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NATIONAL TAX RESEARCH CENTER
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His Excellency
President of the Republic
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Thru: The Secretary of Finance

SIR:

I have the honor to submit the 2018 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,

TRINIDAD A. RODRIGUEZ
Executive Director

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INTRODUCTION

For 2018, the Philippine economy remained stable as gross domestic product (GDP) grew by 6.3 percent, slightly slower than the 6.7 percent growth in 2017. The slowdown was brought about by the increase in prices of commodities which mitigated consumer spending as well as business expansion. The net primary income (NPI) from the rest of the world posted a growth of 4.3 percent, resulting in the 5.9 percent growth of gross national income (GNI) for the year.

By major economic sectors, the service sector, constituting 48.3 percent of the total GNI, remained as the main driver of the economy as it maintained its 6.7 percent growth in 2018. Major contributors to this sector were public administration and defense and compulsory social security, financial intermediation, and other services.

The industry sector representing 28.5 percent of the total GNI, grew by 6.7 percent in 2018, slower than the 7.1 percent growth in 2017. The increase was bolstered by the expansion in the construction, electricity, gas and water supply, and manufacturing.

On the other hand, agriculture, hunting, forestry and fishing (AHFF) sectors, comprising 6.8 percent of the GNI grew only at 0.9 percent in 2018, much lower than the four percent growth a year ago. The meager growth was mainly due to the decline in the fishing sector by 0.2 percent.

The National Government (NG) revenue remained resilient reaching P2.9 trillion in 2018 from P2.5 trillion in 2017. From the total NG revenue, 90.0 percent or P2.6 trillion came from tax revenues and 10 percent or P284.4 billion from non-tax revenues. The revenue effort, or the ratio of total revenue to GDP at current prices, grew from 15.6 percent in 2017 to 16.4 percent in 2018. The tax effort, or the ratio of tax revenue to GDP at current prices, also increased from 14.2 percent to 14.7 percent for the same period.

The Bureau of Internal Revenue (BIR), the main tax collecting agency of the government, contributed P1.9 trillion or 71.6 percent of the total NG revenues in 2018, up by 10.1 percent from P1.77 trillion in 2017. It achieved 94.1 percent of its P2.1 trillion revenue target for the year.

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The Bureau of Customs (BOC), the second biggest revenue-generating agency government, collected P593.1 billion in 2018 or 20.8 percent of the total NG revenues or higher by 29.4 percent from P458.2 billion the previous year. It exceeded its revenue target of PhP 581 billion by two percent.

Other government collecting agencies such as the Bureau of Fire Protection (BFP), Bureau of Immigration (BI), Department of Environment and Natural Resources (DENR) and the Land Transportation Office (LTO), among others, collected P20.9 million or less than one percent of the total NG revenues in 2018. This was 3.4 percent higher than previous year's collection of P20.2 billion.

Non-tax revenues, which shared 10 percent of the total NG revenues, contributed P284.4 billion in 2018, an increase of 27.8 percent from P222.5 billion in 2017. This growth was due to higher remittances of fees and charges from various national government agencies (NGAs) and proceeds from privatization.

The National Tax Research Center (NTRC) continuously upholds its mandate to conduct quality research on taxation as basis for tax policy formulation/legislation, aligned with the key result area (KRA) of Rapid, Inclusive, and Sustained Economic Growth, prepares basic studies on taxation supportive of the remaining packages under the Comprehensive Tax Reform Program (CTRP) of the current administration, namely: (1) Package 1B - Tax Amnesty and Motor Vehicle User's Charge (MVUC); (2) Package 2 – Corporate Income Tax and Fiscal Incentives; (3) Package 2+ - Sin Taxes and Mining Taxes; (4) Package 3 – Property Valuation and Taxation; and (5) Package 4 – Passive Income and Financial Intermediary Taxation. All the tax reform packages were already approved on third and final reading at the House of Representatives before the year-end except for the MVUC which is still pending with the House Committee on Ways and Means.

The NTRC evaluated 68 Senate and House bills and other tax proposals coming from other government agencies and private sectors and attended public hearings relative thereto. These bills were mostly on tax reform packages of the CTRP. The agency also provided technical assistance during committee hearings.

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As Secretariat to the Fiscal Incentives Review Board (FIRB), the NTRC processed and evaluated the applications for tax subsidy of government-owned and controlled corporations (GOCCs), Armed Forces of the Philippines Commissary and Exchange Services (AFPCES), state universities and colleges (SUCs), and government instrumentalities (GIs). During the year, the Board issued FIRB Resolutions to the National Food Authority (NFA), AFPCES, and Philippine Deposit Insurance Corporation (PDIC) the corresponding Certificate of Entitlement to Subsidy (CES).

As Secretariat to the Task Force on the Revision of Fees and Charges, the NTRC monitored the compliance of national government agencies (NGAs) in the revision of fees and charges pursuant to Administrative Order (AO) No. 31 s. 2012. The agency prepared the Report on the Collection from Fees and Charges of NGAs, Update on the compliance of NGAs with AO 31, Revenue Performance and Status of Revision of Top Collecting Agencies, and provided technical assistance to the Technical Education and Skills Development Authority (TESDA) on its rationalization on fees, and in the revision of fees and charges of various government agencies.

As consultant to the Executive Committee on Real Property Valuation (CRPV) pursuant to Department of Finance (DOF) Order No. 6-2010 (March 12, 2010) and Bureau of Internal Revenue (BIR) Revenue Memorandum Order No. 41-2010 (April 23, 2010) in the review and revision of zonal values of real properties for tax purposes, the NTRC attended public consultations/hearings in coordination with the BIR in the revision of zonal values in various Revenue District Offices (RDOs) in the country.

The NTRC also provided technical support to the working group of the Development and Budget Coordination Committee/Executive Technical Board (DBCC/ETB) and DOF Gender and Development (GAD, as well as conducted activities and seminars supporting GAD.

In support of the NTRC's quality policy to disseminate information to the public, the agency published the NTRC Tax Research Journal on a bi-monthly basis for 2018, as well as Infographic on Tax Changes You Need to Know on Tax Reform for Acceleration and Inclusion (TRAIN) law and handbooks on the 2017 Philippine Public Finance and

Related Statistics, and Philippine Capital Income and Financial Intermediation Statistics. The 2017 NTRC Annual Report was also uploaded in the NTRC Website.

The NTRC conducted seminars on the TRAIN law among the students of the Imus Institute of Science and Technology (IIST), Polytechnic University of the Philippines (PUP), and Colegio de San Juan de Letran. The Executive Director also served as resource speaker in fora and seminars conducted by various industry associations and institutions to raise awareness and understanding of the TRAIN law.

As the lead agency on Package 4 on Passive Income and Financial Intermediary Taxation, the NTRC conducted briefings on House Bill No. 8645 among various stakeholders and concerned regulatory agencies. These include the Banker's Association of the Philippines, Capital Market Development Council, Trust Officers Association of the Philippines, Philippine Insurance and Reinsurance Association, Philippine Dealing and Exchange Corporation, Bangko Sentral ng Pilipinas (BSP), Securities and Exchange Commission, Bureau of Treasury and Insurance Commission, among others.

A Memorandum of Understanding (MOU) was also signed between the NTRC and the BSP on November 29, 2018 for the establishment of the latter's Knowledge Resource Network in the Office library. This aims to facilitate information and knowledge sharing and make BSP materials easily accessible in the library system of the NTRC in support of its economic and financial learning objectives.

As part of its mission to provide continuing staff development, NTRC officials and employees attended various seminars and trainings locally and abroad to keep abreast with the latest trends and developments in taxation. Executive Director Trinidad A. Rodriguez and Ms. Marlene L. Calubag, Chief Tax Specialist of Indirect Taxes Branch attended the Comparative Tax Policy and Administration Program at Harvard Kennedy School Executive Education from August 13 to 24, 2018 in Massachusetts, U.S.A. Also, Ms. Roselyn C. Domo, Supervising Tax Specialist of Direct Taxes Branch, attended the Transfer Pricing, Policy and Practice Program at Duke University from June 11 to 15, 2018 at North Carolina, U.S.A.

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In 2018, the NTRC received the Government Quality Management Award on October 25, 2018 at the Philippine International Convention Center (PICC), Pasay City. The award was given to encourage and promote public sector performance through the adoption of ISO 9001:2015 Quality Management System (QMS) in all government agencies, and to recognize citizen-driven government organizations that have attained ISO 9001:2015 certification.

Moreover, the NTRC received the Hall of Fame award for being one of the Most Outstanding Accounting Offices in Government for three consecutive years, given by the Association of Government Accountants of the Philippines (AGAP) held at the Iloilo Convention Center, Iloilo City on October 17, 2018. This award was in recognition of the outstanding performance of the NTRC in providing quality, timely and accurate financial reports that are useful for decision-making and in demonstrating the accountability for the resources entrusted to it.

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 for economic development and growth, viz:

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 – presents the staff development and similar activities through participation of NTRC officials and employees in study grants, seminars, conferences and other activities here and abroad.

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1 IMPLICATIONS OF TAX LEGISLATION AND ISSUANCES PROMULGATED IN 2018

Republic Act (RA) No. 10863, otherwise known as the "Customs Modernization and Tariff Act (CMTA)," seeks to modernize the customs and tariff administration to meet the need of modern trade by providing a harmonized and simplified customs procedures and processes at par with international customs standards in compliance with the Philippine commitment to the Revised Kyoto Convention (RKC)[1]. It was also enacted to update the Tariff and Customs Code of the Philippines (TCCP).

A. Features

The CMTA brings forward the enhancement in trade facilitation[2] and efficiency of customs control and operation while not compromising the safety of the country against movement of prohibited or regulated goods. These two-pronged thrust of trade facilitation and enhanced customs control of the CMTA entail the application of information and communication technology in the operation of the Bureau of Customs (BOC) to comply with international standards.

The following are the new provisions and major amendments under the Act:

1. Sections 106 and 107 introduced the concept of Declarant and his/her rights and responsibilities, respectively. A declarant may be a consignee or a person who has the right to dispose of the goods and shall

[1] The RKC was developed by the World Customs Organization (WCO) and was enforced on February 3, 2006. It is the updated version of the International Convention on the Simplification and Harmonization of Customs Procedures (Kyoto Convention) which took effect in 1974. A country which decides to become a contracting party has to accept the Body and General Annex of the RKC, which is binding among other signatories.

[2] Trade facilitation, as defined by the WCO, is the simplification and harmonization of international trade procedures.

lodge a goods declaration with the BOC and is primarily responsible for its accuracy and for the payment of all duties, taxes, and other charges due on the imported goods. It amended Section 6 of RA 9280[3] (May 30, 2004) which provides that it is the responsibility of customs brokers to prepare and lodge the import and export entries.

2. Section 120 provides that goods for free distribution or use of victims of calamities shall be treated and entered as relief consignment. Upon declaration of a state of calamity, clearance of relief consignment shall be a matter of priority and subject to a simplified customs procedure. Moreover, Section 121 provides that relief consignment imported during a state of calamity shall be duty and tax free, whereas previously it is only duty-free under the TCCP.

3. Section 423 provides for the increase in the de minimis value of importation from not exceeding P10, (Section 709 of TCCP) to not exceeding P10,000). No duties and taxes shall be collected on goods with a Free On Board (FOB) or a Free Carrier Arrangement(FCA)[4] value of P10,000 or below. The Secretary of Finance shall adjust such amount to its present value every three years using the CPI as published by the PSA.

4. Sections 600 and 603 provide for the customs transit and customs transshipment of goods, respectively. Customs transit within the customs territory shall be permitted, except for goods intended

[3] Entitled, "An Act Regulating the Practice of Customs Brokers Profession in the Philippines, Creating for the Purpose a Professional Regulatory Board for Customs Brokers, and Appropriating Funds Therefor"

[4] Free Carrier (FCA) and Free on Board (FOB) are international commercial terms covered by the Incoterms rules developed by International Chamber of Commerce (ICC). FCA means free carrier or that the seller delivers the goods to the carrier or another person nominated by the buyer at the seller's premises or another named place. The parties are well advised to specify as clearly as possible the point within the named place of delivery, as the risk passes to the buyer at that point. FOB means free on board or that the seller delivers the goods on board the vessel nominated by the buyer at the named port of shipment or procedures the goods already delivered. The risk of loss of or damage to the goods passes when the goods are on board the vessel, and the buyer bears all costs from that moment onwards.

for consumption, upon compliance to the required transit permit. Transfer of goods from one means of transport to another shall be allowed provided that no customs seal or fastening is broken or tampered. Goods for transshipment, on the other hand, must be exported from the Philippines within 30 days from its arrival. Such goods shall not be subject to payment of duties and taxes provided that the goods declaration indicates the nature of goods, duly supported by commercial or transport documents or evidence.

5. Section 800 (f) increases the threshold value of personal and household effects belonging to returning residents that are tax and duty-exempt from P10,000, as specified under Section 105 of TCCP to FCA and FOB value of: P350,000 for those who have stayed in a foreign country for at least 10 years and have not availed of this privilege within 10 years prior to his/her arrival; P250,000 for those who have stayed in a foreign country for at least five years but not more than 10 years and have not availed of the privilege within five years prior to his/her arrival; and P150,000 for those who have stayed in a foreign country for a period of less than five years and have not availed of this privilege within six months prior to his/her arrival. Furthermore, the FCA value of personal and household effects, and home appliances and other durables that may be brought in by Overseas Filipino Workers (OFWs) is also increased, limited to one of every kind once in a given calendar year, accompanying them on their return or arriving within reasonable time after their return, from P10,000 to P150,000. Similarly, Section 800 (g) provides that residents of the Philippines, OFWs or other Filipinos while residing abroad or upon their return to the Philippines are allowed to bring in or send to their families or relatives in the Philippines tax and duty-free "balikbayan boxes" up to three times in calendar year, provided that the FCA value of which shall not exceed P150,000 and shall contain personal and household effects only and shall neither be in commercial quantities nor intended for barter, sale or for hire. The Secretary of Finance shall adjust the amounts herein stated to its present value every three years using the CPI as published by the PSA;

6. Section 1000 provides for the period to conduct post clearance audit (previously post entry audit) and the requirement for importers to keep their records which was changed from 10 years from the date of filing of the Import Entry Declaration to only within three years from the date of final payment of duties and taxes or customs clearance. The audit of importers shall be conducted when firms are selected by a computer-aided risk management system, the parameters of which are to be based on objective and quantifiable data, subject to the approval of the Secretary of Finance upon recommendation of the Commissioner (Section 1001);

7. Section 1130 provides that abandoned goods that the BOC has not disposed of may be reclaimed by the owner or importer within 30 days after the lapse of the prescribed period to file the declaration by submitting all legal requirements and paying the corresponding duties, taxes, and other charges. If the BOC sold the abandoned goods, the proceeds of the sale after deduction of any duty, and tax, and all other charges and expenses incurred, shall be turned over to those persons entitled to receive them. If this is not possible, the BOC must hold the amount at its disposal for a specified period and after the lapse thereof, the balance should be transferred to the Forfeiture Fund;

8. Section 1132 provides that civil remedies for the collection of duties and taxes resulting from the conduct of a post clearance audit shall be obtained by either or both of the following, considering the amount of duties and taxes involved: (a) by distraint of goods, chattels, or effects, and other personal property of whatever character, including stocks and other securities, debts, credits, bank accounts, and interest in and rights to personal property, and by levy upon real property and interest in rights to real property and (b); by civil or criminal action;

9. Section 1151 creates the Forfeiture Fund where all proceeds from public auction sales, after deduction of charges provided under Section 1143 and subject to the claim of the owner or importer of an impliedly abandoned goods, shall be deposited. The Fund shall be in the name of and managed by the BOC, which is authorized to utilize it for the modernization program and other operational

efficiency and trade facilitation initiatives of the BOC, among others; and

10. Section 1301 provides that the Secretary of Finance, upon the recommendation of the Commissioner, may increase or decrease the dues, fees and charges collectible by the BOC for rendered services and issued documents to protect the interest of the government.

B. Implications

Developments in international trade since 1978[5] have made the TCCP outdated. Through the Philippine accession to the RKC, the country commits to bring its customs procedures in line with other co-member countries. Thus, the CMTA adopts measures to enhance trade facilitation aimed at easing the burden associated with the need to provide information, submit declarations and border procedures which lead to time delays, forgone business opportunities and reduced competitiveness. The CMTA also implies a shift in the BOC's focus to trade facilitation rather than revenue collection.

Trade facilitation is particularly important for developing countries like the Philippines, as they stand to gain the most from more efficient trade procedures.[6]

Inefficient customs practices are costly to all players in trade: the government is burdened with administrative costs and workloads, notwithstanding the risks of smuggling, fraud and national security problems; businesses pay the costs of compliance, suffers from slow and unpredicted goods delivery, or worst, loss of business opportunities; and all these costs ultimately make goods more expensive for the consumers. These costs of trades are high, amounting to as much as 15 percent of the value of the goods traded in some cases. For many countries, the welfare benefits from more efficient customs procedures could be as high

[5] The Tariff and Customs Code of the Philippines was codified in 1978 via the issuance of Presidential Decree (PD) No. 34.

[6] The Costs and Benefits of Trade Facilitation, OECD Policy Brief, October 2005, http://www.oecd.org/trade/facilitation/35459690.pdf, Accessed on May 10, 2017.

as those from reducing tariffs.[7]

Among the provisions under the CMTA to enhance trade facilitation and customs control are the following:

1. ***Declarant***

Sections 106 and 107 repeal Section 6 of RA 9280[8] (March 30, 2004) which provides for the scope of the practice of customs brokers which makes consultation, preparation of customs requisite documents for imports and exports, declaration of customs duties and taxes, preparation, signing, lodging and processing of import and export entries, etc. a mandatory responsibility of a customs broker. The declarant provision, however, merely makes it optional after two years of implementation of the CMTA. After the two-year period, the CMTA allows a person, not necessarily a licensed customs broker, but someone duly authorized or empowered by the importer or exporter, to act as agent or attorney-in-fact to be the goods declarant.

2. ***Relief Consignment***

The provision for relief consignments aims to expedite the release from customs custody of goods intended for distribution to calamity victims. The speedy distribution and acquisition of these goods maximize the effectiveness of the aid, reduces the continued effects of destruction and devastation, and accelerate the recovery process of people and community affected by catastrophes. An increase in foregone revenue may be expected since the CMTA grants VAT and duty exemption on relief consignments whereas previously, these were granted only duty exemption under the TCCP. Nevertheless,

[7] Ibid.

[8] Entitled, "An Act Regulating the Practice of Customs Brokers Profession in the Philippines, Creating for the Purpose of a Professional Regulatory Board for Customs Brokers, and Appropriating Funds Therefor".

potential risks from the quick and efficient clearance of relief consignments are minimal to none at all. This is because relief consignments are normally coordinated, shipped and cleared through the management of the major relief agencies and humanitarian organizations such as the Red Cross.

It is a significant measure for the Philippines being a natural disaster hotspot. The more efficient process for relief consignments and exemption from duties and taxes is expected to expedite donations and international aids, most importantly during calamities and natural disasters.

3. *De Minimis Value of Importation*

The increase in the threshold dutiable value of de minimis imports is a timely reform under the CMTA. It does not only make the value up-to-date but also helps enhance trade facilitation. By exempting low-value imports from undergoing full customs formalities and payment of duties and taxes, the government is freed from administrative burden and cost of collection that at some point exceeds the revenue gained. Alternatively, it enables them to refocus revenue collection efforts on transactions that yield higher net revenue.[9] On the other hand, importers, especially those whose imports are of minimal value (e.g., small and medium businesses, ordinary private citizens) benefit in terms of ease in compliance and savings due to exemption from payment of duties and taxes. Moreover, the higher threshold for de minimis dutiable value facilitates streamlined border clearance and accelerates the delivery of goods as smaller volume of consignments are required to undergo full customs declaration, thus lesser documents to be prepared by importers and processed by the government.

The Philippines' previous threshold for de minimis dutiable value of less than P10 is found to be uneconomical.

[9] Stephen Holloway and Jeffrey Rae, De "Minimis Thresholds in APEC", World Customs Journal Volume 6 Number 1, March 2012.

An empirical analysis[10] showed that when the Philippine Government increased enforcement by expanding inspections to low-value shipments, imports from treatment countries shifted differentially to an alternative duty-avoidance method, i.e., shipping via duty-exempt export processing zones. Revenue generated from the imposition of duties and taxes to low-value importations is outweighed by the more expensive inspection costs of shipments and losses in import duties due to shifts to other methods of duty avoidance. The costs involved in assessing and collecting duties and taxes actually exceed the revenue gained.

