internal Revenue (zonal value); or (b) the fair market value as shown in the Schedule of Market Values fixed by the Provincial and City Assessors (LGU value).

The problem with the use of these values is that these are not regularly updated or revised and therefore do not reflect current market prices. This undermines the collection of taxes on real property at the national and local levels.

There are disparities between the zonal values and the LGU values which were the results of differences in the valuation methodologies and procedures adopted by the BIR and the LGUs compounded by the infrequency or differences in the dates of revision and adjustment of values.

As may be noted, there are areas/RDOs and provinces and cities where the zonal values and schedule of market values (SMVs), respectively, are more updated than the others. From 2010-2014, there were only 37 out of 126 RDOs that have revised/updated their zonal values. The rest of the RDOs have zonal values that were implemented from 1995 to 2009. As regards SMVs, based on the data of Bureau of Local Government Finance (BLGF), only 23 provinces out of 80 provinces and 37 cities out of 143 cities are using values based on 2010 and 2012 values. A significant number of provinces and cities still use, for real property taxation, values based on 2009 and previous years' values.

Considering that the zonal values and LGU values are not based on a single valuation date but on different valuation dates, the use thereof for national internal revenue tax purposes may be deemed contradictory to the uniformity and equity principles of taxation. Ideally, for a national imposition like the estate tax, the valuation date and years of effectivity of the zonal value must be uniform throughout the country. Otherwise, taxpayers will bear different magnitude of tax burden.

In terms of revenue, the use of outdated value prevents the government from capturing the increases in the value of real property and therefore, failing to maximize the potential of estate tax as a source of revenue. Considering the non-regular or the infrequent revision of zonal value and LGU value, the current market value of real property at the time of death is not reflected in the gross estate of the decedent. This makes the gross estate of the decedent understated.

A long-term approach that may be adopted by the government to address the use of outdated market value is to regularly revise or adjust the market value of real properties for tax purposes. In addition, the adoption of a single real property valuation base for tax purposes as recommended under the Land Administration and Management Project (LAMP) should be considered to avoid confusion among the public and eliminate disparities and achieve consistency in real property valuation.

### *5. Gender Bias in the National Internal Revenue Code of 1997*

The paper presents an inventory of all gender-biased provisions in the Tax Code of 1997 and likewise recommends the rewording of the same in the proposed Comprehensive Tax Reform Package being pursued by the Department of Finance.

The implementation of RA 7192 in 1992 affirms the State policy of recognizing the role of women in nation-building and ensuring the fundamental equality of women and men before the law. Since then, positive steps were undertaken by the government to remove any form of gender inequality, to wit: (a) formulation of the Philippine Plan for Gender-Responsive Development (PPGD) for 1995 – 2025 and its adoption with the issuance of Executive Order (EO) No. 273, (b) enactment of the Anti-Violence Against Women and their Children Act (RA 9262); and (c) the Magna Carta of Women (RA 9710).

In the 2000 NTRC Study on gender bias in the income tax provisions of the Tax Code, gender bias was identified in two forms. The first form pertains to the use of masculine words such as "seaman" and masculine pronouns such as "he", "his", "him" or "himself". The second form is in the context of favoring men over women.

The first form of gender bias is most frequently found in the provisions of the Tax Code. In fact, 109 of its 292 sections were found to have used masculine words and pronouns to refer to the Secretary of Finance, Commissioner of Internal Revenue and other revenue officers and various types of taxpayers. Over-all, there are 177 gender biased provisions identified in the Tax Code.

## NUMBER OF IDENTIFIED GENDER-BIASED SECTIONS IN THE 1997 TAX CODE

| Title/Section of the 1997 NIRC | | Number of Sections | Number of Gender-Biased Sections | Total Number of Times that Gender Bias Occur |
|---|---|---|---|---|
| Title I | – Organization and Function of the Bureau of Internal Revenue (Section 1 – Section 21) | 21 | 10 | 16 |
| Title II | – Tax on Income (Section 22 – Section 83) | 62 | 28 | 59 |
| Title III | – Estate and Donor's Taxes (Section 84 – Section 104) | 21 | 9 | 21 |
| Title IV | – Value-Added Tax (Section 105 – Section 115) | 11 | 6 | 9 |
| Title V | – Other Percentage Taxes (Section 116 – Section 128) | 13 | 5 | 8 |
| Title VI | – Excise Taxes on Certain Goods (Section 129 – Section 172) | 44 | 15 | 15 |
| Title VII | – Documentary Stamp Tax (Section 173 – Section 201) | 29 | 2 | 3 |
| Title VIII | – Remedies (Section 202 – Section 231) | 30 | 15 | 15 |
| Title IX | – Compliance Requirements Section 232 – Section 246) | 15 | 7 | 14 |
| Title X | - Statutory Offenses and Penalties (Section 247 – Section 282) | 36 | 11 | 15 |

| Title/Section of the 1997 NIRC | Number of Sections | Number of Gender-Biased Sections | Total Number of Times that Gender Bias Occur |
|---|---|---|---|
| | | | |
| Title XI – Allotment of Internal Revenue (Section 283 – Section 289) | 7 | 0 | 0 |
| Title XII – Oversight Committee (Section 290) | 1 | 1 | 1 |
| Title XIII – Repealing Provisions (Section 291) | 1 | 0 | 0 |
| Title XIV – Final Provisions (Section 291) | 1 | 0 | 0 |
| **Total** | **292** | **109** | **177** |

The use of masculine occupational/role references such as “Chairman” or “seaman” and masculine pronouns such as “he” and “his” suggests that only men can perform certain tasks or roles. It fosters gender inequality and discriminates women by rendering them invisible or by trivializing them and at the same time it perpetuates the notion of male supremacy.

To eliminate the aforesaid type of bias in the NIRC, it is recommended that the pertinent tax provisions be reworded or reconstructed to make them gender neutral. It may be better to use the plural form of the word such as “taxpayers” to refer to both male and female taxpayers so that the plural pronouns “they”, “their” and “them” which are gender neutral will be used instead or better yet, use sex-specific terms.

Meanwhile, the second form of gender bias is observed on the provision which limits the right to be head of the family and proper claimant of the additional exemption to the husband. It is found in Section 79(F) of the Tax Code which read as follows:

“**Husband and Wife**. - When a husband and wife each are recipients of wages, whether from the same or from different employers, taxes to be withheld shall be determined on the following bases:

(1) The husband shall be deemed the head of the family and proper claimant of the additional exemption in respect to any dependent children, unless he explicitly waives his right in favor of his wife in the withholding exemption certificate.

(2) Taxes shall be withheld from the wages of the wife in accordance with the schedule for zero exemption of the withholding tax table prescribed in Subsection (D)(2)(d) hereof."

At present, the wife can claim the additional exemption for qualified dependent children only in cases where:

a) The husband is unemployed;
b) The husband is a nonresident citizen deriving income from foreign sources; and
c) The husband explicitly waives his right of claiming additional exemption for qualified dependent children in favor of the wife in the withholding exemption certificate.

It is of interest to note that the phrase "unless he explicitly waives his right in favor of his wife in the withholding exemption certificate" was added by RA 7497 in 1992. Prior to the enactment of RA 7497, this provision read as follows in Sec. 72(f) of the 1977 Tax Code:

"When a husband and wife each are recipients of wages, whether from the same or from different employer, taxes to be withheld shall be determined on the following bases:

(1) The husband shall be deemed the head of the family and proper claimant of the additional exemption in respect to any dependent children;

(2) Taxes shall be withheld from the wages of the wife in accordance with the schedule for zero exemption of the withholding tax table."

Hence, the present provision of the Tax Code with regard to the provisions on the right to be the head of the family and proper claimant of the additional exemption is more gender sensitive than the previous one. Nevertheless, the present provision still poses a preference to men over women.

As identified, various provisions of the NIRC of 1997 are still gender-biased. Hence, the following are recommended to make the NIRC of 1997 more gender-neutral: (a) Use sex specific words and pronouns; or use the plural form of the word such as “taxpayers” so that the pronouns “they”, “their” or “them” will be used which are gender-neutral; (b) Section 79(F)(1) of the Tax Code should be reworded such that both husband and wife will be given equal opportunity to claim their dependent child/children for additional exemption; and (c) Use gender-neutral language in future tax legislation.

### 6. *Taxability or Exemption from VAT of Different Types of Sugar Under Various Laws and Issuances*

The paper presents the historical changes introduced in the taxability or exemption of various types of sugar, analyzes the issues related thereto and determines how these have been addressed by recent laws and issuances.

Tax policies on sugar have undergone various developments since 1987. Several tax laws and corresponding regulations were issued resulting to changing status of the taxability or exemption of different types of sugar.

Executive Order (EO) 273 (July 25, 1987), the first law on the VAT, exempted raw cane sugar from the tax as it falls under the ‘original state’ category. Under Revenue Regulations (RR) No. 5-87, implementing said law, the term “raw cane sugar” was defined as those referring to “crystallized or solidified juice of sugar cane through a milling process, short of being refined, without any addition of chemicals, resulting in muscovado or granulated sugar.”

The definition of “raw cane sugar” was further amended by RR 5-89, as those referring to crystallized or solidified juice of sugarcane, distinctly brown in color resulting from the simple and primary milling process such as treating the juice with lime to remove impurities, boiling and spinning the syrup to force out the molasses. On the other hand, “wash sugar”, “plantation sugar” and “blanco directo sugar” were considered refined sugar subject to the VAT.

RR 7-89 was issued prescribing procedures for advance payment of the VAT on the sale of refined sugar. It added “standard sugar” and “premium sugar” to the three types of sugar identified as refined sugar subject to the VAT under RR 5-89.

In 1994, Republic Act (RA) No. 7716 was passed amending EO 273 by limiting the exemption of raw cane sugar to those that are locally produced. This limitation however was lifted in 1997 via RA 8241.

On the definition of refined sugar, RR 7-95 retained the three types of sugar provided under RR 5-89 as refined sugar, thus, implicitly amending RR 7-89. However, in 2002, RR 29-2002 expanded the definition of refined sugar to include cane sugar commonly known as “washed sugar”, “direct consumption sugar”, “plantation white sugar”, “blanco directo sugar”, “standard sugar”, “improved raw sugar”, “premium improved raw sugar” and “premium sugar”, which were all subject to VAT, except when produced by agricultural cooperatives.

Again, a new definition for refined sugar was provided under RR 14-2005, which was superseded by RR 16-2005. Under these two issuances, refined sugar which is subject to VAT is defined as sugar whose content of sucrose by weight, in the dry state, has a polarimeter reading of 99.5° and above but did not enumerate what types of sugar were considered refined sugar.

In a similar vein, RR 06-2007 defined raw sugar as sugar whose content of sucrose by weight in dry state corresponds to a polarimeter reading of less than 99.5° and is exempt from VAT. This definition of raw sugar was adopted by RR 13-2008.

In 2013, RR 13-2013 was issued amending again the definition of raw sugar by referring to sugar that is produced by simple process of conversion of sugar cane without a need of any mechanical or similar device. In effect, the definition only applies to muscovado sugar. It further provided that any centrifugal process of producing sugar is not in itself a simple process, thus making previously exempt raw sugar defined under RRs 06-2007 and 13-2008 subject to the VAT.

It is noted that a temporary restraining order (TRO) was issued against RR 13-2013. This prompted the BIR to issue RR 04-2015 to reinstate the definition of raw sugar under RR 06-2007 and 13-2008.

RA 10659, enacted March 27, 2015, otherwise known as the "Sugarcane Industry Development Act of 2015", clarifies the definitions of refined sugar and raw sugar pursuant to Section 106(A)(2)(a)(1) of the Tax Code, as amended. It defined "refined sugar" as sugar whose content of sucrose by weight, in the dry state corresponds to a polarimeter reading of 99.5° and above, which is taxable, while "raw sugar" as sugar whose content of sucrose by weight, in the dry state, corresponds to a polarimeter reading of less than 99.5°, which is exempt. RR 6-2015 reiterated the definitions of refined sugar and raw sugar under RA 10659.

However, a recent issuance, RR 08-2015 redefined raw cane sugar as natural sugar extracted from sugarcane through simple mechanical process by pressing for the juice; boiled to crystallize; filtered using centrifuge to separate these crystals, and dried, resulting to crystallize brown sugar (brown color due to natural molasses content present in sugar cane). It also clarifies that in order to qualify as raw cane sugar, it must undergo only one stage of filtering and centrifugal without any other further process applied thereto, such as but not limited to washing or bleaching. It should have a color greater than 800 ICU and content of sucrose by weight in dry state corresponding to a polarimeter reading of less than 99.5°.

Thus, raw sugar defined under RA 10659 may now fall under the definition of raw cane sugar as defined in RR 6-2015 and further clarified by RR 8-2015. As such, sale of raw sugar under RA 10659 may be exempt from advance payment of VAT or percentage tax provided they meet the conditions provided by the definition of raw cane sugar.

Based on the foregoing, it is observed that any ambiguity in determining what type of sugar is exempt from the VAT may have already been resolved with the issuance of RR 8-2015.

### *7. Review of the Philippine Initial Public Offering Tax*

The paper seeks to examine the trend of the country's Initial Public Offering (IPO) prior to and after the imposition of the IPO tax to determine the impact of such tax on the decision of corporations to go public.

An IPO refers to stock offering made for the first time in the local stock market. Its objective is to seek a public market for the stocks of a company that wishes to raise capital, thus, encouraging public participation in stock transactions. It is a common method for a company to become "listed" in the Philippine Stock Exchange (PSE), hence, transforming a closely-held company to a publicly-held and traded company whereby the ownership of shares is distributed for the benefit of the investors and the domestic market as well. This induces transparency in operations and completely new level of scrutiny by the public.

Through the years, the number of firms going public as well as the value of IPOs have not regained the robust numbers they showed during the mid-1990s. The highest number of IPOs totaling 21 was recorded in 1994 with total value amounting to PhP33.46 billion. However, beginning 1997 the number of IPOs started to dwindle with only nine IPOs in 2007 to as low as one IPO in 2004 and 2009.

The number and value of IPOs varied by year. From 1987-2014, there were years when only few firms issued IPO which were of high value. This shows the presence of "hot issues" market where the general investors' sentiment run high resulting in extraordinarily huge value of IPO.

There is a wide perception that the tax imposed on IPO is a major factor restraining market efficiency. As early as 1997, the Philippine Stock Exchange (PSE) already favored the scrapping of the IPO tax. In the same year, the Department of Finance (DOF) reviewed the proposed abolition of the tax but it did not prosper due to the increasing fiscal deficit of the country. In 2007, the Asian Development Bank also urged the government to abolish the IPO tax to boost liquidity in the equity market. In the same year, a study was conducted by the Capital Market Development Council (CMDC), which likewise proposed the scrapping of the IPO tax to further spur the growth of the local equity market because it is a tax on capital and not on income.

The IPO tax is one of the variants of a broader category of Stock Transaction Tax (STT). It was first imposed on May 5, 1994 upon the enactment of Republic Act (RA) 7717 on every sale, barter, exchange or other disposition through IPO of shares of stock in closely-held corporations at a rate based on the gross selling price (GSP) or gross value in money (GVM) of the shares of stock sold, bartered, exchanged, or otherwise disposed in accordance with the proportion of shares of stock sold, bartered, exchanged, or otherwise disposed to the total outstanding shares of stock after the listing in the local stock exchange. The rate was 4% if the percentage of shares of stock sold through the IPO to total outstanding shares of stock was 33 1/3% or below; 2% if said proportion was over 33 1/3% but below 50%; and 1% if said proportion was over 50%. After over three years of implementation, RA 7717 was amended by RA 8424 lowering the proportion of shares of stock sold through IPO to outstanding shares to 25%; over 25% but not more than 33 1/3%; and over 33 1/3%, respectively. This will distribute the benefits of development to the greater majority and encourage small and medium enterprises (SMEs) or lower income sectors to participate in the development of the stock market.

The IPO tax contributed on the average PhP0.46 billion annually to government coffers from 1994 to 2012. There were only two years (1994 and 1999) wherein the IPO collections reached a billion peso-level. On the other hand, in 2008 and 2010, the collections were minimal amounting to more or less PhP2 million only.

It is safe to assume that revenue generation was the fundamental reason in imposing the IPO tax. However, based on available data, the tax has not been a stable source of revenue. Upon its implementation under RA 7717, a total of 56 companies went public in only a span of four years. However, in spite of the lower proportion of shares of stock to total outstanding shares of stock after listing as provided under RA 8424, the number of IPOs almost remained stagnant as there were only 55 companies that went public within a period of 15 years from 1998 to 2012 averaging only four companies each year. Hence, the objective to attract more closely-held corporations to go public under RA 8424 was not achieved.

The seemingly lukewarm response of companies in going public proves that the IPO tax nor the need for fresh capital are not the major factors in making such decision but other external factors which may include political uncertainties, volatility of the exchange rate, interest rates, and poor market condition, among others. Also, the company has to scrutinize and check if the company, as well as its key management personnel, is ready to go public. Strategic entry into the market is vital to the success of even the strongest IPO.

The rigid listing and reportorial requirements imposed by both the Securities and Exchange Commission (SEC) and the PSE on publicly listed companies are also among the impediments in going public. The preparation for an IPO can be very tedious. It involves significant "housekeeping" of the company and priming of shares for sale, which can take anywhere from eight to 12 weeks, depending on the extent of corporate clean-up required. Moreover, aside from the IPO tax, there is a wide range of fees and charges that the corporation needs to absorb prior to offering shares to the public.

Among the ASEAN member countries, only the Philippines and Indonesia levy a tax on IPO. In the Philippines, the bigger the proportion of the shares offered to the public, the lower would be the tax rate imposed. In Indonesia, on the other hand, the tax rate on founder share is uniform at 0.5% on the shares value at the time of an IPO, regardless of the number of shares being offered to the public.

Presently, the IPO tax is the only tax imposed on IPO transactions after the documentary stamp tax (DST) on stock transaction was abolished per RA 9648 in 2009. Since the IPO tax contributed a minimal amount in tax collection the country may let go of the IPO tax. Removing the IPO tax will simplify the taxes imposed in the country's stock exchange.

### *8. Estimate of the Individual Income Tax Gap: 2013 – 2014*

The paper updates the tax gap estimates on compensation income earners (CIEs) and self-employed & professionals (SEPs) from 2013 – 2014 using the tax gap approach to evaluate how much of the potential tax revenue was not collected.

In 2014, total individual income tax collection amounted to PhP271.1 billion, representing 20% of the total revenue collection of the BIR. CIEs continued to contribute the bulk, PhP232.4 billion or 86% while the SEPs shared only PhP38.7 billion or 14%.

The estimated individual income tax gap in 2014 stood at PhP70.3 billion, increasing by 14.6% from PhP61.4 billion in 2013. In particular, the tax gap from the SEPs expanded from PhP48.4 billion in 2013 to PhP56.9 billion in 2014 or by 17%. On the other hand, the tax gap from CIEs increased from PhP12.9 billion to PhP13.4 billion or by 3.7% during the same period. As a percent of GDP, the compensation income tax gap averaged 0.1% while tax gap from SEPs averaged 0.4% from 2010 to 2014.

**ESTIMATED INDIVIDUAL INCOME TAX GAP: 2010 - 2014**
**(Amount in Billion Pesos)**

| Particulars | 2010 | 2011 | 2012 | 2013 | 2014 | 2010-2014 Average | 2013-2014 Growth Rate |
|---|---|---|---|---|---|---|---|
| **TOTAL** | **37.2** | **42.3** | **47.8** | **61.4** | **70.3** | **51.8** | **14.6%** |
| Compensation Income | 13.1 | 11.7 | 14.7 | 12.9 | 13.4 | 13.2 | 3.7% |
| (% of Potential Tax Due) | *8.8%* | *6.9%* | *7.5%* | *6.0%* | *5.5%* | *6.9%* | *-9.8%* |
| % of GDP | *0.1%* | *0.1%* | *0.1%* | *0.1%* | *0.1%* | *0.1%* | *0.1%* |
| Business/ Professional Income | 24.1 | 30.6 | 33.1 | 48.4 | 56.9 | 38.6 | 17.4% |
| (% of Potential Tax Due) | *49.6%* | *54.0%* | *51.2%* | *58.0%* | *59.5%* | *54.5%* | *2.7%* |
| % of GDP | *0.3%* | *0.3%* | *0.3%* | *0.4%* | *0.5%* | *0.4%* | *7.2%* |

The widening tax leakage from SEPs shows that despite utmost effort of the BIR to fully capture income of this so-called "hard-to-tax" group in the tax net through the continuous implementation of its Run After Tax Evaders (RATE) Program; the Enhanced Audit Program, and the Tax Compliance Verification Drive (TCVD), among others, not to mention the "Name and Shame" campaign in 2013, many SEPs are still able to evade paying the correct amount of tax.

Unlike CIEs who are under the withholding tax system and allowed only personal and additional exemptions as deductions from their gross income, business/professional income taxpayers are also allowed to deduct from their gross income certain expenses arising from business activities. Because of the self-assessment system of income taxation among SEPs, opportunities to lessen their tax liabilities is present through underdeclaration of income and/ or overstating allowable expenses. Excessive claims of deductions are made because there is no limit on the amount of business expenses that may be claimed by the taxpayers, except for charitable contributions, entertainment, amusement and recreational expenses. There is also the practice among professionals and business establishments to issue receipts only upon the request of the customers. Incidence of connivance between the sellers and the buyers of goods and services for non-issuance of receipts in exchange for a reduced price is also well-known, hence, the opportunity to under-declare income. Others simply don't file income tax returns.

### *9. Review of the Foreign Direct Investment Flows and Tax Incentives in the Philippines and in the ASEAN Region*

The paper examines the Foreign Direct Investment (FDI) flows in the ASEAN region and assesses how the Philippines fared in attracting FDI. Furthermore, the paper discusses the present investment incentives in the Philippines in comparison with other ASEAN countries.

Foreign direct investment has grown in importance and is increasing all over the world especially in developing countries, including those in the ASEAN region, where factor costs are low and there are less restrictions. FDI is considered as a major source of external finance from wealthier countries to countries with limited amounts of capital. Developing countries, including the Philippines, compete with each other in attracting FDI. Thus, the government, through the Investment Promotion Agencies (IPAs), offers various investment incentives to lure investors to park their capital in the country. The tax incentives include the grant of income tax holiday (ITH), reduced tax rates on gross income earned, import duty exemptions, accelerated depreciation allowance, among others.

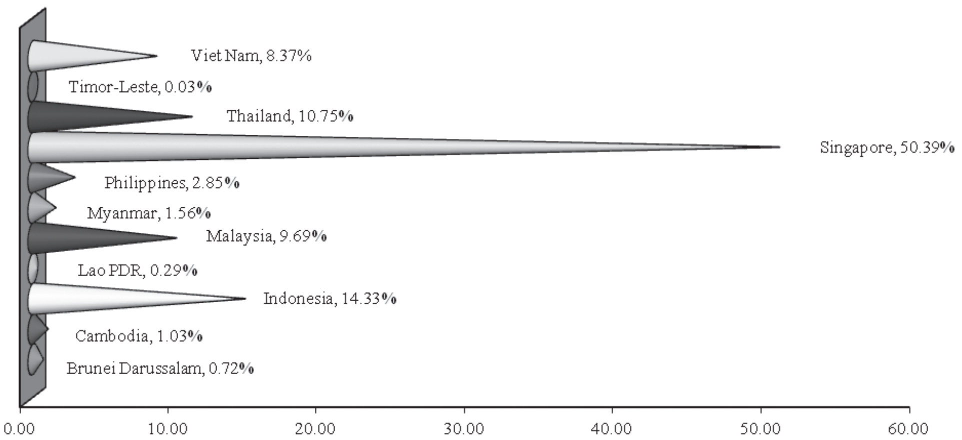
From 2005 to 2014, foreign investors injected a total of US$26.93 billion worth of investments in the Philippines or an average of US$2.69 billion annually. From US$1.66 billion in 2005, Philippine FDI reached US$2.92 billion in 2007. However, the country's net FDI flows posted negative growth in 2008 (-54.11%) due to the recession in the US that resulted to global economic crisis. In 2009, the Philippine economy recovered from the economic crisis which brought back the confidence of foreign investors to the country that led to a 53.73% FDI growth during the year. However, the country again experienced a sharp drop in net FDI flows in 2010 that resulted to a -48.06% growth rate. From 2011-2014, positive growth rates of 87.85%, 60.20%, 16.15% and 65.78%, respectively, were recorded.

The sector which attracted the bulk of FDI and had the greatest impact on the economy was the manufacturing sector which received 13.85% or US$3.73 billion of the net FDI flows into the country from 2005-2014.

This was followed by electricity, gas and water industry (6.71%); financial intermediation and insurance (6.07%); real estate (4.91%); and mining and quarrying (2.33%). Other industries shared an aggregate of 11.76% of total investments covering the period under review. On the other hand, reinvestment earnings and debt instruments shared 17.33% and 37.04% of the total net FDI inflows in the country from 2005-2014.

However, compared with the ASEAN member countries, the Philippines was one of the lowest recipients of FDI inflows, garnering only an average annual share of 2.85% of the total FDI inflows in the region. Singapore got the bulk with a 50.4% share, followed by Indonesia and Thailand with average annual share of 14.33% and 10.75%, respectively.

**AVERAGE PERCENTAGE SHARE OF ASEAN COUNTRIES TO TOTAL ASEAN FDI INFLOWS: 2005-2013**




The Philippines failed to meet expectations as regards attracting FDI compared with its ASEAN neighbors due to the following major setbacks that make our country less attractive to investors:

1) Inadequate infrastructure

Foreign investors prefer economies with well-developed network of roads, airports, water supply, uninterrupted power supply, telephones, and internet access. Poor infrastructure increases the cost of doing business and reduces the rate of return on investments;

2) Corruption

Corruption negatively impacts FDI inflow and may act as a ”tax” on FDI; thus, corruption in the Philippines, whether practiced or mere perception, drives away investors;

3) Inefficient government bureaucracy

In comparison with selected ASEAN member-countries, the Philippines has the most number of procedures and longer time needed in starting a business.

4) Crime and theft

The Philippines ranked high in terms of business costs of terrorism, crime and violence; organized crime and among those with least reliable police services.

5) Taxation

In the Philippines, the enactment of investment laws and the creation of investment promotion agencies (IPAs) help boost foreign investments. Based on available data, from 1,318 sample registered firms with various IPAs, the government waived about PhP112.96 billion due to the grant of tax incentives consisting of ITH, special rate, and exemption from customs duties in 2011. This accounted for about 1.16% of the country’s GDP. In the succeeding years, based on larger samples, the tax expenditures extended by the country’s major IPAs were equivalent to 1.27% to 1.51% of GDP.

As the integration of the regional market through the ASEAN Economic Community (AEC) draws nearer, the Philippines cannot solely lower taxes and grant generous fiscal incentives packages simply because all the nine ASEAN countries are likewise geared towards the same path. Of great importance are the establishment of adequate and efficient infrastructure, achievement of stable political conditions and good governance, and the reduction of the cost of doing business. The country should direct its resources and be aggressive in promoting activities/sectors in which the country has competitive advantage over its neighbors. Lastly, the government should take full advantage of the positive image that the Philippines has built in the international community due to credit rating upgrades to create a conducive business and political environment for investment.

## *10. Comparative Real Property Taxation of ASEAN Member Countries*

The paper provides an overview of the real property taxation of ASEAN member-countries focusing on the similarities and differences of the RPT structures to serve as input in formulating policies on the country's real property taxation.

Generally, the RPT is a local tax on real estate that is calculated based on its market value. Real property usually covers land, buildings and other improvements and machineries that are attached directly to the land. In many countries, including the Philippines, property tax is a steady source of government revenue. Thus, it is not surprising that all ASEAN-member countries are imposing this kind of tax within their jurisdiction albeit differences in the coverage, tax rates and tax bases.

The Philippine property taxation is governed by the Local Government Code (LGC) of 1991. The LGUs impose the RPT on each type of real property (land, building or improvement and machinery) depending on its classification (residential, agricultural, commercial and industrial). The RPT is imposed subject to the maximum assessment level and tax rate provided in the LGC, as amended. Similar to the Philippines, Singapore also imposes real property tax on land, building and machinery. However, Singapore treats machinery as part of the building and are not taxed separately, except those that are used in manufacturing, processing and other industrial purposes which are exempt.

In contrast, Lao PDR and Vietnam only impose tax on land while Brunei only imposes it on buildings. In the case of Cambodia, Indonesia, Malaysia, Myanmar and Thailand, only the land and building are subject to the property tax. Thailand imposes either the Land Development Tax (LDT) on land without a building or House and Land Tax (HLT) on land with building except owner-occupied residences. It is also worthy to note that Brunei, Cambodia and Myanmar impose the property tax only on real properties located in their capital cities, i.e., Bandar Seri Begawan, Phnom Penh and other cities of the provinces and Yangon, respectively.

Malaysia imposes property tax at the local (assessment tax) and state (quit rent) levels. The Philippines, Vietnam and Thailand impose and collect the property tax at the local government level while in Brunei, Cambodia, Lao PDR and Singapore, the central government imposes and collects the tax. In Indonesia, the central government imposes the tax while the local government is responsible for its collection.

### TAXABLE REAL PROPERTIES IN ASEAN

| Land Only | Building Only | Land and Building Only | Land, Building and Machinery |
|---|---|---|---|
| Lao PDR | Brunei | Cambodia | Philippines |
| Vietnam | | Indonesia | Singapore |
| | | Malaysia | |
| | | Myanmar | |
| | | Thailand | |

Under a property tax system, the government requires and performs an assessment of the monetary value of each property. Assessment is the act or process of determining the proportion of the market value subject to tax. Property assessment varies among the ASEAN member countries. The Philippines, Cambodia, Indonesia, Thailand (LDT) and Vietnam base their taxes on the market value or sales value of the real properties while Brunei (CBT), Malaysia (AT), Myanmar, Singapore and Thailand (HLT) use the annual value or annual rental value as the tax base.