Furthermore, the amendment places the de minimis threshold dutiable value of the Philippines at par with other ASEAN countries. (See Table 1.) It is also noteworthy that an increased threshold has relatively small impact on government revenue. The loss in tariff revenue is less than one percent of the savings under the USD 200 (P9,967.60)[11] scenario[12], more or less the de minimis threshold of the Philippines under the CMTA.

4. *Customs Transit and Customs Transshipment*

The terms Customs Transit and Transshipment are not clearly defined and delineated in the TCCP. Under the TCCP, transits are termed as domestic transshipment while transshipment is termed foreign transshipment. The CMTA has clearly defined transit and transshipment so as not to confuse the two terms in agreement to the provisions of the RKC. The definitions are adopted from the definition of the RKC, specifically Annex E, Chapters 1 and 2.

[10] Dean Ying, "Can Enforcement Backfire? Crime Displacement in the Context of Customs Reform in the Philippines", The Review of Economics and Statistics Volume XC Number 1, 2008, p. 8.

[11] Converted to Philippine Peso using the exchange rate USD1 = PhP49.84, as of May 12, 2017, https://themoneyconverter.com/USD/PHP.aspx.

[12] Stephen Holloway and Jeffrey Rae, op cit.

Table 1

De Minimis Values in the ASEAN

Country	De Minimis Value (In National Currency/ USD)	In Php[13]
Brunei Darussalam	400 BND	15,829.86
Cambodia	50 USD	2,614.50
Indonesia	50 USD	2,614.50
Malaysia	500 MYR	6,585.64
Philippines*	10,000 PHP	10,000.00
Singapore	400 SGD	15,685.75
Thailand	1,000 BHT	1,639.70
Vietnam	1,000,000 VND	2,290.61

Note. *The de minimis values in the Philippines increased from P10.00 to P10,000 since the enactment of the Customs Modernization and Tariff Act (CMTA) in 2016.

Source: Global Express Association (GEA)

Customs Transit

The provision for Customs Transit clarifies when duty and taxes are due for goods intended for transit, as follows:

a. Goods for consumption: Payment at the port of arrival; and

b. Goods for warehousing and free zones: Payment upon entry into customs territory (i.e., upon release from warehouse or from free zone). The proposal will ensure collection of government revenues before the goods are transported to another port, considering reports on leakages during

[13] Converted to PhP using the following exchange rates: BND 1 = PhP 39.57; USD 1 = PhP 52.29; MYR 1 = PhP 13.17; SGD 1 = PhP 39.21; THB 1 = PhP 1.64; VND 1 = PhP 0.002, https://fx-rate.net/calculator, June 6, 2018.

transport. Transit goods for storage in a customs bonded warehouse or for outright exportation and goods intended for transit covered by RA 10668[14] shall not be subject to duties and taxes at the port of entry.

Customs Transshipment

Previously, goods under transshipment are sometimes unloaded from vessels temporarily staying in the Philippines and are in turn sold in the domestic market. The CMTA now requires Customs transshipment to be entered in goods declaration specifically as transshipment supported by commercial or transport documents. Transshipment goods are also required to post security equal to the ascertained duties and taxes and other charges. The CMTA also requires the submission of a certificate that will prove that all transshipment goods were actually discharged at the foreign port of destination before the security posted is released.

5. Conditionally Tax and/or Duty-Exempt Importation

The increase in thresholds of personal and household effects belonging to returning residents, FCA value of home appliances and other durables that may be brought in or sent by OFWs, and the value and frequency of sending tax and duty-free balikbayan boxes will benefit Filipinos abroad and their families in the Philippines. The increased cap on tax and duty-exempt importations will lessen the likelihood that the importations received by the families of OFWs in the Philippines will be subject to tax. It will provide reprieve to OFWs and their families by giving them additional non-monetary benefits. The adjustment of the cap brings such amount to its present value that is more realistic and suitable for application than the previous cap which has been outdated after years of non-adjustment. Such circumstance, however,

[14] An Act Allowing Foreign Vessels to Transport and Co-Load Foreign Cargoes for Domestic Transshipment and for Other Purposes

may be no longer forthcoming with the added provision giving the Secretary of Finance the authority to adjust the amount of tax and duty-exempt importation ceiling to its present value every three years using the CPI published by the PSA.

Section 800 (f) provides for increase in the minimum dutiable value of personal and household effects belonging to returning residents that are tax and duty-exempt from P10,000 to FCA and FOB value of: P350,000 for those who have stayed in a foreign country for at least 10 years and have not availed of this privilege within 10 years prior to his/her arrival; P250,000 for those who have stayed in a foreign country for at least five years but not more than 10 years prior to his/her arrival; and P150,000 for those who have stayed in the foreign country for a period of less than five years and have not availed of this privilege within six months prior to his/her arrival. Furthermore, the FCA value of personal and household effects, and home appliances and other durables that may be brought in tax and duty-free by OFWs is also increased, limited to one of every kind once in a given calendar year, accompanying them on their return or arriving within reasonable time after their return, from P10,000 to P150,000. Similarly, Section 800 (g) provides that residents of the Philippines, OFWs or other Filipinos while residing abroad or upon their return to the Philippines are allowed to bring in or send to their families or relatives in the Philippines tax and duty-free "balikbayan boxes" up to three times in calendar year, provided that the FCA value of which shall not exceed P150,000 and shall contain personal and household effects only and shall neither be in commercial quantities nor intended for barter, sale or for hire. (See Table 2.)

Table 2

Comparative Values of Conditionally Tax and/or Duty-Exempt Importation by Returning Filipino Residents/OFWS as Specified Under TCCP and CMTA

Particulars	TCCP	CMTA
Personal and household effects	Total dutiable value shall not exceed P10,000: Provided, That the returning resident has not previously availed of the privilege within 365 days prior to his arrival	Three hundred fifty thousand pesos for those who have stayed in a foreign country for at least 10 years and have not availed of this privilege within 10 years prior to returning resident's arrival; Two hundred fifty thousand pesos for those who have stayed in a foreign country for a period of at least five but not more than 10 years and have not availed of this privilege within five years prior to returning resident's arrival; or One hundred fifty thousand pesos for those who have stayed in a foreign country for a period of less than five years and have not availed of this privilege within six months prior to returning resident's arrival.
Home appliances and other durables	P10,000	One hundred fifty thousand pesos
Balikbayan boxes	-	Not exceeding P150,000 up to three times in a calendar year

6. Post Clearance Audit

The provision for post-clearance audit of the BOC is aligned with that of the BIR. The audit and examination of records for the purpose of ascertaining the correctness of goods declaration and determining the liability of the importer for duties, taxes, and other charges shall be conducted within three years from the date of final payment of duties and taxes or customs clearance. Under Section 203 of the National Internal Revenue Code (NIRC) of 1997, as amended, internal revenue taxes shall be assessed and collected by the BIR within three years after the last day prescribed by law for filing of the return. After the expiration of the prescriptive period, the government loses the right to assess a tax and any assessment made beyond this periof, except in the case of false or fraudulent return with intent to evade tax or of failure to file a return where the tax may be assessed or a proceeding in court for the collection of the tax maybe filed without assessment at any time within 10 years after the discovery of the falsity, fraud or omission.

The post clearance audit provision of the CMTA is a step towards the BOC's goal of modernized and efficient customs administration. It is aimed at ensuring the truthfulness and accuracy of the declared customs value, volume, tariff classification of importations. The changes in the guidelines in the post clearance audit introduces a modernized record storage requirement, shortened document retention period, narrower scope for audit, more straightforward fines and penalties for failure to pay correct duties and taxes on imported goods, among others.

Record storage under the CMTA will also ease the burden of importers as document retention period is shortened to three years from the date of final payment of duties and taxes from previously 10 years from the date of filing of the Import Entry Declaration.[15] Moreover, the auditing policy under the

[15] DOF Department Order No. 011-2014, dated 05 February 2014.

CMTA is more risk-based approach rather than transaction-based since the selection of importers for audit purposes is solely done through a computer-aided risk management system. This results to a narrower scope of selection of those who will be subject to audit. Detection of errors in the goods declaration and firm's voluntary request to be audited shall no longer give rise to a post-clearance audit. This is more resource efficient for the Bureau as it enables them to focus on riskier and relatively larger importations with higher revenue potential rather than those with low probability of committing fraud.

The CMTA, under Section 1004, also bestows broadened power to the Commissioner to obtain information and issue summons for the effective implementation of the post clearance audit functions of the BOC. It includes the authority to obtain any relevant information on a regular basis from any person, from any office or officer of the national and local governments, government agencies and instrumentalities, including the BSP and GOCCs; to summon the person liable for duties and taxes or required to file goods declaration, or any officer or employee of such person, or any person having possession, custody or care of the books of accounts and other accounting records; to take testimony of the person concerned, under oath, as material to such inquiry; and obtain information from banks and other financial institutions on commercial documents/records pertaining specifically to payments relevant to import transaction.

The offense that may be found after being subjected to post clearance audit include deficiencies in duties and taxes paid for imported goods which shall be penalized according to two degrees of culpability i.e., either negligence or fraud in contrast to the previous three degrees of culpability (i.e., negligence, gross negligence and fraud). Under the CMTA, negligence is penalized with a fine of 125 percent of the revenue loss from a fine ranging from 50 percent to 400 percent of the revenue loss under the TCCP. In case of unintentional or inadvertent error/s amounting to simple negligence in the goods declaration, the CMTA provides that no substantial penalty shall be imposed but to discourage repetition of such error a penalty may be imposed but shall not be excessive in compliance with the provisions of the RKC. For those found with fraud or when there is intentional evasion of payment of duties and taxes, the fine under the CMTA is six times of the revenue loss and/or imprisonment of two to eight years. Under the TCCP, the penalty for fraud is five to eight times the revenue loss and imprisonment of two to eight years.

These changes are expected to result to a more effective and efficient audit for the BOC while also considering the interests of the importers, leading to an improved reputation of the Bureau and at the same time increased revenue collection for the government.

7. Treatment and Disposition of Abandoned Goods

Other than the circumstances already cited in the TCCP[16], the CMTA provides additional three conditions when goods are considered abandoned: (a) when the owner/ importer fails to pay the assessed duties, taxes, and other charges within 15 days from date of final assessment; (b) having paid the assessed duties, taxes, and other charges, the owner/importer fails to claim the goods within 30 days from payment; and (c) when the owner/importer fails to claim goods in CBWs within the prescribed period.

The provisions in the treatment and disposition of abandoned goods recognize the right of the owners of goods and give them a leeway to reclaim the goods they have imported. The CMTA provides that not all abandoned goods

[16] Under the TCCP, these are the three instances of abandonment: (1) express and written notice to abandon from the importer; (2) failure to file entry within 30 days from date of discharge of the last package from the vessel; and (3) failure to claim the importation after the filing of an import entry within 15 days from date of posting of Notice to Claim such importation.

automatically become government property[17], instead, only expressly abandoned goods[18] shall be ipso facto deemed as property of the government since all interests and property rights over these kind of abandoned goods are considered renounced by the interested party. Impliedly abandoned goods[19] may be reclaimed by the importer upon compliance with all legal requirements and payment of corresponding duties, taxes, and all other charges, given that the Bureau has not yet disposed of the goods. Otherwise, the proceeds thereof shall be turned over to the importer. In case there is no claimant, the balance shall be deposited to the Forfeiture Fund.

If the Bureau has not disposed of the abandoned goods, the importer/owner may reclaim the goods within 30 days after the lapse of the prescribed period, by filing a declaration and submitting to all legal requirement and paying corresponding charges. If the Bureau sold the abandoned goods, the proceeds, after the deduction of any duty and tax, shall be turned over to those persons entitled to receive them as provided in Section 1143 of the CMTA, and if it is not possible, the Bureau must hold it at their disposal for a specified period and after the lapse of the specified period, the balance should be transferred to the Forfeiture Fund.

8. Civil Remedies for the Collection of Duties and Taxes

The CMTA provides civil remedies to ensure the collection of duties, taxes, fines, surcharges, interests, and other charges arising from the conduct of a post clearance audit which may be through either or both of the following, depending on the amount of duties and taxes: (a) distraint of goods, chattels, or effects, and other personal property and; (b) by civil or criminal action. However, no civil remedy shall be allowed when the amount of duties and taxes involved is not more

[17] Under the TCCP, when a shipment is declared "abandoned", it becomes automatically a property of government and may be disposed by donation or auction.

[18] It is when the owner, importer, or consignee of the imported goods expressly writes the district collector the intention to abandon the shipment.

[19] Implied abandonment refers to goods deemed abandoned if the importer or consignee fails to lodge the goods declaration after 15 calendar days from the discharge of the last package from the vessel, or if the importer or consignee fails to pay the assessed duties, taxes and other charges after due notice.

than P10,000. This measure guarantees the strict implementation of the provisions for post clearance audit of the CMTA and also safeguards the collection of government revenue. These remedies are summary in nature to achieve an expeditious and inexpensive resolution of cases to prevent unnecessary delays and safeguard government revenue. Precluding civil remedies when the amount of duties and taxes involved is not more than P10,000 is a practical move as it will save costs and manpower resources on the part of the government given the minimal amount involved.

9. Forfeiture Fund

The creation of the Forfeiture Fund promotes transparency as to where the proceeds from public auction sales are deposited after deduction of charges and expenses and subject to the claim of the owner or importer of impliedly abandoned goods. It also provides funds to defray the cost of outsourcing certain functions like inventory, safekeeping and sale of goods but still under the control and supervision of the BOC; to enhance customs intelligence and enforcement capability to prevent smuggling; and to support the modernization program and other operational and trade facilitation initiatives of the Bureau. As worded, however, the provision on the Forfeiture Fund does not provide for safeguards such as requirement for reporting as to ensure the proper utilization of the fund, unless the same shall be included in the implementing rules and regulations.

It may be recalled that under the TCCP, any unused amount from proceeds of sale of abandoned or forfeited or acquired articles remaining after satisfaction of all duties, taxes or charges and upon failure of owner to claim such surplus used to be turned over to the Bureau of the Treasury as customs receipts exclusive of the amount to be used in financing forced government acquisition. The provision for remittance to the BTr and financing of government forced acquisition from the proceeds of sale has been deleted under the CMTA.

It may be further noted that among the proposed activities to be financed from the Forfeiture Fund, e.g. enhance customs intelligence and enforcement capability to prevent smuggling is already included among the activities to be financed under the General Appropriations Act (GAA).

10. Fees and Charges

The CMTA retains the provision for the collection of dues, fees and charges for services rendered and documents issued by the BOC but the rate of dues, fees and charges were deleted because they may be increased or decreased by the Secretary of Finance, upon the recommendation of the Commissioner, in order to protect the interest of the government. This present provision is more flexible than the previous provision under the TCCP which already provides the rates of fees. Such principle is embodied in Administrative Order (AO) No. 21 (October 1, 2012)[20] which directs government offices to rationalize the rates of their fees and charges, increase their existing rates and impose new fees and charges to enable the government to effectively provide services without straining the National Government's Resources. The processing and supervision fee of P500 imposed and collected by the Bureau for every application of a drawback was also deleted under Title IX of the CMTA (Section 106 under the TCCP). The Bureau can still impose and collect fees for services rendered and documents issued under Title XIII, Section 1300 of the CMTA while Section 1301 provided for the continuing authority by the Secretary of Finance upon recommendation of the Commissioner, to increase or decrease the dues, fees and charges collectible by the Bureau.

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[20] "Directing and Authorizing all Heads of Departments, Bureaus, Commissions, Agencies, Offices and Instrumentalities of the National Government, including GOCCs, to Rationalize the Rates of their Fees and Charges, Increase their Existing Rates and Impose New Fees and Charges", approved on October 1, 2012.

RA 11033 – An Act Converting the Davao Oriental State College of Science and Technology in the City of Mati and All Its Satellite Campuses Located in the Province of Davao Oriental into a State University to be Known as the Davao Oriental State University, and Appropriating Funds Therefor (Approved on May 28, 2018)

RA 11150 – An Act Establishing the South Cotabato State College in the Municipality of Surallah, Province of South Cotabato, Integrating therewith the Surallah National Agricultural School Located in the Municipality of Surallah, Province of South Cotabato, and Appropriating Funds Therefor (Approved on December 13, 2018)

A. Features

A.1. *RA 11033 - Davao Oriental State University*

RA 11033 converts the Davao Oriental State College of Science and Technology in the City of Mati, including all of its existing satellite campuses in the municipalities of Banaybanay, Cateel, and San Isidro all located in the Province of Davao Oriental, into a state university to be known as the Davao Oriental State University. Its main campus shall be in Mati City.

The general mandate of the University is to primarily provide advance education, higher technological, professional instruction and training in the fields of education, agricultural technology, agribusiness management, business administration, industrial technology, arts and sciences, health sciences, information technology, engineering and other relevant fields of study. It shall also undertake research, extension service, and provide progressive leadership in its areas of specialization.

Section 18 of the Act provides that the importation of economic, technical and cultural books or publications, which are for economic, technical, vocational, scientific, philosophical, historical or cultural purposes made by the University upon certification by the Commission on Higher Education (CHED), shall be exempt from customs duties in accordance with the provisions of Republic Act No.

10863, otherwise known as the "Customs Modernization Tariff Act (CMTA)." Furthermore, all grants, bequest, endowments, donations and contributions made to the University, to be used actually, directly and exclusively by the University, shall be exempt from donor's tax and the same shall be allowed as allowable deduction from the gross income of the donor in accordance with the provisions of the National Internal Revenue Code (NIRC) of 1997, as amended.

A.2 *RA 11150 - South Cotabato State College*

RA 11150 establishes the South Cotabato State College in the Municipality of Surallah, South Cotabato, and integrates therewith the Surallah National Agricultural School. The College shall primarily provide advance instruction and research in agriculture, allied technological sciences, education, and arts and related sciences. It shall also undertake extension and development programs, and provide the necessary instructional and research leadership in agricultural, environmental and technological development in the Province of South Cotabato, and in Region XII (SOCCSKSARGEN).

Section 22 of RA 11150 provides that the importation of economic, technical and cultural books or publication, which are for economic, technical, vocational, scientific, philosophical, historical or cultural purposes made by the College, upon certification by the CHED, shall be exempt from customs duties in accordance with the provisions of the CMTA. It further provides that all grants, bequest, endowments, donations and contributions made to the University, to be used actually, directly and exclusively by the College, shall be exempt from donor's tax and the same shall be allowed as allowable deduction from the gross income of the donor in accordance with the provisions of the NIRC of 1997, as amended.

B. Implications

The tax provisions of RAs 11033 and 11150, particularly on the exemption from the donor's tax of grants, bequests, endowments, donations and contributions to be made to the Davao Oriental State University and South Cotabato State College are merely reiterations of the provisions of the

1987 Philippine Constitution, and the NIRC of 1997, as amended. Article XIV, Section 4(4) of the Constitution provides that "subject to conditions prescribed by law, all grants, endowments, donations, or contributions used actually, directly, and exclusively for educational purposes shall be exempt from tax." This Constitutional provision has been repeated in Section 101(A)(1) and (B)(1) of the NIRC of 1997, as amended, which provides that donations 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 of its political subdivision shall be exempt from the donor's tax. Furthermore, Section 34(H)(2)(a) of the NIRC of 1997, as amended, allows for the full deductibility from gross income of donations made to the government of the Philippines, or to any of its agencies or political subdivisions, including fully-owned government corporations, exclusively to finance, to provide for, or to be used in undertaking priority activities in education, health, youth and sports development, human settlements, science and culture, and in economic development according to the National Priority Plan (NPP) determined by the National Economic Development Authority (emphasis supplied). However, to be entitled to the full deductibility of donations, activities by the said educational institutions should be listed as a priority activity under the NPP, otherwise, it shall be subject to the limitations under Section 34(H)(1) of the NIRC of 1997, as amended. For non-priority activities of the government, the allowable deduction should not exceed 10 percent in the case of individuals, or five percent for corporations, of the taxpayer's taxable income derived from trade, business or profession as computed without the benefit of deductions.

The provision exempting the Davao Oriental State University and South Cotabato State College from customs duties for the importation of economic, technical and cultural books or publications, which are for economic, technical, vocational, scientific, philosophical, historical or cultural purposes, as certified by the CHED, is already in place per Section 800(t), Chapter I, Title VIII of the CMTA. This tax treatment is also consistent with the Agreement on the Importation of Educational, Scientific and Cultural Materials, also known as the Florence Agreement, of which the Philippines has been a signatory since August 2, 1952. Under the Florence Agreement, no customs duties or any other charges, including value-added tax (VAT), shall be applied to imported educational, scientific, and cultural materials. The agreement covers books, publications, and documents, including music sheets, maps, and charts, works of art and collector's pieces, visual and auditory material, scientific instruments or apparatus, and articles for the blind, except, publications that are essentially for advertising purposes.

In addition, government educational institutions like the Davao Oriental State University, and South Cotabato State College are by its nature exempt from any and all kinds of taxes pursuant to the 1987 Philippine Constitution, the NIRC of 1997, as amended, and other relevant laws. Article XIV, Section 4(3) of the Constitution provides that all revenues and assets of non-stock, non-profit educational institutions used actually, directly, and exclusively for educational purposes shall be exempt from taxes and duties. The tax exemption has been reiterated under Section 30(H) of the NIRC of 1997, as amended, which provides that non-stock non-profit educational institutions shall not be subject to tax on income with respect to income received by them as such.

Thus, by reason of direct Constitutional grant of tax exemption, there is already a relaxed requirement for non-stock, non-profit educational institutions relative to its claim for tax exemption. Hence, Davao Oriental State University, and South Cotabato State College are excluded from the coverage of the BIR's Revenue Memorandum Order (RMO) No. 20-2013[21]. which requires corporations and associations enumerated under Section 30 of the NIRC of 1997, as amended, to file their respective applications for tax exemption or revalidation with the Revenue District Office (RDO) where they are registered before availing of the tax exemption. This has been clarified by RMO 44-2016[22] in view of the ruling of the Court which declares that the requirement under RMO 20-2013 serves as diminution of the Constitutional privilege and that it strips the said institutions of their tax-exempt status. It further held that the constitutional conferral of tax exemption upon non-stock and non-profit educational institutions should not be implemented or interpreted in such a manner that will defeat or diminish the intent and language of the Constitution (Commissioner of Internal Revenue vs St. Paul College of Makati, 2017).

[21] Subject: Prescribing the Policies and Guidelines in the Issuance of Tax Exemption Ruling to Qualified Non-Stock, Non-Profit Corporations and Associations under Section 30 of the National Internal Revenue Code of 1997, As Amended. Issued on July 22, 2013.

[22] Subject: Amending Revenue Memorandum Order No. 20-2013, as amended (Prescribing the Policies and Guidelines in the Issuance of Tax Exemption Rulings to Qualified Non-Stock, Non-Profit Corporations and Associations under Section 30 of the National Internal Revenue Code of 1997, As Amended. Issued on July 26, 2016.

Aside from income tax, said educational institutions are also exempt from VAT on its education services. Section 109(H) of the NIRC of 1997, as amended, provides that educational services rendered by private educational institutions, duly accredited by the Department of Education, the CHED, the Technical Education and Skills Development Authority and those rendered by government educational institutions shall not be subject to VAT.

Finally, the subject educational institutions are also exempt from the payment of real property tax on all lands, buildings, and improvements actually, directly, and exclusively used for educational purposes pursuant to Section 234(b) of the Local Government Code (LGC) of 1991.

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Republic Act (RA) No. 11035 – An Act Institutionalizing the Balik Scientist Program, Appropriating Funds Therefor and for Other Purposes (June 15, 2018)

A. Features

RA 11035, also known as the "Balik Scientist Act", institutionalizes the Balik Scientist Program (herein referred to as the 'Program'). The Program shall be administered by the Department of Science and Technology (DOST). Its general objective is to strengthen the scientific and technological human resources of the academe, public and private institutions, including locally-registered enterprises in order to promote knowledge sharing and accelerate the flow of new technologies in the country. This can be done through the approval and awarding by the DOST of short-term, medium-term, and long-term engagements to Balik Scientists, and ensure their participation in activities such as, but not limited to, mentorship, training, lecture, research and development, technology transfer initiatives, and other similar endeavors in any institution subject to the agreement between the DOST, the Balik Scientist, and the host institution, and in due consideration of national priorities and agenda on science, technology or innovation, research and development, and industry development.

"Balik Scientist" as defined under RA 11035, refers to a science, technology or innovation expert or professional, as certified by the DOST, who is a Filipino citizen or a foreigner of Filipino descent, accorded with benefits and incentives under the Act to undertake science and technology activities along his or her field of expertise with a host institution under short-term, medium term, or long-term engagement, and who is either a resident of another country at the time of application, or a Philippine-resident for not more than three years at the time of application, beginning from the most recent date of arrival from overseas education or employment along his/her field of expertise. The Act further provides that those without graduate degrees but are equipped with exceptional expertise can be qualified under the Program. Thus, all balik scientists under the short-term, medium-term or long-term engagements shall be eligible for the following fiscal and non-fiscal incentives:

1. Short-Term Program:

    a. One round-trip airfare originating from a foreign country to the Philippines, exempt from Philippine Travel Tax;

    b. When applicable, application for a visa duly subsidized and facilitated by the DOST whose validity shall cover the duration of the awarded engagement;

    c. Tax exempt daily allowance to be determined by the DOST; and

    d. Participation in Grants-in-Aid (GIA) research and development projects of the DOST.

2. Medium-Term Program:

    a. One round trip airfare originating from a foreign country to the Philippines, exempt from Philippine Travel Tax;

    b. When applicable, application for visa duly subsidized and facilitated by the DOST whose validity shall cover the duration of the awarded management;

    c. Tax exempt daily allowance with rates to be determined by the DOST; and

d. Participation in GIA research development projects of the DOST.

3. Long-Term Program:

a. One round trip airfare originating from a foreign country to the Philippines, exempt from Philippine Travel Tax, for the awardees, their spouses, and minor dependents;

b. Special relocation benefits:

i. Special nonimmigrant visa, for awardees, their spouses, and minor children: Provided, that the validity of the visa shall cover the duration of the awarded long-term engagement;

ii. Exemption from the requirement to secure an alien employment permit from the Department of Labor and Employment (DOLE) for Balik Scientist and their spouses;

iii. Exemption from submission of Immigration Clearance Certificate and payment of multiple entry fees;

iv. Tax and duty exemption in the importation of personal and household effects, professional equipment, instruments and materials of the Balik Scientist;

v. Tax and duty exemption in the importation of one motor vehicle with gross vehicle weight (GVW) not exceeding 3.5 tons and subject to the motor vehicle classification standard set forth by the BOC: Provided, that the Balik Scientist, assisted by the DOST, shall ensure compliance with the other applicable rules and regulations in the importation of motor vehicles: Provided, further, that an endorsement from the DOST shall suffice as substitute to the required personal appearance: Provided, finally, that the Balik Scientist shall be exempt from posting bond and exportation of the motor vehicle to the country of origin upon the expiration of the award;

vi. Admission assistance to the preferred schools for the minor children of the Balik Scientist;

vii. Assistance in securing job opportunities for the spouse of the

Balik Scientist;

viii. Relocation allowance to be determined by the DOST; and

ix. Monthly housing or accommodation allowance.

c. Participation in GIA research and development projects; and

d. Funding for the establishment and development of a facility or laboratory: Provided, that the facility or laboratory shall be deemed government property.

B. Implications

On the tax and duty exemption of donations to the DOST of equipment, instruments, and materials, the same is already provided by law pursuant to Section 101(A)(1) and (B)(1) of the NIRC of 1997, as amended. Furthermore, said donations are likewise deductible from the gross income of the donor pursuant to Section 34(H)(2)(a) of the NIRC of 1997, as amended.

On the tax exemption of the daily allowances of Balik Scientists engaged in a short-term or medium-term program, generally, allowances, except those considered as *de minimis* benefits, are subject to tax. Sections 24 and 25 of the NIRC of 1997, as amended, subject the income received by individuals to a graduated personal income tax (PIT) rates ranging from 0 percent to 35 percent. In the case of self-employed individuals and professionals (SEPs), the taxation is different depending on the amount of its gross receipts or gross sales (GR/GS). If the GR/GS and other non-operating income for the year do not exceed the value-added tax (VAT) threshold of P3,000,000, they shall have the option to avail any of the following:

a. Eight percent tax on GR/GS) and other non-operating income in excess of P250,000 in lieu of the graduated income tax rates under Section 24(A)(2)(a) and percentage tax under Section 116 of the NIRC of 1997, as amended; or

b. The regular PIT rates ranging from 0 percent to 35 percent.

No such option is available to self-employed individuals whose GR/GS exceeds the P3 million VAT threshold since they are automatically subject to the regular PIT rates.

The tax-exemption of the daily allowance of a Balik Scientist engaged in a short or medium-term program is time-bound. This means that all Balik Scientists who may, for some reasons, be engaged for a period longer that what is provided for in their engagement, i.e., not exceeding six months for short-term program, and not exceeding one year for medium-term program, and who may have received their daily allowances, shall pay the applicable taxes on their income. In this case, the nature of engagement of the Balik Scientists should be evaluated to determine the appropriate tax treatment. Balik Scientists who are covered by an employer-employee relationship shall be subject to the regular PIT rates. If the relationship does not exist, they shall be treated as SEPs and may be subject to either the eight percent tax or the regular PIT rates depending on their GR/GS.

Notwithstanding the foregoing, Balik Scientists are still required to file their income tax return on or before the 15th day of April of each year covering income for the preceding year with the RDO, collection agent, or duly authorized treasurer of the city or municipality in which such person has his/her legal residence or principal place of business, or if there is no residence or place of business in the Philippines, with the Office of the Commissioner.

If without consultation with the BIR, the grant of authority to DOST to determine the rates of tax exempt daily allowance could result to a possible inconsistency with the tax-exempt amount considered as de minimis benefits, as provided under Revenue Regulations (RR) No. 2-1998 as amended particularly by RRs 10-2008, 05-2011, 8-2012, 1-2015, and 11-2018, to wit:

a. Monetized unused vacation leave credits of private employees not exceeding 10 days during the year;

b. Monetized value of vacation and sick leave credits paid to government officials and employees;

c. Medical cash allowance for dependents of employees, not exceeding P750 per semester or P125 per month per employee;

d. Rice subsidy of P2,000 or one sack of 50-kg. rice per month amounting to not more than P2,000;

e. Uniform and clothing allowance not exceeding P5,000 per annum;

f. Medical assistance not exceeding P10,000 per annum;

g. Laundry allowance not exceeding P300 per month;

h. Employees achievement awards, e.g. for length of service or safety achievement, which must be in the form of a tangible personal property other than cash or gift certificate, with an annual monetary value not exceeding P10,000 received by the employees under an established written plan which does not discriminate in favor of highly paid employees;

i. Gifts given during Christmas and major anniversary celebrations not exceeding P5,000 per employee per annum;

j. Daily meal allowance for overtime/night shift work not exceeding 25 percent of the basic minimum wage; and

k. Benefits received by an employee by virtue of a collective bargaining agreement (CBA) and productivity incentives schemes provided that the total annual monetary value received from both CBA and productivity incentive schemes combined, do not exceed P10,000 per employee per taxable year.

On the tax and duty-free importation of personal effects and professional instruments. It should be noted that Section 109 (C) and (D) of the NIRC, 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: Provided, That such goods are exempt from customs duties under the TCCP (now CMTA); and the importation of professional instruments and implements, wearing apparel, domestic animals, and personal household effects (except any vehicle, vessel, aircraft, machinery, other goods for use in the manufacture and merchandise of any kind in commercial quantity) belonging to persons coming to settle in the Philippines, for their own use and not for sale, barter or exchange, accompanying such persons, or arriving within reasonable time, upon the production of evidence satisfactory to the Commissioner, that such persons are actually coming to settle in the Philippines and that the change of residence is bona fide.

Also, a Balik Scientist in long term program is entitled to tax and duty exempt importation of one motor vehicle whose GVW does not exceed 3.5 tons. Under the Implementing Rules and Regulations of RA 11035, in order to avail of this incentive, the Balik Scientist has to secure clearance from the DOF, Department of Trade and Industry (DTI), and Department of Transportation (DOTr). In case the engagement of a Balik Scientist is change from long term to medium or short term for whatever reasons, the duties and taxes waived will have to be paid to the BOC.

The DOST needs to consider BIR issuances on the amount of tax-exempt daily allowances in order to avoid inconsistency therewith. Nevertheless, in general, the law is in harmony with the thrust of the government to strengthen the scientific and technological human resources of the academe, public and private institutions thereby accelerating the flow of new technologies into the country.

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RA 11038 – An Act Declaring Protected Areas and Providing For Their Management, Amending For This Purpose RA 7586, Otherwise Known as the "National Integrated Protected Areas System (NIPAS) Act of 1992", and For Other Purpose (June 22, 2018)

A. Features

Cognizant of the profound impact of human activities on all components of the natural environment, RA 11038 aims to protect and conserve our natural heritage by adhering to the principle of biological diversity and sustainable development.

Section 16 of RA 11038 grants tax exemption from donor's tax on all grants, bequests and endowments, donations and contributions made to the protected area fund which shall be used actually, directly, and exclusively by the protected area and shall be considered as allowable deduction from the gross income of the donor for the purpose of computing the taxable income of the donor in accordance with the provisions of the NIRC of 1997, as amended.

B. Implications

The intention of the law to conserve the country's natural heritage is consistent with the Philippine 1987 Constitution which mandates the protection of the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature.

Protected area, as defined under Section 4(bb) RA 11038, refers to identified portions of land and/or water set aside by reason of their unique physical and biological significance, managed to enhance biological diversity and protected against destructive human exploitation.

The proposed exemption from donor's tax on all grants, bequests and endowments, donations and contributions made to protected area fund and its deductibility from gross taxable income will encourage donation for the program. In addition, its treatment as an allowable deduction from gross taxable income is reasonable and it maintains uniformity in the treatment of donations in accordance with the provisions of the NIRC of 1997, as amended.

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2 MAJOR STUDIES AND OTHER RESEARCHES

1. Profile and Taxation of Philippine Offshore Gaming Operations

The paper presents the profile of the industry as well as the taxes, fees and charges imposed thereon to serve as inputs to fiscal policy makers.

The Philippine Amusement and Gaming Corporation (PAGCOR) defines offshore gaming as online games of chance conducted via the internet using a network and software or program. The offshore gaming has three components, namely: (1) prize consisting of money; (2) a player who is located outside the Philippines and not a Filipino citizen; and (3) the winning of a prize is decided by chance.[23]

On the other hand, "Philippine Offshore Gaming Operations" (POGO) refers to an entity which provides and participates in offshore gaming services, i.e., provides the game to players, takes the bet and pays players' winnings. A licensee is a POGO duly licensed and authorized by the PAGCOR to provide offshore gaming services.

Offshore gaming is conducted via the internet using a network and software. It is offered exclusively to offshore authorized players who have registered and established online gaming accounts with POGO licensees. Under the rules, authorized players are at least 21 years old or any applicable legal age in foreign countries where the players reside who are offshore individuals who is physically in another country other than the Philippines. This excludes Filipino citizens even if residing abroad and individuals in countries which have laws prohibiting the participation of their citizens in online gaming activities.

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[23] Title II, Section 4(b), "Rules and Regulations for Philippine Offshore Gaming Operations", September 01, 2016.

Pursuant to Presidential Decree (PD) 1869[24], as amended by Republic Act (RA) No. 9487[25], the PAGCOR, a government-owned and controlled corporation (GOCC), has the authority and power to authorize, license and regulate games of chance, games of cards and games of numbers within the territorial jurisdiction in the Philippines, excluding authorized, licensed and regulated by, in and under existing franchises or other regulatory bodies, special laws, and local government units (LGUs).

The Cagayan Economic Zone Authority (CEZA), the Aurora Pacific Economic Zone and Freeport Authority (APECO), and the Authority of the Freeport Area of Bataan (AFAB) are likewise granted by their respective charters the authority to directly operate, or license others to operate, gambling casinos in their respective special economic zones.

For tax purposes, a POGO licensee may be: (a) Philippine-based operator which is a duly constituted business enterprise organized in the Philippines; or (b) Offshore-based operator which is a duly constituted business enterprise organized in any foreign country who engages the services of a PAGCOR-accredited service/support provider for its online gaming activity. Any other business entity duly licensed and authorized by the PAGCOR to provide particular or specific component of offshore gaming activity to the POGO is likewise liable to taxes similar to POGO license.

Pursuant to Bureau of Internal Revenue (BIR) Revenue Memorandum Circular (RMC) No. 102-2017, the operations or activities of POGO and/or other entities shall be taxed as follows:

a. The entire gross gaming receipts/earnings or the agreed or pre-determined minimum monthly revenues/income from gaming operations under existing rules, whichever is higher, shall be subject to a franchise tax of five percent, in lieu of all kinds of taxes, levies, fees or assessments of any kind, nature or description;

[24] Entitled "Consolidating and Amending Presidential Decree Nos. 1067-A, 1067-B, 1067-C, 1399 and 1632, Relative to the Franchise and Powers of the PAGCOR", signed July 11, 1983.

[25] Entitled "An Act Further Amending Presidential Decree No. 1869, Otherwise Known as PAGCOR Charter" approved June 20, 2007.

b. Income from other related services (income from non-gaming operations) shall be subject to regular income tax, value-added tax (VAT) and other applicable taxes, as may be deemed appropriate;

c. A license deriving income from both gaming operations and from other related services shall be subject to five percent franchise tax on its gaming revenues and regular income tax, VAT and other applicable taxes on its non-gaming revenues;

d. Other entities, specifically including the gaming agent, service provider, and gaming support provider, who is also a POGO licensee, shall be taxed five percent franchise tax on its gaming activities and subject to the normal tax rate and other appropriate taxes on its non-gaming operations. Other entity, which is not a POGO licensee, deriving or earning only income from other related services or from non-gaming operations shall be subject to regular income tax, VAT and other applicable taxes on its entire revenues;

e. Income payments made by POGO licensees or any other business entity licensed or authorized by PAGCOR for all their purchases of goods and services shall be subject to withholding taxes as may be appropriate and applicable;

f. Compensation, fees, commissions or any other form of remuneration as a result of services rendered to POGO licensees or any other business entity licensed by the PAGCOR shall be subject to applicable withholding taxes under existing revenue laws and regulations; and

g. Purchases (local and imported) and sale (local or international) of goods (tangible or intangible) or services shall be subject to existing laws and revenue issuances, as may be applicable.

Moreover, all POGO licensees duly licensed and authorized by PAGCOR are subject to the following fees and charges:[26]

[26] Section 9(a) and (b), ibid..

Particulars	Application and Processing Fee	License Fee	Peso Equivalent1/	
			Application and Processing Fee	License Fee
e-Casino	US$50,000.00	US$200,000.00	PhP2.61 million	PhP10.42 million
Sports Betting	US$40,000.00	US$150,000.00	PhP2.08 million	PhP7.82 million

1/ - Converted using the April 2018 Average Peso Per US Dollar Exchange Rate (PhP52.10/US$1), BSP.

Gaming agents, gaming software or platform providers, gaming support providers, call centers, and data/content streaming providers of offshore gaming operators in the country are liable to the following PAGCOR fees to cover probity cost and site visit, as necessary:[27]

Particulars	Fee	Peso Equivalent[1/]
Gaming Agents	US$20,000.00	PhP1.04 million
Gaming Software/Platform Providers	US$20,000.00	PhP1.04 million
Gaming Support Providers	US$20,000.00	PhP1.04 million
Business Process Outsourcing	US$50,000.00	PhP2.61 million
Call Centers	US$20,000.00	PhP1.04 million
Data/Content Streaming Provider Applicants		
- Application and Processing Fee		
- Permit to Process Fee per Studio	US$40,000.00	PhP2.08 million
- Permit to Possess Fee per Table (for their gaming equipment and paraphernalia	US$100,000.00 US$2,000.00	PhP5.21 million PhP0.10 million
Unauthorized Transfer of Sale of Gaming Equipment and/or Paraphernalia (chargeable against their posted bond)*	US$100,000.00	PhP5.21 million

* Licensees shall be required to post a performance bond in cash in the amount of US$250,000.00, which amount shall be used to settle accountabilities with PAGCOR in case licensees absconds or is found to be under-declaring his gross winnings to deprive PAGCOR of its rightful share. Any amount deducted from this cash bond shall be immediately replenished by the licensee within 72 hours from the time of deduction. (Section 27(a), Rules and Regulations for POGO)

[1/] Converted using the April 2018 Average Peso Per US Dollar Exchange Rate (PhP52.10/US$1), BSP.

[27] Sections 10-24, ibid.

Licensees, agents and service providers shall renew their licenses, accreditation and registration yearly and must comply with the requirements for renewal at least a month prior to the expiration subject to a fee similar to their application and processing fees.