Seven (7) of the ten (10) ASEAN-member countries adopt ad valorem tax rate on real properties ranging from 0.1% to 20% with the highest tax rates being imposed by Singapore and Myanmar and the lowest by Cambodia and Indonesia. On the other hand, Lao PDR uses specific tax rate while Brunei and Malaysia apply the combination of ad valorem and specific taxes depending on the type of property. For instance, Brunei imposes an ad valorem tax rate of 12.5% on commercial buildings and a specific tax rate of BND2.20 and BND1.10 per square meter on residential houses depending on their location.

## TYPES OF REAL PROPERTY TAX IN ASEAN

| Ad Valorem | Specific | Combination |
|---|---|---|
| Cambodia | Lao PDR | Brunei |
| Indonesia | | Malaysia |
| Myanmar | | |
| Philippines | | |
| Singapore | | |
| Thailand | | |
| Vietnam | | |

Different tax rates may be imposed for various classifications of property. This practice provides local governments the authority to manage the distribution of the tax burden among various property classes within their jurisdiction in addition to identifying the extent of the tax burden on taxpayers. In Brunei and Malaysia, residential properties are subject to lower tax rates as compared to property used for commercial purposes. In the Philippines, a single tax rate is imposed but the assessment level varies for each type of property with residential and timberland properties having the lowest at 20% while commercial, industrial and mineral properties have the highest at 50%.

Conversely, Singapore imposes a single tax rate of 10% on non-residential properties based on its annual value and progressive tax rates ranging from 0% to 20% on residential properties that are owner-occupied and non-owner occupied – the higher the value of the residential property, the higher the tax rate. In the case of Vietnam, tax rate varies depending on land productivity as indicated by the categories and location of the land. The tax rates range from 0.15% to 0.3%.

Properties exempted from taxation vary among the ASEAN member-countries. In Thailand and Cambodia, principal residences and agricultural lands are tax exempt. However, a property owner shall pay property taxes for the additional properties. Correspondingly, the Prakas (law) in Cambodia provides that any form of construction built on agricultural lands will lose its tax exempt status. In Vietnam, properties in the regions having difficult socio-economic conditions including agricultural households and cooperatives, and poor communes are exempted from the payment of property tax.

In most ASEAN-member countries (Indonesia, Malaysia, Philippines, Singapore and Thailand), common tax exempt properties are those owned and occupied by State governments, educational institutions, churches and cemeteries, charitable institutions, and property owned by international organizations.

Some ASEAN countries impose special levies on property. Idle or unused land tax is imposed in Cambodia (2%), Philippines (not exceeding 5%), and Thailand and Vietnam (2%). Two-tiered tax rates are enforced in Thailand on idle lands depending on location, size, land classification and assessed value. Abandoned buildings are also subject to 2% tax in Cambodia. In Lao PDR, the tax rate for vacant land ranges from 15-300 kip/$m^2$ depending on its location.

In the Philippines, a 1% additional levy is imposed on real property known as the Special Education Fund (SEF) tax. Additionally, a special levy of not exceeding 60% of the actual cost on lands benefitted by public work projects funded by local governments concerned may be imposed by the LGU. To date, however, no LGU is imposing this special levy. Property taxes in Myanmar include the general tax, lighting tax, water tax and conservancy tax.

### *11. Profile and Taxation of Selected Gambling and Betting Activities in the Philippines*

The paper provides an overview of the gambling and betting activities in the Philippines. It also discusses the economic benefits of these activities in terms of funding government priority activities/endeavors. It likewise reviews the taxation of different types of gambling and betting activities and make recommendations therefrom.

In the Philippines, gambling, both legal and illegal, has long been part of Filipino culture as it is considered a popular pastime among the people. A survey conducted by the Social Weather Stations (SWS) in 2005 revealed that at least 53% of adult Filipinos (62% of men, 43% of women) engaged themselves in some forms of gambling.

The most common forms of gambling in the country are number games (jueteng), card games (e.g., tong-its, bingo, etc.), horse racing, cockfighting, and betting in lotteries. Likewise, the Philippines is gradually etching its name in world casino as it is now known as Asia's hidden gem with regard to the future of casinos and gambling in the region.

Several government agencies oversee the activities of the industry. Casinos are operated and regulated by the Philippine Amusement and Gaming Corporation (PAGCOR) while the operation of lottery franchise is supervised by the Philippine Charity Sweepstakes Office (PCSO). On the other hand, horse racing is under the auspices of the Philippine Racing Commission (PhilRaCom) but the betting aspect of it is being handled by the Games and Amusement Board (GAB).

Gambling in casinos has been regulated since 1977 when the PAGCOR was created under Presidential Decree (PD) No. 1067-A. Simultaneous to its creation, supplementary laws and subsequent amendatory laws were issued which were later consolidated under PD 1869 in 1983. The PAGCOR, a government-owned and controlled corporation (GOCC), is mandated to regulate, operate, authorize and license games of chance, games of cards and games of numbers. PAGCOR generates revenues for the government's socio-civic and national development programs, and helps promote the Philippine tourism industry.

The number of casinos and betting shops licenses approved by the PAGCOR increased from 2007 to 2013 by 77% and 198% respectively. In 2013, there were a total of 55 operational casinos in the country, of which 47 were PAGCOR-franchised casinos and eight were licensed casinos. In the same year, PAGCOR approved a total of 727 betting shops licenses, 32% or 232 of which were electronic games; 30% or 219 were electronic bingo; 26% or 186 were traditional bingo, and 12% or 90 were sports betting. However, traditional bingo declined in 2013 to 186 from 200 in the previous year.

If casino gambling is considered to be one, if not the most expensive form of gambling, the most accessible and low-priced gambling option in the country is betting on lotteries. Lottery is a scheme for the distribution of prizes by chance among persons who have paid, or agreed to pay a valuable consideration for the chance to obtain a prize. Pursuant to RA 1169 , as amended, the PCSO is mandated to raise and provide funds for health programs, medical assistance and services, and charities of national character in the country from charity sweepstakes, races, and lotteries. The main products of the PCSO are the sweepstakes and the lottery games. As of 2013, there were 7,127 lotteries and 997 Keno outlets throughout the country.

The racing clubs in the country that were granted franchise to operate and maintain race tracks are the Manila Jockey Club, Inc. (MJCI) in Cavite per RA 6631 as amended by RA 8407, Philippine Racing Club, Inc. (PRCI) in Manila under RA 6632 as amended by RA 7953, and the Metro Manila Turf Club, Inc. (MMTCI) in Batangas pursuant to RA 7978 as amended by RA 8298. They also operate off-track betting (OTB) stations throughout the country. As of 2013, there were a total of 755 off-track betting stations in the country, 246 of which were owned by MJCI, 255 by the PRCI, and 254 by the MMTCI. Of the total, 602 or 80% are located in the NCR, 102 or 14% are in Region IV, 40 or 5% in Region III, eight or 1% in Region I, and three in Region V.

PAGCOR's mandatory contributions went to the Philippine Sports Commission (PSC) for the training of the country's national athletes in international sporting events and in cultivating Philippines sports at the grassroots; to the Board of Claims to give justice to those who were wrongly accused or prosecuted; and to the President's Social Fund to finance high impact programs such as construction of school buildings, provision of potable water systems in the countryside, and funding of livelihood programs for the marginalized sectors of society, among others. PAGCOR likewise infused money to the National Sports Development Fund, Renewable Energy Trust Fund, and the National Endowment Fund for Culture and the Arts.

From 2007-2013, PAGCOR's mandatory contributions to the government amounted to PhP109.00 billion or PhP15.57 billion annually, representing 46% of its income during the period.

Pursuant to Section 6 of RA 1169, as amended, PCSO's net receipts shall be divided into 55% - Prize Fund, 30% - Charity Fund, and 15% - Operating Fund. The Charity Fund is a trust and liability account and is used exclusively to finance and support health programs, medical assistance and services and/or charities of national character. From 2007-2013, out of its total net receipts of PhP163.89 billion, PCSO's mandatory contribution to the government reached PhP3.69 billion, sharing 5% (2012) to 10% (2010) of its Charity Fund covering the period under review.

Out of the PhP3.68 billion total mandatory contributions of PCSO to the government from 2007-2013, 47% or PhP1.73 billion went to LGUs' share from lotto followed by CHED's Higher Education Development Fund and Greater Medicare Access Program (GMA) by PhilHealth which received 19% or about PhP700 million each.

As mandated by their franchise laws, the three horse racing clubs are obligated to contribute to the national government, the LGUs where the racetracks are located, and to their legislated beneficiaries a portion of their gross receipts from the sale of betting tickets; a fraction of less than PhP0.10 from the dividends paid to winning tickets known as breakage; and from their VAT payable in lieu of franchise tax pursuant to RA 7716, as amended by RA 8241.

From 2007-2013, the three horse racing clubs generated total gross receipts from all horse racing events amounting to PhP55.78 billion or an average of almost PhP8 billion a year, of which PhP607.09 million went to PhilRaCom and PhP1.11 million to GAB during the period.

PD 1869 (July 1983) granted the PAGCOR exemption from the payment of any type of tax, except a franchise tax of 5% of gross revenue or earnings it derives from its operations and licensing of gambling casinos, gaming clubs and other similar recreation or amusement places, gaming pools and other related operation. However, in June 1984, the tax exemption was removed through PD 1931, but was restored by Letter of Instruction No. 1430 in September 1984. Upon the effectivity of RA 8424, otherwise known as the "National Internal Revenue Code (NIRC) of 1997" on January 1, 1998, PAGCOR, together with four other GOCCs, was exempted from paying the corporate income tax (CIT). However, with the enactment of RA 9337 on May 24, 2005, PAGCOR was excluded from the enumeration of GOCCs that are exempt from the payment of the CIT under Section (27)(C) of the NIRC. On April 17, 2006, PAGCOR sought before the Supreme Court (SC) the declaration of nullity of Section 1 of RA 9337. However, on March 15, 2011, the SC upheld the constitutionality of RA 9337. On April 6, 2011, PAGCOR filed a Motion for Reconsideration. However, in its Resolution dated May 31, 2011, the SC denied with finality the Motion for Reconsideration filed by PAGCOR. Thus, in December 2011, PAGCOR voluntarily settled unpaid back taxes amounting to PhP657.18 million incurred from November 2005 to December 2010. From 2011-2013, PAGCOR paid a total of PhP2.79 billion worth of income tax.

MJCI, PRCI and MMTCI were previously liable to the franchise tax, in lieu of all national and local taxes, except the income tax and the DST under their respective franchise laws. With the passage of RA 7716 as amended by RA 8241, the franchise tax was replaced by the VAT the proceeds from which is distributed to NG, LGU, Philippine Tuberculosis Society, Inc. (PTSI), PCSO, White Cross (WC), and the DOH. From 2007-2013, government revenue from the three horse racing clubs totaled PhP9.49 billion or an annual average of PhP1.36 billion. More than half (57%) of the collection came from DST, followed by tax on winnings and prizes, 31%. The rest of the collections were from VAT and CIT.

In terms of winnings of casino players, Section 24(B)(1) of the NIRC, as amended, provides that prizes more than PhP10,000.00 and other winnings are subject to 20% final tax. The said tax is being withheld by PAGCOR and remitted to the BIR. As to winnings of PhP10,000.00 or less, PAGCOR or the licensed casino is not required to withhold the 20% final tax; instead, the winner is required to file an income tax return and declare the amount of winnings in the said return.

Under Section 4 of RA 1169 as amended by PD 1157, horse races and sale of sweepstakes tickets are exempt from all taxes, except (underscoring supplied) that each ticket is subject to PhP0.12 internal revenue stamp and a 5% prize fund tax to be deducted from the proceeds of the sale of tickets which shall be paid to the BIR in lieu of income tax. From 2007-2013, the PCSO remitted to the BIR a total of PhP22.12 billion tax payments or PhP3.16 billion annually. Of the amount, 81% were DST payments on sweepstakes and lotteries and 19% came from the 5% prize fund tax.

Presently, Section 190 of the NIRC, as amended, imposes a PhP0.10 documentary stamp tax (DST) on the sale of lotto tickets. If the cost of the ticket exceeds PhP1.00, an additional tax of PhP0.10 on every PhP1.00 or fractional part thereof shall be collected. As for lotto and sweepstakes, winnings from PCSO are income tax-free pursuant to Section 24(B)(1) of the NIRC, as amended.

Similar to lotto tickets, the DST on horse race tickets amounts to PhP0.10 for every PhP1.00 worth of horse race ticket and additional PhP0.10 for each PhP1.00 in excess of PhP1.00 per Section 190 of the NIRC, as amended. On the other hand, every person who wins in horse racing is subject to 10% tax on winnings or dividends based on the actual amount paid for every winning ticket after deducting the cost of the ticket while the tax on winnings from double, forecast/quenelle and trifecta bets, is subject to 4% as prescribed under Section 126 of the NIRC, as amended. In the case of owners of winning race horses, the tax shall be 10% of the prizes.

There seems to be different tax treatment between industry players in the identified gambling and betting activities. There are bills relating to gambling and betting activities pending in Congress which are meant to address the issue at hand. For instance, the proposal to charge an entrance fee in Philippine casinos is supported since it would only be collected from those who have the financial capacity to splurge money in casinos. The proposed 20% final tax on lotto winnings is likewise supported for equity reasons considering that other forms of winnings are subject to the tax. Attention should also be given to casino bettors with winnings of PhP10,000.00 or less as it is prone to abuse because the filing of the income tax is left entirely to the winners. To address non-reporting or under-declaration of winnings, it is suggested that all winnings regardless of amount should instead be subject to 20% final withholding tax and remitted to the BIR. The proposals will generate revenue for the government which can be used to finance basic social services and infrastructure projects.

### *12. Revenue Performance of the National Government: CY 2014*

The paper discusses the performance of the national government (NG) in terms of tax and non-tax revenues vis-à-vis the growth/decline of the various sectors of the economy contributing to the country's Gross Domestic Product (GDP) and Gross National Income (GNI).

Still recovering from the devastating effect of Typhoon Yolanda, the country's economy as measured by its GDP in real terms posted a slower growth of 6.1% in 2014 compared with the previous year's growth of 7.1%. On the supply side, the service sector continued to be the main driver of the economy posting a 5.9% growth, followed by the industry sector which increased by 7.9%. The growth in industry sector was due to the strong performance of construction and manufacturing which increased by 9.9% and 8.3%, respectively while the growth in the service sector was led by real estate, renting & business activities and financial intermediation with growths of 8.7% and 7.2%, respectively. Meanwhile, agriculture, fishery and forestry (AFF) sector grew faster in 2014, increasing by 1.59% compared with 2013 growth of 1.1%. Meanwhile, net primary income (NPI) from the rest of the world decelerated to 4.1% from a 13.1% growth in the previous year slowing down the GNI in real terms to 5.8% from 8.1% growth in 2013. On the demand side, household spending remained to be the major contributor to the growth of the economy though it decelerated in 2014 at 5.4% growth compared to the 5.6% growth in the previous year. Capital formation and government spending also slowed down while exports which came from a slump in 2013, displayed a high growth of 11.3%.

The bulk of the GNI in 2014 came from the service sector, 46.9%; followed by the industry sector, 27.7%; and AFF sector, 8.3%. By expenditure shares, 57.3% came from household final consumption expenditure; capital formation, 18.2%; government spending, 8.3%; and exports, 39% less imports at 39.8%. The remaining 17.1% was shared by NPI from abroad.

National government (NG) revenue registered a growth of 11.2% in 2014, lower than the 2013 growth of 11.8% but faster than nominal GDP which grew by 9.5%. Likewise, tax revenue, while posting a slower growth of 11.9% in 2014, also grew faster than nominal GDP. The total NG revenue during the year amounted to PhP1.91 trillion, 90.1% or PhP1.72 trillion of which was tax revenue and 9.9% or PhP189.5 billion, non-tax revenue.

The tax effort or the ratio of tax revenue to GDP at current prices was almost static from 13.6% in 2014 to 13.7% in 2015. Likewise, the revenue effort or the ratio of total revenue to GDP at current prices increased from 15.1% in 2014 to 15.9% in 2015.

Of the PhP1.72 trillion total tax revenues, direct taxes shared 46.8% or PhP803.9 billion while indirect taxes, 53.2% or PhP915.1 billion. Collection of direct taxes continued to increase by 9.4% in 2014, though lower than the 11.6% growth in the previous year. Indirect taxes, on the other hand, grew faster at 14.2% in 2014 compared to its 2013 growth of 14.0%.

The bulk (97.6% or PhP784.8 billion) of the total 2014 collection from direct taxes came from income taxes, 56.6% of which constitutes corporate income tax; 35.3%, individual income tax; and 5.7%, tax on interest income. The remaining 2.4% came from transfer taxes (0.7%) and other direct taxes (1.7%) consisting of motor vehicle user's charge, immigration tax and travel tax.

Total collection from indirect taxes registered a 14.2% growth from PhP801.1 billion in 2013 to PhP915.0 billion in 2014. About 67% of total indirect taxes collection in 2014 came from license and business taxes; 18%, excise taxes; 6%, import duties; and 9%, other indirect taxes which include documentary stamp tax (DST), forest charges, fire code tax and other miscellaneous taxes.

## DIRECT TAXES BY TYPE: 2013 – 2014
## (Amounts in Billion Pesos)

| Particulars | 2013 | | 2014 | | Variation | |
|---|---|---|---|---|---|---|
| | Amount | % Distr. | Amount | % Distr. | Amount | % Inc./Dec. |
| **Total Direct Taxes** | 734.6 | 100.0% | 803.9 | 100.0% | 69.3 | 9.4% |
| Income Taxes | 718.4 | 97.8% | 784.8 | 97.6% | 66.4 | 9.2% |
| Corporate Income Tax | 424.5 | 57.8% | 455.1 | 56.6% | 30.6 | 7.2% |
| Individual Income Tax | 246.6 | 33.6% | 283.6 | 35.3% | 37.0 | 15.0% |
| Compensation | 200.8 | 27.3% | 232.4 | 28.9% | 31.7 | 15.8% |
| Business | 35.1 | 4.8% | 38.7 | 4.8% | 3.6 | 10.2% |
| Capital Gains Tax | 10.7 | 1.5% | 12.5 | 1.6% | 1.8 | 16.6% |
| Others | 47.3 | 6.4% | 46.1 | 5.7% | (1.2) | -2.6% |
| Bank Deposits | 13.3 | 1.8% | 12.5 | 1.6% | (0.8) | -6.1% |
| Treasury Bills/Bonds Commercial Papers | 34.0 | 4.6% | 33.6 | 4.2% | (0.4) | -1.2% |
| Transfer Taxes | 3.3 | 0.4% | 5.4 | 0.7% | 2.2 | 66.4% |
| Other Direct Taxes | 13.0 | 1.8% | 13.7 | 1.7% | 0.7 | 5.6% |

*Other direct taxes include motor vehicle user's charge, immigration tax and travel tax
Source of basic data: BIR and BTr

## INDIRECT TAXES, BY TYPE OF TAX: 2013 – 2014
## (*Amount in Billion Pesos*)

| Particulars | 2013 | | 2014 | | Variation | |
|---|---|---|---|---|---|---|
| | Amount | % Distr. | Amount | % Distr. | Amount | % Inc./Dec. |
| **Total Indirect Taxes** | 801.1 | 100.0% | 915.1 | 100.0% | 114.0 | 14.2% |
| License and Business Taxes | 550.8 | 68.8% | 614.4 | 67.1% | 63.6 | 11.5% |
| Value-Added Taxes (VAT) | 490.0 | 61.2% | 557.9 | 61.0% | 67.9 | 13.9% |
| Other Business Taxes | 60.8 | 7.6% | 56.5 | 6.2% | (4.3) | -7.1% |
| Excise Taxes | 145.8 | 18.2% | 165.7 | 18.1% | 19.9 | 13.7% |
| Import Duties | 35.3 | 4.4% | 56.3 | 6.2% | 21.0 | 59.4% |
| Other Indirect Taxes** | 69.2 | 8.6% | 78.7 | 8.6% | 9.5 | 13.7% |

* Includes TEF amounting to P2.4 billion in 2013 and P11.5 billion in 2014
**Other indirect taxes include documentary stamp tax (DST), forest charges, fire code tax and other miscellaneous taxes
Sources of basic data: BIR, BOC and BTr

In 2014, the BIR contributed 77.6% to the total NG tax revenue. It generated PhP1.33 trillion, higher by 9.7% from 2013 collection of PhP1.22 trillion but short of its target by PhP121.6 billion or by 8.3%. Its tax effort, on the other hand, was almost static from 10.5% in 2013 to 10.6% in 2014.

On the other hand, the BOC shared 21.5% of total NG tax revenues in 2014. From a collection of PhP304.5 billion in 2013, collection rose to PhP369.3 billion or by 21.1%. However, it fell short of its target by PhP38.8 billion or by 9.5%. Meanwhile, the Bureau's tax effort increased by 10.7% that is, from 2.6% in 2013 to 2.9% in 2014.

In the case of other tax collecting offices, namely, the Land Transportation Office (LTO), Department of Environment and Natural Resources (DENR), Bureau of Immigration (BI), Bureau of Fire Protection (BFP), and Tourism Infrastructure and Enterprise Zone Authority (TIEZA), their combined 2014 collection amounted to PhP15.5 billion, representing 1% of the total NG tax revenue. This was higher by PhP837 million or 5.9% than the 2013 collection of PhP14.9 billion and exceeded the target by PhP555 million or 3.6%.

In 2014, total NG non-tax revenues amounted to PhP189.5 billion of which, almost half were from the Bureau of Treasury (BTr) income, while fees and charges shared 17%. The rest came from grants, privatization and other non-tax sources.

In terms of growth, the government's collection from non-tax sources increased by 4.4% i.e., from PhP180.4 billion in 2013 to PhP188.4 billion in 2014. The modest growth was the over-all effect of the decrease in the proceeds from privatization and other non-tax revenues by 33.7% and 8.6%, respectively; increase in the BTr income from PhP81.0 billion to PhP93.4 billion or by 15.3% and increase in the collection from fees and charges from PhP30.5 billion to PhP32.8 billion or by 7.3%.

### *13. Feasibility of Levying a National Surtax on Real Property*

The paper presents the concept of a surtax and assesses the feasibility of imposing such on real property.

The proponents of a surtax consider it as a steady source of revenue and an ideal way to achieve certain economic objectives to help improve equity in the tax system. On the other hand, others deem it as counterproductive with unintended consequences to the economy because higher tax burden tends to discourage taxpayers from paying their tax dues. This is supported by a previous study on tax evasion which noted of the growing incidence of tax evasion as taxes become more prohibitive.

The surtax is not new in the Philippines. The local government units (LGUs) i.e., provinces, cities and municipalities within Metropolitan Manila Area (MMA) are authorized to impose a Special Education Fund (SEF) tax under Section 235 of the Local Government Code (LGC) of 1991, as amended, at the rate of one percent (1%) on the assessed value of the real property which is in addition to the basic real property tax (RPT) and which is simultaneously collected with the RPT. This tax falls within the definition of a surtax since the base of the tax is the same as the RPT and is levied for a specific purpose.

In other countries, specifically in Japan, Singapore, and South Korea, the surtax is also imposed to generate government revenue for other purposes at different rates and coverages.

Real property taxation in the Philippines is imposed in two (2) levels, the national government and the local government. The NIRC of 1997, as amended, provides for the imposition of transfer tax, documentary stamp tax (DST), capital gains tax (CGT), and value-added tax (VAT) on real property transactions. Under the LGC of 1991, provinces, cities and municipalities within the MMA are authorized to levy an annual ad valorem tax on real property such as land, building, machinery and other improvement which are not specifically exempt. A province, city or a municipality within the MMA fix a uniform rate of basic RPT applicable to their respective localities.

In addition to the basic RPT, the LGC also allows the LGUs to impose several taxes on real property, namely: SEF tax, idle land tax, special levy, tax on transfer of real property ownership, and socialized housing tax.

The RPT (including the SEF tax) is one of the major sources of LGU revenues, contributing an annual average of PhP38.50 billion from 2010 to 2014, or 9.85% of the total LGU revenue. On the other hand, collections from other locally-imposed taxes on real property (idle land tax, transfer tax and special levy) accounted for less than 1% of the total LGU revenue or an average of PhP3.53 billion for the same period. On the average, the property related taxes of LGUs from 2010 to 2014 accounted for 10.76% or an annual average taxes collected for the same period is about PhP31.37 billion. The average total revenue of the government from real properties from 2010 to 2014 amounted to PhP73.41 billion. However, in spite of the noted increases in property tax collection during the period, the same remained underutilized. In terms of tax effort, the NG and LGUs property tax collection averaged at less than 1% of the GDP respectively for the years 2010 to 2014. This shows that the growth of collection from property taxes has not responded with the growth of national income.

In the case of the RPT, several studies in local finance indicated that one major reason for the underperformance of the tax has been the perennial practice by most LGUs of postponing or delaying the general revision of the schedule of market values (SMVs). The LGC mandates that a general revision on property assessment be conducted by LGUs every 3 years.

The deferment naturally resulted in the underassessment of properties which hinders the growth of the RPT as a major revenue source of LGUs. This was attributed, among others, to the reluctance of elected officials to revise property values for fear of losing the support of their constituents, since taxpayers often equate the SMV revision to an increase in property taxes.

The non-imposition of the idle land tax was attributed among others to the lack of appropriate guidelines for its implementation; and the lack of definite criterion on what is an "idle" land. In this regard, the DOF and the DILG issued JMC No. 2010-02 to provide guidelines on the imposition of ad valorem tax on idle lands.

The low performance of the transfer tax on real property ownership, on the other hand, is mainly attributed to practices by some property owners of undervaluing sales data to minimize tax liability. This can also be attributed to the outdated SMV which is a basis of the tax.

The imposition of a surtax on real property is practicable relative to ease in administration, considering the wide application of property taxation and its long history. Also, revenue collection is deemed predictable and stable, given that real estate like land and building are fixed, hence difficult to avoid or evade. Lastly, the concept of property taxation and assessment is generally understood by the public, therefore, the same level of compliance and acceptance can be expected if the measure is adopted.

The proposal can be a steady source of revenue for the NG. As noted, the SEF tax contributed an annual average collection of PhP19.71 billion to the local school board in support of public education for the years 2010 to 2014. This represents 5.29% of the total revenue of LGUs for the same period.

As a tool to redistribute income and wealth, the proposal can improve the equity of the tax system since wealth and real property ownership are closely linked. Those who have more real properties will be taxed more while those who have less will be taxed less. This is also related to the ability to pay principle of taxation considering that all things being equal, those who have more properties presumably have better ability to pay more taxes.

The surtax may be imposed on all real properties covered by the RPT imposed by LGUs which include land, building, machinery and improvements regardless of classification i.e., residential, commercial, industry and agricultural.

The tax base of the surtax should be the same as the tax base of RPT. The use of the assessed value based on the SMV approved by the local council will make it easier to administer the surtax and for the property owners to understand and accept the imposition of surtax. The proposed rate will be over and above the current general charges, meaning that this will be in addition to the current basic RPT rates of not exceeding 1% for the province and not exceeding 2% for cities and municipalities within MMA. The amount needed should be considered in setting the rate of the surtax.

Since the proposal is a surtax on local RPT, the assessment and collection may be delegated to the LGUs within the structural framework of the RPT administration. In particular, the Office of the Assessor and Treasurer will be involved in the administration of the tax since data on real properties are available in their respective offices. Although the surtax is a national imposition, its database is located in the LGUs. The use of existing local property tax machinery is deemed necessary for easy administration, monitoring and implementation of the proposed tax. This would lessen the need for additional manpower.

Finally, the proposed surtax is suggested to be embodied in a special law rather than incorporating it in the NIRC. This will avoid confusion with the real property tax presently imposed by LGUs under the LGC.

## *14. Philippine Small-Scale Mining, Tax Issues and Concerns*

The paper discusses the vital role of the Philippine small-scale mining industry in the country's economic development particularly in terms of providing employment opportunities, generating revenues through taxes and in building up the country's gross international reserves (GIR) through the industry's mandated sale of gold to the Bangko Sentral ng Pilipinas (BSP). It also discusses the tax issues and other constraints confronting the industry and the tax proposals presented by stakeholders to resolve such issues and concerns.

In the Philippines, mining can be generally classified into large-scale and small-scale. Large-scale mining is highly mechanized and uses heavy equipment, which produces sufficient commercial quantities to satisfy the requirements of the export market and large industries on regular basis and therefore requires mobilization of substantial capital. At present, large-scale mining dominates the industry in terms of production, revenue and legal privileges. However, small-scale mining remains to be a significant sector of the mining industry, especially with the closure of many large-scale mining operations starting in the 1990s.

The Philippine gold industry is considered a major economic activity that supports more than a million people as well as thousands of small-scale enterprises involved in mining, processing and jewelry manufacturing. Moreover, the proliferation of small-scale gold mining activities, which gained momentum in the early 80's made it a major contributor to the total gold production of the country.

Available data from the Mines and Geosciences Bureau (MGB) show that total gold production from 2005 to 2014 averaged 30,733 kgs. annually, of which 19,908 kgs. or 63% came from small-scale mining and 10,825 kgs. or 37% from large-scale mining. However, gold production from small- scale mining decreased by 38% from 28,556 kgs. in 2010 to 17,639 kgs. in 2011 and significantly dropped to 1,090 kgs. or by 94% in 2012. It further declined to 589 kgs. or by 46% in 2013 but slightly grew to 633 kgs. or by 7% in 2014.

It is estimated that 75% of the miners in the country are engaged in subsistence mining, 15% of whom are individuals or small family businesses and the remaining 10% are established commercial mining firms. Based on estimates, there are about 500,000 small-scale gold miners in the Philippines which operate in 30 out of 80 provinces.

**PHILIPPINE ANNUAL GOLD PRODUCTION, 2005-2014**
**(In Kilograms)**

| Year | Gold Production | | | % Distribution | | Growth Rate (in %) | |
|---|---|---|---|---|---|---|---|
| | Small-Scale | Large-Scale | Total | Small-Scale | Large-Scale | Small-Scale | Large-Scale |
| 2005 | 32,377 | 5,111 | 37,488 | 86.4% | 13.6% | | |
| 2006 | 29,787 | 6,358 | 36,145 | 82.4% | 17.6% | -8.0% | 24.4% |
| 2007 | 31,600 | 7,192 | 38,792 | 82.4% | 17.6% | 6.1% | 13.1% |
| 2008 | 28,707 | 7,018 | 35,725 | 81.5% | 18.5% | -9.2% | -2.4% |
| 2009 | 28,102 | 8,735 | 36,837 | 80.4% | 19.6% | -2.1% | 24.5% |
| 2010 | 28,556 | 12,290 | 40,846 | 76.3% | 23.7% | 1.6% | 40.7% |
| 2011 | 17,639 | 13,481 | 31,120 | 69.9% | 30.1% | -38.2% | 9.7% |
| 2012 | 1,090 | 13,614 | 14,704 | 56.7% | 43.3% | -93.8% | 1.0% |
| 2013 | 589 | 16,659 | 17,248 | 7.4% | 92.6% | -46.0% | 22.4% |
| 2014 | 633 | 17,790 | 18,423 | 3.4% | 96.6% | 7.5% | 6.8% |
| **Average** | **19,908** | **10,825** | **30,733** | **62.7%** | **37.3%** | **-20.2%** | **15.6%** |

Source of basic data: MGB

Under Republic Act (RA) No. 7942 or the Philippine Mining Act of 1995, it is declared that mineral resources are owned by the State and that the exploration, development; utilization and processing thereof shall be under its full control and supervision. Thus, it is the responsibility of the State to protect the environment by reducing the adverse impact of mining in the areas where these are taking place.

Presidential Decree (PD) No. 1899, approved in 1984 provides for a licensing system wherein holders of valid and existing mining rights who have met the requisites of small-scale mining, and who have subsequently complied with existing mining laws, rules and regulations, may be issued small-scale mining permits or licenses.

On the other hand, RA 7076 (People's Small Scale Mining Act of 1991), which was enacted on June 17, 1991 aimed to further develop, protect and rationalize small-scale mining activities. The law also intended to generate more employment opportunities and provide an equitable sharing of the nation's wealth and natural resources through the implementation of People's Small-Scale Mining Program.

Section 13(d) of RA 7076 states that the holder of a small-scale mining contract shall pay all taxes, royalties or government production share. Also, Section 17 of the said law provides that gold produced by small-scale miners in any mineral area shall be sold to the Central Bank, or its duly authorized representative, which shall buy it at prices competitive with those prevailing in the world market regardless of volume or weight. Relative to Section 13(d) of RA 7076 and consistent with the provisions of the Tax Code of 1997, as amended, a holder of small-scale mining contract among others, is liable to pay income tax, excise tax, and VAT. Likewise, Section 26 of DENR AO No. 34, Series of 1992 stipulates the payment of taxes and government share of small-scale mining contractors. These include income tax, special import tax (if applicable), tariff duties, (if applicable), value-added tax, real property tax (if applicable); and government share which shall be paid to the Municipality or City Treasurer where the mining claims are located and shall be apportioned in accordance with the Local Government Code (LGC) of 1991.

Pursuant to RA 7653 otherwise known as "The New Central Bank Act", the primary objective of the BSP is to maintain price stability conducive to a balanced and sustainable growth of the economy. The BSP shall also promote and maintain monetary stability and the convertibility of the Philippine peso. Hence, in order to maintain international stability and convertibility of the peso, the BSP shall maintain international reserves adequate to meet any foreseeable net demands on the Bangko Sentral for foreign currencies. Gold is one of the important compositions of the international reserves of the BSP.

With regard to the gold purchases of the BSP, it was reported that this significantly dropped from as high as 32,377 kgs. in 2005 and 28,556 kgs. in 2010 to as low as 589 kgs. in 2013, following the issuance of BIR's RR No. 6-2012 on April 2, 2012, which imposed a 2% excise tax and 5% creditable withholding tax on gold sold to the BSP. It was observed that this resulted to small-scale miners and traders opting to sell their gold to the black market rather than to the BSP.

Recent bills filed in Congress, all seek to exempt from the 2% excise tax the sale of gold to the BSP, pursuant to RA 7076. The objective of the bills is to encourage small-scale miners and traders to sell their gold to the BSP instead of resorting to the black market. Another bill of similar concern seeks to exempt the sale of gold to the BSP from the payment of excise tax and thereby assist the BSP in strengthening the country's gross international reserves.

It is noted, however, that the proposed exemption from the excise tax on gold sold to the BSP by small-scale miners may not guarantee the reduction or eradication of gold smuggling. There are other reasons why small scale miners fail to sell their gold to the BSP, such as the limited number of gold buying stations established by the BSP nationwide and the documentary requirements of the BSP, the terms of payment, and the conditions set by the bank as to the physical form, maximum dimension, weight, minimum assay, etc. of gold being sold to the Bank.

It is emphasized that the imposition of taxes on small-scale miners is justified as this serves as a compensation for the environmental degradation brought about by mining operations. It is contained in Principle 16 of the Rio Declaration during the United Nations Conference on Environment and Development (UNCED) that national authorities should endeavor to promote the internalization of environmental costs and the use of economic instruments, taking into account the approach that the polluters should, in principle, bear the cost of pollution, with due regard to the public interest and without distorting international trade and investment. This is also known as the polluters pay principle in environmental law which states that whoever is responsible for the damage to the environment should bear the costs associated with it. Instead of the proposed tax exemption under the bills, existing laws should be strictly enforced.

### *15. Updates of the Value Added Tax Gap: 2011 – 2013*

The paper updates the value added tax (VAT) gap/leakage for the years 2011 to 2013 using the gap approach based on the 2006 Input-Output (I-O) structure of industries. Results of the study may be used as guide by policy makers in the formulation of fiscal policy reforms.

The VAT is one of the reliable sources of government revenues. It consistently ranked second to income tax in revenue generation for more than a decade and far ahead of excise taxes and customs duties, which placed third and fourth, respectively. From 2008 – 2013, the government generated from the VAT collection amounting to PhP296.6 billion to PhP490.0 billion or an average of PhP375.6 billion annually, representing 3.98% of gross domestic product (GDP). Of this, 51% was generated from domestic transactions and 49% from foreign trade.

The calculation of the VAT gap/leakage starts with the estimation of the VAT base, which usually depends on the nominal GDP or the gross value added (GVA). Generally, as GDP increases, the VAT base also increases. The VAT base is derived by subtracting from the Taxable Sales, the Taxable Purchases net of Purchases used for Exempt Items and Purchases of Capital Goods. The Taxable Sales represent the portion of Total Sales (the sum of the Total Economy's Output and Imports) after deducting Exports, Exemptions/ Exclusions from VAT, the Sale of Marginal Firms and the Stocks Outside of VAT Base.

**VAT GAP ESTIMATES, 2011 – 2013**
(Amounts in Billion Pesos)

| | Particulars | 2011 | 2012 | 2013 | % Incr./(Dec.) | |
|---|---|---|---|---|---|---|
| | | | | | 2012-2013 | 2012-2013 |
| **A.** | **Taxable Sales (Debit)** | **7,533.07** | **8,249.25** | **9,062.89** | **9.51%** | **9.86%** |
| B. | Taxable Purchases (Credit) | 3,810.43 | 4,104.33 | 4,507.46 | 7.71% | 9.82% |
| C. | Purchases Used for Exempt Items (Debit) | 1,757.86 | 1,898.39 | 2,103.43 | 7.99% | 10.80% |
| D. | Gross Capital Formation (Credit) | 1,078.66 | 1,215.64 | 1,418.05 | 12.70% | 16.65% |
| **E.** | **Taxable Supply (VAT Base) [A-(B-C)-D]** | **4,401.85** | **4,827.67** | **5,240.80** | **9.67%** | **8.56%** |
| **F.** | **Estimated Potential VAT Revenue (E x 0.12 Rate)** | **528.22** | **579.32** | **628.90** | **9.67%** | **8.56%** |
| G. | Actual VAT Collection | 383.31 | 450.59 | 489.98 | 17.55% | 8.74% |
| H. | Value-Added Tax Gap (F-G) | 144.92 | 128.73 | 138.92 | -11.17% | 7.91% |
| **I.** | **VAT Gap as a Percent of Estimated Potential VAT Revenue** | **27.43%** | **22.22%** | **22.09%** | **-19.00%** | **-0.60%** |
| **J.** | **Ratio to Taxable Sales** | | | | | |
| | a. Potential (H/A) | 7.01% | 7.02% | 6.94% | 0.15% | -1.19% |
| | b. Actual (Effective VAT Rate) (I/A) | 5.09% | 5.46% | 5.41% | 7.35% | -1.02% |
| **K.** | **VAT Gap as a Percent of GDP** | **1.49%** | **1.22%** | **1.20%** | **-18.39%** | **-1.28%** |

While the nominal GDP grew by 8.85% in 2012 and 9.31% in 2013, the estimated taxable sales rose by 9.51% in 2012 and 9.86% in 2013; and the VAT base, by 9.67% and 8.56%, respectively. The higher growth of estimated taxable sales than GDP growth could be attributed to significant increases in the production and sales of VATable sectors such as manufacturing, construction, trade and private services sectors. The lower growth in the VAT base than taxable sales in 2013 was attributed to higher claims of input tax credits of the VATable sectors.

The VAT base constituted around 58% of the taxable sales. Thus, 42% of the taxable sales should have been accounted as claims for tax credit of VATable sector, i.e., around 27% for taxable purchases net of purchases of exempt items, and 15% for the purchases of capital goods.

By applying 12% VAT rate to the VAT base, potential VAT revenue was estimated at PhP528.2 billion in 2011, PhP579.3 billion in 2012 and PhP628.9 billion in 2013. With actual VAT collection of PhP383.3 billion in 2011, the VAT gap or leakage stood at PhP144.9 billion, representing 27.4% of potential VAT revenue. This indicates that tax authorities were 72.6% efficient in collecting the VAT. In 2012, the VAT gap amounted to PhP128.7 billion or 22.2% of the potential VAT revenue while in 2013, the VAT gap stood at PhP138.9 billion or 22.1% of the potential VAT revenue. As compared to 2011, the tax authorities can be considered more efficient in 2012 and 2013 as they captured 78% of the potential VAT revenue.

The decline in the VAT gap could be the result of improved collection efforts of the BIR and BOC associated with the adoption and intensified implementation of administrative reforms, programs and projects, such as the "Oplan Kandado," the "SanTAX Claus", the Run After Tax Evaders (RATE) and Reconciliation of Listing for Enforcement (RELIEF) programs and extensive use of third party information (TPI) in gathering and processing data to strengthen the assessment and enforcement functions in the case of the BIR; and continued implementation of the Run After the Smugglers (RATS) program in the case of the BOC.

The revenue performance of the VAT improved as the VAT gap declined from 27.4% of potential revenue in 2011 to 22.2% in 2012 and 22.1% in 2013. As a percent of GDP, the VAT gap stood at 1.49% in 2011, 1.22% in 2012 and 1.20% in 2013.

While the VAT gap/leakage substantially declined, the tax authorities should continue to be vigilant on possible abuses of tax subjects particularly in the claims of tax credits and cases of under declaration associated with non-issuance of invoices/receipts or issuance of fake invoices/receipts. Hence, to further enhance the revenue productivity of the VAT, the recommendations made in previous studies are reiterated, particularly the following:

a. Continue and sustain initiatives to intensify industry profiling and benchmarking, monitoring, audit and examination of large taxpayers, including enhancing the tax computerization effort of the BIR for easy detection of tax fraud;

b. Monitor closely the carry-over of excess input tax credits in the succeeding years;

c. Intensify the implementation of the RELIEF program and the extensive use of third party information in gathering and processing data necessary to strengthen BIR's assessment and enforcement functions;

d. Strengthen the implementation of the "Oplan Kandado" program and the "RATE" program of the BIR and "RATS" program of the BOC; and

e. Disaggregate reports on actual collection on VAT on both domestic and foreign trade by industry for easy monitoring.

CHAPTER 3

# TECHNICAL ASSISTANCE TO CONGRESS AND VARIOUS AGENCIES/ INTER-AGENCY GROUPS

## Congress of the Philippines

The NTRC provides technical assistance to both houses of Congress by evaluating tax bills and other fiscal proposals referred to it, preparing draft bills and revenue estimates, and rendering technical support during meetings, public hearings and other deliberations on Senate and House Bills.

Among the major proposals with revenue implications referred to and evaluated by the NTRC were:

### Senate Bill (SB) No. 51
Imposing a Uniform Franchise Tax on Distribution Utilities Enjoying Legislative Franchise in Lieu of Any and All Taxes Collected by the Government with the End in View of Reducing the Cost of Electricity Borne by Consumers

SB 51 seeks to revert to or reimpose the franchise tax on distribution utilities and remove them from the ambit of the 12% VAT as provided under RA 9337. The proposed measure aims to provide a more equitable tax regime for the industry players as well as unburden the consumers from shouldering additional pass on charges on their electricity bills.

In consideration of the franchise, all distribution utilities shall pay a three percent (3%) franchise tax on gross receipts derived from their operations under said franchise. The proposed franchise tax shall be in lieu of all national and local taxes on their franchise, rights, privileges, receipts, wheeling charges, revenues and profits and upon machineries, equipment, supplies, meters, poles, wires, transformers, insulators, capacitors, transportation equipment, substations, facilities and all other real and personal property actually used or intended for use in connection with their franchise. However, distribution utilities shall still be liable to pay taxes on their real estate, buildings and other real property not actually used or intended for use under its franchise.

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The intention of the bill to lower the cost of electricity by reverting to or re-imposing the 3% franchise tax on distribution utilities enjoying legislative franchise is recognized. It is to be noted however that under the proposed 3% franchise tax, distribution utilities will still pay VAT on their purchases, but will not be able to claim input tax on these VATable purchases unlike under the VAT system where they can credit the input VAT against the output VAT. This means that the exclusion of distribution utilities from the coverage of VAT may result in higher costs of electricity distribution as input VAT will be part of the cost of electricity.

Moreover, since the franchise tax will be in lieu of all other taxes, the revenue foregone from the proposal will be high. For VAT alone, the BIR reported VAT collection from power distribution sector amounting to PhP3.71 billion to PhP4.80 billion in 2010 to 2014. Moreover, the National Electrification Authority (NEA) data shows that the VAT payments of electric cooperatives (ECs) continuously increased from PhP2.9 billion in 2010 to PhP5.2 billion in 2014 or an average of PhP4 billion annually. On the other hand, about PhP9.4 billion income tax collection comes from Meralco alone. The revenue loss will further increase if other distribution utilities are to be accounted for. With the proposal, these amounts of revenue will be foregone.

At the local level, pursuant to the LGC, as amended, distribution utilities, in general, including NEA-registered ECs are subject to local taxes, fees and charges. It is noted that only ECs duly-registered with the Cooperative Development Authority (CDA) are exempt from the payment of local taxes, fees and charges. The proposal will deprive the LGUs of their right to impose all applicable taxes, fees and charges on distribution utilities not exempt under existing laws and will thus adversely affect their revenues.

At present, there are 121 rural ECs, 119 of which are NEA-registered. Of the number, 15 opted to register also with the CDA as stock corporations, thus they are under the supervision of both the NEA and CDA. These are the only ECs that are exempt from local taxes, fees and charges under Section 133(n) and 234(d) of the LGC, as amended and Article 61(3) of RA 9520 (Philippine Cooperative Code of 2008) while all other ECs are taxable. In the case of Meralco, its total payments in terms of local franchise tax, RPT and permits and fees to 35 cities and 76 municipalities amounted to PhP1.8 billion. In view thereof, there are some reservations with the proposal.

## SB 208

### Automatically Decreasing the Value-Added Tax Rate on Petroleum Products Depending on Increasing World Crude Oil Prices

SB 208 seeks to reduce the VAT rate on petroleum products from twelve percent (12%) to ten percent (10%) whenever world crude oil prices exceed one hundred US Dollars (USD100.00) per barrel and to reduce VAT rate on petroleum products by increments of one percent (1%) every time the world crude oil price increases by increments of USD10.00 per barrel. Provided, that when world crude oil prices decrease, the VAT may be adjusted accordingly by increments of 1% but in no case shall the final imposable VAT be above 10%.

The bill tasks the BIR to adjust the imposable VAT rate at the beginning of each month depending on the world crude prices as determined by the Department of Energy (DOE). The objective of the bill is to establish a quick response mechanism and to promote a just and dynamic social order that will free the people from poverty through policies that provide rising standard of living and improved quality of life for all.

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RA 9337, otherwise known as the Reformed VAT (RVAT) Law which was enacted on November 1, 2005 included petroleum products and raw materials in the VAT coverage. The VAT rate was also increased from 10% to 12% effective February 1, 2006 upon the recommendation of the Secretary of Finance and after certain conditions were satisfied as stated under RA 9337. Upon its effectivity, the VAT collection grew unexpectedly by 60%. The increase in the VAT rate and the expansion of its coverage contributed to the continuous positive growth of VAT collection from 2006 to 2014 except in 2008 with the highest growth of 20% and 25% registered in 2009 and 2012, respectively.

A simulation on the impact of the proposal on the price of unleaded gasoline and diesel shows that despite the proposed decrease in VAT rate whenever crude oil prices exceed USD100, the prices of both products are more or less the same. The decrease in VAT rate will result in retail price difference ranging from PhP0.56 to PhP1.58 per liter for unleaded gasoline and from PhP0.48 to PhP1.37 per liter for diesel. However, any difference in retail price will be short lived as world oil prices are shown to be going down.

The lowering of VAT rate on petroleum products whenever the condition arises as proposed, may not be advisable, with other VATable products still subject to 12%. It is still best to have a single VAT rate that is applicable to all sales of goods and services, which is simpler to administer/monitor. Also, a monthly upward or downward adjustment of VAT rate on petroleum products, based on the movement of the crude oil prices will complicate tax administration. Lastly, any percentage point downward adjustment in VAT rate will diminish VAT collection which the government can ill-afford to forego. Based on the foregoing, the proposal is not endorsed.

## SB 460

### Exempting Tollway Operations from the Twelve Percent (12%) Value Added Tax, Amending for the Purpose Sections 108 and 109 of the National Internal Revenue Code of 1997, as Amended by Republic Act No. 9337, and for Other Purposes

SB 460 seeks to exempt services of tollway operators with tollway operation certificates issued by the Toll Regulatory Board (TRB) from the coverage of the VAT. The bill is in response to the Supreme Court (SC) Ruling upholding the imposition of the VAT on toll fees as there are no provisions of laws expressly exempting the same from the VAT. Likewise, it underscores the legislative policy of exempting tollway operators from the VAT.

The bill aims to spare the public from the impact of the VAT imposition on transport fares and on prices of goods ferried through the tollways.

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RA 7716 which took effect on January 1, 1996, restructured the VAT system to include the services of all franchise grantees, except radio and/or television broadcasting companies whose annual gross receipts for the preceding year do not exceed PhP10 million, and electric, gas and water utilities, in the coverage of the VAT on sale or exchange of services. Thus, the Philippine National Construction Corporation (PNCC) as a franchise grantee was covered by the VAT under RA 7716. Its concessionaires to which all its rights, duties and responsibilities were subrogated under the Supplemental Toll Operations Agreement (STOA) were likewise made subject to the VAT.

However, it was only in 2010 that the BIR started implementing the VAT on tollway operators with the issuance of RMC 63-2010. Under the said circular, the VAT was supposed to be imposed on the gross receipts of tollway operators from all types of vehicles starting August 16, 2010, but two (2) days prior to its implementation, the SC issued a temporary restraining order (TRO) on the imposition of VAT on toll fees. On July 19, 2011, the SC upheld RMC 63-2010. The toll being a form of fee for services rendered to motorists by tollway operators is deemed VATable in the absence of a legislation expressly exempting it from the VAT. With the pronouncement of the SC on the legality of the VAT imposition on toll fees, the VAT on tollway operators was finally implemented on October 1, 2011 with the issuance of RMC 39-2011, in effect broadening the services covered by the VAT and increasing revenues from this sector.

Upon the implementation of the VAT on tollway operators on October 1, 2011, VAT collection on “Other Supporting Land Transport Activities” on which tollway operations is included for the year 2011 significantly increased by 987% and continuously became a big source of revenue for the government.

On the premise that the bill seeks to spare the public from the impact of the VAT imposition on transport fares and prices of goods, it may be noted that the VAT effective burden is not outright 12%, but lower since tollway operators can credit their input VAT against their output VAT. The ratio of VAT payment to gross sales/receipts from other supporting land transport activities to which tollway operations is included for year 2012 was only at 2.7%. Furthermore, on the part of the motorists who ultimately bear the VAT, they have the option to pass through non-toll routes instead of passing through toll ways. Also, on the part of commuting public, transport fare increases are not automatic as these are still subject to review by the Land Transportation Franchising and Regulatory Board (LTFRB).

## SBs 538 and 1500

### Amending Section 107(A) of the National Internal Revenue Code Seeking to Exempt from the Imposition of Value Added Tax Donated Importations of Items or Goods, Which are for Non-Profit, Charitable, Humanitarian and Relief Purposes

SBs 538 and 1500 seek to exempt the importation of donated goods for non-profit, charitable, humanitarian and relief purposes from the coverage of the VAT as well as from import duties under the Tariff and Customs Code of the Philippines (TCCP).

The bills assert that the 12% VAT hinders the receipt of goods used for humanitarian and relief purposes. The bills aim to facilitate the entry and the distribution of donations for the benefit of the less fortunate.

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At present, various Philippine laws and regulations already allow for the tax and duty free importation of certain donations such as TCCP (PD 1464), as amended; Presidential Memorandum Order (PMO) No. 36, s. 1992; Diplomatic Notes No. 1071 of the US and No. 3001 of the Department of Foreign Affairs (DFA); and Article XIV Section 4(4) of the Philippine Constitution.

There are some reservations as to the outright exemption of donated imported items or goods for humanitarian and relief purposes from the VAT due to the following: (a) exempting the same may spawn abuse and result in technical smuggling with commodities being declared as donated relief goods even if they are not just to be able to avail of the exemption from the VAT; (b) it is a more prudent fiscal policy to limit the coverage of VAT exemptions of donations from abroad during emergency periods only or when the President declares a state of calamity. The rationale for this is to plug the possible loopholes that may arise when donations from abroad are exempt from the VAT despite the absence of calamity; (c) it would entail strict monitoring of exempt foreign donations as these may make their way to the local market and put legitimate businesses or importers at a disadvantage; and (d) it would result in revenue loss which the government could ill-afford at the moment.

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**SB 717**
Exempting Membership Fees and Other Assessment/Charges Collected by Condominium Corporations from Value-Added Tax, Amending for the Purpose Section 109(1) of the National Internal Revenue Code of 1997, as Amended, and for Other Purposes

**SB 2250**
Classifying the Association Dues and Membership Fees Collected by Homeowners Association or Condominium Corporations from their Members or Tenants as Excluded from Income Tax or Value-Added Tax, Amending for the Purpose RA 8424 and for Other Purposes

SBs 717 and 2250 seek to exempt association dues, membership fees and other assessments/charges collected by condominium corporations from their members and tenants/lessees from the VAT amending for the purpose Section 109 of the NIRC of 1997, as amended.

SB 2250 also seeks to exempt from income tax non-profit condominium corporations or homeowners' associations holding in trust association dues or membership fees for the benefit of their tenants or members. The bill also proposes to exclude from the gross income of members or tenants the amount paid as association dues and membership fees to condominium corporations or homeowners' associations for income tax purposes.

The bills aim to lessen the rising cost of living in Metro Manila and other urban areas as well as the cost of owning, acquiring or building a home.

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In a decision of the Supreme Court (SC) on association dues or membership fees collected by condominium corporations or homeowners' associations, it affirmed that as long as the entities provide service for a fee, remuneration or consideration, the services rendered are subject to the VAT.

Thus, association dues, membership fees, and other assessments/charges collected by condominium corporations and homeowners' associations are subject to the VAT since these constitute income payments or compensation for the beneficial services provided to their condominium members/tenants and homeowner-members.

On the other hand, pursuant to Section 18 of RA 9904 (Magna Carta for Homeowners and Homeowner's Associations, approved in 2010), association dues collected by homeowners' associations may be exempted from VAT or percentage tax subject to the following conditions: (a) the homeowners' associations must be duly constituted "association" as defined under Section 3(b) of RA 9904; (b) the LGU having jurisdiction over the homeowners' association will certify that it has either no or insufficient funds to cover basic community services and facilities rendered by the homeowners' association to its members; and (c) homeowners' association must present proof that the dues and fees are used for cleanliness, safety, security and other basic services needed by its members.

On the proposal to exempt from income tax dues and other fees collected by condominium corporations and homeowners' associations from their tenants and members, it will be recalled that the BIR issued BIR Ruling Nos. DA 304-2004 dated June 2, 2004 and BIR Ruling No. DA (VAT-019) 336-2008 dated October 23, 2008 exempting from income tax dues and other fees collected by condominium corporations and homeowners' associations from their tenants and members on the ground that the collection of dues and other fees are merely held in trust to be used solely for administrative expenses in implementing their purposes.

However, recent BIR rulings (RMCs 65-2012, issued on October 31, 2012 and 9-2013, issued January 29, 2013) abolished the exemption of condominium corporations and homeowners' associations from the income tax on the basis that homeowners' associations furnish their members with benefits, advantages, and privileges in return for such payments. Although the amount of association dues and other fees and charges collected by condominium corporations is held in trust to be used solely for administrative expenses in implementing their purposes and not on the intention to realize profit, it should be noted that this amount constitutes income payments or compensation for beneficial services they provide to its members and tenants. Thus, the new rulings clarified that condominium corporations or homeowners' associations are subject to the income tax.

The proposal to entitle the tenants or members of condominium corporations or homeowners' associations to an exclusion from their gross income the amount paid as association dues and membership fees will only benefit high and middle income earners who own and live in condominiums and have the capacity to pay income tax. It is suggested that the proposal be reconsidered in the light of inherent potential income tax revenues that shall be foregone.

It may likewise be pointed out that association dues or membership fees paid to condominium corporations or homeowners' associations may be considered as personal, living, and family expenses, thus already covered by the personal exemption allowance which was increased to a uniform amount of PhP50,000.00 regardless of the status of the individual taxpayer pursuant to Section 35(A) of the NIRC of 1997, as amended by RA 9504. It may also serve as a precedent for the deductibility of other personal expenses such as medical and tuition fee expenses, etc.

## SBs 754 and 836
### Providing for a Housing Program for Teachers

SBs 754 and 836 seek to provide a housing program for teachers of the Department of Education (DepEd) who have permanent status by providing funds through loans at affordable interest and long-term repayment period to uplift their living condition and enable them to acquire their own housing units. The bills seek to involve the private sector in providing housing units exclusively for the said teachers by granting tax exemption to the private sector developers, to wit: (a) exemption from income taxes for housing projects; (b) exemption from capital gains tax (CGT) on housing projects; (c) exemption from DST for all project related documentation; (d) exemption from VAT for the projects concerned; (e) exemption from transfer taxes for both raw and completed projects; and (f) exemption from donor's tax for land certified by the local government units to have been donated to teachers' housing purposes.

The bills aim to promote and support housing production and finance related activities that would enable teachers to acquire decent housing at the lowest affordable price given that there are more than 90,000 public school teachers who do not have their own homes.

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The intent of SBs 754 and 836 to grant incentives to private sector developers in order to provide public school teachers financing schemes that will enable them to have their own residential property is laudable. However, the proposal is no longer necessary since private developers engaged in socialized housing already enjoy numerous fiscal incentives under RA 7279 (Urban Development and Housing Act (UDHA) of 1992) and EO 226, as amended by RA 7918. These already encompass all of the country's mass housing projects. RR 9-93 (March 4, 1993), as amended by RR 11-1997 implemented the tax provision under the UDHA of 1992 in relation to the income tax exemption of the private sector participating in socialized housing programs.

As to the proposal to exempt private sector developers from the CGT, private sector developers are not subject to the said tax. Being habitually engaged in the real estate business, private sector developers are subject to creditable withholding tax (CWT) of 1.5% to 5% depending on the selling price of the real property. The withheld tax is creditable against the income tax payable by said private developers.

On the proposed exemption from the DST for all project related documents, Section 173 of the NIRC provides that whenever one party to the taxable documents enjoys exemption from the DST, the other party thereto who is not exempt shall be the one liable. Thus, in the event that private developers would be exempt from the DST, their tax liability would effectively be shifted to the teachers which is contrary to the objective of the proposed bills as they would incur additional costs through DST payment for all project related documentation.

The exemption from the VAT of sale of real property is already provided under Section 109(1)(P) of the NIRC, as amended. The sale of house and lot, and other residential dwellings valued at PhP3,199,200 and below, is already exempt from VAT.

On the proposal to exempt from donor's tax land certified by LGUs to have been donated to teachers' housing purposes, Section 101(A)(2) of the NIRC of 1997, as amended, provides that gifts made to or for the use of the National Government or any entity created by any of its agencies which is not conducted for profit, or to any political subdivision of the said government shall be exempt from the donor's tax. Although the proposal mirrors the provision under the UDHA, it is not clear who the donor of the land/s is to which the donor's tax exemption is to be accorded.

As to the proposal to exempt from the local transfer tax both raw and completed projects, it is more prudent to give to the LGUs the discretion of the exemption to private sector developers who participated in the development of teachers' housing program since they are in the better position to assess its impact on their revenue. Also, it is a recognition of their power to create revenue by allowing them to decide which transactions they deem necessary to be exempt from local taxes to achieve certain social or economic goals.