E-casino operators in the CEZA are subject to two percent of their gross gaming revenues (GGR). On the other hand, interactive gaming operators engaged in sports betting are subject to a tax equivalent to US$10,000 (PhP521,000) per month. It is also worthy to mention that the First Cagayan Leisure and Resort Corporation (FCLRC) and the North Cagayan Gaming and Amusement Corporation (NCGAC), being CEZA's master licensors, are entitled to half of the gaming levy imposed on gaming operators in the Cagayan Special Economic Zone and Free Port.

On the part of the APECO, interactive gaming operators shall pay US$40,000 (PhP2.08 million) annual charge for an interactive gaming license that includes application fees. Also, they are required to pay a levy totaling two percent of their gross win per month or US$5,000 (PhP260,500) per table, whichever is greater.[28]

One of the advantages of putting up an offshore gaming in the Philippines is that it is a legal and licensed activity in the Philippines. Thus, it ensures that online games are properly regulated and monitored by competent regulating government bodies.

Also, Filipinos are known to be highly skilled and educated, which makes doing business in the Philippines easier. There are also plenty of available prime grade buildings located in safe, secured and highly accessible areas, equipped with high speed fiber optic telecommunication facilities and uninterrupted power supply necessary for 24/7 operations.

Lastly, the Philippines' proximity to most Asian countries is also an advantage for gamblers from Macau, China, Japan, and Korea, which makes the country an excellent place to gamble.

[28] Legal Casinos Online. Ph, "Philippines Announces New Gaming Jurisdiction", January 19, 2017.

By the year 2020, global offshore online gaming market is expected to exceed US$60 billion with Asia Pacific surging ahead. Among the 10 ASEAN-member countries, the Philippines is the first and only country, to-date that gives license to online or offshore gaming.29 Cambodia, Indonesia, Thailand, and Vietnam prohibit all forms of gambling including offshore gaming. Offshore gaming in Singapore is illegal unless the operator is licensed by the Regulatory Authority of Singapore, or unless an exemption applies. Macau does not grant license to offshore gaming operators.

Although considered to be a new gambling activity in the country, offshore gaming is proving to be a promising revenue generating industry. There is no denying that the sector has yet to reach its full potential and still has enough elbow room for growth and improvement in terms of safeguards, audit among others. There is also a need for an official policy regarding the delineation or duplication of regulatory and licensing functions between PAGCOR and CEZA/APECO/AFAB on offshore gaming operations. However, given the advantages of the Philippines in terms of availability of office space, labor, tax incentives, and technology, it is not farfetched that the country would be a major player in offshore gaming industry worldwide.

2. Discussion of the Features of Various Tax Amnesty Proposals

This paper presents the features of various bills on tax amnesty filed during the 17th Congress and the rationale advanced by various stakeholders to justify their respective positions on the proposals.

A. Taxes and period covered

House Bill (HB) 7105 proposes to cover all national internal revenue taxes that remained unpaid as of December 31, 2017 and prior years while HBs 3655 and 4011 propose that the cut-off date be as of December 31, 2015. On the other hand, HBs 3832 and 4133 propose that the tax amnesty covers only tax delinquency from January 1, 2006 up to June 30, 2016.

[29] Lex Mundi, "Global Gaming Law Guide 2017".

All bills propose that the tax amnesty covers “all unpaid national internal revenue taxes”. There is a differing view, however, on what constitutes national internal revenue taxes. The draft Senate Bill (SB) on the tax amnesty includes taxes collected by the BOC, considering that these taxes are also classified as internal revenue taxes, although the BOC is only designated as collecting agent.

It should be mentioned that RA 9480[30] covered only BIR-collected taxes although the provision therein covers national internal revenue taxes with no explicit exclusion of BOC-collected taxes.

B. Availment of tax amnesty

HB 7105 proposes that the tax amnesty may be availed and paid within two years, while the other HBs propose that the availment and payment be within six months from the effectivity of the law’s implementing rules and regulations. The draft SB, on the other hand, proposes that the availment of the amnesty be made within one year and the payment be made simultaneously with the filing of the tax amnesty return and the Statement of Assets, Liabilities, and Net worth (SALN).

C. Tax base

HB 7105 proposes to base the amnesty tax on the: (a) net worth (difference between the total assets and total liabilities) in cases where no assessment was issued against the taxpayer; (b) increase in net worth for those who have previously filed their SALNs; and (c) on the amount of basic tax delinquency in cases where assessments were issued against the taxpayer. The draft SB and other HBs adopt the net worth as the base of tax amnesty payments. Other tax bases that are considered include total assets or undeclared assets.

[30] Entitled, “An Act Enhancing Revenue Administration and Collection by Granting an Amnesty on All Unpaid Internal Revenue Taxes Imposed by the National Government for Taxable Year 2005 and Prior Years,” lapsed into law on May 27, 2007.

D. Tax rate

HB 7105 proposes differentiated rates for each type of taxpayers who have not been issued assessment: (a) for individual, estates and trust, whichever is higher between eight percent of net worth or P10,000.00; (b) partnerships, stock corporations and taxable cooperatives, whichever is higher between eight percent of net worth and a minimum amount based on capital or subscribed capital; (c) GOCCs exercising proprietary functions, whichever is higher between four percent of the net worth and PhP50,000.00; and (d) taxpayers who have already filed their balance sheet/ SALN, together with their income tax returns (ITRs) for 2017, 8% of the resulting increase in net worth or minimum amount of the prescribed amnesty tax. In cases where assessments were issued against a taxpayer, the rate is 50% of the basic tax assessed.

The draft SB also differentiates the rate and base between individuals and corporations and uses net worth as the criterion thereof. The rate is whichever is higher between five percent of net worth and a minimum amount depending on net worth. Unlike the HBs, it gives discount depending on the period of amnesty tax payment, higher for earlier payment.

Consideration should also be given to the base that shall be used. If the tax amnesty uses the total net worth of the taxpayer, the rate may be whichever is higher between a certain percentage of the net worth and a minimum amount. If the tax amnesty is based on total assets, the rate should be lower than the one based on net worth.

E. Requirement for a certification by certified public accountants

The Senate draft version of the proposed tax amnesty provides that a SALN with net worth exceeding PhP5 million shall be duly certified by a Certified Public Accountant (CPA). Some sectors argued that the certification by the CPA of the SALN may be a futile requirement, because the CPA has no way of knowing the true amount of the taxpayer’s assets and liabilities as declared therein. This requirement might be unfair to the CPAs because the extent of their liability by reason of their certification is not clear.

F. *Valuation of assets*

Whether the tax amnesty is based on the net worth or total assets, the determination of the asset's value is important. HBs 7105, 3655, and 4011 propose that the value of properties other than the asset contained in the SALN be based on the acquisition cost of property. This is lifted from RA 9480 which used the same for amnesty purposes. The valuation rules under the said amnesty was later clarified in DOF Administrative Order (AO) No. 29 series of 2007[31] and RMC 69-2007[32]. Various stakeholders opined that the valuations used in the above issuances should be adopted to obviate any issue or questions on valuation.

G. *Presumption of the correctness of SALN*

Under the 2007 amnesty, the SALN is considered as prima facie true and correct except where the amount of declared net worth is understated to the extent of 30 percent or more, as may be established in a proceeding initiated by parties other than the BIR. Such proceeding shall be initiated within one year following the filing of the SALN and the tax amnesty return. This period is adopted under the HBs. In the draft Senate bill, however, the period is extended to three years.

On the period to initiate the proceedings, the proponents of the HBs believe that one year is sufficient for the BIR to initiate the same. On the other hand, a three-year period is proposed to have uniformity of rules by aligning it with the period of prescription provided in the National Internal Revenue Code (NIRC) of 1997, as amended, for the assessment of taxes. This will give the BIR ample time to verify the veracity of the declarations made in the SALN. This will also serve as preventive measure to forestall any attempt to make fraudulent declarations in the SALN for purposes

[31] Entitled, "Rules and Regulations to Implement Republic Act 9480", issued on August 15, 2007.

[32] Entitled, "Clarification of Issues Concerning the Tax Amnesty Program Under Republic Act. No. 9480 as Implemented by Department Order No. 29-07", issued on November 5, 2007.

of lowering the net worth. However, the proposal faces various oppositions since it is deemed too long considering that it only pertains to the 'institution' of the proceeding. It defeats the very purpose for the grant of an amnesty which is to give the delinquent taxpayers "peace of mind" after having applied for tax amnesty.

H. Immunities and privileges

Some stakeholders assert that there should be a provision in the bills stating to the effect that after the lapse of the period provided for the initiation of the proceeding to verify the correctness of the declarations in the SALN, such SALN shall be incontestable and the application is deemed accepted for purposes of availing of the tax amnesty. Thus, effectively, the taxpayer shall be automatically entitled to the immunities and privileges granted under the tax amnesty. The insertion of this period will expedite the grant of the amnesty, considering that in the past amnesty, there were availers who waited for a longer period because of a controversy in their SALNs.

I. Exceptions

All bills exclude withholding agents with respect to withholding tax liabilities to avail of the tax amnesty. This is justified in the sense that the government needs to convey its seriousness on the strict implementation of withholding of taxes.

J. Unlawful divulgence

In every amnesty, it is essential that there should be a provision prohibiting and penalizing unlawful disclosure of any information relative to the declarations and statements made in the SALN and tax amnesty returns. This will guarantee that the availers declaration will be protected and will be used only in confidence for purposes of tax amnesty availment. The proposed penalty includes:

a. A fine of not less than PhP250,000 and imprisonment of not less than one year but not more than six years (HB 7105);

b. A fine of not less than PhP50,000 and imprisonment of not less than six years but not more than 10 years (HBs 3655, 4011, 3832, and 4133); and

c. A fine of not less than PhP50,000 but not more than PhP100,000 and imprisonment of not less than two years but not more than five years (draft SB).

K. Publication of a list of availers

The proposal to publish a list containing the names of all taxpayers, their gross income, and the amount of income taxes paid is made for transparency purposes. However, it is deemed prejudicial to the reputation of the availers and may deter them from availing of the tax amnesty.

L. Authority of the Commissioner of Internal Revenue (CIR) to access bank information

In HB 7105, there is a provision which is very similar to Section 6 of the NIRC of 1997, as amended, pertaining to the authority of the CIR to inquire into and receive information on bank accounts and other related data held by financial institutions. The provision is unclear on whether it is intended as an amendment to Section 6 of the NIRC of 1997, as amended, to institutionalize automatic exchange of information (AEOI) or provided to support the tax amnesty program.

There is also a proposal to relax the bank secrecy law in cases of availment of tax amnesty. This is essential to establish the correctness of declared assets and net worth. In the course of validating the declarations made by the taxpayers in their tax amnesty returns and SALNs, the examination of their bank records may be necessary in establishing whether the net worth or total assets of said taxpayers are substantially understated or not.

It is pointed out that in designing an effective tax amnesty program, there must be a credible "threat" to the taxpayers that the tax amnesty is their last chance to come forward and start with a clean slate, otherwise, they will be prosecuted to the full extent of the law. There must be a sense of urgency on the part of the taxpayers, and their procrastination and reluctance to avail is risky on their part as their delinquency will be sooner detected or discovered. The credible "threat" could be in the form of the government's readiness to adopt and implement the AEOI, relaxation of bank secrecy law, and strict implementation of the Tax Code.

The tax amnesty programs in the bills have their own advantages and disadvantages, and the justifications advanced by the proponents for their preferences appear to be reasonable and logical. In the final design of a tax amnesty program, the features that are deemed meritorious and responsive to the over-all goal of the government but at the same time enticing for the taxpayers, should be the one considered.

3. Situs of the Tax Rule Under the Local Government Code of 1991: Issues and Problems

The paper reviews Section 150 of the Local Government Code (LGC) which provides for the allocation of the gross receipts/sales and consequently, the collection of the tax due thereon to LGUs hosting the different activities of the business. It also presents sample cases related to the situs rules which are referred to the Bureau of Local Government Finance (BLGF) and the corresponding legal opinions from the perspectives of the said government agency. It also presents other notable issues and problems pertinent to the situs of taxation and make recommendations therefrom.

Situs per se means location or site. The situs rule is defined as a provision of tax law setting out the factors which determine where a particular asset is situated or deemed to be situated for tax purposes. The location of the assets may be a decisive element in determining tax liability.[33]

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[33] International Tax Glossary, Second Edition, International Bureau of Fiscal Documentation, 1992 IBFD Publications BV.

In this study, it refers to the place/location where an item or property is taxed with due regard to the following: (1) domicile/residence of the owner; (2) business location; (3) place where the business is registered or licensed; and (4) whether or not the business is taxed by other jurisdictions.[34] Oftentimes, the situs of the tax is the place where the business transaction/ activity is performed or engaged in. This approach is used for the purpose of achieving a more objective and equitable manner for computing and collecting business taxes.

In the Philippines, the situs of the local business tax is the place where sales transactions take place and are recorded. For this purpose, the gross receipts/sales are allocated among the business units that contribute to the total sales pursuant to Section 150 of the LGC. These include the principal office (PO)[35]; branch or sales office/s (B/SO)[36]; warehouse (WH)[37]; plantation (PL)[38];

[34] Ramelo, Gloria and Ferdinand Gutierrez. "*A Basic Approach to Income Taxation.*" *Philippines. 2002. pp. 6-7.*

[35] Refers to the head or main office of the business appearing in the pertinent documents submitted to the SEC, or the Department of Trade and Industry (DTI), or other appropriate agencies as the case may be. See Article 243(a)(1), implementing rules and regulations (IRR) of the LGC.

[36] A fixed place in a locality which conducts operations of the business as an extension of the PO. Offices used only as display areas of the products where no stocks or items are stored for sale, although orders for the products may be received, are not considered branch or sales offices. See Article 243(a)(2), IRR of the LGC.

[37] A building utilized for the storage of products for sale and from which goods or merchandise are withdrawn for delivery to customers or dealers, or by persons acting in behalf of the business. A warehouse that accepts orders and/or issue sales invoice is considered a branch or sales office. See Article 243(a)(3), IRR.

[38] A tract of agricultural land planted to trees or seedlings whether fruit bearing or not, uniformly spaced or seeded by broadcast methods or normally arranged to allow highest production. For purposes of Article 243 of the IRR, inland fishing ground shall be considered as plantation. See Article 243(a)(4), IRR.

factory/ies (F)[39]; experimental farm/s (EF)[40]; project office/s (PrOs)[41]; port of loading (POL); and route sales (RS).

In the last five years (2013-2017), a total of 35 or about 20% of the total number of inquiries from the BLGF deal with situs of the tax as the subject matter, 28 of which were from taxpayers while the remaining seven were from local chief executives or treasurers. The following are some sample cases related to the situs of taxation referred to the Bureau and its corresponding opinion on the matter:

Case 1: Tax situs of a manufacturer with B/SO in different LGUs, and PO and manufacturing plant located in the same LGU

Representation: Cardams, Inc. (CI) is a shoe and bag manufacturer maintaining a PO and manufacturing plant in Pasig, and B/SOs around Metro Manila and nearby provinces. CI's PO serves as a monitoring office and does not sell finished goods on either retail or wholesale basis. All the finished products are sent and sold at its different B/SOs where the sales are recorded in the corresponding sales books of each B/SO.

Issue: Whether or not Pasig City can assess 70% of the sales made and recorded by CI's B/SOs all over the country, or 100% of the sales because the PO and manufacturing plant are located therein?

[39] A building or group of buildings appropriated to the manufacture of goods, including the machinery necessary to produce the goods, and the engine or other power by which the machinery is propelled. It is the place where workers are employed in fabricating goods, wares, or utensils. See Black's Law Dictionary, Revised 4th Edition.

[40] Agricultural lands utilized by a business or corporation to conduct studies, tests, researches or experiences involving agricultural, agribusiness, marine, or aquatic, livestock, poultry, dairy and other similar products for the purpose of improving the quality and quantity of goods or products. See Article 243(a)(5), IRR.

[41] Refers to the field office in the construction site. It is equivalent to the factory of a manufacturer. See DOF-Local Finance Circular No. 3-95.

DOF-BLGF Opinion (March 13, 1998): No. All sales made by the B/SOs will be recorded in the respective sales books of said B/SOs and the tax shall be paid to the city or municipality where these B/SOs are located. In the case of Pasig City where the PO and manufacturing plant are situated, it will not have a share in the sales or receipts made by the B/SOs pursuant to Article 243(b)(1) of the IRR implementing Section 150 of the LGC. Thus, it is not proper for Pasig City to assess 70% nor 100% of the sales made and recorded by B/SOs in other LGUs.

Case 2: Tax situs of depots

Representation: Republic-Asahi Glass Corporation (RAGC) maintains its PO, F, and B/SO in Pasig City. It also operates 10 provincial depots located in different cities and municipalities all over the Philippines. One of the functions of the depots is to accept orders from dealers in their respective areas.

Issue: Whether or not the depots of RAGC may be considered as B/SOs, which will preclude Pasig City, where the PO is located, to share in the taxable gross receipts/sales made by the depots.

DOF-BLGF Opinion (August 26, 1993): Yes. The depots of RAGC accept orders from customers. Under Article 243(a)(3) of the IRR of the LGC, a WH[42] should be utilized first as a "sales office" before an LGU can validly impose a business tax. Hence, the depots of RAGC are also considered as B/SOs. As "B/SO", the gross receipts/sales made by the depots should be recorded in their respective books of accounts and 100 percent taxable in the LGU where they are located. Pasig City, which hosts the PO, is therefore not entitled to a share of the sales made by the depots.

[42] As contemplated in Section 150 of the LGC as implemented by Article 243 of the IRR, a depot where products are stored for sale and one of its basic functions is to accept orders from dealers in their areas may be considered as a warehouse.

Case 3. Tax situs of leasing company

Representation: Uni-Delta Development Corporation (UDDC) is engaged in leasing out properties. Its PO is located in Naga City. UDCC recently acquired a property in Quezon City and plans to acquire another in Bocaue, Bulacan. It does not maintain offices in Quezon City and Bocaue, Bulacan.

Issue: Whether or not UDCC is only liable to pay LBT in Naga City?

BLGF Opinion (June 10, 2014): Yes. Business entity like UDDC which does not maintain any B/SO where the real properties subject of lease are situated shall record the rental fees in the PO and that the taxes due thereon shall accrue and shall be paid 100 percent to Naga City where the PO is located, to the exclusion of Quezon City and Bocaue, Bulacan, where UDDC's real properties are situated. The real property of UDDC in Quezon City as well as the soon-to-be-acquired property in Bocaue, Bulacan can never be considered as B/SO to satisfy Section 150(b)(2)(1) of the LGC.

Case 4. Tax situs of lessor of real property where PO and leased properties are located in different LGUs

Representation: Sandoz Realty is a real estate land lessor in Canlubang, Calamba City with PO located in Makati City where its lease transactions are being recorded and where invoices and official receipts are being issued.

Calamba Business License Office claimed that Sandoz Realty should declare in Calamba City 70 percent of its gross revenues as basis for the computation of the relevant tax on revenues from land leasing and the balance of 30 percent of its gross revenues in Makati City. On the other hand, Makati Business License Office is not amenable to this arrangement. Instead, it requires Sandoz Realty to declare in Makati City 100 percent of its gross revenues for the computation of the relevant real estate lessor's tax.

Issue: Whether or not Makati and Calamba Business License Offices should impose the LBT on Sandoz Realty?

BLGF Opinion (July 10, 2007): No. Sandoz Realty is not liable for LBT to the City of Calamba for the simple reason that the real properties being leased may not be considered as a F, PrOs, or PL.

Citing BLGF Opinion of Golden Arches Realty Corporation (GARC)43, a business entity which does not maintain any branch or sales outlet elsewhere, shall record the sales in the PO and that the taxes due shall accrue and shall be paid 100 percent to the city where the PO is located, to the exclusion of other LGUs where real properties subject of lease agreements with lessee-companies are situated.

Case 5: Tax situs of a manufacturer with a PO and two (2) F located in different LGUs

Representation: Oriental Tin Can and Metal Sheet Manufacturing Co. (OTC) is a manufacturer of food grade tin can maintaining a PO and main F in Quezon City. It has another F in General Santos City. All sales made in the F in General Santos City are recorded in the PO in Quezon City.

Issue: Whether or not the Treasurer of General Santos City can validly impose 100 percent tax on all sales made by the F in General Santos City?

DOF-BLGF Opinion (December 16, 2010): No. Since all sales made by OTC are invoiced and recorded in its PO in Quezon City, including those made in General Santos City, 30 percent of all sales recorded in the PO will be taxable in Quezon City and the remaining 70 percent will be prorated between Quezon City and General Santos City on the basis of the respective volumes of production of the Fs located therein pursuant to Section 150(a) of the LGC.