## SB 969
## Providing for the Establishment of a *Balik* Scientist Program, Appropriating Funds Therefor, and for Other Purposes

SB 969 seeks to encourage Filipino scientists and technology experts working abroad to return to the Philippines and share their expertise to accelerate the development of the country through the establishment and institutionalization of a *Balik* Scientist Program. It aims to strengthen the scientific and technological manpower of the academe and public and private institutions in order to promote information exchange and accelerate the flow of new technologies into the country.

The proposal seeks to expand the incentives provided under EO 130 s. 1993 by proposing additional non-tax incentives for both Short-Term and Long-Term awardees such as assistance in securing special/temporary permit from the Professional Regulation Commission (PRC), reasonable accident insurance, excess baggage allowance, exemption from immigration clearance certificates and payment of multiple entry fees, exemption from securing alien employment permit within the duration of their contract, among others. It also proposes to grant tax and duty exemption on the importation of personal effects and professional instruments and implements, and one (1) unit of second hand vehicle with maximum displacement of 1600cc.

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It is worth noting that Section 4(b) of EO 130 already exempts from duty the importation of personal effects and professional instruments and implements by a Balik Scientist and returning new graduates from DOST-recognized science and technology foreign institutions under the Long-Term Program. Also, under Section 105(h) of the TCCP, the importation of personal effects and professional instruments and implements are exempt from the payment of import duties upon compliance with the formalities prescribed in or with, the regulations promulgated by the Commissioner of Customs. Further, Section 109(C) and (D) of the NIRC of 1997, as amended, exempts from the VAT the importation of personal and household effects belonging to the residents of the Philippines returning from abroad and nonresident citizens coming to resettle in the Philippines. Hence, the proposal is just a reiteration of the existing laws.

EO 130, however, does not exempt from tax and duty the importation of motor vehicle with maximum displacement of 1600cc although it is allowed under the Board of Investment (BOI) Guidelines on No-Dollar Importation of Second-Hand Motor Vehicles of Returning Residents/Immigrants.

The proposed tax and duty free importation of one (1) car is not endorsed. The privilege of allowing them to import second-hand motor vehicle in accordance with BOI Guidelines on No-Dollar Importation of Motor Vehicle is enough incentive for them.

As to the proposed exemption from the payment of visa, immigration and registration fees in accordance with existing laws and regulations, Section 1.9 (Incentives for the Awardees) of the Balik Scientist Program Guidelines of the DOST, participants of the program, including their spouse and dependents, are already granted by the Secretary of Justice special non-immigrant visas under Section 47(a)(2) of the Philippine Immigration Act (PIA) of 1940, as amended, upon compliance with the requirements thereof; hence, the proposal is no longer necessary.

Under the Omnibus Investment Code of 1987, if foreign personnel who are given non-immigrant status of an applicant company are provided multiple entry visa and are exempt from the payment of all fees due under the immigration and alien registration laws; in securing alien certificates of registration; and obtaining emigration clearance certificates, and all types of clearances required by any government department or agency, the more that the same should be extended to the participants of the Balik Scientist Program considering that they are of Filipino descent.

The multiplier effect of hiring scientists to work in the Philippines would more than offset what would have been incurred as revenue loss with the proposed incentives, provided that possible leakages are plugged.

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## SB 1280

## Exempting Books, Newspapers, Magazines, Journals, Reviews, Bulletins and Other Educational or Learning Materials Made or Published in Digital or Electronic Format from Value-Added Tax, Amending for the Purpose Section 109(1) of the National Internal Revenue Code of 1997, as Amended

SB 1280 seeks to exempt books, newspapers, magazines, journals, reviews, bulletins and other educational or learning materials made or published in digital or electronic format from the VAT. The bill intends to make cheaper and easier the downloading of digitized readings for students and researchers.

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Section 109 (R) of the NIRC of 1997, as amended, exempts from the VAT the sale, importation, printing or publication of books and any newspaper, magazine, review or bulletin which appears at regular intervals with fixed prices for subscription and sale which is not devoted principally to the publication of paid advertisements.

On the other hand, BIR Ruling 244-2012 issued on April 10, 2012 states that the sale of e-books and other electronically formatted versions of books are subject to VAT. It is mentioned therein that the term "book" only applies to printed matters in hard copy. Hence, an electronic copy of any publication does not come within the purview of the terms "books, newspapers, periodicals, magazines, reviewers, or bulletins" for purposes of VAT exemption.

RA 8792, otherwise known as the "E-Commerce Act of 2000" refers to an "electronic document" as information or the representation of information, data, figures, symbols or other modes of written expressions described, or however represented, by which a right is established or an obligation extinguished, or by which a fact may be proved and affirmed, which is received, recorded, transmitted, stored, processed, retrieved or produced electronically. Thus, documents, messages or information which are electronically written, capable of being sent, received, recorded, stored, downloaded, transmitted, retrieved and reduced into printed form may be considered as equivalent to print media under the said definition. Likewise, the E-Commerce Act states that for evidentiary purposes, an electronic document shall be the functional equivalent of a written document under existing laws.

However, the said law has no direct provision with regard to the taxation of electronic documents, but under its IRR, it cited that transactions conducted using electronic commerce should receive neutral tax treatment in comparison to transactions using non-electronic means, and taxation of electronic commerce shall be administered in the least burdensome manner.

Meanwhile, printed and e-books are taxed differently across countries globally. As gathered, out of 80 countries surveyed for the tax treatment of paper books and electronic publications, 55 countries or 69% apply the standard VAT rate for e-publications and 16 countries or 20% for paper books. With regard to the application of reduced rates, 31 countries or 39% apply reduced or special rates on paper books compared to 5 countries or 6% for sale of e-books. Moreover, 33 countries or 41% exempt or apply zero rate on sales of paper books compared to 18 of them or 23% which apply zero-rate to e-books. Thus, the way the Philippines tax e-books and exempt printed books from the VAT is in line with the general tax practices in most countries.

Among the ASEAN member-countries, the Philippines, Malaysia and Thailand impose the standard sales taxation on e-books while applying zero-rate on printed books. Singapore and Indonesia have the same tax rates for both kinds of books. On the other hand, Vietnam imposes a reduced rate of 5% on printed books and no tax on e-books. There are no information gathered as to their taxation in Cambodia, Lao PDR, and Myanmar.

As gathered from the BIR, VAT collection on e-publications which is lumped with the VAT under the category *Database Activities and On-line Distribution of Electronic Content*, continuously increased from PhP83.1 million to PhP317.1 million for the period 2009-2014. Therefore, exempting e-books from the VAT will result in revenue loss.

## SB 1897
### Regulating Public Solicitation and Providing Funds Therefor

SB 1897, otherwise known as the "Public Solicitation Act of 2013", seeks to regulate the solicitation of funds from the public. It proposes measures to regulate public solicitation activities under the headship of the Department of Social and Welfare and Development (DSWD) in order to protect the integrity of government agencies and non-government organizations with a genuine intent to pursue charitable and public welfare activities that require funding through public solicitation. The regulation of public solicitation is intended to promote good relations between donors and beneficiaries.

The bill provides that the DSWD or such other concerned implementing agencies may impose reasonable fees and charges on applicant organizations or agencies on the condition that the collection and liquidation of fees and charges shall comply with existing laws.

The bill also seeks to entitle the donors to an allowable deduction in their income tax returns equivalent to the amount of the donation given to a public solicitation, pursuant to the provisions of the NIRC of 1997, as amended.

The provisions of the proposed bill shall be applicable to the following: (a) all NGAs, GOCCs, SUCs, LGUs and other government agencies; and (b) NGOs including faith based, people's organization and civil society organizations, associations, branch offices and similar organizations, chapters and affiliates of similar international organizations operating in the Philippines as long as they are partly or fully financed with funds solicited from the public or private sectors for charitable or public welfare.

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The proposed strengthening of the system of regulating the solicitation of funds is supported as it will ensure the protection of the general public from unscrupulous requests for donations.

The requirement for eligible parties to secure solicitation permit from the DSWD and to pay the corresponding fees and charges for services attendant thereto, are both in order and are therefore supported.

It may be noted that the requirement for a solicitation permit was already prescribed as early as 1933 pursuant to Act No. 4075 enacted on October 27, 1933 and was amended by PD 1564 in 1978.

Administrative Order (AO) No. 170 issued by the DSWD on July 30, 2002, prescribed the latest schedule of fees for services rendered to the public one of which is the solicitation permit fee. The rates of fees for solicitation permit prescribed under AO 170 were reiterated under DSWD Memorandum Circular No. 17 (August 8, 2014) which embodies the Revised Omnibus Rules and Regulations on Public Solicitation.

Collection from solicitation fees totaled PhP96,000.00 from 2012 to 2014 or an annual average of PhP32,000 which was quite minimal considering that the existing rates of fees were imposed way back in 2002 via AO 170. The rates may no longer be realistic given the increase in the costs of goods and services due to inflation. Hence, there is a need to upgrade the rates to realistic levels. It is suggested that in the determination of the rate of fees, the same should be in accord with the provisions of AO 31 (October 1, 2012) and DBM-NEDA Joint Circular No. 1-2013 (January 30, 2013).

With regard to the proposed tax exemption of donations made by the donor to the beneficiaries, it may be noted that public solicitations can be recognized as charitable contributions, which, for income tax purposes, are deductible from gross income of a taxpayer either on a full or limited basis depending on the classification of the donee institution. The full deductibility of charitable contributions can be claimed if the recipient is the Government of the Philippines or any of its agencies or political subdivision exclusively for public purposes or an accredited NGO as defined under the NIRC of 1997, as amended. On the other hand, the limited deductibility of such contributions can be claimed if the donee is an accredited non-stock, non-profit corporation as defined under BIR RR 13-1998.

The NIRC of 1997, as amended, also provides that the qualified donors entitled to allowable deductions from gross income on donations made are self-employed and professionals (SEPs) and juridical persons such as partnerships and corporations and not those individuals under an employee-employer relationship.

Considering that the NIRC of 1997, as amended, already provides for the tax treatment of charitable donations and contributions, it is suggested that the provisions in the bill on the proposed tax deduction be made in accordance with the provisions of the NIRC of 1997, as amended.

## SB 2217
## Exempting Start-Up Enterprises from Taxes Arising from the First Two Years of Operation

SB 2217 seeks to exempt start-up enterprises from all national and local taxes for the first two (2) years of operation, provided that:

a. The start-up enterprise is not an affiliate, a subsidiary, or a franchise of any existing company;

b. In the case of a sole proprietorship or partnership, the proprietor or the partners of the start-up enterprise shall not have any previous or other existing registered companies, partnerships, or businesses; and

c. In the case of a corporation, each stockholder of the start-up enterprises shall have at least a five percent (5%) share in stocks and the corporation shall have no nominal stockholders holding the shares in trusts for others. Provided further that, all stockholders of the start-up enterprise shall not have held shares of any previous or existing corporation with at least a five percent (5%) share therein, nor registered any former or existing sole proprietorship or partnership.

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The intent of the bill to foster national development and promote inclusive growth by encouraging the creation of enterprises that facilitate job creation, production, innovation and trade is supported.

However, the proposal to exempt start-up enterprises from all national and local taxes for the first two (2) years of operation is no longer necessary as they can already avail of incentives provided under several legislation depending on their qualifications, location, nature, size (in terms of capital, labor force, etc.), and category. These include RA 9178 or the Barangay Micro Business Enterprises (BMBEs) Act of 2002, RA 9520 or the Philippine Cooperative Code of 2008, RA 9501 or the Magna Carta for Micro, Small and Medium Scale Enterprises, and EO 226 or the Omnibus Investment Code of 1987.

Further, it may be noted that the bill did not provide for specific requirements or qualifications of start-up enterprise to qualify in the proposal. If the proposal will push through, a clear-cut definition of a start-up enterprise as to its nature, industry, legal structure, required capital and employment that will qualify for the proposed exemption should be provided to be able to determine if such are already applicable to existing tax incentives legislation.

The grant of tax exemptions under the bill is too broad and might give rise to a number of implementation problems. A broadly worded provision can be interpreted in many ways and can even create opportunities for the exercise of discretion and leakages/abuses, as well.

Likewise, the proposed grant of exemption from all local taxes goes against the principle of enhancing local fiscal autonomy which intends to make LGUs more self-reliant and capable of financing the requirements of their own development projects/initiatives.

Lastly, since the present system of tax incentives is being rationalized, it may be more practical and prudent to align whatever tax privileges the bill intends to grant to start-up enterprises with the thrusts of this rationalization initiative for consistency and uniformity in government's overall tax incentives framework.

**SB 2244**
Repealing Chapter I of Title III of the National Internal Revenue Code of 1997, as Amended, and For Other Purposes

**SB 1489**
Increasing the Estate Tax Exemption, Amending for the Purpose Section 84, Chapter I, Estate Tax, Title III of the National Internal Revenue Code of 1997, as Amended

**SBs 2028 and 2102**
Amending Section 86(A)(6) of Republic Act No. 8424, as Amended, Otherwise Known as the National Internal Revenue Code of 1997

SB 2244 seeks to abolish the estate tax by repealing Sections 84 to 97 of the NIRC of 1997. It states that the estate tax is the most uncertain tax in terms of revenue generation because it directly affects the passing on of wealth and property of the decedent to his/her heirs and beneficiaries. It also noted that a number of countries have already abolished their estate or inheritance tax and believes that this paradigm shift will make the Philippines an attractive place for Filipinos and foreigners to invest and build up their wealth.

SB 1489 seeks to change the estate tax schedule by increasing the present amount of net estate exempt from the tax from PhP200,000.00 to PhP400,000.00 and widening the net estate tax brackets amending for the purpose Section 84 of RA 8424, otherwise known as the NIRC of 1997, as amended.

Meanwhile, SB 2028 proposes to amend Section 86(A)(6) of the NIRC of 1997, as amended, by increasing the maximum amount of medical expenses that may be deducted from the gross estate of the decedent from PhP500,000.00 to PhP1,500,000.00. The bill notes that medical expenses before death often reach exorbitant amounts, hence, the maximum deductible medical expenses need to be rationalized to reflect the realistic cost of medical services.

Lastly, SB 2102 seeks to amend Section 86(A)(4) of the NIRC of 1997, as amended by increasing the amount equivalent to the current fair market value of the decedent's family home that may be deducted from gross estate from PhP1,000,000.00 to PhP10,000,000.00. It points out that the measure will give immediate relief to the decedent's family by allowing them to spend the amount saved from the payment of estate tax on other basic necessities and priority needs. The measure is seen to lessen the pressure on the surviving family to sell their property to interested parties in order to pay the tax instead of passing them on to the next generation.

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The estate tax is perceived to be a tax on those who have more in life for the reason that not all individuals are capable of generating wealth in more than modest amounts, and be able to transfer them to their heirs or beneficiaries. Hence, if this type of tax which is deemed as a tax on those who have more in life will be abolished, the progressive character of the tax system may be eroded. While the estate tax collection may be minimal, the government cannot afford to forego revenue from this source especially with the current effort to rehabilitate calamity-stricken areas in Visayas and Mindanao.

It is also noted that the estate tax is complemented by the donor's tax. If the estate tax is to be repealed, this can have a substantial impact on the donor's tax collection wherein the donor, instead of donating a property during his/her lifetime, will most likely opt to wait for the time of his/her death before passing the ownership of his/her assets to beneficiaries to avoid the tax.

Additionally, while a number of countries have already abolished their estate or inheritance taxes, others are still imposing the tax such as Japan, Korea, and Taiwan. In the case of Japan and Korea, tax rates range from 10% to 50% while in Taiwan, from 2% to 50%.

On the proposed net estate tax structure under SB 1489, the indicated base tax amounts (fixed tax in the schedule) were not changed accordingly with the proposed increase in the exemption and the widening of the succeeding estate tax brackets. This will lead to unfair distribution of tax burden as there will be instances where estates with lower net value will be paying higher estate tax than those with higher net estate value. To avoid such instances of inequity in the tax burden among the taxpayers, the proposed tax structure should be redesigned.

The proposed increase in the amount of tax-exempt net estate from PhP200,000.00 to PhP400,000.00 under SB 1489, increase in the deductible medical expenses from PhP500,000 to PhP1.5 million under SB 2028, and increase in the deductible value of family home from PhP1 million to PhP10 million under SB 2102 would lessen tax liabilities of the heirs, but they would correspondingly result in revenue loss to the government. In particular, the proposed increase in the deductible value of family home from PhP1 million to PhP10 million will almost wipe out the collection from the estate tax and would leave the estate tax with almost no tax base. Collection from estate tax in 2014 amounted to PhP3.3 billion in 2014.

Moreover, if the adjustments in the amounts under SB 1489, shall be solely based on the change in the consumer price index (CPI), since 1992 when the exempt amount was put in place to the present, the proposed increase should be more than PhP200,000.00 to be reflective of the effects of inflation. The change in CPI from 1992 to 2014 is about 200%. On the other hand, the proposed amounts of deductible medical expenses and value of family home under SBs 2028 and 2102 if to be indexed to inflation, are deemed too generous.

Unlike VAT which even the poorest of the poor pays, the estate tax is levied only to those who are considered wealthy. Thus, the proposal under the bills will run counter to these efforts and are also seen as unfair and will be perceived to favor those who have more in life.

## SB 2315
## Promoting the Creation of Green Collar Jobs, Providing for a Strategic Initiative for its Implementation, and for Other Purposes

## SB 2893
## Granting Incentives to Individuals and Enterprises for the Creation of Green Jobs and Appropriating Funds Therefor

SB 2315 seeks to create and mandate the Green Collar Jobs Council to provide for an incentive scheme to encourage LGUs, enterprises, or private entities, including NGOs, to develop or undertake an effective program to generate green collar jobs or actively participate in any program geared towards its promotion.

The bill directs the Council, in coordination with the Committee on Environment and Ecology of the Senate and House of Representatives, the League of Provinces, Cities, and Municipalities and Barangay Councils, the Metro Manila Development Authority (MMDA) and other concerned agencies to promulgate the Implementing Rules and Regulations (IRR) of the Act, within one (1) year after its enactment.

SB 2893, on the other hand, seeks to create an incentive scheme to encourage individuals to engage in green jobs and business enterprises to operate and sustain green jobs in accordance with the National Green Jobs Human Resource Development Plan to be formulated by the Department of Labor and Employment (DOLE).

The bill further provides that the DOF shall exclusively determine the fiscal incentives that can be made available for activities such as skills training and research and development in pursuit of supporting the green economy, and/or development and use of green technologies and practices, and/or production of green goods and provision of green services, which may include additional deduction of labor expense (ADLE) and duty-free importation of capital equipment.

The bill assigns the DOF, in coordination with DOLE and other relevant agencies to prepare the necessary rules and regulations and operational standards for the availment of the aforementioned incentives and ensure its effective implementation.

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The rationale of the bills to identify the needed skills, develop training programs, and train and certify workers for jobs in a range of industries that produce goods and render services for the benefit of the environment, conserve natural resources for the future generation and ensure the sustainable development of the country and its transition into a green economy is recognized.

The proposal is in line with the National Climate Change Action Plan (NCCAP) which was formulated pursuant to RA 9729, otherwise known as the Climate Change Act of 2009, which outlines the specific programs and strategies for climate change adaptation and mitigation from 2011 to 2028.

The proposal to grant fiscal incentives such as ADLE toward the promotion of training and research and development are likely to promote the growth of the business enterprises and contribute to the economic growth of the area where such enterprises are located. The proposal is in line with the thrust of yielding preference to performance-based incentives. The proposal to grant duty-free importation of capital equipment will also enable green jobs registered individuals and enterprises to lower their cost of doing business and be more competitive in the world market.

It is worth noting that activities for the benefit of the environment are included in the 2014 Investment Priorities Plan (IPP) (i.e. charging stations for e-vehicles, industrial waste treatment, exploration and development of energy sources, and power generation plants). Such activities, as well as those covered by the Mandatory Inclusions under IPP, may register with the BOI for the availment of fiscal incentives provided under EO 226, otherwise known as the Omnibus Investment Code of 1987.

Further, RA 9593 provides for a Social Responsibility Incentive which entitles registered enterprises within Tourism Enterprise Zones (TEZ) a tax deduction equivalent to a reasonable percentage, not exceeding fifty percent (50%), of the cost of environmental protection or cultural heritage preservation activities, sustainable livelihood programs for local communities, and other similar activities.

As to the proposal to grant the DOF the authority to exclusively determine the tax incentives, it is noteworthy that, the power to legislate is with Congress. However, the power can be delegated to the executive department pursuant to the principle of subordinate legislation.

## SB 2348

### Amending PD 1464, Otherwise Known as the Tariff and Customs Code of the Philippines, to Define Smuggling as an Act that Constitutes Economic Sabotage, to Provide the Appropriate Punishment and Penalties, and for Other Purposes

SB 2348 seeks to amend PD 1464, otherwise known as the Tariff and Customs Code of the Philippines (TCCP), as amended by including a definition of “economic sabotage” as any and all activities that undermine, weaken or render into disrepute the economic system or viability of the country or tend to bring about such effects. For purposes of this measure, any violation of Section 3601 (on Unlawful Importation) and 3602 (on Various Fraudulent Practices Against Customs Revenue) of this Act, which involves goods and/or articles with aggregate value of PhP1,000,000.00, shall constitute economic sabotage.

Likewise, the bill seeks to amend the fines and penalties provided under Sections 3601 and 3602 of the TCCP, as amended. In addition, if the person violating the provision of Sections 3601 and 3602 is a juridical entity, the penalty of imprisonment shall be imposed on the President and the responsible officers thereof, and the business permits and licenses of the business entity shall be revoked or cancelled. Moreover, the broker of the violator of the provision shall be punished as a principal.

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The definition of smuggling under the TCCP does not speak of economic sabotage. However, it is a fact that smuggling can undermine an economy in multidimensional ways. It could inflict damage to local industries which could result in massive job lay-offs; discourage legal imports which could adversely impact on revenue collection; and result in the proliferation of the underground economy, which is outside the ambit of taxation thereby further eroding the tax base.

The proposal to reclassify smuggling involving goods worth PhP1,000,000.00 as an act of economic sabotage and to impose heavier penalties on offenders could hopefully address rampant unlawful importation and various fraudulent practices.

There are few laws which sanction specific violations as a form of economic sabotage. Legislating a law defining smuggling which involves a definite amount as constituting economic sabotage would help in clamping down smugglers as it will provide a more specific and transparent basis for prosecution. As to the value of goods involved for smuggling to constitute economic sabotage, it is noted that smuggling, does not only affect government revenues but also impedes the growth of local industries, and discourages foreign investors especially when the products or services intended to be marketed or offered are being smuggled into the Philippines. Thus, the proliferation of smuggling in whatever amount, can have an extensive and wide ranging effect of undermining the stability of the economy.

A comparison between the proposed and the present rates of fines and penalties under the TCCP, as amended shows that the proposal seemingly favors unlawful importation of less than PhP1,000,000.00. In particular, SB 2348 proposes higher minimum fine and penalty but proposes lower maximum fine and penalty than under the TCCP. For unlawful importation of goods/articles with aggregate value of PhP1,000,000.00, both fines and penalties are higher in the proposal than what are provided in the TCCP.

There may be a need to revisit the proposed rates of fines and penalties on unlawful importation and fraudulent practices against customs revenue on articles valued at less than PhP1,000,000.00 as these are generally lower than current rates of fine and penalties under the TCCP. Further classification should be made as to the fines and penalties on those involving goods and services with aggregate value of over PhP1,000,000.00 as the bill only cited those valued at PhP1,000,000.00. In this regard, economic sabotage may be redefined as any violation of Sections 3601 and 3602 which involves goods and/or articles with aggregate value of PhP1,000,000.00 or more.

## SB 2367
### Establishing a State-of-the-Art and Highly Scientific Sports Complex to be Known as the "National Amateur Sports Training Center", and Appropriating Funding Thereof for the Acquisition of Property, Construction of Facilities Including Administration, Maintenance and Management of the Same and for Other Purposes

## SB 2371
### Creating and Establishing a State-of-the-Art and Highly Scientific Sports Complex Known as the "Philippine Amateur Sports Training Center", and Funding for the Acquisition of Property, Construction of Facilities, Including its Administration, Maintenance, and Management, and for Other Purposes

SBs 2367 and 2371 seek to establish a state-of-the-art and highly scientific sports complex to be known as the National Amateur Sport Training Center (NSTC) and the Philippine Amateur Sports Training Center (PASTC), respectively. The Centers are envisioned to provide athletes in the National Team as well as coaches and referees the facility they need for a more apt, focused and scientific training. The Centers shall not only serve as official venue of training for athletes but would also be the center for sports science research and development. The Philippine Sports Commission (PSC) shall be vested with the ownership as well as the administration, management, operation and maintenance of the proposed Centers.

The proposed bills seek to grant tax incentives to the proposed Centers. SB 2367 provides that the NSTC shall be exempt from the payment of the real estate tax, stamp tax, amusement tax, income tax and/or any other form of taxes on the properties. On the other hand, SB 2371 provides that the PASTC shall be exempt from the payment of: a) all taxes, fees, assessments and other charges of the Government, its branches and subdivisions; b) real estate tax; c) documentary stamp tax (DST); d) amusement tax; e) income tax; f) any other form of taxes on the properties; and g) customs duties, taxes and tariffs on the importation of equipment and supplies, including those donated to the Center, provided that these are required in the development of various training of the athletes, coaches and referees, and are of international standards and not readily available from local manufacturers. Furthermore, all legacies, gifts and donations for the benefit of the Center, or for its support and maintenance, or for the aid to any of its athletes, coaches and referees shall be exempt from the tax and shall be allowed as a deduction from the gross income of the donors.

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The proposed exemption of the PASTC from all taxes, fees, assessments and other charges of the government, its branches and subdivisions is too broad which can give rise to policy issues as well as implementation and/or interpretation problems. Also, a broadly worded provision can create opportunities for discretion and leakages/abuse.

On the proposed exemption of the Sport Centers from the payment of real estate tax, Section 234 of the Local Government Code (LGC) of 1991 specifically enumerates real properties exempt from the real property tax which include properties owned by the Republic of the Philippines or any of its political subdivision. Since NASTC or PASTC will be owned and operated by the Republic of the Philippines, they shall therefore be exempt from the RPT. However, it should be clarified that if a portion/s of the sports complex will be leased to a taxable person/s then such person/s shall be subject to the RPT based on the leased area.

The proposed DST exemption may be considered since Section 173 of the NIRC of 1997, as amended, provides that whenever one party to a taxable document enjoys exemption from the DST, the other party who is not exempt shall be the one directly liable for the tax. Thus, the proposal will not automatically result to revenue loss on the part of the government.

The proposed NSTC and PASTC, being owned by the PSC which is a government agency, will not be covered by the amusement tax imposed by the national government pursuant to Section 125 of the NIRC of 1997, as amended, and the 10% local amusement tax pursuant to Sections 140 and 151 of the LGC of 1991, as amended by RA 9640. However, if the NSTC or PASTC will be leased to a private entity who will charge admission fees for the holding of musical shows, concerts, etc., the said person/entity shall be subject to the amusement tax as fixed by the LGU where the NSTC or PASTC is located.

Considering that the proposed sports centers may be likened to the sports facilities, complexes and dormitories presently being controlled and administered by the PSC, the same may be extended similar income tax exemption being enjoyed by said sports facilities.

As regards the proposal to exempt the proposed Sports Centers from other forms of taxes on properties, the same is too broad a provision which can create interpretation problems as well as opportunities for discretion and leakages/abuse. Hence, it is suggested that the types of tax be explicitly stated for clarity.

The proposed exemption of the Centers from the payment of customs duties, taxes and tariffs on the importation of equipment and supplies, including those donated to it, is supported as it is already being enjoyed by the PSC pursuant to Section 19 of RA 6847.

As regards the exemption from the tax all legacies, gifts and donations to be made to the Center and its deductibility from the gross income of the donors, said incentive is already accorded to the PSC. However, RA 6847 specifically provides that the exemption is from the donor's tax. In the case of donations and contributions to the POC and/or the various NSAs certified by the PSC to be pursuant to the development of sports in the country, Section 20 of RA 6847 provides for the exemption of the same from the payment of the donor's and estate taxes which are likewise deductible in full in computing the taxable net income of the donor. Thus, the same incentive to the proposed Center is supported provided that the provision of SB 2371 be made in accordance with the existing provisions of the NIRC of 1997, as amended.

## SB 2373
### Amending Section 709 of PD 1464, Otherwise Known as the Tariff and Customs Code of the Philippines, as Amended

SB 2373 seeks to amend Section 709 of the TCCP, as amended by increasing the *de minimis* threshold of the aggregate amount of duties, taxes and other charges covered by the discretionary authority of the BOC collector for remittance and value of articles for seizure from the existing value of less than PhP10.00 to less than PhP10,000.00.

The bill intends to provide a more realistic and relevant threshold and to enable the BOC to focus its efforts on high-value, high-risk and high-revenue goods for collection and enforcement.

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The proposed increase in aggregate amount of duties, taxes and other charges covered by the said discretionary authority of the BOC Collector to remit and/or to dispense with the seizures of articles, is supported. The existing *de minimis* threshold is already obsolete considering that the amount was set since the TCCP was approved in 1978.

Also, it is worth mentioning that the TCCP provides for threshold values for which no refund or collection shall be made. Thus, it is suggested that the *de minimis* threshold value be made uniform across all pertinent sections under the TCCP.

## Unnumbered SB
### Rationalizing the Grant and Administration of Fiscal Incentives and for Other Purposes

Unnumbered SB seeks to develop the national economy in order to enhance its global competitiveness through the rational grant and administration of incentives to investments and qualified industrial development activities geared towards employment generation and countrywide development.

The bill provides that all existing and future IPAs vested with the power to confer and administer incentives shall only offer and grant incentives provided hereof to all existing and future exports enterprises in ecozones and freeports to the extent of their registered activity or project only. Income derived from non-registered activity or project shall be subject to appropriate taxes under the NIRC of 1997, as amended.

Registered activities for which fiscal incentives have been granted and are fully utilized shall no longer be eligible for the incentives for the same activities. Provided, that in the case of existing registered enterprises presently enjoying income tax holiday (ITH), the same shall continue to enjoy the said incentives until its expiration without extension. However, the said registered enterprise, if qualified as an export enterprise may be granted the incentives available to export enterprises or in the case of strategic investments, the incentives available for registered enterprises under the Strategic Investments Plan (SIP) provided the total period of incentives shall not exceed fifteen (15) years for export enterprises, inclusive of the period of ITH availment, or fifteen (15) years for strategic investments.

The bill also provides incentives to registered enterprises under the SIP for a period not to exceed fifteen (15) years, such as: a) fifteen percent (15%) tax rate on corporate income; and b) 100% exemption from customs duties on importation of capital equipment. Likewise, the bill provides that registered mining operations may be granted duty exemption on imported capital equipment.

The bill also provides that the Secretaries of the DTI, DOF and the Director-General of the NEDA or their duly nominated alternates shall sit as members of the Governing Boards of all Investment Promotion Agencies (IPAs). The bill also provides that NEDA and the Philippine Statistics Authority (PSA) shall establish a comprehensive database on investment and incentives statistics that shall serve as a complete and accurate repository of all investments and incentives data concerning all IPAs.

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The rationalization of fiscal incentives in the country is a positive measure that would not only lessen the country’s undue revenue losses but also address the perception of inefficiency and disorganization in the government. The measure would help reduce the government’s fiscal deficit while sustaining strong economic growth of the country.

The intention of the bill to rationalize the grant of fiscal incentives in the country is supported. The rationalization of the fiscal incentives system will address the problems that are observed under the current investments and incentives laws such as the presence of several IPAs, the varying incentives offered which consequently compete with each other in attracting investments and the complex web of processes involved. Thus, there is a need for a simplified incentive scheme that will ensure efficient provision and management of investment incentives without reducing the country's attractiveness to investors.

The tax revenue implications of fiscal incentives continue to be a primary concern considering the government's fiscal deficit and the need to generate revenues to sustain the government's spending on economic and social programs. The passage of a law that would rationalize the grant of fiscal incentives would help address the problem and prevent or minimize revenue losses. In general, a set of simple and straightforward tax incentives is easier to administer and minimizes opportunities for leakages/abuses. The incentives to be provided should address the viability gap such that profitable activities should no longer be subsidized and the tax incentives should be time-bound.

On the SIP, the proposed replacement of the annual Investment Priorities Plan (IPP) with a 3-year validity is supported. The longer validity period would make it more stable, realistic and would adhere to the needs of the investors.

The proposed inclusion of the Secretaries of DOF, DTI, and Director-General of NEDA to sit as members in the governing boards of all IPAs, is supported as this will help ensure that the grant and administration of investment incentives will: a) be in accordance with the country's medium-term economic development plan; b) contribute to the growth and competitiveness of industries; and c) be fiscally-sustainable.

Lastly, the establishment of comprehensive database on investment and incentives statistics by NEDA and PSA that will serve as the complete repository of all investment and incentives data concerning all IPAs is supported. The database is necessary to ensure that data are available in the review and evaluation of government's tax incentives policy and the formulation of reforms to make tax incentives a more useful tool for growth and development.

## House Bill (HB) No. 743
Promoting Urban Farming and Providing Funds and Incentives Therefor

HB 743 seeks to grant a real property tax (RPT) credit in the amount of ten pesos (PhP10.00) for every square meter of any eligible building or improvement allotted to and maintained for urban farming; Provided that, such RPT credit shall not exceed the lesser of: (a) one hundred thousand pesos (PhP100,000.00); or (b) the RPT liability of the eligible building or improvement, at any given taxable year.

The bill also seeks to create an Urban Farming Council (UFC) which shall be attached to the Department of Agriculture (DA) and will be composed of the following: Secretary of the DA, who shall serve as chairperson of the Council; and Secretary of the DENR; National Chair of the League of Cities of the Philippines; and a representative from the private sector who has expertise in urban farming and/or vertical farming as members.

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The intention of the bill to promote urban farming and contribute to the ecological well-being of the community is laudable and is supported. The bill is consistent with the 1987 Philippine Constitution which provides that the State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature. The proposal to grant an RPT credit to buildings or improvements engaged in urban farming would promote and encourage support towards this end.

Section 3 of the bill defines "urban farming" as any act of farming in a city using land or space of a building, including but not limited to the roof of the building. On the other hand, Section 4 of the bill provides tax credit to any eligible building or improvement only. It may be noted that some undeveloped lands in urban areas are also utilized as gardens with vegetation and trees planted on it. Thus, to prevent confusion, the proposal should clarify its coverage.

The bill also provides for the creation of the UFC to oversee its implementation. However, it should be considered that some of the functions of the Council such as the issuance of certificates for the eligibility of building or improvement spaces and application for RPT credit, and the monitoring and carrying out of the implementation of this program can be more effectively undertaken by the LGUs. Hence, the proposed creation of the UFC may no longer be necessary.

It is worth noting that Quezon City enacted Ordinance No. 1917, otherwise known as the Green Building Ordinance of 2009 which provides, among others, that buildings and other structures in the City whose designs, construction or retrofitting comply with the prescribed standards, rules and regulations of the green building provided thereat, are entitled to a green building tax credit from the RPT of either the property owner or the tenant. Also, in line with the City's environmental protection policy, the City also passed Ordinance No. 1940 in 2009 which requires owners of new and existing building to devote thirty percent (30%) of their roof areas for vegetations which entitles them to an RPT discount.

Further, it is worthwhile to note that RA 10068, otherwise known as the Organic Agricultural Act of 2010, enhances the role of LGUs in the management and maintenance of ecological balance in their respective territorial jurisdiction. Under the law, LGUs are encouraged to provide incentives to organic input production either through the reduction of local fees and charges, or exemption from business taxes. For an effective implementation of the urban farming program, a similar provision could be incorporated in the law.

Finally, in line with the principle of local autonomy, the matter of granting tax credit and the amount of the tax credit may be better left to the decision of the concerned LGUs.

## HB 4474

### Creating the Philippine Thoroughbred Horse Racing Authority, Providing Funds Therefor and for Other Purposes

HB 4474 seeks the creation of a corporate body to be known as the Philippine Thoroughbred Horse Racing Authority and thereby abolishing the Philippine Racing Commission (Philracom) created under PD 420.

The bill proposes the Authority to determine, fix, impose, collect or receive reasonable charges, fees, dues, or assessments with respect to the issuance of licenses and permits.

The bill also proposes that 1% of the gross receipts derived from the total sale of tickets for all racing events be retained by the Authority provided that 1% of the gross receipts derived from the total sale of tickets for pari-mutuel races be retained as a special fund for the use of the Games and Amusements Board (GAB). All dues, fees, charges, and other sums imposed and collected by the Authority are likewise proposed to form part of a Special Trust Fund which shall be used for its operational expenses, provided that at least 60% of the retained income shall be allocated for prizes.

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The bill's proposal authorizing the prescription, imposition and collection of fees and charges for services provided by the proposed Authority is supported. This only reiterates the authority to impose and collect fees presently enjoyed by the Philracom. The fees include licensing and registration fees, among others. The proposed retention of 1% of the gross receipts from the sale of tickets for all racing events by the proposed Authority only adopts what is already being practiced under existing laws, thus, is also supported. If pushed through, the proposal would mean an allocation to the Authority of over PhP80 million annually.

## HB 4751

### Amending the Tax Provisions of RA 9511, Entitled "An Act Granting the National Grid Corporation of the Philippines a Franchise to Engage in the Business of Conveying or Transmitting Electricity Through High Voltage Back-Bone System of Interconnected Transmission Lines, Substations and Related Facilities, and For Other Purposes

HB 4751 seeks to amend Section 9 of RA 9511 by restoring the income tax and other taxes, duties, fees, and charges of any kind, originally imposed to the National Grid Corporation of the Philippines (NGCP) formerly National Transmission Corporation (TRANSCO) in lieu of the present 3% franchise tax to provide a legal remedy for the common good as the franchise is said to be grossly disadvantageous to the Philippine Government, revenue-wise. However, the payment by the Grantee of the concession fees due to the Power Sector Assets and Liabilities Management Corp. (PSALM) under the concession agreement shall not be subject to the income tax and VAT for the first twenty-five (25) years.

The author of the bill argues that the special privileges granted to the NGCP deprive the government of much-needed revenues which it can use to finance health programs and road projects, construct school buildings, and other worthy undertakings.

The bill explicitly states that the Grantee shall not be allowed to pass-on charges to the consumers.

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It may be noted that among the components of the power industry, the NGCP is the only company that is subject to the franchise tax while all other electric utilities pay the VAT and other applicable taxes thereby creating an undue classification.

Under the franchise agreement (RA 9511), the NGCP is accorded with preferential tax treatment, being subject only to a 3% franchise tax of gross receipts derived from its operation in lieu of income tax and all other taxes. The estimated amount of income tax that should have accrued and paid would amount to PhP18.8 billion for the years 2011-2013 or PhP6.2 billion annually which should have been used to finance basic social services and infrastructure projects.

On the other hand, had the NGCP been subjected to the VAT from 2010 to 2013, the average VAT collection would amount to PhP3.1 billion, which is PhP1.8 billion higher than the average franchise tax collection of PhP1.3 billion.

With regard to the proposed "no pass through" provision, it is noted that since the VAT is an indirect tax, it is generally shifted or passed on by the seller to the buyer, transferee or lessee. With the proposal, the NGCP will be obliged not to pass on the VAT and bear the burden of the tax so that the price of electricity transmission will not increase.

The provision which limits the exemption from the income tax of the concession fees paid by the NGCP to PSALM to the first twenty-five (25) years of the concession agreement is supported as perpetual tax exemption may be deemed a derogation to the State's power of taxation and principle of theoretical justice that affords similar treatment to similarly situated taxpayers. If the NGCP earns income, it is reasonable that it should likewise pay income tax.

## HB 4822

### Amending RA 9136 or the Electric Power Industry Reform Act (EPIRA) and Providing for Needed Additional Reforms in the Energy Sector for the Protection of Electricity Consumers Against Market Power and Unwarranted Power Rates Increases, and for Other Purposes

HB 4822 seeks to revert to zero-percent (0%) VAT rate the sale of generated power by generation companies from the current 12% VAT by amending Section 6, $2^{nd}$ to $4^{th}$ paragraphs of RA 9136, otherwise known as the EPIRA Law of 2001.

The rationale of the bill is to ensure the steady supply of electricity, maintain national security, and protect consumers against unjust prices and abusive market behavior of power companies. Further, the nature of the electricity sector as a public utility or an economic activity must be imbued with public interest with the end-goal of achieving a reliable, secure and affordable supply of electricity through lower electricity rates.

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The intention of the bill to lower the electricity rates of end-users by reverting to 0% VAT the sales of generated power by generation companies from the current 12% VAT is recognized. However, it is worthy to note that the cost of electricity is not solely dependent on the taxes imposed. Major factors such as cost of oil, manpower, foreign currency adjustment and inflation significantly affect the price of electricity and should also be considered.

The imposition of the VAT on the sale of electricity by generation companies is primarily for revenue consideration and to be consistent with the well settled principle that for the VAT to be effective, it should be broad-based.

The proposal to subject the sales of generation power by generation companies to 0% VAT may distort the present VAT system leaving only the distribution sector of the power industry subject to the 12% VAT.

It is important to point out that among the ten (10) member-countries of the Association of Southeast Asian Nations (ASEAN), majority impose the VAT or VAT-like taxes on power such as Indonesia, Lao PDR, Malaysia, Singapore, Thailand, Vietnam, and the Philippines.

**HB 4951**
**Amending Sections 32 and 151 of RA 8424, as Amended, Otherwise Known as the National Internal Revenue Code, to Exclude from Gross Income and Exempt from the Payment of Excise Tax the Sale of Gold by Small-Scale Miners to the Bangko Sentral ng Pilipinas Pursuant to RA 7076**

**HB 4953**
**Exempting the Small-Scale Miners from the Payment of Income and Excise Taxes for the Sale of Gold to Bangko Sentral ng Pilipinas, Amending for the Purpose PD 1158, as Amended, Otherwise Known as the National Internal Revenue Code**

HBs 4951 and 4953 seek to amend Sections 32(B)(7) and 151 of the NIRC, as amended, by excluding from gross income for tax purposes the income derived by small-scale miners and exempting their sale of gold to Bangko Sentral ng Pilipinas (BSP) from the 2% excise tax pursuant to RA 7076.

The bills aim to encourage small-scale miners and traders to sell their gold to the BSP instead of resorting to the black market. The proposed tax exemptions from income and excise taxes are envisioned to help the government avoid eventual depletion of BSP's gold inventory, as well as adverse effects on the international reserves and the Philippines' economy in the long run.

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The proliferation of small-scale gold mining activities is considered as major contributor to the total gold production of the country. The continued increase in the price of gold and the pressure to look for alternative source of livelihood led to the rapid growth of gold rush areas in the country. However, most of the small-scale operators are unregulated; thus, their sustainability is put into peril.

Small-scale gold mining accounts for about 63% of the country's total gold production. It is estimated that 75% of the miners in the country are engaged in subsistence mining, 15% are small individual or family businesses and 10% are established commercial mining firms. Based on estimates, there are about 500,000 small-scale gold miners in the Philippines which operate in 30 out of 80 provinces.

The NIRC of 1997, as amended, provides that a holder of small-scale mining contract is liable to pay income tax, excise tax, and VAT. Likewise, DENR AO 34, series of 1992, stipulates the payment of taxes and government share from the small-scale mining contractors. These include income tax, special import tax, tariff duties, VAT, RPT, and government share which shall be paid to the Municipality or City Treasurer where the mining claims are located and shall be apportioned in accordance with the LGC of 1991.

With regard to gold purchases of the BSP, it was reported that this significantly dropped from as high as 32,377 kgs. in 2005 and 28,556 kgs. in 2010 to as low as 589 kgs. in 2013, following the issuance of BIR RR 6-2012 on April 2, 2012, which imposed a 2% excise tax and 5% creditable withholding tax on gold sold to the BSP. It was observed that small-scale miners and traders had opted to sell their gold to the black market rather than to the BSP and large amounts of the country's gold produced by small-scale mining are suspected to be smuggled to neighboring countries.

The proposed exemption from the excise tax on gold sold to the BSP by small-scale miners however will not guarantee that the small-scale miners will sell the gold to the BSP and there will be a reduction or eradication of gold smuggling. There are other reasons why small-scale miners fail to sell gold to the BSP, such as the limited number of gold buying stations established by the BSP nationwide and the documentary requirements of the BSP, terms of payment, aside from the conditions set by the bank as to the physical form, maximum dimension, weight, minimum assay, etc.

Small-scale miners especially those engaged in subsistence farming find the requirements of the BSP too cumbersome, thus, they sell their gold in whatever quantity to traders who in turn fail to sell these to BSP and pay the taxes due to the government. The proposals, if pushed through, will incentivize violation of tax laws which might encourage others to do the same in the hope of getting favorable tax treatment from the government. Also, the proposal might have its unintended effect of documenting all types of mining as “small-scale” to be able to avail of the exemption.

The imposition of taxes on small-scale miners is justified as these serve as compensation for the environmental degradation brought about by mining operations. Thus, the proposed tax exemptions under the bills are not endorsed.

## HB 5029
### Creating the Filipino Academy of Arts, Letters and Philosophy, Providing Funds Therefore, and for other Purposes

HB 5029 seeks the creation of the Filipino Academy of Arts, Letters and Philosophy (Academy) to ensure the conservation, promotion and popularization of the country’s historical, cultural, literary and philosophical heritage and resources and artistic creations. The Academy shall be composed of, organized and run by outstanding Filipino artists, writers and philosophers. The management and control of the Academy shall be vested in a governing board composed of a Chairman and six (6) members who shall initially be appointed by the President for a transitional term of one (1) year, and thereafter elected by the members of the Academy for a regular term of three (3) years.

The bill provides that all donations and grants to the Academy made by a public or private person or institution may be claimed as tax deduction by the donor or grantor from any form of income taxation; and real property owned by the Academy shall be exempt from any form of RPT.

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Based on the provisions of the bill, it is not clear whether the Academy possesses a corporate personality, or is it an NGO, or a government agency; hence, a clarification is necessary. The determination of the personality or identity of a taxpayer is essential to be able to know the governing provisions of the NIRC of 1997, as amended.

The NIRC of 1997, as amended provides for a limited or full deductibility of donations made to government agencies or instrumentalities, and corporations or NGOs, depending on whether the donee is accredited or not. Thus, it is important that the bill clarifies the proper classification of the Academy so as to entitle the donors thereof to the deduction and tax exemption provided under the Tax Code. Also, the provision on grants and donations should be made in accordance with the provisions of the NIRC of 1997, as amended, to avoid confusion and ensure consistency with the present rules and regulations governing donations.

On the proposed exemption from the RPT, Section 234 of the LGC of 1991, as amended provides that real property owned by the Republic of the Philippines or any of its political subdivisions except when the beneficial use has been granted for consideration or otherwise, to a taxable person is exempt from the payment of the RPT. The provision of the bill on the proposed RPT exemption should be made in accordance with the provisions of LGC of 1991, as amended for clarity and for uniformity in policy.

## HBs 5053 and 4393
### Energy Efficiency and Conservation Act of 2014

HBs 5053 and 4393 seek to promote and encourage the development and utilization of household renewable energy (RE) technologies and systems to complement the energy efficiency and conservation efforts of the government.

The bills provide the framework for institutionalizing fundamental policies and standards on energy efficiency and conservation, increasing the utilization of household renewable energy technologies, and defining the responsibilities, authorities and accountabilities of various government agencies and private entities.

HB 5053 provides that energy users or energy-using entities shall be entitled to duty-free importation of pioneering and technologically energy-efficient machinery, equipment, vehicles, and materials within the first five (5) years upon the effectivity of the proposal.

On the other hand, HB 4393 provides that the DOE shall endorse projects that utilize pioneering energy efficient technologies to the BOI to avail of incentives which shall include tax and duty free importation of technologies or ITH; and that the DOF and concerned agencies shall draw-up appropriate mechanisms for the grant of subsidies and/or tax credit equivalent to one hundred percent (100%) of the customs duties and national internal revenue taxes on the purchase and installation of RE machinery and equipment, whether for individual or industrial use.

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The provision of an overall framework for national energy efficiency, conservation and sufficiency programs is a rational approach to achieve energy sufficiency. The passage of energy efficiency and conservation law is part of the 2012-2030 Energy Efficiency and Conservation Roadmap. However, while the grant of tax incentives may be utilized to encourage energy efficiency and conservation, there are already existing laws that provide tax incentives to the energy sector. For instance, under the 2014 IPP, energy programs/projects are among the preferred activities. Hence, they are eligible for registration with the BOI to avail of the incentives under EO 226 (Omnibus Investment Code of 1987). Such tax incentives include the following: (a) ITH; (b) additional deduction for labor expenses; (c) tax and duty exemption on imported capital equipment; (d) tax credit on domestic capital equipment; and (e) additional deduction for necessary and major infrastructure works.

Tax incentives may also be availed of by business establishments operating within the various economic zones in the country. Locators in the PEZA ecozones are entitled to the 5% tax on gross income earned in lieu of national and local taxes except RPT. In addition, RA 9513 or the “Renewable Energy Act of 2008” also grants tax incentives to RE projects and activities as certified by the DOE, in consultation with the BOI such as (a) ITH; (b) duty-free importation of RE machinery, equipment and materials; (c) NOLCO; (d) accelerated depreciation; and (e) tax credit on domestic capital equipment and services, among others. The availability of the foregoing incentives indicates that the grant of the proposed tax incentives is no longer necessary.

## HB 5113
## Providing for People's Direct Participation in Funding Charitable Institutions and Other Development Oriented Civil Society Organizations Through a Percentage of Their Personal Income Tax

HB 5113 seeks to encourage people's direct participation in funding charitable institutions and other development-oriented civil society organizations (CSO) by allocating a percentage of their personal income tax to such organizations. The bill aims to provide a mechanism that empowers citizens to directly contribute public funds towards priority development programs and the strengthening of a vibrant civil society sector of the Philippines.

The bill proposes to give individual taxpayers an option to allocate five percent (5%) of their income tax to their preferred charitable institutions or CSOs to be selected from a list of eligible organizations provided by an inter-agency committee led by the DBM. The BIR shall establish the mechanism for individual taxpayers to allocate 5% of their annual income tax to the selected charitable institutions or CSO as part of the process of filing annual income tax returns. The bill also provides that funds received by the benefiting organizations shall be exempt from donor's tax and any other taxes.

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It must be emphasized that an individual pays income tax in order to fulfill his/her tax obligation to the State. The tax payment collected by the BIR forms part of the public fund. The taxpayer should not be allowed to allocate his/her tax payment because it properly belongs to the government.

The proposal violates Section 29 Article VI of the 1987 Philippine Constitution which expressly vests the Congress the power to appropriate public funds. While the proposal empowers an individual taxpayer to decide where his/her tax money goes, it will encroach on the Government's budget/appropriation process and its duly established institutions.

Also, the proposal may be viewed as undue delegation of legislative power to individual taxpayers. It leaves to the inter-agency committee to be led by the DBM the authority to determine the qualifications and requirements for a charitable institution or CSO to be eligible for the 5% allocation and set the conditions, guidelines, processes and reporting requirements for the receipt and use of funds. The bill gives the committee wide latitude of discretion that is already tantamount to lawmaking which properly belongs to Congress.

Further, the proposal entails additional administrative challenge to the BIR as a collecting agent for the "People's Fund". It must develop a new income tax return form, withholding tax form and remittance form for employers that will show the allocation of the 5% from the individual income tax payment to the accredited CSOs to ensure transparency and proper documentation.

The proposal may also cause inefficiency in the use of public funds considering that the programs and projects of certain charitable institutions or CSOs preferred by individual taxpayers may not be the priorities of the government and will thus limit the flexibility of the government in the use of funds. The general fund financing or one-fund policy is still preferred than the proposed earmarking.

## HB 5543

### Exempting the System Loss Charge Component in the Sale of Electricity by Distribution Companies and Electric Cooperatives from the Coverage of the Value-Added Tax, Amending for the Purpose Section 109(1) of the National Internal Revenue Code, as Amended by RA 9337 and RA 10378, and for other Purposes

HB 5543 seeks to amend Section 109(1) of the NIRC of 1997, as amended, by exempting the system loss charge component in the sale of electricity by distribution companies and electric cooperatives to consumers from the imposition of the 12% VAT.

The bill argues that the charging of VAT on system loss adds up to the already soaring electricity rates. Since system loss arises due to electricity loss during transmission, pilferage and from technical and administrative inefficiency, it should not be subject to the VAT. The imposition of the VAT on system loss is unfounded and illegal since the consumers are taxed for the goods and services they have not actually consumed.

The bill aims to ease the burden of the Filipino consumers, especially the lower income class.

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RA 7832, otherwise known as the Anti-Pilferage Law of 1994 was passed limiting the level of system losses that a distribution utility can pass on to its consumers. It also rationalized the recoverable system losses of electric distributors by authorizing private utilities and rural electric cooperatives to pass on to consumers their respective system losses subject to the ceiling rate or system loss cap.

Likewise, RA 9136 or the Electric Power Industry Reform Act (EPIRA) was enacted in 2001 which authorized the Energy Regulatory Commission (ERC) to determine the just and reasonable caps on the imposition of system loss.

Since January 2010, the ERC has lowered the cap on the recoverable rate of system loss (technical and non-technical) that the utility can pass on to its consumers. For private utilities like the Manila Electric Company (MERALCO), the maximum rate of system loss was reduced from 9.5% to 8.5% of the actual total kilowatt-hours (kwhr) purchased and generated, and from 14% to 13% for electric cooperatives.

It is noted that the utilization of renewable sources of energy subject to 0% VAT cushioned the impact of the VAT that resulted in a lower effective tax rate on the VAT system loss charge, as well as to the VAT on generation charges, transmission charges and Power Act Reduction.

At present, under Section 7(i) of the Joint Rules and Regulations of RA 9520 (Cooperative Code of the Philippines), electric cooperatives registered with the Cooperative Development Authority (CDA) are already exempt from VAT on revenues on system loss and VAT on revenues and distribution, supply, metering and lifeline subsidy of electricity to their members.

The system loss charge of a typical MERALCO residential consumer would range from PhP21.64 to PhP2,163.50 depending on their kWh consumption. In this case, the VAT on system loss charge would range from PhP2.02 to PhP202.07 per customer. It is to be noted that the proposal will benefit not only residential consumers but commercial and industrial consumers as well.

Revenue that shall be foregone from the proposed exemption of system loss charge from the VAT will be PhP1.36 billion based on 2014 MERALCO data alone, where electric revenues from system loss charge amounted to

PhP13.73 billion and average effective rate for system loss at 9.91%. The bill is tax eroding, thus, needs reconsideration primarily due to revenue losses that the government cannot afford to forego.

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**HB 5564**
Amending RA 7227, Otherwise Known as the Bases Conversion and Development Act of 1992, Removing the Subic Bay Freeport from the Supervision of the Bases Conversion and Development Authority, Introducing Reforms, Appropriating Funds Therefor, and for Other Purposes

**Unnumbered HB in Substitution of HB 4881**
Granting the Bases Conversion and Development Authority and its Subsidiaries the Authority to Administer, Implement and Monitor Fiscal Incentives for Existing and Future Locators that will Operate Inside Their Respective Economic and Freeport Zones, Amending for the Purpose RA 7227, as Amended

HB 5564, to be known as the Subic Bay Economic Development Act of 2015, proposes the creation of the Subic Bay Economic Development Authority (SBEDA) and the transfer thereto of the supervisory and management functions of the Subic Bay Metropolitan Authority (SBMA) created under RA 7227. The Office of the President shall effect the reorganization of SBMA into the SBEDA, which shall have a term of fifty (50) years from its organization.

The bill provides that no national and local taxes, and other regulatory fees/charges that are levied based on percentage of sales, per head/unit, per day, land area or land assessed value, shall be imposed on business enterprises within the Subic Bay Freeport Zone (SBFZ). The SBEDA shall not impose on locators, enterprises or residents any revenue generating fees and assessments under the guise of regulation, administrative or municipal service charge. In lieu of the said taxes, a five percent (5%) tax on gross income earned (GIE) shall be paid by all business enterprises within the Subic Special Economic Zone (SSEZ) of which one percent (1%) shall be remitted to the NG, and four percent (4%) shall be distributed to the SBEDA.

The bill also provides for the establishment of SBFZ satellite ecozones or sites upon the request of and agreement with any LGU that is part of the

Subic Bay Development Area. Business locators in these satellite ecozones shall also be taxed at five percent (5%) of the GIE in lieu of all national and local taxes except RPT on land owned by private developers. Said tax shall be remitted as follows:

a. 2% to the NG;
b. 1% to the SBEDA; and
c. 2% shall be directly remitted by the business establishments to the treasurer's office of the municipality or city where the enterprise is located.

The Unnumbered HB, on the other hand, seeks to amend RA 7227 whereby duly registered business enterprises that will operate in the Special Economic Zones established under RA 7227 shall avail of incentives under the said law instead of those under RA 7916 (creating PEZA). It shall be the Bases Conversion and Development Authority (BCDA) and its subsidiaries instead of the PEZA that shall administer said incentives. In particular, registered business enterprises that shall operate in the Clark Special Economic Zone (CSEZ) and John Hay Special Economic Zone (JHSEZ) shall be entitled to the same tax and duty incentives under RA 7227 instead of RA 7916.

The bill also proposes that the BCDA, as the governing body in all Economic and Freeport Zones within the areas covered by the BCDA shall use a uniform rate and method of incentives in accordance with the same tax and duty incentives within areas covered by RA 7227, as amended.

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The proposed imposition of 5% tax on GIE in lieu of all national and local taxes is similar to the 5% tax regime for SBMA-registered enterprises pursuant to RA 7227, as amended by RA 9400.

Under RA 7916, otherwise known as the Special Economic Zone Act of 1995, as amended by RA 8748, enterprises registered with the PEZA are also subject to the same tax treatment. The same may also be said of other freeports/ecozones such as the Clark Freeport Zone (CFZ), CSEZ, Poro Point Freeport Zone (PPFZ), Cagayan Special Economic Zone and Zamboanga Economic Zone.

However, HB 5564 provides for a different percentage distribution of the 5% tax on GIE compared with RA 7227, as amended by RA 9400.

RA 7227 allots 3% of the 5% tax on GIE to the NG while HB 5564 allots only 2%. This diminution of the NG's share from the 5% tax on GIE may have to be reconsidered in view of the NG's revenue requirement.

The proposal exempting the enterprises within the SBFZ from regulatory fees/charges that is levied based on percentage of sales, per head/unit, per day, land area or land assessed value is not supported since this goes against the cost recovery principle in the imposition of fees/charges. Also, most fees and charges are nominal in nature.

On the proposed establishment of SBFZ satellite ecozones or sites, it should be noted that the PEZA has already the power to operate, administer, manage and develop ecozones according to the principles and provisions set forth in RA 7916. Moreover, the Subic Shipyard Special Economic Zone located at Cabaangan Point, Subic, Zambales was created as a private ecozone under the jurisdiction of PEZA, thus, the establishment of satellite ecozones may already be taken care of under the PEZA system.

In case the proposed establishment of satellite ecozones is pushed through, the exclusion of the RPT on land owned by private developers from the local taxes to be waived under the 5% tax on GIE is supported inasmuch as the RPT is a financial mainstay of LGUs. The rule is currently being observed for private ecozones established under the PEZA modality.