[43] BLGF Opinion dated 10 July 2007.

Case 6: Tax situs of a mining company with PO and a PrOs

Representation: Philex Mining Corporation (Philex) has mining operations in the municipalities of Itogon and Tuba, both in the province of Benguet. All sales transactions are recorded in the PO in Pasig City.

The Municipal Treasurer of Itogon, Benguet requested Philex to submit a true and complete return setting forth its gross receipts for its mining operation for purposes of determining the taxes, fees and charges due. On the other hand, Philex refuted the request on the ground that no sales transactions are being conducted/recorded within the Municipality of Itogon because these are already done in Pasig City where the PO is located.

Issue: Whether or not Philex is liable to pay LBT to the Municipality of Itogon, Benguet?

BLGF Opinion (December 16, 2010): Yes. Section 2 of Local Finance Circular (LFC) 2-09 which defines mining area as a portion of the contract area identified by the contractor (mining company) for purposes of development, mining, utilization, and sites for support facilities or in the immediate vicinity of the mining operations. Mining area shall be synonymous to project site. In addition, Section 4(b) of LFC 2-09 provides that the following sales allocation shall apply to manufacturers, contractors, producers, processors and exporters with project offices/mining areas in the pursuit of their business:

a. Thirty percent of all sales recorded in the PO shall be taxable by the city or municipality where the PO is located: and

b. Seventy percent of all sales recorded in the PO shall be taxable by the city or municipality where the F, PrO, or PL is located.

In the case of mining areas that are geographically located in two or more localities, the allocation of the business tax imposed by LGUs concerned shall be decided by the "Committee" which will be created in localities where there are mining operations.[44]

In this case, even if Philex sales transactions are recorded 100 percent at its PO in Pasig City, still it does not preclude LGU-Itogon from collecting local business tax there from for its gross sales or receipts realized for the period 2003-2009.

Based on the above cases, it is noted that there may be a need to revisit the situs rules to ensure that LGUs hosting other business activities get their fair share in the LBT collection. Since, the situs rules are not broad enough to cover other types of business units. For clarity, depots, regional and provincial offices and other operating business units should be considered in any attempt to amend the provisions on situs of taxation. Also, as shown in the queries referred to the BLGF, it is possible that companies may have various combinations of business units operating all over the country, hence, there should also be rules for such.

The situs rule under the LGC and its Implementing Rules and Regulations (IRR) is intended as a mechanism for equitable distribution among local governments' possible sources of revenue from the business tax. However, the attainment of this objective is hindered by the fact that most LGUs lack the expertise in monitoring the transactions of businesses within their jurisdictions. In this case, it is suggested that treasury personnel undergo intensive hands-on training on how to analyze the declarations submitted by the businesses. The LGUs may coordinate with the Philippine Tax Academy (PTA) and the BLGF to design and conduct auditing skills enhancement trainings to capacitate local treasurers in the examination of books of accounts of LBT taxpayers.

It is also suggested that an information handbook containing illustrations on how sales should be allocated between host LGUs be made available and widely disseminated to serve as reference for LGUs and the taxpayers.

The LGUs may also adopt the use of the presumptive income level assessment approach (PILAA) to carry out the situs of the tax provision under the LGC effectively. This can be done by projecting annual sales/receipts by estimating daily, weekly or monthly income or by providing automatic increase to the gross receipts/sales over that of the previous year.

[44] BLGF Opinion, December 16, 2010.

The LGUs should also plan and allocate their limited manpower to conduct periodic inspection of the business establishments. The importance of the verification of the type of business registered as well as the function of the business unit established in the LGU through an inspection cannot be overemphasized.

Lastly, the BLGF should issue concrete guidelines to operationalize the sales allocation scheme as provided in Section 150 or the situs of the tax rules. Said guidelines should be able to address various cases/queries seeking BLGF's opinions/rulings related to said situs rule. It should also provide clear and uniform procedures of reporting of annual sales/receipts recorded at the head office.

4. Review of the Taxation of Philippine Debt Instruments

The paper provides basic information on the country's debt instruments and the taxes imposed thereon. This will serve as an invaluable input to fiscal policymakers in their review of Package 4 which deals with the country's capital market taxation of the DOF's CTRP.

The debt market is the market where debt instruments are traded. Debt instruments refer to instruments representing borrowing and lending transactions including but not limited to debentures, certificates of indebtedness, due bills, bonds, loan agreements, instruments and securities issued by the government or any of its instrumentalities, deposit substitutes, certificates or other evidences of deposits, promissory notes, whether negotiable or non-negotiable, other similar instruments, and other instruments as may be determined by appropriate government agencies[45]. These are contractual obligations issued by borrowers to obtain cash or capital for either short-term or long-term financial needs.

The Bureau of the Treasury (BTr) and the Securities and Exchange Commission (SEC) are the two major government agencies tasked with the management and regulation of debt instruments in the country. The BTr manages government securities for the account of the national government, while the SEC formulates policies and recommendations on issues concerning the securities market.

[45] Section 179, NIRC, as amended.

LGUs are likewise authorized to issue bonds, debentures, securities, collaterals, notes and other obligations to finance self-liquidating, income–producing development or livelihood projects pursuant to priorities established in the approved local development plan or the public investment program subject to the existing rules and regulations of the BSP and the SEC[46]. The sanggunian concerned shall, through an ordinance approved by a majority of all its members, declare and state the terms and conditions of the bonds and the purpose for which the proposed indebtedness is to be incurred.

Similarly, GOCCs are also authorized to issue debt securities subject to their statutes or charters, and to presidential full powers or special authority whenever a sovereign guarantee is required, executed by the President of the Philippines.[47]

Debt instruments may either be listed and traded through local exchange or unlisted and traded over-the-counter (OTC). The Philippine Dealing and Exchange (PDEX) is the local exchange for debt instruments that operates organized secondary market for the trading of fixed income (FI) securities which include both government and corporate securities. On the other hand, unlisted debt instruments and traded OTC are those that are traded through a dealer network and does not take place in the local exchange.

Over the years, government securities (GS) continually dominated the local currency (LCY) bond market, while issuance of corporate securities (CS) remained low. From 2012 to 2017, the total debt issued securities amounted to PhP6.2 trillion or averaged to PhP1.0 trillion annually. Of that amount, GS accounted for about 84 percent of the total debt securities issued while CS shared 15 percent of the market. The highest growth in the issuances of CS was in 2014 while GS was in 2017, when they grew by 27 percent and 72 percent, respectively.

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[46] Sec. 299, RA 7160 Entitled "Local Government Code of 1991, as amended", 10 October 1991.

[47] Asian Development Bank "Philippine Bond Market Guide", ASEAN+3 Bond Market Guide, Volume 1, Part 2, February 2012.

The PDEX provides the country's trading platform for debt instruments or FI securities. It is registered as a self-regulation organization (SRO) in the SEC. As an SRO, it has the authority to enforce its own rules; monitor and enforce compliance with securities laws and regulations; and enforce fair, ethical and efficient practices with a primary objective of investor protection.

Trading participants in the secondary debt market include dealers, brokers, and qualified institutional buyers (QIBs). In 2017, there were 41 dealers, 31 brokers and 52 firms engaged in FI trading. By type of traders, dealers consistently contributed the highest volume of FI securities traded that averaged PhP2.3 trillion annually or 56 percent thereof from 2012 to 2017; followed by brokers with PhP1.2 trillion (30 percent), and QIBs with PhP572.2 billion (14 percent).

Debt instruments are subject to the following taxes under the NIRC of 1997, as amended by RA 10963 or the "Tax Reform for Acceleration and Inclusion" (TRAIN) law:

a. On interest income

For individuals, interest income from bonds earned by citizens and resident aliens, and non-resident aliens engaged in trade and business (NRAETB) in the Philippines is subject to 20 percent FWT, while a 25 percent final tax (FT) is imposed on non-resident aliens not engaged in trade or business (NRANETB). For corporations, interest income earned by domestic and resident foreign corporations is subject to 20 percent FWT, while a 30 percent FT is imposed on non-resident foreign corporations. The issuer is required to withhold the tax at every interest payment.

In the case of zero-coupon bond, the interest (in the form of discount) is deemed to be received by the holder upfront upon purchase of the bond and not upon maturity. The issuer is required to withhold the same tax as above on the discount upon issuance of the bond.

b. On trading gains

Trading gains are subject to regular income tax applicable to individuals at the rates ranging from 0 percent to 35 percent, or to corporations at the rate of 30 percent. On the other hand, Section 32(B)(7)(g) of the Tax Code provides that gains realized from the sale or exchange or retirement of bonds, debentures or other certificates of indebtedness with maturity of more than five years are excluded from the gross income and are therefore exempt from income tax.

c. On the sale, exchange, or trading.

A documentary stamp tax (DST) is also imposed on all debt instruments under Section 179 of the NIRC of 1997, as amended by RA 10963. On every original issue of debt instruments, a DST of P1.50 on each P200 or equivalent to 0.75 percent or fractional part thereof, of the issue price of such debt instruments is imposed; provided, that for debt instruments with term of less than one year, the DST is a proportional amount in accordance with the ratio of its term in number of days to 365 days. Likewise, bonds, notes and other instruments issued by entities organized under foreign laws but floated in the Philippines are subject to the DST similar to those sold or floated in the Philippines as provided under Section 176 of the same Tax Code. Similarly, debt securities issued by foreign countries in the Philippines are subject to the DST imposed on similar instruments when floated in the Philippines[48].

There is clear distinction between the taxation of equities and debt instruments with respect to the treatment of trading gains. The former is subject to 15 percent CGT and 0.6 percent final stock transaction tax (STT), while the latter is subject to regular income tax for those with maturity of less than five years and exempt for more than five years. Disparity can also be observed with regard to the FWT on capital income. In general, a 10 percent FWT is levied on dividends which is relatively lower than the 20 percent FWT on interest income. However, the DST on original issuance of debt instruments is lower at 0.75 percent compared with the DST levied on original issuance of shares of stock at 1 percent. Also, while secondary transfer of debt instruments is exempt from the DST, transfer of shares of stock is subject to DST of 0.75 percent, except those listed and traded in the local exchange.

[48] BIR Ruling No. 052-99, 19 April 1999.

With this reality, tax neutrality between the two investments products should be promoted. This disparity distorts investment decisions such that tax considerations tend to overshadow all other factors affecting such decision. Therefore, there is a need to harmonize the tax treatment between equity and debt to avoid tax arbitrage by adopting a single rate to be imposed on interest income, dividends, and capital gains.

In this context, the financial transaction tax (FTT) has been a common policy tool employed by countries throughout the world to generate additional revenues. The tax applies to the value of trades in stocks, bonds, derivative instruments, mutual funds, and other securities. Aside from being a potential source of revenues, the imposition of an FTT aims to curb instability caused by speculative trading by traders, arbitrageurs and big operators as each transaction would be taxed and thereby reduce volatility.

In the Philippines, an STT is imposed on shares of stock traded and listed at the Philippine Stock Exchange (PSE). However, it is not imposed on dealers pursuant to Section 127 (A) of the Tax Code49. No transaction tax (TT) is imposed on debt instruments traded and listed at the PDEX.

A number of countries impose an FTT on the transfer of bonds at rates ranging from 0.10 percent to 0.15 percent. Thailand imposes a 0.10 percent SBT on the sale of securities in a securities market but exemptions are applied on certain transactions such as sale of securities in its stock exchange, among others. Vietnam imposes a 0.10 percent tax of gross sale on resident and nonresident individuals, while Switzerland imposes a 0.15 percent tax on corporate and government bonds50.

It may be noted that the proposed TT will not be an additional tax on the current taxation of debt instruments. The proposal is to shift the taxation on trading gains on debt instruments from regular income tax to FWT. This shift will simplify the tax system since there will be only two tax rates, a 0.1 percent final TT for listed debt instruments and a 15 percent CGT based on net gain for unlisted debt instruments regardless of the recipient of income.

[49] "FEB Stockbrokers, Inc. Vs CIR, CTA Case No. 6181", 17 December 2003.

[50] PWC, "Switzerland Corporate – Other Taxes", 21 June 2018. http://taxsummaries.pwc.com/ID/Switzerland-Corporate-Other-taxes

The proposed imposition of a TT on FI trading is in line with the principle of neutrality of taxation of all forms of investment instruments particularly under common circumstances such as listing in an organized exchange.

It is worth mentioning that while the proposed TT on traded FI securities can help achieve fairer competition in the capital market, it will not solve the problem unilaterally. Instead, the proposed TT should form part of a larger tax policy effort to address uneven tax treatment in the capital market, and to support capital market development.

Moreover, there is a need to align the DST structure of shares of stock with debt instruments by reducing the DST rate on original issue of shares of stock from one percent to 0.75 percent and removing the DST on secondary transfer or sales of shares of stock.

The current policy of the Philippine government is to develop the capital market by providing an efficient regulatory framework and creating a favorable market environment among its participants. In terms of taxation, there is a need to harmonize taxes on interest, dividends, capital gains and transactions to make the taxation of capital income simpler, fairer, and more efficient.

5. A Review of the Taxation of Shares of Stock in the Philippines

The paper provides basic information on stock investments, stock exchanges and/or organized market place, stock market participants, and the taxes imposed thereon and how they compare with other ASEAN member-countries. The study would serve as valuable input to fiscal policymakers, stakeholders and the general public in the deliberation of Package 4 reforms in the Congress.

Shares of stock are shares of ownership in a corporation. These are also called “equity shares” or “shares”. When individual and corporate investors buy shares of stock in a company, they automatically become shareholders or stockholders. As such, they participate in the company’s growth and success by earning dividends and realizing gains on capital or stock price appreciation. Dividends that are paid out to the shareholders may be in cash or stock dividends.

Cash dividends are earnings for every share of stock owned by the investors while stock dividends are additional shares given to shareholders at no cost.

On the other hand, capital or stock price appreciation is the increase in the market price of the stock. It is the difference between the amount paid for the stock when it was bought and the current market price of the stock. Through an increase in the stock price, investors realize capital gains. However, stock prices may fluctuate or change depending on the market environment and the price level of shares.

The stock market is a place where shares of stock are bought and sold. The trading is done in an organized market place like a stock exchange or in the so-called "over-the-counter" (OTC) market. A corporation that offers and lists its shares in the stock exchange is called a listed company or issuer.

The PSE is the national stock exchange of the country. Anybody can buy or purchase stocks of a company that participates in the PSE with the assistance of a broker or brokerage firm who will trade on his/her behalf. An investor can buy shares of stock in person or through phone call or open an account online to buy and sell stocks via an online broker.

Shares of stock of corporations not listed and not traded in the stock exchange but registered and licensed by the SEC for sale to the public are available in OTC market. An OTC is the term used to refer to stock that is traded via dealer network and not in any centralized exchange. This is also known as unlisted stock where trading is done directly between two parties traded by a broker-dealer through direct negotiation and without the supervision of an exchange.

Unlike exchanges, the OTC market is less formal, although often well-organized, networks of trading relationships centered around one or more brokers. Brokers act as market makers by quoting prices at which they will sell (offer) or buy (bid) to other dealers and to their clients or customers. In an OTC trade, the price is not necessarily published for the public. In sum, OTC markets are less transparent and operate with fewer rules than do exchanges.

The Securities and Exchange Commission (SEC) is the national government agency charged with the supervision over the corporate sector, capital market participants, securities and investment instruments market, and the investing public. It requires and approves the registration of securities before they can be sold or offered for sale or distribution in the Philippines. However, certain securities are exempt from such registration like those issued or guaranteed by the government or by any political subdivision or agency thereof, among others.

The SEC also requires a minimum public ownership (MPO)[51] of at least 20 percent for companies applying for initial public offering (IPO) through its issuance of Memorandum Circular No. 13 series of 2017[52]. All companies that will file registration statements and with intention to list their shares for trading in an exchange shall apply for registration with a public float of at least 20 percent.

Based on available data, total number of registered accounts at the PSE increased from 585,562 in 2013 to 868,810 in 2017, the bulk of which were from retail investors (96 percent) and the rest were from institutional (corporate) investors. By nationality, majority (98 percent) were local investors with only a few foreign investors.

Over the years, domestic companies continually dominated the listing in the PSE, with an average of 260 compare to foreign companies with an average of three for the period 2013-2017.

An IPO refers to the process through which a company is first introduced and listed in a stock exchange. Involved in the IPO is the offering of shares taken directly from unissued shares of the capital stock of the company. Accompanying an IPO activity may likewise lead to a secondary public offerings (SPO) or follow-on offering where an already publicly listed company again turns to the local stock exchange (LSE) to raise additional equity. It refers to an offer for sale to the investing public by existing shareholders of their securities, which is conducted during an IPO or a follow-on/follow-through offering.

[51] The public float or free float represents the portion of outstanding stocks made available to public investors for stock trading. This refers to the shares that are freely bought and sold by the public, meaning those shares bought and sold to persons or organizations other than directors of the company and its subsidiaries and people connected to them.

[52] Entitled "Rules and Regulations on Minimum Public Ownership (MPO) on Initial Public Offerings", 1 December 2017.

The Philippine stock exchange composite index (PSEi) is the benchmark that measures the performance of the country's stock market[53]. It is a fixed basket of 30 common stock of listed companies that is carefully selected to represent the general movement of the stock market[54].

Presently, shares of stock are subject to the following taxes under the NIRC of 1997, as amended by RA 10963 or the TRAIN law:

a. Tax on dividend income

Dividend income paid to stockholders is subject to varying rates of final tax (FT) depending on whether the recipient is individual or corporate, resident or nonresident, and for non-resident alien, whether or not engaged in business in the Philippines. For individuals, cash dividend income earned by a citizen and resident alien is subject to 10 percent FT. For non-resident alien engaged in trade or business (NRAETB), dividend income is subject to 20 percent FT while for NRANETB, said dividend is levied 25 percent FT. For corporations, intercorporate dividends are exempt if paid to a domestic or a resident foreign corporation (RFC), while a 30 percent FT or applicable tax treaty rate (TTR) is imposed on non-resident foreign corporation (NRFC).

b. Capital gains/transaction taxes

A Capital Gains Tax (CGT) is imposed on net capital gains realized by the seller from the sale, exchange, or other disposition of capital assets, including shares of stock, among others. The net capital gain is calculated by deducting the original cost of the shares from whichever is the higher of either the selling price of the shares or fair market value (FMV) of such shares.

[53] PSE Academy, "The PSE Composite Index (PSEi)", October 7, 2011, http://www.pseacademy. com.ph/LM/investors~details/id-1317988210702/The_PSE_Composite_Index_PSEi.html

[54] Ibid.

Pursuant to the NIRC of 1997, as amended by RA 10963, net capital gains of resident individuals, NRAETB, NRANETB, and domestic corporations are subject to 15 percent CGT on their sale, transfer, exchange or other disposition of shares of stock not listed and traded through the LSE. Meanwhile, those earned by RFC and NRFC from the sale of shares of stock are subject to five percent CGT on the first P100,000, and 10 percent on the excess over P100,000 as provided under Section 28(A)(7)(c) and Section 28(B)(5)(c), respectively. On the other hand, NRAETB and NRFC may be entitled to the provisions of applicable tax treaty the Philippines has with other countries.

Section 127(A) of the Tax Code, as amended by RA 10963, the sale, transfer, exchange or other disposition of shares of stock listed and traded through the PSE is subject to a percentage tax in the form of the STT at the rate of 0.6 percent of the gross selling price (GSP) or gross value (GV) in money thereof. The said tax is collected by the stockbroker from the seller/transferor upon confirmation of the sales and remitted to the BIR. The transaction tax is a proxy for the imposition of the CGT on the transaction.

However, the sale of a listed share may be liable to the CGT instead of the STT if the listed company fails to comply with the minimum amount of publicly traded shares. According to the BIR, all publicly-listed companies are required, at all times, to maintain an MPO as prescribed by the SEC or the PSE, whichever is higher pursuant to RR 16-2012.[55] For instance, with the 20 percent MPO set by the SEC, publicly-listed companies that fail to meet the MPO will be subject to the CGT instead of the 0.6 percent STT.

On the other hand, the sale of unlisted and listed shares of stock done by a dealer in securities is not subject to either the CGT (based on net gain) or STT, respectively, but rather to the regular income tax rates imposed under the Tax Code of 1997, as amended. If the dealer

[55] Entitled "Tax Treatment of Sales, Barters, Exchanges or Other Dispositions of Shares of Stock of Publicly-Listed Companies whose Public Ownership Levels Fall Below the Mandatory Minimum Public Ownership (MPO) Level, Monitoring of these Companies and their Stock Transactions, and Amending Revenue Regulations No. 06-08 for the Purpose", dated November 07, 2012.

is a corporation, the gain realized from the sale or disposition of shares of stock is subject to 30 percent CIT, and if an individual, such gain is subject to 0-35 percent PIT.