Meanwhile, the rationale for the proposal on putting back the tax incentives provision of the CSEZ and JHSEZ enterprises under the jurisdiction of the BCDA and its subsidiaries as proposed under the Unnumbered HB is recognized considering that they are part of the former United States (US) military installation/facilities. Their tax incentive administration was put under the PEZA umbrella in view of the SC nullification of their tax incentives under Proclamation 420 and EO 80.

The proposed reversion to the BCDA and its subsidiaries of the incentive administration for CSEZ and JHSEZ however may best be left to the sound judgment of the concerned agencies and stakeholders. As to the tax incentives, it may be noted that the PEZA incentives are more generous than the 5% tax on GIE in lieu of all local and national taxes under RA 7227. The PEZA incentives include the ITH as provided under EO 226, and the 5% tax on GIE which may be availed of on a sequential basis.

## HB 6150
### Amending Section 150 of RA 8424, Otherwise Known as the National Internal Revenue Code, as Amended

HB 6150 seeks to amend Section 150 of the NIRC, as amended, by distinguishing perfumes and toilet waters with perfume/essential oil content of more than 3% to be subject to the 20% excise tax on non-essential goods.

The bill proposes that perfumes and toilet waters with perfume/essential oil content of more than three percent (3%) by weight shall be considered as non-essential goods subject to the 20% excise tax whereas those with below 3% perfume/essential oil are impliedly essential goods exempt from the 20% excise tax.

The bill aims to protect the low-income sector of the fragrance industry, to meet the rise in the demand of said products, and to be competitive in regional and global markets with the ASEAN integration and the increasing worldwide trade/economic relations.

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The intention of the bill to exempt perfumes and toilet waters with less than 3% perfume/essential oil content from the imposition of the 20% excise tax on non-essential goods is recognized. However, for revenue considerations, the proposal would not only affect the excise tax collection on perfumes and toilet waters but the VAT collection as well since the excise tax is included in the VAT base.

With regard to the revenue impact of the proposal, it is noted that the BIR excise tax collection on perfumes and toilet waters is lumped with other non-essential goods. Excise tax collection on non-essential goods declined from PhP155 million in 2012 to PhP121 million in 2014 or an average annual collection of PhP136.35 million during the said period.

## Unnumbered HB
### Granting Discounts on Basic and Educational Services to Underprivileged Higher and Technical Education Students

The Unnumbered HB seeks to entitle underprivileged higher and technical education students to discounts and to allow business establishments to claim such discounts as deduction from their gross income in the computation of income tax in accordance with the provisions of the NIRC of 1997, as amended, such as:

a. 5% discount by food establishments such as food chains, canteens and restaurants anywhere in the country;

b. 5% discount by pharmacies and drug stores anywhere in the country; and

c. 5% discount by establishments anywhere in the country that sell reference books for technical-vocational education and training and college and school supplies.

The bill provides that the Commission on Higher Education (CHED) and the Technical Education and Skills Development Authority (TESDA) shall determine qualified higher education and technical-vocational student-beneficiaries and shall perform additional functions regarding the implementation of the provision under the bill.

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The intent of the bill to encourage more youth to enroll in the tertiary level of education by giving discounts to underprivileged but deserving higher and technical education students is laudable. However, there are already a number of scholarship grants, student loan programs, subsidies, and other incentives for deserving or underprivileged students in both public and private schools being implemented by the government through CHED under the Student Financial Assistance Program (StuFAP) to widen the access to higher education.

Instead of using taxation to address problems in access to education, direct assistance such as the provision of additional grants-in-aid and scholarships to poor but deserving students enrolled in public and private higher educational institutions (HEIs) or an increase in the budgetary support for State Universities and Colleges (SUCs) to accommodate more enrollees could be more practical and effective.

Moreover, the proposal will effectively make private establishments absorb 70% of the total discounts granted while the government subsidizes only 30% of the total discount in the form of foregone tax revenue. It would also impose additional burden in terms of administrative and reportorial requirements among private establishments. To prevent abuses or leakages, there will be a need for an efficient and effective monitoring and tracking system on the granting of discounts and claiming of tax deductions.

Thus, a more direct assistance to the underprivileged higher and technical education students is deemed preferable and more effective than the proposal under the bill.

## Unnumbered HB
## Integrating Palliative and Hospice Care into the Philippine Health Care System

The Unnumbered HB to be known as the "Palliative and Hospice Care Act" seeks to integrate palliative and hospice care into the Philippine health care system by mandating all government and private hospitals to provide palliative and hospice care services to patients with life-threatening illnesses. Likewise, rural health units, health centers, and health offices are required to develop home-based or near home palliative care program in coordination with government-owned and privately-owned hospices in the LGUs.

The bill provides that hospitals, private hospice institutions, medical practitioners, health workers for palliative and hospice care shall be accredited by the Department of Health (DOH). The rules and guidelines for the accreditation shall be formulated by the DOH, in partnership with the National Hospice and Palliative Care Council of the Philippines Inc. (Hospice Philippines, Inc.).

The bill also provides that any donation or bequest made to the DOH that is intended for palliative and hospice care programs shall be exempt from the donor's tax and shall be considered as allowable deductions from the gross income of the donor in accordance with the provision of the NIRC of 1997, as amended, provided that such donations shall not be disposed of, transferred or sold.

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Data from the DOH reveals that the three (3) leading causes of mortality in the country based on a 5-year average are: a) diseases of the heart; b) diseases of the vascular system; and c) malignant neoplasm (cancer). Human Immunodeficiency Virus (HIV) cases are likewise increasing based on the data from DOH's Epidemiology Bureau. Considering that these are the types of diseases or illnesses that require palliative and hospice care, it is appropriate that approaches to health be integrated and be given equal importance in the country's health care system.

The proposal to exempt from the donor's tax donations or bequests made to the DOH that are intended for palliative and hospice care program is supported as the same is consistent with the provision under Section 101(A)(2) and (B)(1) of the NIRC of 1997, as amended. Likewise, the proposed deductibility of donations from the gross income of the donor is provided under Section 34(H)(2) of the same Code.

**Unnumbered HB**

**Adopting Integrated Coastal Management as a National Strategy to Ensure the Sustainable Development of the Coastal and Marine Environment and Resources and Establishing Supporting Mechanisms for Its Implementation and Providing Funds Therefor**

The Unnumbered HB which shall be known as the "Integrated Coastal Management Act" seeks to adopt Integrated Coastal Management (ICM) to address the connectivity of social and ecological systems and the different human activities taking place therein, in order to promote sustainable development, food security, poverty alleviation, gender equality, respect for sustainable traditional resource rights of indigenous peoples, and reduce vulnerability to climate change as well as human induced and natural hazards.

The bill proposes to establish the National Coordinating Committee on ICM which shall coordinate the review and implementation of the National ICM Framework. The DENR shall provide secretariat support to the Committee.

On the other hand, the National ICM Framework shall provide the direction, support and guidance to LGUs and stakeholders in the development and implementation of their local ICM plans.

The bill seeks to exempt from donor's tax all grants, bequests, endowments, donations, and contributions made to the National Coordinating Committee, the local development councils, the LGUs, and the DENR to be used actually, directly, and exclusively for the implementation of ICM and to allow the same as deduction from the gross income of the donor for purposes of computing the taxable income of the donor in accordance with the provisions of the NIRC of 1997, as amended.

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The issuance of EO 533 on June 6, 2006, declaring ICM as the national strategy and policy framework for sustainable development of the coastal and marine resources, is considered to be a major milestone in the history of ICM development in the country. EO 533 sets the direction for improved coastal management by providing a framework and an operational path towards the effective implementation of ICM programs at the central and local levels of government. The proposed bill will institutionalize and strengthen the provisions of EO 533.

The proposed exemption from donor's tax is consistent with the provisions under Section 101(A)(2) and (B)(1) of the NIRC of 1997, as amended. Considering that the National Coordinating Committee shall be under the supervision of the DENR, it may thus be entitled to the said incentive. The proposed deductibility of donations from the gross income of the donor for purposes of computing the taxable income of the donor is likewise supported as it is consistent with the provision under Section 34(H)(2) of the same Code.

## Unnumbered HB
### Promoting Corporate Farming and Providing Incentives Therefor

The Unnumbered HB seeks to promote corporate farming by allowing corporations and partnerships organized and existing under Philippine laws operating for profit and reported to be earning over the last four (4) years, to engage in the production of rice/corn for their employees' requirements without adversely affecting their financial viability.

The bill proposes to grant participating corporations and partnerships incentives that cover all aspects of the operation germane to corporate farming activities such as:

a. Exemption from the payment of custom duties on the importation of all types of agricultural inputs, particularly seed, fertilizers, agricultural machinery and other agricultural implements as provided under RA 9281, which amended RA 8435;

b. Exemption from the VAT on the importation of agricultural inputs in accordance with Section 109 of the NIRC, as amended; and

c. Exemption from the payment of CGT of a person, who sells and/or transfers idle agricultural land to corporations and partnerships engaged in corporate farming.

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The intention of the bill to promote corporate farming as one way to boost the agricultural sector is recognized. The development of the corporate farming industry through the assistance of the private sector will help attain the government's goal of increasing the production of rice/corn in the country.

The proposal to exempt from the payment of duties the importation of all types of agriculture and fishery inputs, equipment and machineries under RA 8435, as amended, is no longer necessary. The TCCP and the Association of Southeast Asian Nations (ASEAN) Trade in Goods Agreement (ATIGA) provide that importation of agriculture and fishery inputs, equipment, and machinery such as but not limited to, fertilizers, insecticides, pesticides, tractors, trailers, trucks, farm implements and machinery, harvesters are subject to an average rate of only 0%-5% duty rate.

Moreover, in the 2014 IPP, the agriculture/agribusiness and fishery sector is included as one of the preferred investment areas, thus, registrable with the BOI and may avail of the investment incentives granted under EO 226 or the Omnibus Investment Code of 1987. The incentives include ITH, exemption from duties on imported spare parts, exemption from wharfage dues, among others. Likewise, EO 70 provides for a 0% duty rate on importation of capital equipment, spare parts and accessories of BOI-registered firms.

Other fiscal incentives proposed under the bill are already provided under the NIRC. Specifically, Section 109(A) and (B) of the NIRC provides for the VAT exemption of the importation and sale of agricultural and marine products; fertilizers, seeds, seedlings and fingerlings, among others.

On the proposed CGT exemption, it bears stressing that the payment of the CGT is but equitable, premised on the assumption that the seller has received income or gain and is therefore capable to pay the tax. Thus, the proposal is not supported.

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**Unnumbered HB**
Converting the Tarlac College of Agriculture (TCA) in the Municipality of Camiling, Province of Tarlac into a State University to be Known as the Tarlac Agricultural University and Appropriating Funds Therefor

**Unnumbered HB in Substitution of HB 431**
Converting the Carlos Hilado Memorial State College in the City of Talisay, Negros Occidental, into a State University to be Known as the Carlos Hilado State University, and Appropriating Funds Therefor

**Unnumbered HB in Substitution of HB 1476**
Establishing the Misamis Occidental State College in the City of Oroquieta, Province of Misamis Occidental, Integrating Therewith the Oroquieta Agro-Industrial School (OAIS) in Barangay Villaflor, Oroquieta City, and Appropriating Funds Therefor

**Unnumbered HB in Substitution of HB 1546**
Converting the Cordova Public College in the Municipality of Cordova, Province of Cebu into a State College to be Known as the Cordova State College of Science and Technology and Appropriating Funds Therefor

**Unnumbered HB in Substitution of HB 3078**
Establishing a State Polytechnic College at the Municipality of Kabayan, Province of Benguet, to be Known as the Kabayan State Polytechnic College, and Appropriating Funds Therefor

**Unnumbered HB in Substitution of HB 4251**
Establishing the South Cotabato State College in the Municipality of Surallah, Province of South Cotabato, and Appropriating Funds Therefor

**Unnumbered HB in Substitution of HB 4939**
Converting the Northwestern Mindanao State College of Science and Technology (NMSCST) in the City of Tangub, Province of Misamis Occidental into a State University to be Known as the University of Northwestern Mindanao (UNM), Integrating Therewith the Satellite Campuses of the Mindanao State University of Science and Technology (MUST) in the City of Oroquieta and in the Municipality of Panaon, Both Located in the Province of Misamis Occidental, and Appropriating Funds Therefor

**Unnumbered HB in Substitution of HB 5913**
Converting the Sorsogon State College in the Province of Sorsogon into a University to be Known as Sorsogon State University and Appropriating Funds Therefor

The Unnumbered HB and Unnumbered HBs in Substitution of HBs 431, 1476, 1546, 3078, 4251, 4939, and 5913 seek the conversion/establishment of certain educational institutions into state colleges and/or universities.

The bills propose that the importation of economic, technical, and cultural books and/or publications made by the proposed state colleges and universities be exempt from custom duties upon certification by the CHED that such imported books and/or publications are for economic, technical, vocational, scientific, philosophical, historical, or cultural purposes and in accordance with TCCP, as amended.

The bills except for the Unnumbered HB in Substitution of HB 5913 provide that the proposed state colleges and universities are authorized to receive in trust legacies, gifts and donations, real and personal properties of all kinds, and to administer and dispose of the same when necessary for the benefit of the college/university subject to the limitations, directions and instructions of the donor. Such donations shall be exempt from the donor's tax and the same shall be considered as allowable deductions from the gross income of the donor for income tax purposes in accordance with the provisions of the NIRC of 1997, as amended.

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The proposed donor's tax exemption of donations to the proposed state colleges/universities and its deductibility from the gross income of the donor in accordance with the NIRC of 1997, as amended, are supported. In the case of the Unnumbered HB in Substitution of HB 3078, it is suggested that for consistency and uniformity of tax treatment of such donations, the same should be made in accordance with the NIRC of 1997, as amended.

On the other hand, the proposed exemption from custom duties of the importation of economic, technical, and cultural books or publication, to be made by the proposed state colleges/universities upon certification by the CHED and in accordance with the provisions of the TCCP is already in place pursuant to the 1987 Constitution and existing laws and directives.

The Philippines, being a signatory to the United Nations Educational, Scientific and Cultural Organization (UNESCO) Florence Agreement, undertakes not to apply customs duties or other charges on, or in connection with, the importation of books, publications and documents and certain educational, scientific and cultural materials which are the products of another contracting state, to advance mutual knowledge and understanding of people through all means of mass communication, promote free flow of ideas by word and image and to achieve the widest possible dissemination of diverse forms of self-expression.

Moreover, to ensure adequate supply of affordable, quality books, RA 8047 or the Book Publishing Industry Development Act and its implementing rules and regulations provide for the applicable fiscal and non-fiscal incentives for book development. EO 885 lifted the tariffs on educational materials including technical and scientific books which was further affirmed via DOF Department Order (DO) No. 57-2011. The importation of books is also exempt from VAT pursuant to Section 109(R) of the NIRC of 1997, as amended, and reiterated under DOF DO 57-2011.

Thus, the envisioned exemption of the importation of books by the proposed state colleges/universities from customs duties is a mere reiteration of the provisions under existing laws and is therefore supported.

**Unnumbered HB**
Institutionalizing Private Sector Participation in the "Walang Iwanan" or "Leave No One Behind" Program of the Government Through Their Corporate Social Responsibility and Other Programs to Achieve the Post 2015 Sustainable Development Goals, Providing Tax and Non-Tax Incentives for the Purpose

The bill seeks to establish the "Leave No One Behind" or "Walang Iwanan" Program which institutionalizes private sector participation in the post 2015 Sustainable Development Goals (SDGs) through its corporate social responsibility (CSR) fund and other development programs that are synchronized with the government's programs to achieve its Post 2015 SDG commitments.

The bill provides for the creation of the SDG Certification and Coordinating Council (SCCC) which shall coordinate, monitor, and certify: (a) private corporations that donate gifts both in cash and in kind to government agencies implementing SDG-related projects; (b) private corporations directly implementing SDG-related projects; and (c) private sector initiated activities that promote or recognize the individuals or organizations for their contributions toward the attainment of the SDGs. Said Council shall, among other functions, certify gifts and donations of all kinds to be made under the "Walang Iwanan" Program before it shall be entitled to the tax and non-tax incentives provided under the bill.

The bill also provides that gifts and donations of all kinds to the program shall be exempt from the donor's tax and shall be considered as allowable deduction from the gross income of the donor, in accordance with the provisions of the NIRC of 1997, as amended. Provided, that the allowable deductions shall be equivalent to 150% of the value of such donation and that the valuation of assistance other than money shall be based on the acquisition cost of the property or project.

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The proposed exemption from donor's tax of gifts and donations of all kinds made under the "Walang Iwanan" program is already provided under Section 101(A)(3) of the NIRC of 1997, as amended as these are considered gifts and donations made to the NG or any entity created by any of its agencies which is not conducted for profit, or to any political subdivision of the government. However, gifts and donations made by a resident in favor of a non-profit educational and/or charitable corporation, institution, accredited NGO, trust or philanthropic organization, and/or research institution or organization are not subject to donor's tax provided that not more than 30% of the gifts shall be used by such donee for administration purposes.

Although it is recognized that the private sector has a lot to contribute in the efforts to achieve the Post 2015 SDGs, the use of tax incentives may not be the most prudent approach due to their impact on government revenues. Further, tax incentives will negate the essence of practicing CSR activities in the sense that these should be voluntary undertakings and their costs should be borne by the corporation. Private corporations may instead just be encouraged to lean their CSR activities to those that are SDG-related. These corporations are not only able to fulfill their responsibilities to the society but they are also able to give support to the government in achieving SDGs.

On the proposed allowable deductions equivalent to 150% of the value of gifts and donations made under the "Walang Iwanan" or "Leave No One Behind" Program, RR 13-98 and Section 34(H) of the NIRC of 1997, as amended, allow deductibility from the donor's gross income up to a maximum amount equivalent to 100% of the value of such donations or gifts. Thus, the proposal is not supported as it is deemed too generous as the donor would be able to deduct an amount which is more than the value of the gifts or donations. This will substantially erode the revenue base of the government.

The provision which stipulates that the valuation of donations other than money made under the Program shall be based on acquisition cost of the property or project is just a reiteration of Section 34(H)(3) of the NIRC of 1997, as amended.

On the proposed creation of the SCCC to certify gifts and donations of all kinds to be made under the "Walang Iwanan" Program, it is noted that the Philippine Council for NGO Certification (PCNC) is designated by the Secretary of Finance through a Memorandum of Agreement as an accrediting entity of donee institutions relative to the tax deductibility of charitable contributions under Section 34(H) of the NIRC, as amended. In 2008, in order to protect government revenues, EO 720 (PCNC) was issued as a tax administration tool whereby a system of accreditation of domestic corporations, associations or

NGOs as donee institutions was put in place in order to help the BIR ensure that only legitimate donations are claimed as deductible expenses. The proposal of creating another accrediting institution similar to the PCNC may no longer be necessary.

On the other hand, gifts and donations made in connection with the "Walang Iwanan" or "Leave No One Behind" program, between two (2) private corporations within a group of companies can be considered as a related party transaction where the intent of the parent corporation is to avoid taxes by transferring earning to its subsidiary corporation which is directly implementing SDG-related projects. This will require additional provisions in place such as the requirement for disclosure of such transactions and other financial reports in order to avoid abuse in the claim of such gifts and donations as allowable deductions for purposes of computing income tax liabilities and prevent possible losses of government revenues.

## Unnumbered HB
### Institutionalizing and Strengthening Public-Private Partnerships, and Appropriating Funds Therefor

The bill seeks to create an enabling environment for Public-Private Partnerships (PPPs) by providing the most appropriate incentives to mobilize private resources for the purpose of financing the design, construction, operation and maintenance of infrastructure projects and services that are normally financed and undertaken by the government.

The bill provides for incentives to be accorded to PPP projects, as follows:

a. PPP projects in excess of PhP1,000,000,000.00 shall be entitled to incentives provided by the Omnibus Investment Code, upon prior endorsement of the PPP Center and registration by the project proponent with the BOI;

b. Projects classified as projects of national significance such as energy, toll road, mass transit, water, sewerage, among others, shall be entitled to the following:

1. Exemption from any and all RPT levied under RA 7160, otherwise known as the LGC, of all real properties which are actually and directly used for the project;

2. Exemption from any and all local taxes, fees and charges; and

3. Automatic grant or issuance of the necessary business permits, including renewals thereof, in favor of the winning project proponent

c. Exemption from CGT, DST and all taxes and fees, whether from national or local, on the transfer of ownership of infrastructure facility to the implementing agency.

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The proposed entitlement to incentives provided by the Omnibus Investment Code for PPP projects in excess of PhP1,000,000,000.00, among other incentives may be considered. PPP projects are among the preferred list of activities in the 2014-2016 IPP which are entitled to incentives under the Omnibus Investment Code and Revised IRR of the "Build-Operate-Transfer" (BOT) Law, as amended.

Considering that project proponents of PPPs are entitled to incentives under the Omnibus Investment Code, as amended, as indicated under the BOT law, as amended, and it being in the priority undertakings under the IPP, the transfer of ownership of the infrastructure facility from the project proponent to the implementing agency may likewise be exempt from the CGT.

The proposal to exempt from the payment of DST all PPP projects upon the transfer of ownership of the infrastructure facility to the implementing agency is also supported in order to spare government agencies, SUCs and LGUs as well as project proponents from the burden of paying the DST on the said transfer. The proposal would keep the charges or fees in the use of PPP projects affordable as it avoids the shifting of DST cost by the project proponent to the end-users.

On the proposed exemption of projects classified to be of national significance from RPT, local transfer tax and other local taxes, fees, and charges and automatic issuance of necessary business permits, the IRR of the BOT Law provides that LGUs may provide additional tax incentives, exemptions, or reliefs, subject to the provisions of the LGC of 1991 and other pertinent laws to the proponents of PPP projects. Also, Section 133(g) of the LGC provides that the taxing power of LGUs shall not extend to the levy of taxes on business enterprises certified to by the BOI as pioneer or non-pioneer for a period of six (6) and four (4) years, respectively from the date of registration. Section 192 provides that LGUs may, through ordinance duly approved, grant tax exemptions, incentives or reliefs under such terms and conditions as they may necessary. Thus, the provisions of the bill are supported.

**Unnumbered HB**
Providing Guidelines on the Establishments and Operation of Local Universities and Colleges

**Unnumbered HB**
Establishing a National Vision Screening Program (NVSP) for Kindergarten Pupils and Appropriating Funds Therefor

The first Unnumbered HB referred to as local university or college (LUC) Bill provides that the Governing Board shall be the highest policy making body of the LUC. The Board shall have, among others, the power to receive in kind and in trust legacies, gifts and donations of real and personal properties of all kinds, to administer and dispose the same when necessary for the benefit of the university or college, subject to limitations, discretions and instruction of the donors, if any. Such donations shall be exempt from all taxes and shall be considered as deductible items from the income tax of the donor.

The second Unnumbered HB referred to as the NVSP Bill seeks to protect and promote the right to health of the people and instill health consciousness and to promote every Filipino's full potential through good vision by creating ways and means to prevent childhood cases of avoidable blindness.

The NVSP Bill provides that any donation or bequest made to the DepEd for the NVSP and for the Vision Screening Continuing Research (VSCR) Fund shall be exempt from the donor's tax and the same shall be considered allowable deduction from the gross income of the donor in accordance with the NIRC of 1997, as amended: Provided, that the donation is duly approved by the Secretary of Education.

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The tax provisions of both bills are similar in the sense that both propose the exemption of donations made to the LUC and to DepEd for the NVSP from the donor's tax, respectively, and allow the same as deductions from the gross income of the donor for income tax purposes.

Both proposals are supported provided that the provision in Section 13(c) of the LUC Bill be modified to explicitly state that the exemption being sought is exemption from the donor's tax instead of "all taxes" and that such donations shall be deductible from "gross income" of the donor and not from the "income tax" of the donor for income tax purposes in accordance with the provisions of the NIRC of 1997, as amended.

**Unnumbered HB**

Recognizing and Institutionalizing Indigenous Peoples Educational Systems Within the Philippine Educational Systems Promulgating the Procedures for the Establishment and Recognition of IP Schools Appropriating the Necessary Government Funds Financial and Technical Assistance Incentives and Support Therefore and for Other Purposes

The bill seeks to encourage, recognize and support Indigenous People's Education (IPED)/Indigenous Learning Systems (ILS), non-formal, formal, as well as self-learning, independent and out-of-school study programs particularly those that respond to community needs. The bill also seeks to provide Indigenous Peoples (IPs) access to basic education that is rooted in the IPs needs, unique histories, knowledge systems and practices, spiritual and value system of the Philippines.

The bill proposes, among others, the following:

a. Exemption from taxes and duties all revenues and assets of private IP schools established as non-profit educational institutions used actually, directly and exclusively for educational purposes as well as proprietary IP schools including those cooperatively owned subject to limitations provided by law; and

b. Exemption from tax, subject to conditions prescribed by law, all grants, endowments, donations, or contributions used actually, directly, and exclusively for education purposes by the IPED.

. . .

The proposal under the bill is already provided under the 1987 Philippine Constitution. On the other hand, the NIRC of 1997, as amended, provides that non-stock, non-profit educational institutions are exempt from the tax on corporations.

In the case of proprietary educational institutions, Section 27(B) of the NIRC of 1997, as amended, provides that such institutions are required to pay a lower CIT rate equivalent to 10% of their taxable income. However, in the event that the gross income from unrelated trade, business or other activity exceeds 50% of the total gross income derived by such educational institutions from all sources, the regular CIT rate of 30% shall be imposed on its entire taxable income.

In the case of IP schools which are cooperatively owned, the same are subjected to different tax treatment. RA 6938, as amended by RA 9520, otherwise known as the Cooperative Code of the Philippines, grants tax incentives to cooperatives depending on whether the cooperative does business exclusively with its members or deals with non-members. RA 9520 provides that duly registered cooperatives which do not transact any business with non-members or the general public shall not be subject to any taxes and fees imposed under the internal revenue laws and other tax laws. However, in the case of cooperatives transacting business with both members and other non-members, there are tax incentives granted depending on their accumulated reserves and undivided net savings.

Under Section 234(b) of the LGC of 1991, charitable institutions, churches, parsonages or convents appurtenant thereto, mosques, non-profit or religious cemeteries and all lands, buildings, and improvements actually, directly and exclusively used for religious, charitable or educational purposes are exempt from RPT. Hence, the same incentive may be enjoyed by IP schools and learning institutions.

Moreover, Sections 101(H)(3) and (B)(2) of the NIRC of 1997, as amended, provide for the exemption from the donor’s tax of donations made to educational institutions. In addition, Section 34(H)(2)(c)(1) of the same Tax Code provides for the full deductibility of donations made to accredited NGO organized and operated for educational purposes.

It is noted that there is no provision in the bill about the deductibility of donations from gross income of the donor for income tax purposes. To encourage donations to ILS, the bill should also state explicitly that such donation be allowed as a deduction from gross income of the donor for income tax purposes in accordance with Section 34(H) of the NIRC of 1997, as amended.

Considering that the proposed tax incentives are subject to the limitations provided in the NIRC of 1997, as amended, the Cooperative Code of the Philippines, the LGC and other existing laws, the same is supported subject to modifications.

## Unnumbered HB
### Providing for a Free and Culture Sensitive Civil Registration System for Indigenous People

The bill, otherwise known as "Indigenous Peoples Civil Registration System Act", seeks to establish an Indigenous Peoples Civil Registration System (IPCRS) that is sensitive and appropriate to the unique cultural practices and identification systems of IPs.

The bill proposes to exempt from the payment of all fees in the recording of their birth, marriage and death at the Local Civil Registry Office (LCRO) and such exemption shall extend to any fine or fee for late registration. Also, the bill proposes that IPs be relieved from the payment of notarial fees and DST in cases where the recording of the birth, marriage or death requires the execution of affidavits or sworn statements and similar documents. The proposed IPCRS aims to have an accurate and comprehensive count of the Philippine IPs.

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Considering that the registration of births, marriages and deaths is not common practice among IPs because of the cost involved, among others, the proposed exemption from the payment of fees, if implemented, could serve as an incentive for IPs to participate in this undertaking. IPs are among the poorest and most marginalized sector of the society and the proposed exemption is consistent with the provision in RA 9048 and RA 10172, exempting indigents from the payment of the fees.

Pursuant to Section 199(b) of the Tax Code, documents and papers such as affidavits of poor persons proving poverty, and statements and other compulsory information required of persons or corporations by the rules and regulations of the national, provincial, city or municipal governments exclusively for statistical purposes and which are wholly for the use of the bureau or office in which they are filed, and not at the instance or for the use or benefit of the person filing them, are exempt from DST. As the affidavits and sworn statements that may be required in the recording of birth, marriage or death of concerned IPs may be likened to these types of documents, the proposed DST exemption of such affidavits and sworn statements is supported.

Lastly, on the proposed exemption of IP from the payment of notarial fees in cases where the recording of birth, marriage and death will require affidavits or sworn statements, it should be noted that there are lawyers offering free legal services which the IPs may avail of. In return these lawyers are granted tax incentives such as deduction equivalent to 10% of their gross income corresponding to the pro bono services for purposes of computing their income tax pursuant to RA 9999 (Act Providing a Mechanism for Free Legal Assistance – February 2010).

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## Unnumbered HB in Substitution of HB 113
Creating the Aklan International Airport Authority and Providing Funds Therefor

## Unnumbered HB in Substitution of HB 321
Creating the Corazon C. Aquino International Airport Authority and Providing Funds Therefor

## Unnumbered HB in Substitution of HB 1371
Creating the Davao International Airport Authority and Providing Funds Therefor

## Unnumbered HB in Substitution of HB 1563
### Creating the Laoag International Airport Authority and Providing Funds Therefor

The bills propose to establish Aklan International Airport Authority (AIAA), Corazon C. Aquino International Airport Authority (CCAIAA), Davao International Airport Authority (DIAA), and Laoag International Airport Authority (LIAA) which shall be attached to the Department of Transportation and Communications.

The Unnumbered HB in Substitution to HB 113 proposes the exemption of the AIAA from the corporate income tax (CIT). However, no income tax exemption shall extend to any subsidiary which may be organized by the AIAA for a period of 5 years from the effectivity of this Act.

On the other hand, the Substitute Bill to HB 321 provides that the CCAIAA shall have the power to administer incentives to investors within the Clark Civil Aviation Complex and that business establishments operating within the Complex shall be entitled to the existing fiscal incentives as provided for under PD 66, the law creating the Export Processing Zone Authority (EPZA), as amended by RA 7916 or the "Special Economic Zone Act of 1995", or those provided under Book VI of EO 226 or the Omnibus Investments Code of 1987.

The bill further provides that business establishments operating within the Complex shall pay 5% of their gross income in lieu of national and local taxes to be distributed as follows:

a. 1% to the NG;
b. 2% to be shared equally by the cities and municipalities affected by the declaration of the Zone; and
c. 2% to the CCAIAA.

All the Substitute bills likewise propose the exemption of the abovementioned Authorities from the property taxes imposed by the NG or any of its political subdivision, agencies or instrumentalities. Likewise, the bills provide that no RPT exemption shall extend to any subsidiary which may be organized by the Authorities.

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It may be emphasized that the imposition of income tax is predicated on the ability to pay principle. Any income-generating entity should be made liable to this tax. Thus, the proposal to exempt the AIAA from the CIF is not supported.

The proposed exemption of the Airport Authorities from RPT is not supported as the RPT constitutes the financial mainstay of LGUs. Such an exemption will impinge on the fiscal autonomy of LGUs as to dissipate their financial resources, rendering them unable to undertake their development projects/initiatives. RA 7160 or the LGC of 1991 lifted all exemptions from the RPT except those specifically retained under Section 234 of the law. The grant of tax exemption to the AIAA may set a precedent for existing airport authorities whose tax exemptions were withdrawn.

As to the proposed administration by the CCAIAA of the incentives to investors within the Clark Civil Aviation Complex, which is within the Clark Freeport Zone (CFZ), it is suggested that the existing setup be retained. At present, the CFZ, including the ecozones within the Zone is operated and managed by the BCDA, with the Clark Development Corporation (CDC) as its implementing arm, while the PEZA is the Incentives Administrator in the PEZA Ecozones proclaimed under RA 7916 within the CFZ.

The proposal also provides for a different allocation of the 5% tax on GIE that shall be paid by all business establishments within the Clark Civil Aviation Complex compared with the existing allocation under RA 7227, as amended by RA 9400. The proposal provides remittance to the NG of only 1% as against the current 3%. The diminution of the NG share from the 5% tax on GIE may have to be reconsidered in view of the NG's revenue requirement.

On the proposed entitlement of the business establishments located within the proposed CCAIAA to the fiscal incentives provided for under RA 7916 or EO 226, it may be noted that said incentives are already being enjoyed by the locators registered with the PEZA within the Clark Civil Aviation Complex.

## Unnumbered HB in Substitution of HBs 163, 952, 1033, 1134, 1584, 3007 and 4092

### Creating the Commission on Immigration, Defining Its Powers and Functions, Expanding, Rationalizing and Further Professionalizing Its Organization, Upgrading the Compensation and Benefits of Its Officials and Employees, and Appropriating Funds Thereof

The bill seeks to authorize the proposed Commission on Immigration thru its Commissioner to prescribe, impose, and collect fees and charges for services rendered.

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The bill's proposal authorizing the prescription, imposition, and collection of fees and charges for the services rendered by the proposed Commission on Immigration is supported. Under Commonwealth Act (CA) No. 613 [Bureau of Immigration Charter (BI)], the BI is authorized to impose and collect fees specifically on aliens seeking to enter or remain in the Philippines.

The primary intent for the imposition of fees and charges on government services is to recover the costs incurred in providing said services. On the other hand, fees which serve as sumptuary device, higher rates than the estimated administrative costs incurred are imposed to discourage or regulate certain services or activities provided by the government.

Thus, the proposed imposition and collection of fees and charges by the proposed Commission is in accord with the existing mandate and functions of the BI and its reiteration under the proposal is in order.

## Unnumbered Substitute Bill to HBs 206, 461, 537, 2397, 2398, 2628, 2645, 2935 and 2936

### Strengthening the National Food Authority and Appropriating Funds Therefor

Unnumbered Substitute Bill to HBs 206, 461, 537, 2397, 2398, 2628, 2645, 2935 and 2936 seeks to exempt the National Food Authority (NFA) from payment of the following: (a) all taxes, duties, fees, imposts, charges, costs and restriction to the Republic of the Philippines, provinces, cities, municipalities and other agencies and instrumentalities, including the taxes, duties, fees, imposts and other charges provided for under RA 1937, otherwise known as the “Tariff and Customs Code of the Philippines”, as amended by PD 34 and 69; and all filing, docket, and service fees, bonds and other charges or costs in any court or administrative proceedings on which the NFA may be a party; (b) all income taxes, franchise taxes and realty taxes to be paid to the National Government (NG), its provinces, cities, municipalities and other government agencies and instrumentalities; (c) all duties and arrastre fees, in so far as the government’s share is concerned including all charges and fees imposed under PD 857, otherwise known as the “Revised Charter of the Philippine Ports Authority (PPA)”, compensating taxes and advance sales taxes, wharfage dues and tonnage duties on import and export of foods required for its operations and projects; and (d) DST and science stamp taxes and registration fees for all documents or contracts executed by or in favor of the NFA; provided, however, that the exemption shall not apply to taxes and assessments payable by persons and entities transacting business with the NFA.

The bill grants the NFA the corporate power to undertake importation of rice and corn when authorized by the President in order to maintain the appropriate volume of the country’s strategic rice reserve and be entitled to tax expenditures subsidy (TES). Also, the bill provides that the NG shall directly assume all the financial obligations of the NFA contracted in relation to its *palay* procurement and rice importation programs.

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The proposed exemption from taxes, duties, fees and charges imposed by government agencies and instrumentalities including cities, provinces and municipalities is a broadly worded provision which can be interpreted in many ways and may create opportunities for the exercise of discretion and abuses, especially in the absence of an effective and efficient monitoring system.

The proposed exemption will erode government revenue which it cannot afford at the moment considering its present fiscal position and its need to increase tax revenue to maintain favorable credit rating. The availment of the NFA of the tax subsidy implemented by the Fiscal Incentives Review Board (FIRB) in accordance with the provisions of EO 93 and the General Appropriations Act (GAA) to deal with its tax and duty liabilities would be a more prudent alternative than outright grant of tax and duty exemption. Tax expenditure subsidy is more transparent and more specific which can be easily controlled and monitored by the government.

On the other hand, should the proposal be pursued, duty exemption should be applied only to its importation of rice. Exempting rice importation from customs duties would help the financial condition of the NFA as rice sale is its main source of income. It is also worthy to note that the NFA has a twin contrasting mandate of protecting farm prices of palay for farmers and ensuring low and stable prices of rice for consumers.

The importation and sale of rice, corn and any agricultural food products in their original state are already exempt from the VAT as provided under Section 109(A) of the NIRC of 1997, as amended.

The proposed exemption from local imposts and charges will impinge on the fiscal autonomy of LGUs and seriously impair their capability to render services. Likewise, the proposed exemption of NFA from the payment of legal fees violates the fiscal autonomy of the judiciary. The Supreme Court has promulgated with finality that such legislated exemption from legal fees is not recognized.

On the exemption from DST, the law provides that whenever one party to the taxable document enjoys DST exemption, the other party who is not exempt shall be the one directly liable for the tax. Thus, if the proposed DST exemption pushes through, the exemption shall not apply to taxable persons or entities transacting with the NFA.

## Unnumbered HB in Substitution of HBs 676, 2621 and 4883
### Creating the Mindanao Power Corporation and Providing Funds Therefor

The bill, otherwise known as the "Charter of the Mindanao Power Corporation (MINPOCOR)" declares it the policy of the State not to privatize the Agus and Pulangui hydropower complexes in Mindanao because these are essential to public welfare. The NG shall ensure the dependable and reliable supply of electric power through the acquisition by the appropriate government agency of the generation assets of the Power Sector Assets and Liabilities

Management (PSALM). This will be an assurance that electricity rates shall reflect the true cost of power.

The bill proposes the creation of the MINPOCOR, under the Office of the President and attached to the Department of Energy (DOE) for policy supervision. The MINPOCOR shall be covered by the provisions of RA 10149 otherwise known as the "GOCC Governance Act of 2011" and subject to the regulatory jurisdiction of the Governance Commission for GOCCs (GCG).

The bill also proposes to exempt MINPOCOR from the following:

(a) All taxes, duties, fees, imposts, charges, costs, and service fees in any court or administrative proceedings in which it may be a party, restrictions and duties to the Republic of the Philippines, its provinces, cities, municipalities, and other government agencies and instrumentalities;

(b) Income taxes, franchise taxes and realty taxes to be paid to the NG, its provinces, cities, municipalities, and other government agencies and instrumentalities;

(c) Import duties, compensating taxes, and advanced sales tax, and wharfage fees on importation of foreign goods required for its operations and projects; and

(d) Taxes, duties, fees, imposts, and all other charges imposed by the Republic of the Philippines, its provinces, cities, municipalities, and other government agencies and instrumentalities, on all petroleum products used by the MINPOCOR in the generation, transmission, utilization, and sale of electric power.

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The Electric Power Industry Reform Act (EPIRA) of 2001 provides the framework for the restructuring of the electric power industry, including the privatization of the assets of the National Power Corporation (NPC), the transition to the desired competitive structure, and the definition of the responsibilities of the various government agencies and private entities. The EPIRA also provides that the Agus and the Pulangui complexes in Mindanao shall be excluded from among the generation companies that will be initially privatized. Their ownership shall be transferred to the PSALM Corporation and both shall continue to be operated by the NPC. The privatization of Agus and Pulangui complexes shall be left to the discretion of PSALM Corporation in consultation with Congress.

The proposed exemption of the MINPOCOR from all taxes, duties, fees, imposts, charges, costs, and service fees in any court proceedings in which it may be a party, restrictions and duties to the Republic of the Philippines, its provinces, cities, municipalities, and other government agencies and instrumentalities is not supported. A broadly worded provision of exemption is likely to create opportunities for abuses/leakages, as well as implementation or interpretation problems, especially in the absence of an effective and efficient monitoring system. The exemption from service fees in court proceedings violates an important institutional safeguard of the judiciary independence – fiscal autonomy.

The proposed exemption of the MINPOCOR from RPT needs to be reconsidered as the RPT constitute the financial mainstays of LGUs. Such an exemption will impinge on the fiscal autonomy of LGUs and will affect the financial resources of LGUs, rendering them unable to undertake their development projects/initiatives. On the other hand, exempting the MINPOCOR from fees and charges is not consistent with the cost recovery principle.

In the event that the tax proposal needs to be pushed through, an alternative to the outright/broad grant of tax exemption to the MINPOCOR is the availment of tax subsidy administered by the Fiscal Incentives Review Board (FIRB) for GOCCs, subject to the provisions of EO 93 and the GAA. The use of tax subsidy is more favored by the government because this can be quantified and is easier to monitor and thus, adheres to fiscal transparency particularly in the use of government resources.

## Unnumbered HB in Substitution to HB 1179
### Creating the Social Housing Development and Finance Corporation

The bill seeks to create the Social Housing Development and Finance Corporation (SHDFC) which shall replace the Social Housing Finance

Corporation (SHFC) created by virtue of EO 272. The SHDFC shall be the lead government agency in charge of formulating, developing, and implementing socialized housing finance programs that will cater to families in the low income bracket through developmental financing schemes that will help the families acquire security of land tenure, financing community and site development, housing microfinance and socialized livelihood programs, and other financial services in furtherance of the National Shelter Program.

The bill seeks to exempt the SHDFC and all its assets and properties, all appropriations, funds, and amortizations collected and all accruals thereto and income or investment earnings as well as all supplies, equipment, papers, or documents from any tax, assessment, fee, charge, or customs or import duty. The bill also provides that no tax measure of whatever nature shall apply to the Corporation, unless it expressly revokes the tax exemption granted. Any tax assessment against the Corporation shall be null and void. The bill states that the exemptions shall be in effect until the required capitalization of PhP50 billion of the Corporation is reached.

The bill further seeks to exempt all documents or contracts executed in line with the Community Mortgage Program (CMP) and other social housing programs administered by the SHDFC from the payment of CGT, DST, and registration fees, including fees required for the issuance of transfer certificates of title.

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The intention of the bill to undertake programs which will make available at affordable cost decent housing and basic services to the underprivileged and homeless Filipinos through the financing and administration of socialized housing programs is recognized. However, the broad coverage of exemption from the payment of all taxes, charges and fees, by whatever name designated, and imposed by the Government or any political subdivision or instrumentality thereof in favor of the SHDFC is not supported. A broadly worded provision of exemption is likely to create opportunities for abuses/leakages, as well as implementation or interpretation problems.

For policy consistency and fiscal transparency, since SHDFC is to be created as a GOCC, it may instead avail of the tax subsidy provision implemented by the FIRB pursuant to terms and conditions of EO 93 and the annual GAA. The tax subsidy is a more practical alternative to broad/outright grant of tax exemption.

Likewise, exempting the SHDFC from fees and charges is not consistent with the cost recovery principle in the imposition of fees.

On the proposal that no tax measure of whatever nature enacted after the Act shall apply to the SHDFC, is in effect an injunction against future tax assessments, thus, contrary to the basic principle of taxation.

On the proposed tax exemption provisions on CMP transactions, it is worth noting that RA 7279 or the UDHA of 1992 already provides incentives for the National Housing Authority (NHA). Under the BIR Revenue Regulation (RR) No. 17-01, properties sold under the CMP shall be exempt from the CGT or ordinary income tax, and consequently from the creditable withholding tax, whether sold by an individual, estate or trust, or by a corporation. Likewise, BIR RR 17-01 exempts properties sold under the CMP from the capital gains tax (CGT), and creditable withholding tax (CWT) such as income and realty taxes, DST and registration fees, among others.

Lastly, it may be pointed out that since the present system of tax privileges is being rationalized, it may be more practical to align whatever tax privileges the bill intends to grant with the results of the rationalization initiatives.

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**Unnumbered Substitute Bill to HB 2838**
Declaring the Mayon Volcano Natural Park in the Province of Albay as a Protected Area and Providing for its Management

**Unnumbered Substitute Bill to HB 3068**
Declaring the Maulawin Spring in the Municipality of Guinayangan, Province of Quezon as a Protected Area under the Category of Protected Landscape and Providing for its Management

**Unnumbered Substitute Bill to HB 2901**
Declaring the Apo Reef Located in Sablayan, Occidental Mindoro as Protected Area under the Category of Natural Park and its Peripheral Waters as Buffer Zone and Providing for its Management

**Unnumbered Substitute Bill to HB 3900**
Declaring the Islands of Siargao and Bucas Grande as a Protected Area under the Category of Protected Landscape and Seascape and Providing for its Management

**Unnumbered Substitute Bill to HB 1011**
Declaring a Sinarapan Sanctuary in the Provinces of Camarines Sur and Albay as a Protected Area under the Category of Wildlife Sanctuary and Providing for its Management

**Unnumbered Substitute Bill to HB 714**
Declaring the Tinuy-an Falls and its Watershed Areas, Located in the City of Bislig, Province of Surigao Del Sur, a Protected Area under the Category of Protected Landscape and Providing for its Management

**Unnumbered Substitute Bill to HB 2422**
Declaring the Area Covered by the Northern Negros Forest Reserve Situated in the Cities of Talisay, Silay, Victorias, Cadiz, Sagay and San Carlos and the Municipalities of E.B. Magalona, Murcia, Toboso, Calatrava and Don Salvador Benedicto, All in the Province of Negros Occidental, as a Protected Area under the Category of Natural Park and Providing for its Management

**Unnumbered HB**
Establishing Mainit Hot Springs Located in the Municipalities of Nabunturan, Mawab, and Maco in the Province of Compostela Valley as a Protected Area under the Category of Natural Park and its Peripheral Areas as Buffer Zones, Providing for its Management, and for Other Purposes

**Unnumbered HB**
Declaring the Turtle Islands, Province of Tawi-Tawi, as a Protected Area under the Category of Wildlife Sanctuary and its Peripheral Area as Buffer Zones, and Providing for its Management

The bills seek to declare various natural parks, protected landscapes and seascapes as protected areas and provide for their management. The bills seek to establish trust funds sourced from all income generated from their operations.

The bills also provide that the Funds may be augmented by grants, donations, endowment from various sources both domestic or foreign and that any endowment to the Fund, shall be exempt from income or gift taxes, and all other taxes, charges, or fees imposed by the government or any political subdivision or instrumentality. Also, the bill provides that any donation or bequest made to the Fund shall be exempt from donor's tax and the same shall be considered as allowable deduction from the gross income of the donor.

Meanwhile, Unnumbered Substitute Bill to HB 2838 (Mayon Volcano Natural Park) provides that 75% of all revenues raised shall be retained by the Protected Area Management Board (PAMB) to be disbursed solely for the protection, maintenance, administration, and management of the area and implementation of duly approved projects and shall not cover personal services expenditures. The remaining 25% of the revenues shall be deposited as a special account in the National Treasury as share to the Integrated Protected Areas Fund (IPAF) created pursuant to RA 7586.

All bills except for Unnumbered Substitute Bills to HB 2838, and Unnumbered HBs (Mainit Hot Springs Protected Landscape/Turtle Islands Wildlife Sanctuary) seek to maintain the LGUs' authority to impose and collect all other fees such as business permits, property tax, and rental of LGUs' facilities. The LGUs may charge additional fees imposed by the PAMB. These add-ons, however, shall be based on the contribution of the LGUs in the maintenance and protection of the protected areas.

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RA 7586, otherwise known as the "National Integrated Protected Areas System (NIPAS) Act of 1992", provides the legal framework for the establishment and management of protected areas in the Philippines. The Act was implemented through DENR AO 25, s.1992 as amended by DENR AO 2008-26 dated December 24, 2008. As of December 31, 2013, there were 240 protected areas in the Philippines including the initial components of NIPAS covering 5.45 million hectares. Of the 240 protected areas, 113 were formally proclaimed by the President under the NIPAS covering 3.57 million hectares. Of the 113 proclaimed protected areas, 29 are marine protected areas with a total area of 1.37 million hectares while 84 are terrestrial protected areas covering an area of 2.2 million hectares. The establishment of these protected areas will ensure protection and conservation of the various protected areas in the country.

On the bills' proposal to create trust funds, as a general policy, earmarking of revenue is discouraged by the government as it is not in keeping with the "One Fund" policy and it limits its capability to raise revenue and finance urgent government expenditures. However, exceptions are allowed when authorized by law as stipulated under Section 3(a) of the general provisions of RA 10651 otherwise known as the General Appropriations Act (GAA) of 2015.

It is worth noting that RA 7586 created the NIPAS under the overall administration of the Secretary of Environment and Natural Resources while a PAMB was established for the site specific management and conservation of existing and future protected areas. For this purpose, the IPAF was established to finance the protection, maintenance and management of protected areas. The Fund is similarly sourced from incomes generated from the operation of these protected areas.

RA 7586 and its implementing rules already have the structure for the financing of protected areas; thus, the proposal to create separate special fund for the protection, management, and conservation of proposed protected areas may only duplicate the already crowded earmarked funds. The overloading of earmarked funds will make the budgeting process less transparent and may create problems with accountability particularly for those with automatic retention provisions. There is no need to create another special account for new protected areas as the special fund created under Section 16 of RA 7586 will already serve the purpose. All incomes generated by the protected areas funnel to the same IPAF account, and are subdivided in different sub-funds/account for the specific protected areas.

The proposed exemption of donation, endowments, and grants in the form of contributions that shall be made to the proposed Funds from income or gift taxes and all other taxes, charges and fees imposed by the government or any political subdivision or instrumentality is supported as they are already provided under Section 16 of RA 7586 or the NIPAS Act, and reiterated under RA 10629, and Sections 34(H), 98, and 101 of the NIRC of 1997, as amended.

As regards the proposal under the Unnumbered Substitute Bill to HB 2838 (Mayon Volcano Natural Park) on the retention of 75% of all the revenues raised under the NIPAS with the PAMB of the protected area, the same is consistent with the present provisions of RA 10629 and therefore, supported.

The proposal that LGUs may appropriate portions of their share from the annual IRA and other income for use of these area, is supported as it is just a reiteration of Section 287 of the LGC of 1991.

Lastly, the proposal that LGUs within the protected areas continue to impose and collect all other fees which they traditionally collect, is likewise supported. This is in line with the provision of the LGC authorizing LGUs to collect fees commensurate to the cost of regulation or services rendered.

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## Unnumbered HB in Substitution of HB 3365
### Imposing an Excise Tax on Sugar Sweetened Beverages by Inserting a New Section 150-A in the National Internal Revenue Code of 1997, as Amended

The bill seeks to insert a new Section under Chapter VI, Title VI of the NIRC of 1997, as amended by imposing an excise tax of ten pesos (PhP10.00) per liter of volume capacity on sugar-sweetened beverages (SSBs).

SSBs are defined as non-alcoholic beverages that contain caloric sweeteners/added sugar and artificial/non-caloric sweetener, except: (a) 100% natural fruit juices; (b) 100% natural vegetable juices; (c) yogurt and fruit flavored yogurt beverages with pure fruit and vegetable juice or concentrate; (d) meal replacement beverages (medical food) as well as weight loss products; (e) milk products; and (f) 100% natural fruit or vegetable drink with coconut sap, molasses or honey.

The beverages include: (a) softdrinks: non-alcoholic, flavored carbonated or non-carbonated beverages; (b) soda, pop, soda pop; (c) fruit drinks, punches or ades: sweetened beverages or diluted fruit juice; (d) sports drinks: beverages designed to help athletes rehydrate, as well as replenish electrolytes, sugar and other nutrients; (e) sweetened tea and coffee drinks: tea and coffee to which caloric and non-caloric sweeteners have been added; (f) energy drinks; (g) all non-alcoholic beverages that are ready to drink and in powder form with natural or artificial sugar; and (h) all non-alcoholic beverages with added artificial sugar sweeteners.

The bill also proposes that specific tax rate shall be increased by four percent (4%) every year thereafter effective January 1, 2017. The revenues to be collected from the tax will be allocated to various agencies in support of health-related programs, as follows:

a. 50% of the tax collection shall accrue to the General Fund;

b. 10% to the DOH for the provision of medicine and medical assistance to indigent diabetic patients thru provincial or district hospitals;

c. 10% to the DepEd in providing access to potable water in public schools and sports facilities and for the community-based obesity, diabetes, dental caries prevention campaigns and other diet-related health awareness programs using educational, environmental, policy and other public health approaches;

d. 23% to the Department of Interior and Local Government (DILG) for the provision of potable water supply under its Sagana at Ligtas na Tubig sa Lahat (SALINTUBIG) Program and Grassroots Participatory;

e. 2% to the Food and Nutrition Research Institute (FNRI) for research and development programs;

f. 2% to the BIR for tax administration; and

g. 3% to the Food and Drug Administration (FDA) under the DOH in pursuance of its mandate to ensure the safety, efficacy or quality of health products as defines by RA 9711 dated August 18, 2009.

The bill aims to lower the risk of obesity and related illnesses of Filipinos, especially among the youth, and generate additional revenue to the government.

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At present, softdrinks and carbonated drinks are not subject to excise tax but only to the VAT based on gross selling price. In the case of imported softdrinks and carbonated drinks, the tax base is the value used by the BOC in determining tariff and customs duties and other charges. The excise tax forms part of the tax base when computing for the VAT. Therefore, the proposal will not only increase revenue in terms of the proposed excise tax but also in terms of the increase in the tax base for VAT.

As a health measure, the imposition of excise taxes on unhealthy food items and drinks aims to reduce consumption and improve health outcomes. Several studies have linked soft drinks to the development of diseases such as type 2 diabetes, pancreatic cancer, high blood pressure (hypertension), stroke, gout, and heart disease. In the Philippines, heart diseases and diabetes are two of the ten leading causes of deaths.

Relative to the proposal to increase the tax rate by 4% annually, it is important to note that whenever specific taxes are introduced, such rates must be indexed at least annually to inflation, to ensure that such rates remain constant in real terms over time.

Based on the estimates, an excise tax of PhP10.00 per liter would result in revenues of PhP17.6 billion for Coca Cola and Pepsi Co. alone.

It is worth noting that there are three member-countries in the ASEAN which are currently imposing an excise tax on soft drinks and other types of non-alcoholic beverages namely, Cambodia, Lao PDR, and Thailand.

## Unnumbered HB in Substitution of HBs 4332 and 4779

### Strengthening the Mindanao State University as a System and Appropriating Funds Therefor

The bill seeks to grant tax incentives to Mindanao State University (MSU) – Tawi-Tawi and MSU Sulu in the form of a fifty-fifty (50-50) sharing scheme of the five percent (5%) ad valorem tax for all imported marine products.

The bill proposes the following:

a. Exemptions of all assets and revenues of the MSU from payment of all taxes and duties used for educational purposes;

b. Exemption from the payment of donor's tax of all gifts and donations of real properties of all kinds to the MSU and shall be considered as allowable deductions from the gross income of the donors in accordance with the NIRC. Provided, that the allowable deductions shall be equivalent to 150% of the value of such donation;

c. Exemption from the payment of custom duties on importation of economic, technical, vocational, scientific, philosophical, historical and cultural books, supplies, materials and equipment, including computer software and hardware, duly certified by the University President;

d. Exemption from taxes of publication awards, incentives, and all products of scientific research; and

e. Exemption from payment of VAT for all transactions.

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The strengthening of the MSU is an indication of conferring utmost importance of higher institutions of learning in the mainstream of education.

The proposed grant of a 50-50 sharing scheme to the MSU Tawi-Tawi and MSU Sulu of the ad valorem tax on imported marine products needs to be revisited and clarified. In particular, the heading of Section 23 of the proposed bill, "tax incentives", the proposed "sharing scheme" and the "ad valorem tax on imported marine products" referred in the bill are not clear.

The proposed exemption of all the assets and revenues of the MSU, a non-stock, non-profit educational institution from payment of all taxes and duties used for educational purposes is supported as it is consistent with the provision of the 1987 Philippine Constitution.

The proposed exemption from the donor's tax of donations made to the MSU is already provided under Section 101(A)(3) and (B)(2) of the NIRC of 1997, as amended. The condition that not more than 30% of the gifts are used for administration purposes is important to make sure that the donations are used mainly for their intended purposes and not diverted to any other undertakings of the donee-educational institution. In addition, donations made to the MSU may be taken as a deduction from the donor's gross income for income tax purposes under Section 34(H)(2)(a) of the NIRC.

However, the proposed allowable deduction equivalent to 150% of the value of the donation is not endorsed as it is too generous. The proposal should be made in accordance with the pertinent provisions of the NIRC of 1997, as amended, to achieve uniformity in policy.

The proposal to exempt from the payment of customs duties the importation of economic, technical and cultural books is also already provided under Section 4(3), Article XIV of the Philippine Constitution and allowed under Section 105(s) of the TCCP, subject to compliance with certain prescribed conditions or formalities by the Commissioner of Customs as approved by the Secretary of Finance. Further, DOF Order 57-2011 exempts from customs duties the importation of all books, whether for commercial or personal use with the exception of those published by or for private commercial enterprise essentially for advertising purposes as specified in the Florence Agreement.

The proposed exemption from income tax of publication awards, incentives and products of scientific research is likewise already provided under Section 32(B)(7)(C) of the NIRC if the recipient is selected without any action on his part to enter the contest or proceeding and is not required to render substantial future services as a condition to receiving the prize or award.

The proposal to grant the MSU exemption from the VAT on any of its transactions should be revisited and reconsidered. Such broad exemption from the VAT is vulnerable to abuse which could strain the government's drive to generate revenue and contrary to the policy to adopt a broad-based VAT for a more effective taxation of goods and services.

## Unnumbered Substitute HB in Substitution to HBs 0057 and 3202
### Promoting the Development of Sports in the Country, Repealing for the Purpose RA 6847, Also Known as the "Philippine Sports Commission" and Appropriating Funds Therefor

The bill, otherwise known as the "Revised Philippine Sports Commission Act" seeks to create a single, unified and integrated national sports policy-making body. The existing Philippine Sports Commission, referred to as the Commission, shall be reorganized and strengthened to more vigorously promote, encourage and sustain the development of physical fitness and sports in the country for a healthy and alert citizenry and to promote sports excellence.

Among others, the bill proposes the following:

a. Exemption of the Commission from the payment of customs duties, taxes and tariffs on importation of sportswear, equipment, supplies, instruments and materials including those donated to the Commission which are of international sports standards, not available locally and only in such numbers as may be required in the development of various sports and/or training of national pool of athletes. The importation of sportswear, equipment, supplies, instruments and materials by the Philippine Olympic Committee (POC) including those donated to it and to the various national sports associations as certified under oath by the Commission as required and necessary for the development of sports in the country is also proposed to be exempt from the payment of customs duties, taxes and tariffs.

b. Full deductibility of all donations and contributions to the PSC in connection with its fund-raising projects and its continuing sports development programs in the computation of the taxable net income of the donor for income tax purposes. In the case of donations and contributions to be made to the POC and the various national sports associations (NSAs), the same shall also be exempt from the payment of the donor's and estate taxes and shall be deductible in full in computing the taxable net income of the donor.

c. Exemption of the Commission and the delegations to any international sports convention, conference and meeting, and the athletes, coaches and other officials to any international sports competition as certified in writing by the Commission, from the payment of travel and airport tax and any other travel-related taxes or fees now or hereafter imposed by law or regulation.