Under Section 127(B) of the NIRC of 1997, as amended, the tax imposed on IPO shall be paid by the issuer corporation while for SPO, the tax shall be paid by the selling shareholder/s. The rate is four percent if the proportion of shares of stock sold through the IPO/SPO to total outstanding shares of stock is 25 percent or below; two percent if said proportion is over 25 percent but below 33 1/3 percent; and one percent if said proportion is over 33 1/3 percent.

c. DST on the issuance, sale, exchange, or trading of shares of stock

Shares of stock are also subject to different DST rates depending on the type of transaction under Sections 174, 175, and 176 of the NIRC, as amended by RA 10963. On every original issue, whether on organization, reorganization or for any lawful purpose, of shares of stock by any association, company or corporation, a DST of P2.00 on each P200 or fractional part thereof or one percent of the par value is imposed under Section 174. In the case of original issue of shares of stock without par value, the amount of the DST is based on the actual consideration for the issuance of such shares of stock, and in the case of stock dividends, on the actual value represented per share. Also, it is worth mentioning that the sale, barter or exchange of shares of stock listed and traded through the LSE is exempt from the DST pursuant to RA 9648.[56]

Under Section 175, all sales, or agreements to sell or memoranda of sales, or deliveries, or transfer of shares or certificates of stock are liable to a DST of P1.50 on each P200 or fractional part thereof or 0.75 percent of the par value of such stock, provided that in the case of a stock without par value the amount of the DST is equivalent to 50 percent of the DST paid upon the original issuance

[56] Entitled "An Act Exempting from Documentary Stamp Tax any Sale, Barter or Exchange of Shares of Stock Listed and Traded through the Stock Exchange, Further Amending for the Purpose Section 199 of the NIRC of 1997, as amended by RA No. 9243, and for Other Purpose", signed June 30, 2009.

of said stock. Likewise, certificate of stock issued in any foreign country is subject to the DST similar to those sold or floated in the Philippines from the person selling or transferring the same in the Philippines as provided under Section 176 of the Tax Code.

Dealers in securities are subject to the VAT as they are considered as sellers of service and not as financial intermediaries. Stockbrokers are likewise subject to the VAT. For dealers in securities, RMC 13-96[57] lays down the rules in determining the gross receipts from sale of shares of stock that is subject to 12 percent VAT. The circular provides that for the sale of securities listed and traded in the LSE, the taxable base is the gross income[58] derived from the sale or exchange of the listed and traded securities, while for the sale of securities done OTC, the tax base is the gross income indicated in the VAT invoice. For brokers, the VAT is based on gross receipts from their management fees and other service fees.

Total tax collection from shares of stock averaged P44.4 billion annually from 2013 to 2017. More than half of the collection came from the final tax on dividend income, 21.5 percent from STT and IPO tax, 19.7 percent from CGT, and 5.5 percent from the DST. The tax collection on shares of stock constituted an average share of three percent of total BIR tax collection during the period.

Package 4 proposes to adopt a uniform FT of 15 percent on interest income, dividends, and capital gains. This would effectively increase the FT on dividend income of citizens and resident aliens from its current rate of 10 percent to 15 percent. On the other hand, NRAETB as well as NRANETB will benefit from the proposal as it would lower their FT from the current 20 percent and 25 percent, respectively, to 15 percent. Meanwhile, domestic corporations and RFC will remain exempt from the FT on dividend income,

[57] Entitled "Clarification of Issues Affecting Dealers in Securities and Lending Investors Under Republic Act No. 7716, Otherwise Known as the "Expanded VAT Law", January 15, 1996.

[58] Gross income refers to total gross selling price less total acquisition cost of securities sold for the month or quarter plus incidental income.

except sole corporations which will be liable to the proposed tax thereto. For NRFC, the FT on dividend income will be reduced from its current 30 percent FT to 15 percent FT once Package 4 takes effect.

The adoption of a single rate on capital income including dividends would simplify the current complicated tax structure that is susceptible to tax arbitrage. It will create a more even playing field which will result in more equitable distribution of the tax burden.

On the other hand, the IPO tax is essentially a tax on capital and does not take into consideration income generation. Such an imposition is viewed as a deterrent for private companies to go public. Only the Philippines and Indonesia collect a tax on IPO among the ASEAN member-countries59. This results in the PSE lagging behind other ASEAN member-countries in terms of number of publicly-listed companies as well as having a shallow market capitalization depth. Thus, Package 4 proposes to remove the IPO tax to encourage public listing in country's stock exchange.

Also, while most ASEAN member-countries do not impose a tax on secondary trading, the Philippines imposes a STT at a very high rate of 0.6 percent. Thus, it is proposed that it be gradually reduced by 0.1 percent or 0.1 percentage point every year starting from 2020 until it reaches 0.1 percent by 2024. This would align the country's STT with Indonesia and Vietnam. Further, the proposed reduction in the tax will encourage secondary trading that would eventually result in higher trading volume.

In the case of the DST, there are four varied rates imposed on the shares of stock. Package 4 proposes that the sale or transfer of unlisted shares or certificates of stock be likewise exempt from the DST, similar to those traded at the PSE. The proposal is seen also to encourage trading activities which would spell positive economic growth for the country. This is also to enhance liquidity in the secondary trading of equity instruments. The move would put unlisted shares of stock at par with DST exemption of fixed income and other securities traded in the secondary market or through an exchange. Moreover, the DST imposed on original issuance, which is currently at one percent, is proposed to be lowered to 0.75 percent to equate with debt instruments.

[59] The Philippine SPO is seen as the equivalent of Indonesia's tax on founder's share.

Package 4 is anchored on a broadly revenue neutral framework. While the proposed tax reforms on the sale of shares of stock will result in revenue gain, this will compensate for the revenue losses in other proposals within the package such as the proposed reduction in the tax on interest income from 20 percent to 15 percent FT, and reduction and/or removal of the DST in some financial transactions.

The taxation of stock investments is indeed ripe for reforms. The foregoing proposed reforms which form part of Package 4 will put the Philippines at par with its neighboring countries and would encourage stock market participation of both individual and corporate investors.

6. A Review of the Excise Taxation of Sin Products

This paper discusses the excise taxation of sin products prior to and under RA 10963[60], its revenue performance based on available data from the BIR, its impact on alcohol and cigarette consumption, the allocation of earmarked revenue based on the DOH report, and the emerging proposals further increasing the excise taxes on tobacco and alcohol products.

The latest amendment on the excise taxation of sin products was made under RA 10963 which increased the excise tax rates on cigarettes packed by hand and by machine under Section 145(B) and (C) of the Tax Code, respectively. The proposed increase in price shall be implemented in four tranches:

a. Effective January 1, 2018 to June 30, 2018 - P32.50/pack;
b. Effective July 1, 2018 to December 31, 2019 - P35.00/pack;
c. Effective January 1, 2020 to December 31, 2021 - P37.50/pack; and
d. Effective January 1, 2022 to December 31, 2023 – P40.00/pack

[60] Entitled, “An Act Amending Sections 5, 6, 24, 25, 27, 31, 32, 33, 34, 51, 52, 56, 57, 58, 74, 79, 84, 86, 90, 91, 97, 99, 100, 101, 106, 107, 108, 109, 110, 112, 114, 116, 127, 128, 129, 145, 148, 149, 151, 155, 171, 174, 175, 177, 178, 179, 180, 181, 182, 183, 186, 188, 189, 190, 191, 192, 193, 194, 195, 96, 197, 232, 236, 237, 249, 254, 264, 269, and 288; Creating New Sections 51-A, 148-A, 150-A, 150-B, 237-A, 264-B, and 265-A; and Repealing Sections 35, 62, and 89; All Under Republic Act No. 8424, Otherwise Known as the NIRC of 1997, as Amended, and for Other Purposes”, approved on December 19, 2017 and effective January 1, 2018.

The law also provides for automatic annual adjustment of four percent to the rates effective January 1, 2024, through the issuance of revenue regulations(RR) by the Secretary of Finance.

Prior to RA 10963, the excise tax on both tobacco and alcohol products was amended by RA 10351[61], otherwise known as “Sin Tax Reform Law”, which was enacted five years ago on December 19, 2012. The said law simplified the excise tax structure of sin products by increasing the tax rates and gradually shifting the excise taxation of fermented liquors (except brewed and sold at microbreweries or small establishments) and cigarettes to unitary tax system in 2017 via RR No. 17-2012[62]

It also changed the excise taxation of distilled spirits from a specific tax to a compound tax structure in compliance with the World Trade Organization (WTO) ruling on the discriminatory taxation of imported distilled spirits in the country.

It also provided for automatic annual adjustment of four percent on the specific excise taxes of certain sin products effective on the following dates, viz.: (a) On January 1, 2014 – for wines, fermented liquors brewed and sold at microbreweries, tobacco products and cigars; (b) On January 1, 2016 – for distilled spirits; (c) On January 1, 2018 – for fermented liquors, except those brewed and sold at microbreweries, and cigarettes.

RA 10351 also removed the price classification freeze provision under RA 9334[63] that pegged sin products to 1996 prices as basis for tax classification. The proper tax classification of wines, fermented liquors and cigarettes were determined every two years from the date of the effectivity of RA 10351.

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[61] Entitled, “An Act Restructuring the Excise Tax on Alcohol and Tobacco Products by Amending Sections 141, 142, 143, 144, 145, 8, 131 and 288 of Republic Act No. 8424, Otherwise Known as the NIRC of 1997, as Amended by Republic Act No. 9334, and for Other Purposes”, effective January 1, 2013.

[62] Entitled: Prescribing the Implementing Guidelines on the Revised Tax Rates on Alcohol and Tobacco Products Pursuant to the Provisions of RA No. 10351 and to Clarify Certain Provisions of Existing Revenue Regulations, issued December 26, 2012.

[63] Entitled, “An Act Increasing the Excise Tax Rates on Alcohol and Tobacco Products, Amending for the Purpose Sections 131, 141, 142, 143, 144, 145 and 288 of the NIRC of 1997, as Amended,” effective January 1, 2005.

The law further amended the disposition of the 15 percent incremental revenue collected from the excise tax on tobacco products under RA 8240[64] by allocating the same for the following purposes, viz.:

a. Programs that will provide inputs training, and other support for tobacco farmers who shift to production of agricultural products other than tobacco including, but not limited to, high-value crops, spices, rice, corn, sugarcane, coconut, livestock and fisheries;

b. Programs that will provide financial support for tobacco farmers who are displaced or who cease to produce tobacco;

c. Cooperative programs to assist tobacco farmers in planting alternative crops or implementing other livelihood projects;

d. Livelihood programs and projects that will promote, enhance and develop the tourism potential of tobacco-growing provinces;

e. Infrastructure projects such as farm to market roads, schools, hospitals, and rural health facilities; and

f. Agro-industrial projects that will enable tobacco farmers to be involved in the management and subsequent ownership of projects, such as post-harvest and secondary processing like cigarette manufacturing and by-product utilization. [Sec. 288(B), NIRC of 1997, as amended by RA 10351]

In addition, it amended the disposition of incremental revenues from the excise tax on alcohol and tobacco products by allocating the remaining incremental revenues after deducting the allocations under RA Nos. 7171[65] and 8240 as follows:

a. Eighty percent – for the universal health care under the National Health Insurance Program (NHIP), for the attainment of the

[64] Entitled, "An Act Amending Sections 138, 139, 140 and 142 of the NIRC of 1997, As Amended, and for Other Purposes", effective January 1, 1997.

[65] Entitled, "An Act to Promote the Development of the Farmers in the Virginia Tobacco-Producing Provinces", approved January 9, 1992.

Millennium Development Goals (MDGs) and health awareness programs; and

b. Twenty percent – nationwide, based on political and district subdivisions, for medical assistance and health enhancement facilities program, the annual requirements of which shall be determined by the Department of Health (DOH). [Sec. 288(C), NIRC of 1997, as amended by RA 10351]

It should be noted that the principal objectives of RA 10351 were to generate revenues to fund the universal health care program (UHCP) of the government and reduce the consumption of sin products, thus, improving the general well-being of the people. Likewise, the increase in the excise tax rates for cigarettes was in adherence to the commitment of the Philippines to the World Health Organization (WHO) Framework Convention on Tobacco Control (FCTC) to increase excise tax incidence, which is the ratio of excise tax to price, from then 29.1 percent to 52.5 percent in 2013, and 63 percent by 2017.

Under RA 9334, decreases in collection were recorded on the years when new excise tax rates were implemented. This was the result of the frontloading particularly on high-priced brands on the last month of the year prior to the increase in tax rates.

However, under RA 10351, excise tax collection was generally on the uptrend except in 2016 when growth rates on both cigars and cigarettes went down to -29.2 percent and -11.8 percent, respectively. Aside from the increase in excise tax rates, the increase in collection was the result of significant increases in the volume of removals of cigarettes due to frontloading during the last quarter of 2013 in anticipation of the increased excise tax rates in 2014. It was also due to the rise in the year-on-year nominal growth rates of tobacco manufacturers by 19.6 percent from -4.2 percent in the previous year despite the shift of tobacco consumers' preference to lower priced brands manufactured by a local tobacco manufacturer.[66]

This shows that RA 10351 was effective in deterring tobacco consumption of Filipinos without compromising the excise tax collection on cigarettes. Thus, it is expected that further increases in the excise tax rates under RA 10963 or the TRAIN law would further reduce the volume of removals.

[66] BIR Annual Report, 2013.

On alcohol products, total excise tax collection during the period 2008-2012, was on the uptrend from P19.7 billion in 2008 to P59.1 billion in 2017. It is noted that the average excise tax collection on alcohol products under RA 10351 more than doubled vis-à-vis the average collection under RA 9334.

For distilled spirits, excise tax collection from 2008 to 2012 under RA 9334 ranged from P3.5 billion to P4.2 billion annually. The decrease in the excise tax collection by 10.5 percent in 2009 was the result of temporary closure of an alcohol plant due to an on-going protest arising from environmental issues.[67] On the other hand, the excise tax collection on distilled spirits under RA 10351 grew from P11.0 billion in 2013 to P16.0 billion in 2017. Annual growth rate also increased dramatically by 161.6 percent in 2013 under RA 10351. In subsequent years, the collection grew by seven percent to 13 percent annually.

For wines, excise tax collection under RA Nos. 9334 and 10351 remained low. Under RA 9334, excise tax collection ranged from P16.1 million in 2008 to P25.9 million in 2012 while under RA 10351, it ranged from P34.4 million in 2013 to P62.6 million in 2017.

For fermented liquors, excise tax collection under RA 9334 ranged from P15.6 billion in 2008 to P19.3 billion in 2012. It is noted that the continuous increase in excise tax collection under RA 9334 was due to the increase in excise tax rates and high demand for low-price brands of fermented liquors.[68] Under RA 10351, excise tax collection remained on the uptrend from P21.9 billion in 2013 to P43.0 billion in 2017. The increase in collection under the said regime was a result of the rise in the year-on-year nominal growth rates of the beverage industry manufacturers by 7.2 percent in 2013 from 3.4 percent in 2012, and the expansion and growth of the beer business in 2015.[69]

The growth in excise tax collection on distilled spirits and fermented liquor for the period 2008 to 2017 indicates that the increase in tax rates was an effective tool in augmenting revenues from the said products. Excise tax collection on wines, however, remained low during the period.

[67] BIR Annual Report, 2009.

[68] BIR Annual Report, 2008 and 2009.

[69] BIR Annual Report, 2013 and 2015.

On the other hand, despite the increase in excise tax rate on alcohol products, volume of removals remained generally on the uptrend. It is noted that under RA 9334, average annual growth rates on volume of removals remained positive except for distilled spirits. Meanwhile, under RA 10351, average annual growth rates on volume of removals for all types of alcohol products remained positive. This just shows that the increase in excise tax rates on wines and fermented liquors as well as the restructuring of the excise tax rates on distilled spirits did not discourage the consumption of alcohol products.

The generally increasing trend in the volume of removals of distilled spirits under RA 10351 only shows that there is still room for further increase in the excise tax rates on alcohol products if the objective is to discourage the Filipinos from consuming the same due to health reasons.

On the other hand, RA 10351 was only successful in lowering volume of removals of fermented liquors on the first three years of its implementation but it started to increase in 2016 and 2017. Thus, there is also a need to further increase the excise tax rates in order to lower its consumption.

Based on the 7th and 8th National Nutrition Surveys (NNS) conducted by the Food and Nutrition Research Institute-Department of Science and Technology (FNRI-DOST), the percent distribution of current smokers for the year 2013, the first year of implementation of RA 10351, was lower than in 2008 or under RA 9334, from 31 percent in 2008 to 25.4 percent in 2013.

The survey result presented that the increase in excise tax rates on tobacco products under RA 10351 was effective in lowering tobacco consumption in the Philippines as compared to the excise tax rates under RA 9334.

Meanwhile, based on prevalence trend on cigarette smoking and alcohol drinking in the Philippines for the years 2008 and 2013, RA 10351 was successful in lowering cigarette consumption while the taxation of alcohol needs further improvement in order to lower the consumption.

Per Joint Circular 001-2014, otherwise known as the Implementing Rules and Regulations on Revenue Earmarking of RA 10351, the DOH is the main agency tasked to compute for the allocation of sin tax revenue for health and different health programs.

In 2013, a total of P30.43 billion was released as follows: P9.1 billion for DOH's Miscellaneous Personnel Benefits Fund (MPBF) and P3.2 billion for the Philippine General Hospital (PGH), or a total of P12.3 billion. Also, an additional P13.0 billion was allocated to the DOH. For other agencies, P4.1 billion and P1.1 billion were allocated for the feeding programs of the Department of Education (DepEd) and Department of Social Welfare and Development (DSWD), respectively.

Of the total P95.3 billion sin tax incremental revenue for health included in the 2017 DOH budget, the biggest share of P40.6 billion went to PhilHealth premium subsidies for the health insurance of indigents and senior citizens not covered by the NHIP. This is followed by the allocations for health programs for the attainment of SDGs and other Universal Health Care (UHC)-related programs with P35.1 billion, Health Facilities Enhancement Program (HFEP) with P0.61 billion, Human Resource for Health (HRH) with P4.9 billion and Medical Assistance and Health Enhancement Facilities Program (HEFP) with P14.0 billion.

Meanwhile, Medical Assistance to the indigents as prescribed allocation of Sin Tax incremental revenue for health is delivered through the: (i) Medical Assistance Program (MAP), which provides financial assistance to indigent patients confined in government hospitals; and (ii) provision of medicines to LGU health facilities. The HEFP provides financial assistance for the continued improvement of government hospitals and government owned health facilities.

Various bills were filed in the 17th Congress seeking the increase in the excise tax on tobacco products.

According to the WHO, for the excise tax on tobacco to be effective, it should be at least 70 percent of the retail prices. Such tax policy would lead to significant price increase, induce many current users to quit, especially the youth, thus, leading to large reductions in the death and diseases caused by cigarette smoking. High tax rates will generate significant increases in tobacco tax revenues while taxing all tobacco products at a single rate reduces the potential for substitution among products.

Among the ASEAN member-countries, Cambodia, Laos and Vietnam impose purely ad valorem rates on alcohol products. In Cambodia, distilled spirits and wines are similarly taxed while a lower rate is imposed on fermented liquor. On the other hand, in Laos and Vietnam, distilled spirits and fermented liquor are similarly taxed while a lower rate is imposed on wines. Singapore imposes a purely specific tax on alcohol products. It imposes similar tax on distilled spirits and wines and a lower rate on fermented liquor. Other ASEAN member-countries impose mixed ad valorem and specific taxes.

The implementation of RA 10351 or the "Sin Tax Reform Law" for the period 2013 to 2017 generated much needed revenues for the government and effectively reduced the consumption of cigarettes.

The increasing volume of removals on fermented liquors and distilled spirits and the high prevalence trend on current alcoholic drinkers is an indication that the present tax rates are still relatively low to effectively reduce consumption of these alcoholic beverages. Hence, imposing higher excise tax on alcohol products is supported.

With regard to tobacco products, although the increase in excise tax rates was successful in reducing volume of removals and tobacco consumption in the country without revenues suffering, the ratio of excise taxes to retail price is still way below the WHO recommendation of at least 70 percent of the retail prices. Hence, further gradual increase in the tax rates is likewise recommended.