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Sports play an important role in promoting nation building, social cohesion and a healthy lifestyle. The mandate of the PSC in promoting and developing all national sports with emphasis on grassroots participation and wide development of the government and private sectors is highly significant.

The bill's proposal to exempt the Commission from the payment of customs duties, taxes and tariffs on the importation of sportswear equipment, supplies, instruments and materials including those donated to it and to the POC and the various national sports commission is supported, provided that subject articles are of international sports standard, not available locally and only in such numbers as may be required in the development of various sports and/or training of national pool of athletes. It will increase government resources for the acquisition of modern sports equipment, instruments and materials and help accomplish one of the Commission's functions of establishing, developing and maintaining fully-equipped and modern sports complex facilities and centers in strategic places nationwide to ensure competitiveness of the athletes.

The importation of subject articles by the Commission including those donated to it and to the POC and to the various NSAs, if done through the Commission, are already exempt from duties, taxes and tariffs pursuant to RA 6847 (Creating the PSC).

The proposed grant of travel tax and terminal fee exemption to the PSC and the delegation to any international sports convention, conference and meeting, and athletes, coaches, and other officials to any sport competition, provided that it shall be certified in writing by the PSC, is likewise supported. The immunity from the travel tax and terminal fee is a form of financial support from the government to people participating and promoting the country's sports worldwide. At present, the PSC and its delegation are already exempt from the payment of travel tax and airport terminal fee under RA 6847.

The exemptions from the donor's tax and its deductibility in the computation of the taxable income of the donor, are already provided under Sections 101(A)(3) and (B)(2) and 34(H)(2) of the NIRC of 1997, as amended and the PSC Act. The reiteration of the said provisions under the proposed Act is supported with further recommendation that donations and contributions to the PSC be also be exempted from the estate tax like those made to POC and NSAs.

Considering that the PSC has well-defined powers over NSAs and the POC which is an organization that works hand in hand with the PSC in the promotion and development of sports in the country, donations to be made to these institutions may likewise be entitled to the same tax incentives being enjoyed by the PSC.

## OTHER BILLS

The following is an enumeration of Senate and House bills commented on and evaluated during the period under review which have similarities with bills filed in the previous Congress and were thus published in previous NTRC Annual Reports or were already passed into law:

1. Instituting Reforms in the Real Property Valuation in the Philippines, Establishing the National Valuation Authority and Appropriating Funds Therefor (SB 291)

2. Instituting Reforms in Real Property Valuation and Assessment in the Philippines, Reorganizing the Bureau of Local Government Finance, and Appropriating Funds Therefor (SBs 415 and 1930)

3. Promoting and Supporting the Development and Growth of the Philippine Film Industry, Creating for this Purpose the Philippine Film Commission, Defining its Powers and Functions and for Other Purposes (SBs 1177 and 1388)

4. Reviving the Philippine Movie Industry by Providing Incentives to the Proprietors, Lessees, Operators of Theaters and Cinemas (SB 1961)

5. Promoting the Production of Outstanding and World-Class Filipino Motion Pictures, Providing Incentives to Filmmakers and Actors Claiming Honors in International Film Competitions and for Other Purposes (SB 2313)

6. Supporting the Production of Philippine Independent Films by Providing Incentives to Filmmakers Who Are Given Honors in Notable International Film Competitions (SB 2325)

7. Enhancing the Capabilities, Mandate, and Organizational Structure of the Movie and Television Review and Classification Board (MTRCB), Amending for the Purpose Presidential Decree 1986 (SB 2153)

8. Providing for the Basic Law for the Bangsamoro and Abolishing the Autonomous Region in Muslim Mindanao, Repealing for the Purpose Republic Act No. 9054, Entitled "An Act to Strengthen and Expand the Organic Act for the Autonomous Region in Muslim Mindanao", and Republic Act No. 6734, Entitled "An Act Providing for an Organic Act for the Autonomous Region in Muslim Mindanao", and for Other Purposes (SB 2408)

9. Exempting Persons with Disability from the Value-Added Tax on Certain Goods and Services, Amending for this Purpose Republic Act No. 7277, as Amended, Otherwise Known as the "Magna Carta for Persons with Disability" RA 10754 (March 23, 2016)

10. Amending Republic Act No. 9136, Otherwise Known as the "Electric Power Industry Reform Act of 2001 or EPIRA", and for Other Purposes (HB 3958)

11. Amending Section 24 of the National Internal Revenue Code of 1997, as Amended, and for Other Purposes (HB 4880)

12. Adjusting the 13th Month Pay and Other Benefits Ceiling Excluded from the Computation of Gross Income for Purposes of Income Taxation, Amending for the Purpose Section 32(B), Chapter VI of the National Internal Revenue Code of 1997, as Amended RA 10653 (February 12, 2015)

13. Providing for Home Mortgage Interest Relief for the First Family Home, Amending for the Purpose Section 34 of the National Internal Revenue Code of the Philippines, as Amended (HB 5091)

14. Establishing the Fiscal Regime and Revenue Sharing Arrangement for Large-Scale Metallic Mining, and for Other Purposes (HB 5367)

15. Amending Republic Act No. 7653 Entitled "The New Central Bank Act" (Unnumbered HB)

16. Making First Time Home Ownership Easier and More Affordable by Making the Cost of the Purchase Cheaper, Reducing the Financing Cost, Granting Tax Incentives for the Purchase, Enhancing Private

Sector Participation in Housing Construction and Financing, Providing Penalties for Violation Thereof, and Appropriating Funds Therefor (Unnumbered HB)

17. Strengthening Republic Act No. 6971 or the Productivity Incentives Act of 1990 (Unnumbered HB)

18. Expanding the Coverage of Incentives Granted to National Athletes and Coaches Repealing for the Purpose Republic Act No. 9064, also Known as "National Athletes, Coaches and Trainers Benefits and Incentives Act of 2001" and Appropriating Funds Therefor (Unnumbered HB)

## FISCAL INCENTIVES REVIEW BOARD

The NTRC has continuously rendered assistance to the Fiscal Incentives Review Board (FIRB) as its Technical Secretariat in accordance with EO 93. For 2015, the NTRC prepared studies/papers on the following: (a) details of the tax subsidy granted by the FIRB in 2014; (b) amount of tax subsidy granted by the FIRB to GOCCs/Commissaries for 2005 to 2014; (c) amount of tax subsidy granted by the FIRB to GOCCs/Commissaries for 1999 to 2014; (d) amount of tax subsidy utilized by the GOCCs/Commissaries for 2005 to 2014; (e) tax expenditure fund in the General Appropriations Act (GAA); (f) detailed discussion/flowchart on FIRB procedure for granting tax subsidy; and (g) status report on tax subsidy approved by the FIRB in 2015.

The NTRC also served in the meetings of the FIRB and its Technical Committee. It prepared the following: agenda and minutes of the meetings; 11 reports; 8 evaluations and studies; 210 endorsements and/or letter replies to queries for tax subsidy availment; 8 FIRB Resolutions; and 7 Certificates of Entitlement to Subsidy.

Also, as FIRB Secretariat, the NTRC conducted ocular inspection of commissaries and attended consultation meetings with various GOCCs on tax subsidy requests and other tax matters.

It also evaluated requests for tax subsidy and/or provided technical assistance to the following:

### a. GOCCs/Commissaries

1. Armed Forces of the Philippines Commissary and Exchange Service (AFPCES)
2. Duty-Free Philippines Corporation (DFPC)
3. Light Rail Transit Authority (LRTA)
4. Millennium Challenge Account-Philippines (MCA-P)
5. National Food Authority (NFA)
6. National Kidney and Transplant Institute (NKTI)
7. National Power Corporation (NPC)
8. North Luzon Railways Corporation (NorthRail)
9. Philippine Deposit Insurance Corporation (PDIC)
10. Philippine National Railways (PNR)
11. Philippine Postal Corporation (PHLPost)

### b. National Government Agencies (NGAs)

1. Bureau of Customs (BOC)
2. Bureau of Internal Revenue (BIR)
3. Commission on Audit (COA)
4. Department of Budget and Management (DBM)
5. Department of Finance (DOF)
   i. Corporate Affairs Group (CAG)
   ii. Revenue Operational and Legal Affairs Group – Department of Finance (ROLAG-DOF)
   iii. Fiscal Planning and Policy Office (FPPO)
   iv. Research and Information Office (RIO)
6. Department of Trade and Industry (DTI)
7. Office of the Government Corporate Counsel (OGCC)
8. Office of the Presidential Assistant for Food Security and Agricultural Modernization

### c. Various Private Entities

1. Ateneo Law School
2. CD Technologies Asia (CD Asia)
3. Japan International Cooperation Agency (JICA) Survey Team
4. Tam-Yap Caga and Associates
5. Zambrano and Gruba Law Offices

## TASK FORCE ON FEES AND CHARGES

As Secretariat to the Task Force on Fees and Charges originally created under Administrative Order (AO) No. 255 (February 20, 1996) which was reactivated and reconstituted under EO 218 (March 15, 2000), the NTRC monitored compliance of NGAs in the revision of fees and charges pursuant to Administrative Order (AO) No. 31 (October 1, 2012) as implemented by DOF-DBM-NEDA Joint Circular No. 1-2013 (January 30, 2013).

The NTRC also prepared the following: (1) Notes on the Board of Investments and its Schedule of Fees; (2) Projected Revenues from Fees and Charges: 2016-2019 and Monthly Projected Revenues from Fees and Charges for October – December 2015; and (3) Table on the Annual Non-Tax Revenue Collection and Growth Rate by NGAs: 2005-2014.

The NTRC extended technical assistance on TESDA's revision of fees and charges by holding seminar/workshop in relation to the rationalization and review of the existing fee structure of TESDA. The NTRC also presented to the TESDA Inter-Cluster the status of rationalization of TESDA fees and charges.

The NTRC also extended technical assistance to the following fee collecting government agencies in connection with fees and charges: (1) Maritime Industry Authority (MARINA); (2) Credit Information Corporation; (3) National Statistics Office (NSO); and (4) Securities and Exchange Commission (SEC), among others.

## TECHNICAL COMMITTEE ON REAL PROPERTY VALUATION

The NTRC continuously acted as consultant to both the Technical Committee on Real Property Valuation (TCRPV) and Executive Committee on Real Property Valuation (ECRPV) of some Revenue Regional and District Offices of the BIR and attended meetings and public hearings pertaining to determination/revision of zonal values of various real properties, requests for revaluations and participated in ocular inspections of subject properties.

## DOF-NTRC GENDER AND DEVELOPMENT

As part of the NTRC commitment to its 2015 GAD Plan, the NTRC conducted a Study on the Gender Bias in the National Internal Revenue Code of 1997 which was published in May – June 2015 issue of the NTRC Tax Research Journal. It prepared the NTRC GAD Plan and Budget for 2016 and 2015 GAD Accomplishment Report.

The NTRC also attended DOF and attached agencies GAD Focal Points Planning Sessions/Seminars/Workshops. It likewise conducted tax fora and GAD related seminars/workshops; and rendered technical services to GAD related activities. Moreover, NTRC representatives participated in the International Women's Day Celebration and Simultaneous Nationwide Street Dance held on March 8, 2015 as well as in the Walk for Life held on October 1, 2015.

The NTRC also displayed streamers on the National Women's Month Celebration (March 1, 2015) and the 18-Day Campaign to End VAW (November 25 – December 12, 2015) in strategic locations in the Office; included in the NTRC Tax Research Journal and posted in the NTRC Website.

## OTHERS

In line with its tax information dissemination and taxpayer's awareness program, the NTRC published and send tax guides and other information materials to the officials of the executive and legislative branches of the government as well as to the private sector and other requesting parties. The NTRC publications include the following:

1. NTRC Tax Research Journal (published bi-monthly) (2015)
2. Where Does Your Tax Money Go? (2015)
3. 2014 NTRC Annual Report
4. Various Public Finance and Other Related Statistics, 2000-2014

The NTRC also compiled the 2015 BIR Revenue Regulations (RRs), Revenue Memorandum Circulars (RMCs), and BOC Issuances such as Customs Memorandum Orders (CMO), Customs Administrative Orders (CAO), and Customs Memorandum Circulars (CMC).

# CHAPTER 4

# STAFF DEVELOPMENT AND OTHER ACTIVITIES

## A. Conferences, Seminars and Study Grants Abroad

1. **Edrei Y. Udaundo**, Tax Specialist II, Tax Statistics Branch, attended the Master of Public Policy held at the Australian National University, Australia on January 8, 2014 to December 31, 2015.

2. **Gian Carlo D. Rodriguez**, Chief Administrative Officer, Administrative and Financial Branch, attended the Government Accounts and Financial Management held at the Institute of Government Accounts and Finance, Ministry of Finance, New Delhi, India from February 9 - 27, 2015.

3. **Mark Lester L. Aure**, Supervising Tax Specialist, Local Finance Branch, attended the 2015 Lead Asia-Pacific Program (LAP) held at Malaysia on July 31 – August 5, 2015.

## B. Local Conferences and Seminars

1. **Trinidad A. Rodriguez**, OIC-Executive Director, **Marlene L. Calubag**, Chief Tax Specialist, Indirect Taxes Branch, **Donaldo M. Boo**, Chief Tax Specialist and **Roselyn C. Domo**, Supervising Tax Specialist, Direct Taxes Branch, and **Jonah P. Tibubos**, Statistician III, Tax Statistics Branch, attended the Comprehensive Tax Reform Writeshop held at the One Tagaytay Place, Tagaytay City on January 12-14, 2015.

2. **Donaldo M. Boo**, Chief Tax Specialist, Direct Taxes Branch attended the NAPC-Formal Labor and Migrant Workers National Sectoral Assembly held at the Crowne Plaza Manila Galleria, Pasig City on January 14-15, 2015.

3. **Venchito P. Salvador**, Senior Tax Specialist, Administrative and Financial Branch, attended the Philhealth@20: Four Tracks One Goal Towards Universal Health Care held at the Century Park Hotel, Malate, Manila on February 3-4, 2015.

4. **Selected NTRC Employees** attended the Kick-Off Celebration on the Cooperative Centennial Year held at the Quezon City Memorial Circle, Quezon City on February 5, 2015.

5. **Nedinia B. Mendiola**, Officer-in-Charge, Planning and Coordinating Branch, **Cecilia V. Salvatierra**, Administrative Officer V, **Elizabeth Miriam L. Paredes**, Administrative Officer V, **Milagros G. Alvarez**, Administrative Officer III, Administrative and Financial Branch attended the Budget Fora on FY 2015 Fund Release and FY 2016 Budget Preparation held at the Philippine Trade Training Center, Pasay City on February 11, 2015.

6. **Mark Lester L. Aure**, Supervising Tax Specialist, Local Finance Branch, **Abraham P. Solomon**, Computer Maintenance Technician III, Tax Statistics Branch, and **Jerome V. Trinidad**, Librarian I, Administrative and Financial Branch, attended the Executive Briefing on the Philippine eGovernment Interoperability Framework (PeGIF) Part 2 and the Government Common Platform (GCP) held at the Sequioa Hotel, Mother Ignacia Ave., Diliman, Quezon City on February 26, 2015.

7. **Nedinia B. Mendiola**, Officer-in-Charge, and **Lillian S. Flores**, Tax Specialist II, Planning and Coordinating Branch attended the Workshop on the Development of GAD Framework held at the Department of Finance (DOF), Roxas Blvd., Manila on March 2-3, 2015.

8. **Selected NTRC Officials and Employees** attended the International Women's Day Program and Simultaneous Nationwide Street Dance held at the Quezon City Memorial Circle, Quezon City on March 8, 2015.

9. **Roselyn C. Domo**, Supervising Tax Specialist, Direct Taxes Branch and **Florida J. Jurado**, Senior Tax Specialist, Indirect Taxes Branch attended the Forum on Women in Leadership, Power and Decision Making held at the Pamantasan ng Lungsod ng Pasig, Kapasigan, Pasig City on March 24, 2015.

10. **Abraham P. Solomon,** Comp. Maintenance Tech. III, Tax Statistics Branch, **Jerome V. Trinidad,** Librarian I and **Christian B. Dumaua,** Administrative Aide III, Administrative and Financial Branch, attended the Web Development Training (Joomla) held at the Advanced Science and Technology Institute Bldg., C.P. Garcia Avenue, Technology Park Complex, U.P. Campus, Diliman, Quezon City on March 24-27, 2015.

11. **Nedinia B. Mendiola**, Officer-in-Charge, Planning and Coordinating Branch and **Monica G. Rempillo**, Economist V, Economics Branch attended the Forum on Gender and Peace held at the Development Bank of the Philippines (DBP), Makati City on March 25, 2015.

12. **All NTRC Officials and Employees** attended the GAD Seminar on Moral Renewal and Values Enhancement held at the NTRC Social Hall on March 27, 2015.

13. **All NTRC Officials and Employees** attended the NTRC 55th Anniversary Celebration and Athletic and Cultural Activities held at the Bakasyunan Resort and Conference Center, Tanay, Rizal on April 8-9, 2015.

14. **Gian Carlo D. Rodriquez**, Chief Administrative Officer and **Milagros G. Alvarez**, Administrative Officer III, Administrative and Financial Branch, attended the Briefing Workshop on Program Expenditure Classification (PREXC) held at the Bay Leaf Hotel, Intramuros, Manila on April 14, 2015.

15. **Gian Carlo D. Rodriquez**, Chief Administrative Officer, and **Cecilia V. Salvatierra**, Administrative Officer V, Administrative and Financial Branch, attended the Second Part of the FY 2016 Budget Forum held at the Heritage Hotel on April 15, 2015.

16. **Selected NTRC Officials** gave lecture to the students of the Lyceum University of the East, Baler, Aurora on Individual Income Taxation held

at the NTRC Social Hall on April 16, 2015.

17. **All NTRC Officials and Employees** attended the Seminar on the Updated Health Care Benefits and Programme of Philhealth held at the NTRC Social Hall on April 17, 2015.

18. **All Executive Staff** attended the Strategic Performance Management System (SPMS) Workshop held at the NTRC Social Hall on April 24, 2015.

19. **All NTRC Officials and Employees** attended the SPMS Orientation held at the NTRC Social Hall on April 30, 2015.

20. **Venchito P. Salvador**, Senior Tax Specialist and **Lorelli D. Villaflores**, Administrative Officer IV, Administrative and Financial Branch, attended the SALN Seminar held at the DOF, Roxas Blvd., Manila on May 12-13, 2015.

21. **All NTRC Officials and Employees** attended the GAD Seminar on the Fundamentals of Taxation: Individual Taxation (Part I-III) held at the NTRC Social Hall on May 27-29, 2015, June 26, 29-30, 2015 and September 28-30, 2015, respectively.

22. **All Executive Staff** attended the NTRC Mid-Year Strategic Planning Workshop held at the Canyon Woods Resort Club, Laurel, Batangas on June 11-12, 2015.

23. **Selected Officials and Employees** attended the 2015 Independence Day Celebration held at the Rizal Park, Manila on June 12, 2015.

24. **Venchito P. Salvador**, Senior Tax Specialist, Administrative and Financial Branch, attended the Post Evaluation of the CESPES Online system held at the Career Executive Service Board (CESB) Training Room, Diliman, Quezon City on June 23, 2015.

25. **Mark Lester L. Aure**, Supv. Tax Specialist, Local Finance Branch, **Abraham P. Solomon**, Comp. Maint. Tech III, Tax Statistics Branch, and **Jerome V. Trinidad**, Librarian I, Administrative and Financial Branch, attended the National Information and Communications Technology

(ICT) Month held at the Intercontinental Hotel, Makati City on June 24, 2015.

26. **Nedinia B. Mendiola**, Officer-in-Charge, Planning and Coordinating Branch and **Jonah P. Tibubos**, Statistician IV, Tax Statistics Branch, attended the Consultation Meeting for the Women's Legislative Agenda (WLA) held at the Philippine Commission on Women Conference Room, J.P. Laurel St., San Miguel, Manila on July 1, 2015.

27. **Abraham P. Solomon**, Computer Maintenance Technologist III, Tax Statistics Branch, **Venchito P. Salvador,** Senior Tax Specialist and **Jerome V. Trinidad**, Librarian II, Administrative and Financial Branch attended the Forum on Government Email System (GovMail) held at ICT Office Bldg., C.P. Garcia Avenue, Diliman, Quezon City on July 16, 2015.

28. **Kenni Marie R. Balbin**, Tax Specialist I, Tax Statistics Branch, attended the Training on Data Analysis and Modeling Using R Statistical Software held at the Philippine Statistical Research and Training Center, J & S Building, Kalayaan Avenue, Diliman, Quezon City on July 20-22, 2015.

29. **Jerome V. Trinidad**, Librarian II, Administrative and Financial Branch attended the Training-Workshop on Digitization and Digital Preservation for Wider Access held at the University of the Philippines, Diliman, Quezon City on July 29-31, 2015.

30. **Nedinia B. Mendiola**, Officer-in-Charge, Planning and Coordinating Branch, attended the Orientation on the Media and Gender Equality Guidelines and "Gender Fair Language" held at the DOF, Roxas Blvd., Manila on July 31, 2015.

31. **Teresita L. Solomon,** OIC-Deputy Director, **Nedinia B. Mendiola**, Officer-in-Charge, Planning and Coordinating Branch, **Gian Carlo D. Rodriguez**, Chief Administrative Officer, **Cecilia V. Salvatierra,** Administrative Officer V, Budget and Cash Division, Administrative and Financial Branch, attended the PREXC Hand Holding Workshop held at the Bayleaf Hotel, Intramuros, Manila on August 12, 2015.

32. **Gian Carlo D. Rodriguez**, Chief Administrative Officer and **Elizabeth Miriam L. Paredes**, Administrative Officer V, Administrative and

Financial Branch, attended the Training Workshop on the Use of the Agency Procurement Compliance and Performance Indicators (APCPI) held at the BSA Twin Tower, Mandaluyong City on August 27-28, 2015.

33. **Selected NTRC Officials and Employees** attended the R.A.C.E. to Serve V Fun Run held at the Quirino Grandstand, Manila on September 12, 2015.

34. **Trinidad A. Rodriguez**, OIC-Executive Director and **Donaldo M. Boo**, Chief Tax Specialist, Direct Taxes Branch attended the Consultation, Collaboration and Cooperation: Moving the Capital Market Agenda Forward held at the EBC, Bangko Sentral ng Pilipinas (BSP), Manila on September 16, 2015.

35. **Monica G. Rempillo**, Economist V, **Eva Marie T. Nejar**, Senior Tax Specialist, Economics Branch, and **Roselyn C. Domo**, Supv. Tax Specialist, Direct Taxes Branch, attended the Roundtable Discussion on Behavioral Economics and Public Policy: An Overview held at the New World Manila Bay Hotel, Malate, Manila on September 29, 2015.

36. **Donaldo M. Boo**, Chief Tax Specialist, Direct Taxes Branch and **Venchito P. Salvador**, Senior Tax Specialist, Administrative and Financial Branch, attended the Public Subsector Forum on Salary Increase held at the Syquioa Hotel, Diliman, Quezon City on September 29, 2015.

37. **Jason P. Raposas,** Supv. Tax Specialist, Special Research and Technical Services Branch, attended the Training on Supervisory Development Course (SDC-Track I) held at the CSC-NCR Bldg., Human Resource Division, Quezon City on September 29 to October 2, 2015.

38. **Selected NTRC Officials and Employees** attended the Walk for Life held at the Quezon City Memorial Circle on October 1, 2015.

39. **Lorelli D. Villaflores**, Administrative Officer IV, Administrative and Financial Branch, attended the Tutorial Seminar on Japanese Grant Aid for Human Resource Development Scholarship Project (JDS) for Academic Year 2016-2017 held at the JICA, RCBC Plaza Ayala Avenue, Makati City on October 20, 2015.

40. **Rainer N. Dita**, Computer Maintenance Technician I and **Leo Paul A. Marcellana**, Administrative Officer II, Tax Statistics Branch, attended the Oracle Technology Update: Introducing Oracle Database 12c held at the DOF, Roxas Blvd., Manila on October 14, 2015.

41. **Robert D. Aspa**, Tax Specialist II, Direct Taxes Branch, attended the Seminar on Tax Updates and Taxation of SMEs held at the PICPA Bldg., 700 Shaw Blvd., Mandaluyong City on October 15, 2015.

42. **Donaldo M. Boo**, Chief Tax Specialist, **Roselyn C. Domo**, Supervising Tax Specialist, Direct Taxes Branch and **Jonah P. Tibubos**, Statistician IV, Tax Statistics Branch, attended the Forum on the Benefits and Challenges on Data Resource Management held at the BIR-NOB, Quezon City on October 19, 2015.

43. **Jonah P. Tibubos**, Statistician IV, **Kenni Marie R. Balbin**, Tax Specialist I, Tax Statistics Branch, and **Justine Philip R. Alegria**, Economist I, attended the Technical Workshop on Sustainable Development Goals Indicators held at the Astoria Plaza, Pasig City on October 22, 2015.

44. **Ma. Berlie L. Amurao**, Supervising Tax Specialist, Indirect Taxes Branch and **Analiza G. Berja**, Tax Specialist I, Tax Statistics Branch, attended the 26th National Statistics Month Celebration held at the DOF, Roxas Blvd., Manila on October 26, 2015.

45. **Donaldo M. Boo**, Chief Tax Specialist, Direct Taxes Branch and **Mark Lester L. Aure**, Supervising Tax Specialist, Local Finance Branch, attended the Orientation of Workers and Employers on the Labor Laws Compliance System (LLCS) held at the Occupational Safety and Health Center (OSHC), Diliman, Quezon City on October 27, 2015.

46. **Nedinia B. Mendiola**, Officer-in-Charge, Planning and Coordinating Branch, and **Cecilia V. Salvatierra,** Administrative Officer V, Budget and Cash Division, Administrative and Financial Branch, attended the Fourth GAD Budget Forum held at the Occupational Safety and Health Center (OSHC), Diliman, Quezon City on November 4-5, 2015.

47. **Gian Carlo D. Rodriguez**, Chief Administrative Officer and **Milagros G. Alvarez**, Administrative Officer III, Administrative and Financial Branch,

attended the Government Accounting Manual (GAM) for National Government Agencies (NGAs) held at the Biodiversity Management Bureau, Ninoy Aquino Parks and Wildlife Center, Diliman, Quezon City on November 5-6, 2015.

48. **Donaldo M. Boo**, Chief Tax Specialist, Direct Taxes Branch and **Monica G. Rempillo**, Economist V, Economics Branch, attended the Course on the Basic Policy Process held at the DAP Bldg., Pasig City on November 11-13, 2015.

49. **Grace A. Manalo**, Administrative Officer IV and **Angelito L. Olaes**, Administrative Officer III, Administrative and Financial Branch, attended the Government Accounting Manual (GAM) for National Government Agencies (NGAs) held at the Department of Environment and Natural Resources (DENR), Diliman, Quezon City on November 23-27, 2015.

50. **Gian Carlo D. Rodriguez**, Chief Administrative Officer and **Armelita C. Colano**, Administrative Assistant II, Administrative and Financial Branch, attended the Seminar on the Updates and Walk-through on the Use of eTRA System held at the Hotel Rembrandt, Tomas Morato, Quezon City on December 2, 2015.

51. **Lorelli D. Villaflores**, Administrative Officer IV, Administrative and Financial Branch, attended the 1st General Assembly for Agency Authorized Officers held at the Government Service Insurance System (GSIS), Pasay City on December 3, 2015.

52. **Donaldo M. Boo**, Chief Tax Specialist, Direct Taxes Branch, completed the Spanish Language Course held at the Foreign Service Institute from January 2014 to December 3, 2015.

53. **Lorelli D. Villaflores**, Administrative Officer IV, Administrative and Financial Branch, attended the 1st General Assembly for CY 2015 of LOs held at the Heritage Hotel, Pasay City on December 4, 2015.

54. **Donaldo M. Boo**, Chief Tax Specialist, and **Jocet Consisa R. Pabilona**, Tax Specialist II, Direct Taxes Branch, **Ronnel L. Yambao**, Tax Specialist I, Planning and Coordinating Branch, and **Lorelli D. Villaflores**, Administrative Officer IV, Administrative and Financial Branch, attended

the Celebration of the National Government Employees Week held at the SMX Convention Center, Mall of Asia Complex, Pasay City on December 7, 2015.

55. **Mark Lester L. Aure**, Supervising Tax Specialist, Local Finance Branch, **Abraham P. Solomon,** Computer Maintenance Technician III, **Rainer N. Dita**, Computer Maintenance Technician I and **Leo Paul A. Marcellana**, Administrative Officer II, Tax Statistics Branch, attended the Year-Ender Event of the Integrated Government Philippines Project of the DOST held at the Crowne Plaza Manila Galleria, Pasig City on December 7-8, 2015.

56. **Donaldo M. Boo**, Chief Tax Specialist, Direct Taxes Branch, attended the Seminar on Automatic Exchange of Information (AEOI) held at the Bangko Sentral ng Pilipinas, Malate, Manila on December 10-11, 2015.

57. **Donaldo M. Boo**, Chief Tax Specialist, and **Roselyn C. Domo**, Supervising Tax Specialist, Direct Taxes Branch, attended the Tax Treaties Negotiations Workshop held at the Marco Polo Ortigas, Ortigas Center, Pasig on December 14-16, 2015.

58. **Nedinia B. Mendiola**, Officer-in-Charge, Planning and Coordinating Branch, attended the GAD Focal Point Systems Assembly for the Last Quarter of CY 2015 held at the DOF, Roxas Blvd., Manila on December 15, 2015.

Republic of the Philippines
DEPARTMENT OF FINANCE
**NATIONAL TAX RESEARCH CENTER**
Harbor Centre Bldg. II
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From left to right: Ronnel, Lillian, Nedinia, Rhea, Marilou & Perfecto