7. Corporate Income Taxation in the Philippines and Other ASEAN Member-Countries

In view of the ongoing efforts to introduce reforms in corporate taxation, the paper discusses the different facets of the Philippine corporate income tax (CIT) system and how it compares with other ASEAN member states.

The Philippine CIT is an internal revenue tax levied on the income of companies. It is imposed under Sections 27 and 28 of the NIRC of 1997, as amended. Corporate taxation generally adopts the net income tax system where taxpayers are entitled to claim deductions against their gross income before being subjected to the tax. Under certain laws, however, some corporations such as those operating in special economic zones and those under certain Investment Promotion Agencies (IPAs) are taxed on their gross income.

Under Sections 27(A) and 28 (A)(1) of the NIRC of 1997, as amended, the President, upon the recommendation of the Secretary of Finance, may grant domestic and resident foreign corporations the option to be taxed at 15 percent of their gross income after the following conditions have been satisfied: (a) tax effort ratio of 20 percent of gross national product (GNP); (b) A ratio of 40 percent of income tax collection to total tax revenues; (c) VAT tax effort of four percent of GNP; and (d) 0.9 percent ratio of the consolidated public sector financial position to GNP. In addition, to be able to avail of this option, the firms should have a ratio of cost of sales to gross sales from all sources of not exceeding 55 percent. Up to the present, these conditions were never met, hence, this option has never been granted since it was introduced via RA 8424 in 1997.

The minimum corporate income tax (MCIT) on domestic and resident foreign was introduced by virtue of RA 8424, which took effect on January 1, 1998. Under Sections 27(E) and 28(A)(2) of the NIRC, domestic and resident foreign corporations which are subject to the regular CIT may be subject to a MCIT equivalent to two percent of gross income. The two percent MCIT rate approximates the corporate tax payable by said corporations given a rate of return of six percent per annum on their gross income70. The idea behind this is that the corporations should at least earn six percent of their gross income as net income, and based on six percent rate of return, pay two percent of their gross income as income tax. Thus, corporations that do not realize a rate of return of six percent including those that are incurring losses are required to pay the two percent MCIT. The provision which allows corporations to carry forward or claim as tax credit any excess MCIT paid ensures that only those which are perennially losing would be hit by the said tax.

The MCIT is imposed whenever a corporation has a zero or negative income or whenever the amount of minimum corporate tax is greater than the regular income tax due from such corporation. 71 A corporation starts to be covered by the MCIT beginning on the fourth (4th) taxable year immediately following the taxable year in which such corporation commenced its business operations.

[70] NTRC 1997 Tax Reforms and Developments, 25th Annual Report, 1998, p. 11.

[71] Per Revenue Regulations No. 9-98, Subject: Implementing Republic Act No. 8424, "An Act Amending the National Internal Revenue Code, As Amended" Relative to the Imposition of the Minimum Corporate Income Tax (MCIT) on Domestic Corporations and Resident Foreign Corporations". Issued on August 25, 1998.

Domestic and resident foreign corporations are entitled to claim the following items of deductions from the gross income enumerated under Sec. 34 of the NIRC, as amended: (a) ordinary and necessary expenses; (b) interest; (c) taxes; (d) losses; (e) bad debts; (f) depreciation; (g) depletion of oil and gas wells and mines; (h) charitable and other contributions; (i) research and development; and (j) pension trusts.

In lieu of the deductions enumerated above, a corporation subject to tax may elect an optional standard deduction (OSD) in an amount not exceeding 40 percent of its gross income.

Organizations which are not organized principally for profit are exempt from CIT on income received by them as provided under Section 30 of the NIRC of 1997, as amended. Said organizations were explicitly as income tax-exempt since the first codification of internal revenue laws of the Philippines in 1939, except for educational institutions which were later added to the original list.

Likewise, there are also certain types of corporations that are accorded preferential tax rates under NIRC sections 27(B) and 28(A) (B).

The CIT collection was on an uptrend from 1990 (P19.30 billion) to 1997 (P81.90 billion) but declined in 1998 (P77.66 billion) when the CIT rate was reduced from 35 percent to 34 percent. In 1999 and 2000 however, there was a slight increase in the CIT collection, notwithstanding the further reduction of the CIT rate to 33 percent and 32 percent, respectively. Since then until 2008, the CIT collections managed a modest growth with the increase in the tax rate to 35 percent. In 2009, CIT collection (P254.37) dipped by 20 percent when the CIT was reduced from 35 percent to 30 percent with the full year implementation of RA 9337 or the Reformed VAT (RVAT) law, but consistently increased in the succeeding years until 2016 (P534.36 billion).

Among the ASEAN member-countries, the Philippines imposes the highest CIT rate at 30 percent, while Singapore levies the lowest at 17 percent.

However, despite having the highest CIT rate, the country’s CIT effort is lower than those of Malaysia, Thailand, and Vietnam. This is basically due to the grant of generous tax incentives by various IPAs such as the Board of Investments (BOI) and PEZA, among others, to their registered enterprises. The tax incentives include income tax holidays (ITH), special rate of five percent of gross income earned in lieu of all national and local taxes, tax and duty-free importation of raw materials, capital equipment, machineries and spare parts, among others. Various industries/sectors are also granted tax incentives under special laws (e.g. downstream oil industry, jewelry manufacturing, tourism industry, etc.).

As gathered, only the Philippines, Cambodia and Malaysia impose a minimum corporate income tax among the ASEAN member-countries. In the Philippines, the MCIT is set at two percent of gross income and the excess MCIT may be carried forward and credited against the regular CIT in three consecutive years.

The OSD is unique to the Philippines. It is the only ASEAN country which allows an OSD of 40 percent of the gross income in lieu of the itemized deductions for corporations. Thailand also adopts a standard deduction ranging from 10 percent to 60 percent, but the same is only made available to individual taxpayers engaged in business or the practice of a profession, and not to corporations[72].

As part of Package 2 of the CTRP, the Congress is now working on possible reforms in the CIT system to make the Philippines competitive with other ASEAN countries and with the view of attracting foreign investors in the Philippines. The general trend of the reforms now pending in both houses of Congress involves the lowering of the CIT rate and the rationalization of fiscal incentives. However, the bills vary on the proposed rate and the manner of slashing the rate, i.e., gradual or outright reduction of the CIT rate and/or with conditions. There is also a proposal in Congress which restructures the CIT rate by imposing a graduated schedule similar to that of the individual taxpayers.

The Philippines' CIT system is characterized by high rate and narrow tax base making it an outlier in the ASEAN region. A reduction of the CIT rate will make the country at par with other ASEAN member-countries in the light of the ASEAN economic integration. This will put the Philippines in a good position to take advantage of the potential rise in foreign investment opportunities. It should be noted, however, that other than taxes, there are other factors such as good governance, infrastructure, reliability and enforceability of laws and contracts, market size, availability of necessary manpower, ease

[72] PWC Worldwide Tax Summaries: Thailand

of doing business among others, that investors consider before putting up a business or investment in a particular country.

Lowering the CIT rate will result in substantial revenue loss that may jeopardize or put at risk economic growth or reverse whatever gains the Philippines has achieved so far in terms of macroeconomic stability. Hence, for revenue considerations, in the event that lowering of CIT is considered, a staggered reduction of the CIT rate is deemed more judicious than outright reduction to cushion the impact of the proposal on government coffers. It is also worthwhile to consider putting a trigger or condition to the reduction so as not to unduly affect the government's basic financial metrics and cash flow.

8. A Review of the Documentary Stamp Tax on Financial Products and Transactions

The paper provides basic information on the present DST structure and recommends some amendments to simplify its structure and enhance equity in the tax system. This could serve as inputs to fiscal policymakers in their review/assessment of Package 4 on capital income and financial intermediary taxation of the CTRP of the DOF.

The DST is a tax upon documents, instruments, loan agreements and papers evidencing the acceptance, assignment, sale or transfer of an obligation, right, or property incident thereto and in respect of the transaction had or accomplished. A DST is in the nature of an excise tax. It is levied on the exercise by persons of certain privileges conferred by law for the creation, revision, or termination of specific legal relationships through the execution of specific instruments.

At present, there are 25 categories of documents/instruments/transactions that are being taxed at varying rates under Sections 174 to 198 of the NIRC, as amended. The latest amendment was done through RA 10963, otherwise known as the TRAIN law.

Available data show that DST collection remarkably grew from P3.5 billion in 1990 to P85.9 billion in 2017, sharing around three percent to six percent of the total BIR collection. By section, from 2010 to 2017, the DST collection on debt instruments had the biggest average contribution annually at 48.59 percent, followed by policies of insurance upon properties with an average share of 9.65 percent. The DST on powers of attorney had the lowest share of less than one percent.

Although the tax is considered a major revenue contributor, it is viewed to be cumbersome, increasing friction cost, and hampering capital market development. The current DST structure is faced with the following issues and challenges:

a. Complicated DST structure

There are 20 unique tax rates and bases in the current DST structure on financial products making it complicated and confusing to both taxpayers and tax administrations.

b. High rates/high friction cost

Most of the DST rates, taken as percentage of the value of transaction, are prohibitive and exorbitant and thus discourage parties from consummating business transactions.[73]

c. Multiple DST on single continuous transaction

Also, there are instances when multiple DSTs are imposed on a single continuous transaction. A single continuous transaction refers to transactions consisting of a single act and a single purpose but which may have as its components more than one taxable transaction, if taken separately.

d. Differentiated rates for similar documents/transactions/instruments

Prior to RA 9243, original issuance of shares of stock was taxed at a higher rate of one percent compared with debt instruments at 0.75 percent. Under RA 9243, the DST on original issuance of shares of stock was lowered to 0.50 percent. Similarly, all debt instruments were levied the same rate of 0.50 percent, thus removing the advantage of debt over equity.

[73] Atty. Benedicta Du-Baladad, "Taxation of Banks and Non-Bank Financial Intermediaries in the Philippines", 1st Edition, page 88.

However, under the recently passed TRAIN law, the DST on shares of stock was doubled from 0.50 percent to one percent while the DST on debt instrument was increased by 50.00 percent only or from zero percent to 0.75 percent. Thus, the DST between the two instruments is again differentiated in favor of debt over equity.

In view of the foregoing, Package 4 seeks to reform the DST structure as follows:

a. Express all Ad Valorem DST rates in percent. In this way, the computation of the DST will be easier, and the rates will be readily comparable;

b. Equate DST on equity with debt since both can be used by business to raise financial capital. They can either borrow money through debt instruments or raise money through equity instruments such as shares of stock. Also, it is suggested to lower from one percent to 0.75 percent the original issue of shares under Section 174 to be at part with debt instruments;

c. Rationalize the DST on the following: (i) exempt from the DST the sale or transfer of shares of stock in local stock exchange to boost the capital market; (ii) remove DST imposition on the bills of exchange to promote financial inclusion; (iii) combine the DST on the acceptance or payment of any bill of exchange or order for the payment of money drawn in foreign country but payable in the Philippines and DST on foreign bills of exchange under one category in order to trim down the number of DST categories and the number of sections; and (iv) gradually reduce the DST on non-life insurance and fidelity bonds by one percentage point annually until it reaches 7.5 percent by 2024;

d. Eliminate the imposition of multiple DSTs on a single continuous transaction, a provision under Section 182 needs to be inserted to the effect that in the case of a letter of credit under said section such will no longer be liable to the DST under Section 195 with respect to the availment of a trust receipt line where the property subject of the letter of credit is made a security for payment;

e. Limit the imposition of DST to notarized documents only;

f. Remove "nuisance" provisions with low revenue take. These include Section 177 (Certificates of profits or interest in property or accumulation), Section 178 (Bank checks, drafts, certificates of deposit not bearing interest, and other instruments), Section 192 (Proxies) and Section 193 (Powers of Attorney); and

g. Lift the DST exemption on the certificates of assessed value of lands, not exceeding P200.00 furnished by provincial, city or municipal Treasurer to applicants for registration of title to land, as well as warehouse receipts issued to any person in one calendar month covering property the value of which does not exceed P200.00 and deed of conveyance of real property where the consideration is less than P1,000. For equity and revenue considerations and for consistency of policies, said exemption may be lifted.

The proposed reforms will greatly simplify the DST structure and promote equity and fairness in the tax treatment of equivalent and/or comparable financial products and/or transactions. In summary, the proposals include expressing all DST rates in ad valorem, equating DST on debt and equity, unifying all non-life insurance rates, removing DST on domestic money transfers to support financial inclusion, and removing "nuisance" provisions with low revenue take.

9. Cross-Country Comparison of Casino Gaming Taxes

The paper provides basic information on the casino gaming industry in the ASEAN region and in selected countries where casino gambling is prevalent. It also discusses the casino regulators, operators, and bettors to serve as inputs to fiscal policy makers.

Gambling became regulated in the Philippines through Presidential Decree (PD) No. 1067-A[74] in 1977 which established the Philippine Amusement and Gaming Corporation (PAGCOR).

As of August 31, 2017, there were 52 PAGCOR-franchises and licensed casinos operating in the country. In 2016, casino gross gaming revenues (GGR) reached P128.4 billion and grew to P172.55 billion or an increase of 34.4 percent in the following year.

Brunei Darussalam prohibits all forms of gambling as it is an Islamic country. It enforces its Common Gaming House Act strongly that anyone found to be gambling would pay a fine amounting to B$10,000 (P389,780) and six months in jail while those found to be operating a gambling house will be liable to B$20,000 (P779,561) fine and a year in jail.[75]

Gambling is illegal in Cambodia. But in the late 1990s, Cambodia began constructing casinos in border towns and popular resort areas and enticing foreign gamblers while officially prohibiting its own citizens from entering. At present, there are no existing gambling laws and regulations in Cambodia except for the law banning the entrance of local residents inside casinos, or the Law on the Suppression of Gambling.

In Laos, although gambling in any form is technically illegal, there are licensed casinos operating legally inside their special economic zones (SEZs) which only cater to foreign customers, especially Chinese nationals.

In Malaysia, gambling is generally forbidden since majority of the population practice the Islamic religion. However, for non-Islamic residents, casino gambling is legal.[76]

Myanmar's 1899 Gambling Law, as amended in 1986, bans the operation of casinos in the country. However, there are two casino establishments

[74] Entitled "Creating the Philippine Amusements and Gaming Corporation, Defining Its Powers and Functions, Providing Funds Thereof, and for Other Purposes" January 1, 1077.

[75] Laws of Brunei, "Chapter 28: Common Gaming Houses", 2001.

[76] Gabor Nemeth "Simon's Malaysia lottery and gambling guide".

operating in the country that allow foreigners to play. It was gathered that these casinos were given licenses to operate casinos in order to boost tourism in the country.[77]

Singapore ranked 3rd in the world's largest casino markets. There are only two licensed casinos operating in the country. After a 10-year exclusivity period in compliance with the Casino Control Act of Revised Edition 2007, said exclusive rights to operate casino establishments already expired. The government has not indicated any plans to award new licenses.[78]

In Thailand, gambling is officially banned except betting from the state-run lottery and on horses at the Bangkok Turf Club. However, underground casinos have proliferated. Because of this, the government has set out plans to legalize casinos.

Casino gaming is prohibited for Vietnamese citizens, but with the issuance of Circular No. 102/2017/TT-BTC on August 2017, which was released to guide several articles from Decree No. 03/2017/ND-CP on casino business, local citizens with minimum income of VND 10 million (P23,000) are now allowed to enter casinos on a three-year trial basis.[79]

In China gambling is already prohibited, except in Macau, where some of the most luxurious casino-integrated resorts are located. At present, Macau is considered one of the world's largest casino markets with revenue of MOP265.74 billion (P1.7 trillion) as of 2017.[80]

Casino gaming is generally legal in the USA under the federal law, although restrictions and regulations may still vary depending on the state.

[77] Renee Kingsley, "Myanmar Government to investigate two casinos for possible gambling violations", August 8, 2016.

[78] John Misachi, "The World's Largest Casino Market", https://www.worldatlas.com/articles/the-world-s-largest-casino-markets.html.

[79] Vietnam News, "New circular lift bans on Vietnamese nationals' entry into casinos", November 20, 2017.

[80] GGRAsia, "Macau casino GGR posts 19pct growth in full-2017:govt". January 1, 2018.

The most prominent casino destinations in the world are located in the states of Nevada and New Jersey, where gambling laws are much more liberated as compared to other states.

Similar to the USA, casino gaming in Australia is legal in general but the control and regulation depends on the state and territory. Australia has the highest gambling rate in the world with over 80 percent of its adult population taking part in the activity.

South Korea is one of the few countries that differentiate Korean citizens and foreigners with regard to the legality of gambling. Casino gambling for Koreans is prohibited in all casinos, except the one located at Kangwon Land which is an exception to its Gambling Laws.

The gambling industry is licensed and regulated by national/sub-national governments in the countries under review. Majority of the countries surveyed are taking advantage of the potential of casino industry to generate additional government revenue. For instance, Cambodia, Laos, Malaysia, Thailand and Myanmar, where gambling is illegal, are enticing foreign gamblers while officially prohibiting their own citizens from entering casinos.

On the other hand, in most countries where gambling is legal, casino operators pay a tax on their GGR which in part shows how economies and communities benefit from regulated gambling. Most countries surveyed collect GGR payments differently, but generally it is a percentage of the net profit that a casino brings in. The cross country comparison of casino gaming taxes shows that Macau has the most number of casino gambling taxes and at the same time has the highest gaming tax at 35 percent of GGR. On the other hand, Cambodia has the lowest rate at two percent of GGR.

On the other hand, on the corporate income tax (CIT), the Philippines has the highest rate at 30 percent while the rates are only 10 percent, 17 percent, 20 percent, and 25 percent for Vietnam, Singapore, Nevada, and Malaysia & Myanmar, respectively. The Philippines collects CIT on its gross gaming non-gaming revenues while gaming revenue is subject to a five percent franchise tax. On the other hand, Macau, Australia, Korea, and Vietnam have the Income Complementary Tax (ICT), Super Tax, Individual Consumption Tax, and Special Sales Tax, respectively, imposed on casino operations.

In recognition of the social cost of gambling, casino operators in the Philippines, Macau, Singapore, New Jersey and several states of Australia are obliged to pay mandatory contributions in support of specific activities/ programs of the government.

On players/bettors, the Philippines requires a 20 percent withholding tax (WT) for casino winnings exceeding P10,000.00. Winnings below P10,000.00 are subject to the regular individual income tax. In USA, Nevada, winnings are taxed within the range of 25 percent for residents while 30 percent WT is imposed if the player is a foreigner. In New Jersey, casino winnings of both resident and non-resident players are subject to New Jersey's gross (personal) income tax.81 The State has graduated income tax rates, ranging from 1.4 percent to 8.97 percent, depending on the amount of the income/winnings.82 Casino winnings in Korea are subject to a 30 percent WT.83.

Majority of the countries under review collect admission fees charged to casino entrants before they are allowed access in casinos or other controlled spaces while not all casinos in Australia collect entrance fees.

Casino gambling has proven to be a good revenue source in various countries. In order to fully exploit the potential of the industry, several ASEAN have even liberalized casino operations in their respective territories. Countries under review realize that through the legalization/liberalization of casino gambling, they will be able to take advantage of the lucrative industry through the imposition of taxes on casino regulators, operators, and players/bettors.

However, the social cost of gambling is not something to be taken lightly. In order to balance the costs and benefits of the industry, the collection of mandatory fees and contributions dedicated to support and finance programs that would be beneficial to the nation, as practiced by the Philippines and several other countries included in this paper, is highly recommended.

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[81] New Jersey Division of Taxation, "Tax: Gross Income Tax", August 2, 2016.

[82] https://www.tax-brackets.org/newjerseytaxtable.

[83] RMS, "Who Can Reclaim Winnings From IRS 30% Withholding Tax?", March 1, 2018.

3 TECHNICAL ASSISTANCE TO CONGRESS and VARIOUS AGENCIES / INTER-AGENCY GROUPS

CONGRESS OF THE PHILIPPINES

SB 810
Strengthening Local Government Participation in National Development by Increasing the Share of Local Government Units in the National Internal Revenue Taxes, Amending for the Purpose Section 284 of Republic Act No. 7160, Otherwise Known as the Local Government Code of 1991

SB 843
Strengthening Local Government Units by Increasing to Fifty Percent (50%) the Annual Internal Revenue Allotment Share of Local Government Units and for Other Purposes

Unnumbered SB
Enhancing the Share of Local Government Units in Internal Revenue Taxes

SB 1788
Enhancing the Share of Local Government Units in Internal Revenue Taxes

SB 110
Providing for the Share in the National Taxes of Local Government Units, Amending for this Purpose Republic Act No. 7160, Otherwise Known as the Local Government Code of 1991

SB 822
Include in the Computation of the Internal Revenue Allotment (IRA) all the National Internal Revenue Taxes Collected by the Bureau of Internal Revenue and Bureau of Customs, Amending for this Purpose Section 284 of Republic Act No. 7160, Otherwise Known as the Local Government Code of 1991

Senate Bill (SB) No. 810 seeks to increase the internal revenue allotment (IRA) share of local government units (LGUs) from 40 percent to 50 percent of the national internal revenue taxes based on the third fiscal year preceding the current fiscal year. Likewise, SB 843 seeks to increase the LGUs share in the national taxes from 40 percent to 50 percent but provides that the 10 percent increase in the annual IRA share may be set aside and used for the payment of compensation, allowances, emoluments and other privileges such as social security benefits of barangay officials and volunteer workers.

SBs 822, 1788, and Unnumbered SB seek to expand the base of the IRA by including the value-added tax (VAT) and excise taxes on imported goods while SB 110 seeks to increase the LGUs share in the national taxes from 40 percent to 50 percent based on the allocation of the third fiscal year preceding the current fiscal year. It provides that national taxes shall refer and include the national internal revenue taxes collected by the Bureau of Internal Revenue (BIR), and the tariffs, duties, fees and charges, as well as the national internal revenue taxes, if any, collected by the Bureau of Customs (BOC).

The proposal to increase the IRA from 40 percent to 50 percent of the national internal revenue taxes collection will increase the share of the LGUs; however, this will result to an equivalent reduction in National Government (NG) revenue. Moreover, the proposed increase in barangay share from 8 percent (20 percent of 40 percent) to 18 percent of the net internal revenue without any additional functions and responsibilities will result to a wider fiscal gap between barangays in highly urbanized cities and barangays in lower income class municipalities.

It may be argued that the higher barangay share is only proper considering that the number of barangays that will share based on 2018 data, is 41,902 as compared to 82 provinces, 145 cities and 1,478 municipalities which will share from 9 percent, 9 percent and 14 percent of the total national internal revenue collection, respectively. However, it should be noted that provinces, cities and municipalities have greater responsibilities compared to barangay.

With regard to the proposed used of "may" to qualify the setting aside and use of the 10 percent increase for the payment of compensation, allowances, emoluments and other privileges such as social security benefits of barangay officials and volunteer workers may be construed as giving the barangay unbridled discretion to utilize additional share. This may run counter with Section 331 of the local government code (LGC) which limits the total annual appropriations for personal services of a barangay for one fiscal year to not exceeding 55 percent of the total annual income actually realized from local sources during the next preceding fiscal year.

The proposal to allocate to the barangays additional 10 percent share in the total net internal revenue collection will only create wider fiscal gaps among the rich and poor barangays given their locally-sourced revenue considering that certain barangays have limited or narrow revenue base due to limited economic activities in their jurisdiction. The proposal may instead consider a programmatic and performance-based revenue transfer that will directly target well-deserving barangays to attain the objectives of the proposal.

On the other hand, the proposal to include VAT and excise tax collected by the BOC in the computation of IRA shares will increase the base of the IRA which in turn will increase the IRA shares of LGUs. This will significantly diminish the revenue of the NG which will adversely affect its fiscal condition especially the social and economic programs like the “build, build, build” program.

It is observed that the proposed IRA base with respect to BOC revenue also includes fees and charges. It is worthy to point out that under the cost recovery principle, fees and charges are levied only to recoup the cost of services and regulations and not to raise revenue. Section 6, Article X of the 1987 Constitution only provides that the LGUs shall have a just share in the national taxes. Thus, it is suggested that the IRA base from BOC revenue should exclude fees and charges collected by them.

Studies have shown that while the IRA enables LGUs to finance basic services and socio-economic projects, it triggers them to be more reliant on the IRA. For the period 2012-2016, the annual IRA comprised, on the average, 59.3 percent of the total revenue of the LGUs. By level of LGU, the municipalities are the most dependent on IRA followed by the provinces while the cities are the least dependent on IRA.

In addition, the broadening of IRA base will increase the share of LGUs in the IRA but it may not address the issue on inequity or income gaps among the LGUs. Thus, it is recommended that the IRA formula be revisited first.

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SB 1408
An Act Amending Sections 6, 22, 23, 24, 25, 31, 32, 33, 34, 79, 84, 86, 99, 100, 101, 106, 107, 108, 109, 113, 116, 148, 149, 155, 232, 237, 249, 288; Creating New Sections 148-A, 237-A, 264-A, and 264-B; and Repealing Sections 35 and 62, All Under Republic Act No. 8424, Otherwise Known as the National Internal Revenue Code, as Amended, and for Other Purposes

SB 1408 seeks to exclude from gross income the barter trade or the casual exchange of goods or services that do not involve payment of cash between non-commercial parties, provided, that the value of the goods or services exchanged does not exceed P500,000.

The bill contends that during these hard times, programs like food for work that do not involve cash must not be subjected to the rigors of taxation. The rationale of the proposal is to achieve the proponent's mantra of our new government of the "the poorest first, the poor second".

At present, barter trading can be traditional or actual exchange of goods and services for other goods and services or through a barter exchange where trade credit/dollar or virtual currency is used in exchanged of goods and services. The growth of internet and the popularity of social media and other on-line platforms made barter trading more efficient by providing a venue to exchange goods and services to as many as barter traders not only within the country but also abroad.

Under the bill, it proposes, among others, to exclude the income from barter or casual exchange of goods or services from gross income for tax purposes, by amending Section 32(B)(7) of the NIRC of 1997, as amended.

Gross income as defined under the NIRC, as amended refers to all income derived from whatever source, as well as those items included and excluded from the computation of gross income. Moreover, every transfer of property, whether real or personal, has tax consequences. The transfer depends on the mode of transfer which can be either gratuitous or onerous. The former includes transfer due to fact of death which can be subject to the estate or donor's tax while the latter can be through the conduct of business which is subject to business tax such as VAT, percentage tax or excise tax or through casual transfer subject to the capital gains tax (CGT).

It is noted that most barter transactions are subject to tax except for a few transactions. Certain casual barter or exchange transactions under the NIRC are also excluded from gross income because these are subject to the final tax. On the other hand, the barter of goods, properties or services in the course of trade or business are subject to applicable business tax.

Under the proposal, for the barter to be excluded from gross income, it should be characterized as casual, no cash involved and only between noncommercial parties. The word casual is defined as subject to or produced as a result of chance, without design, not resulting from a plan; occurring, appearing or singled out by chance or without calculated intent, without specific motivation, special interest or constant purpose; without foresight, plan or method or occurring, encountered, acting or performed without regularity or at random; without ceremony or formality. While noncommercial is defined as not commercial or not used in commerce; having no commercial importance; not commercially motivated[84].

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Considering these definitions, it can be inferred that for the barter to be excluded from gross income, it should not be habitual, not for profit and not in the course of trade or business. Moreover, the value of the goods and services bartered must not exceed P500,000 and do not involve any cash.

However, these characteristics of the barter as defined by the bill may also include transactions that are subject to the final tax such as barter of shares of stock. Thus, it is important that a precise definition of barter that will be excluded from gross income be established to prevent ambiguity in its interpretation as to whether or not a transaction is covered. Otherwise, the proposed exclusion of income from barter trade will open up another opportunity for tax avoidance.

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[84] Webster Third New International Dicyionary 1971.

Furthermore, the imprecise valuation of goods and services can be a source of disputes between the tax authority and the taxpayer. Hence, from an administrative point of view, the proposed exclusion of income from barter trade implies challenges on the issue of valuation and the assessment of taxes. In case the threshold amount is exceeded, the assessment of the withholding tax on excess amount would also be difficult in the absence of cash involved, while on the part of the taxpayer, the proposal may be seen as a recognition of the difficulty of including the perceived income from barter trade in the gross income of the taxpayer. Thus, it may be prudent to exclude it from gross income for income tax purposes.

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Unnumbered SB
Enhancing the Use of National Wealth for Local Development by Amending Certain Provisions in Book II of Republic Act No. 7160, Otherwise Known as the Local Government Code of 1991

Unnumbered SB seeks to amend Section 294 of the LGC of 1991 by requiring the sanggunian to appropriate the proceeds from the share of LGUs from the development and utilization of national wealth to finance local government and livelihood projects in the approved Local Development Investment Program (LDIP) and Annual Investment Program (AIP).

Also, the bill seeks to delete the provision which requires the respective sanggunian of LGUs to appropriate and apply at least 80 percent of the proceeds derived from the development and utilization of hydrothermal, geothermal, and other sources of energy solely to lower the cost of electricity in the LGU where such source of energy is located.

The proposal will ensure that the utilization of the share of LGUs from the proceeds of national wealth are well planned and aligned with the local development and investment programs of the LGUs. It is worthy to note that the provincial, city and municipal development councils are mandated, among other, to formulate long-term, medium-term and annual socio-economic plans and policies; formulate medium-term and annual public investment program and formulate local investment incentives to promote the inflow and direction of private investment capital while the barangay development council, among others, prepares barangay development plans based on local requirements; and monitors and evaluates the implementation of national and local programs and projects.

Likewise, the proposal to repeal the requirement to appropriate at least 80 percent of the proceeds derived from the development and utilization of hydrothermal, geothermal, and other sources of energy solely to lower the cost of electricity in the LGU is supported. The removal of restriction will provide flexibility to the local sanggunian to appropriate the said proceeds to priority programs and projects of the LGUs provided that it will satisfy the constitutional requirement that the proceeds shall be shared with the inhabitants by way of direct benefits.

It is noted that at present, 80 percent of the proceeds derived from the development and utilization of hydrothermal, geothermal and other sources of energy is used solely to lower the cost of electricity in the LGU where such a source of energy is located. The said restriction negates the effort of the national government to conserve energy since lower cost of electricity may result to higher consumption. Moreover, this current practice benefits more those who consume more electricity as compared to those who consume less.

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Unnumbered SB
Reducing the Cost of Doing Business in Local Government Units by Amending Certain Provisions in Book II of Republic Act No. 7160, Otherwise Known as the Local Government Code of 1991

Unnumbered SB seeks to reduce the cost of doing business in the LGUs by repealing Section 139 and amending Sections 131, 147, 149, 152, 153, 154 and 155 of RA 7160, otherwise knowns as the LGC of 1991. The objective of the proposal is in accord with the President's 10-point Socio-Economic Agenda, specifically, increasing competitiveness and the ease of doing business in the country.

On the proposed amendment to the definition of charge and fee under Section 131 of the LGC wherein a charge shall refer to liability for services rendered or conveniences provided by the LGU while fee shall refer to liability imposed for the regulation or inspection of a business or activity. The amount of charge should commensurate to services provided and recovery of capital to ensure continued delivery while the amount of fee should commensurate to the cost of regulation and surveillance.

The proposal unequivocally provides that the imposition of charges and fees should not be excessive and arbitrary but must commensurate to the cost of the services provided or regulation and surveillance.

On the proposed deletion of "charges" under Section 147, the proposal will limit municipalities to the imposition of fees only for the regulation or inspection of business or activity. Thus, the deletion will prohibit or prevent imposition of charges and will prevent municipalities from recovering the costs of services rendered to their constituents. It is suggested that the word "charges" be retained and to add the phrase "for services rendered or conveniences provided" for clarity.

Further, denying municipalities the authority to impose charges for services rendered would mean decreasing LGUs income from non-tax revenues and may adversely affect the quality of services and facilities they provide to their constituents.

On the proposed repeal of Sec. 139 of the LGC or the provision authorizing the imposition of the professional tax by the province, it is inconsistent with Section 2 of the proposal which provides that the municipality may impose and collect reasonable fees on business and occupation and, except as reserved to the province under Sec. 139, on the practice of any profession or calling. Thus, the repeal of Sec. 139 removes the authority of the provinces to impose the professional tax, which will deprive provinces of a revenue source.

The regulation of fees and charges will promote transparency in the setting of the amounts and will ensure that the impositions are reasonable. The proposal to regulate the amounts of fees and charges that LGUs are authorized to impose are aligned with the program of the national government (NG) to reduce the cost of doing business in the country and improve its ranking in the ease of doing business index.

Moreover, the proposal that the BLGF shall issue guidelines for the imposition of charges and fees is supported as it is the government agency which provides the DOF with technical advice and assistance in the formulation and execution of policies, rules, and regulations governing local taxation, real property valuation/assessments, and the conduct of the financial affairs of the local governments.

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HB Nos. 1004 and 4452
Providing Incentives for the Manufacture, Assembly, Conversion and Importation of Electric, Hybrid and Other Alternative Fuel Vehicles and for Other Purposes

HB 1713
Promoting the Manufacture, Importation, Sale, Distribution, Use and Development of Hybrid and Alternative Fuel Vehicles by Granting Tax Exemptions and Providing Incentives Therefor, and for Other Purposes

HB 6376
Promoting the Manufacture, Assembly, Conversion, Importation and Mainstream Use of Electric, Hybrid and Other Alternative Fuel Vehicles, Providing Funds Therefor, and for Other Purposes

HB 1690
Providing Incentives for the Manufacture, Assembly, and Importation of Electric, Hybrid and Other Alternative Fuel Vehicles, and for Other Purposes

HB 6018
Promoting Environmentally Sustainable Transport by Providing Incentives for the Manufacture, Assembly, Conversion and Importation of Electric and Hybrid Vehicles Including Charging Stations and for Other Purposes

HBs 1004, 1690, 4452, 6018, and 6376 seek to provide incentives for the manufacture, assembly, conversion and importation of electric, hybrid and other alternative fuel vehicles in furtherance of the objectives of RA 8749 to help achieve better quality of air through the reduction of air pollutants produced by the crop of vehicles now plying our roads, and the subsequent reduction of such vehicles in the long term.

HB 1713 seeks to provide the following tax incentives to hybrid vehicles and other alternative fuel vehicles (AFVs) for a period of 10 years from the effectivity of the Act:

a. Exemption from the payment of excise and value added tax (VAT) on the manufacture, importation, sale and distribution of hybrid vehicles or AFVs; and

b. Exemption from VAT due on the sale of hybrid vehicles or AFVs for public conveyance.

On the other hand, HBs 1004, 1690, 4452, 6018 and 6376 seek to provide the following tax incentives to electric, hybrid and other alternative fuel vehicles/clean energy vehicles (AFVs/CEVs) except vehicles powered by gasoline, petroleum, bio-diesel and bio-ethanol:

a. Exemption from the payment of excise taxes and duties for a period of three (3) to 10 years of the following:

   i. manufacturers or assemblers of completely knocked-down (CKD) parts of electric, hybrid and other AFVs/CEVs, including the conversion of vehicles into electric, hybrid and other AFVs: and

   ii. importation of completely built units (CBUs) of electric, hybrid and other AFVs/CEVs;

b. Exemption or suspension of the imposition of the VAT on the importation of raw materials, spare parts, components and capital equipment used in the manufacture, assembly or conversion of electric, hybrid and other AFVs/CEVs; and

c. Suspension or imposition of zero-rated VAT on the sale or purchase of raw materials, spare parts, components and capital equipment used in the manufacture or assembly of electric, hybrid and other AFVs/CEVs, including the conversion into such vehicles.

HBs 1004, 4452, 6018, 6376 and 1713 seek also to provide exemption to electric, hybrid and other AFVs from the Motor Vehicles User's Charge (MVUC) for a period of 9 years in the case of HB 6018 or 10 years in the case of HB 1713 from the effectivity of the Act.

The bills aim to promote the use of electric, hybrid and other AFVs/CEVs by making them more affordable, to have less dependence on oil and petroleum, increase fuel savings, and abate the level of air pollution in urban areas all over the country, as well as protect the environment.

The intention of the bills to promote the use of electric, hybrid vehicles and other AFVs/CEVs is recognized. These vehicles burn less fuel which results in less emission of harmful gases like carbon monoxide which causes a lot of damage to the environment.

With regard to the proposed exemption from the excise tax on automobiles, RA 10963, otherwise known as the Tax Reform for Acceleration and Inclusion (TRAIN) Law provides that purely electric vehicles are exempt from the excise tax on automobiles while hybrid vehicles are subject to 50 percent of the applicable excise tax rates on equivalent automobiles.

On the other hand, the proposed exemption from the VAT may not be advisable since this will erode the VAT base. Granting VAT exemptions for the purchase and importation of raw materials, spare parts, components, and capital equipment used in the manufacture or assembly of electric, hybrid, and other clean energy vehicles would be contrary to the policy of adopting a broad-based VAT for a more effective taxation of goods and services. Recently, RA 10963 repealed 54 provisions on VAT exemption and zero-rating under special laws in order to broaden the VAT base and to make the VAT system simpler, fairer, and more efficient and ultimately improve VAT collection. Likewise, exempting the sale or importation of AFVs/CEVs from the VAT will not guarantee lower prices as the input VAT presently credited against the output VAT on sales will no longer be allowed. Thus, the input VAT will form part of the cost, which will be included in the price.

With regard to the proposed exemption from the MVUC, while the imposition of the MVUC is mainly for raising revenue in order to finance road infrastructures, it can also be used as a fiscal policy tool through preferential tax treatment that would encourage the use of hybrid vehicles which are eco-friendly with their minimal to zero carbon emissions. However, the provision for preferential treatment should be based on the actual advantage that may be derived from the cost of tax concession.

Therefore, it is suggested that road tax concession be given to eco-friendly vehicles based on specific standards in order to ensure that the policy objective of the tax concession is attained.

On the proposed exemption from duties of the importation of CKD parts and CBUs for AFVs, the tax incentives package on manufacturing, assembling, conversion and importation of electric, hybrid and other AFVs should be aligned with the current automotive programs being implemented by the government, which are accorded fiscal support, including tax incentive privileges.

It is noted that there is the Comprehensive Automotive Resurgence Strategy (CARS) Program that is being implemented in order to attract new investments, stimulate demand and effectively implement industry regulations that will revitalize the Philippine automotive industry, and develop the country as a regional automotive manufacturing hub. It provides time-bound, and output or performance-based fiscal support to attract strategic investments in the manufacturing of motor vehicles and parts thereof.

Also, the production and/or assembly of motor vehicles and other vehicle assemblies can be covered under the Motor Vehicle Development Program (MVDP) being implemented by the Board of Investments, pursuant to Executive Order (EO) No. 887-A, s. 2010, which provides the comprehensive industrial policy for the motor vehicle sector and directions for the MVDP.

On the grant of income tax exemption on activities arising from the manufacture, importation, sale and distribution of electric, hybrid vehicles and other AFVs/CEVs, it will diminish the revenue productivity of the income tax. Moreover, such exemption goes against the ability-to-pay principle wherein an entity that earns income should be liable to the income tax. The same is true with the proposed income tax exemption on public conveyances using hybrid or alternative fuel technologies.

Finally, since the present system of tax incentives is being rationalized under Package 2 of the Comprehensive Tax Reform Package (CTRP), it may be more practical and prudent to align whatever tax privileges the bills intend to grant with the thrust of this initiative for consistency and uniformity in government's overall tax incentive framework.

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HB 1222
Declaring Power Infrastructure Projects as Projects of National Significance Amending for the Purpose Certain Provisions of Republic Act No. 9136, Otherwise Known as the Electric Power Industry Reform Act of 2001 and for Other Purposes

HB 1222 seeks to amend certain provisions of RA 9136, otherwise known as the Electric Power Industry Reform Act (EPIRA) of 2001 to address and resolve the issues and concerns of the Philippine energy sector.

The proposal provides that power infrastructure projects, including but not limited to, generation, transmission and distribution facilities which are classified by the President, upon the certification and recommendation of the Secretary of Energy, as projects of national significance shall be entitled to the following incentives:

a. Exemption of all real properties which are actually and directly used for the project from any and all real property taxes (RPT) levied under RA 7160 otherwise known as the LGC of 1991;

b. Limitation of the sum of all taxes to be imposed by province, city or municipality to not more than 50 percent of one percent of the gross sales or receipts of the preceding calendar year; and

c. Granting or automatic issuance of required business permits, including any renewals thereof to the inning project proponent upon tender of the required taxes and fees to the appropriate LGUs.

The proposed blanket exemption from any and all RPT will mean lesser revenue and will have adverse consequences on the ability of LGUs to provide funds for their programs and projects. In the case of the special education fund (SEF) tax, the local school boards will be deprived of the needed funds for their operation and maintenance of public schools, construction and repair of school buildings, facilities and equipment, educational research, purchase of books and periodicals, and sports development.

It is worthy to note that in the case of the RPT, the tax rate as well as the assessment levels to be applied to the fair market value of real property are fixed through an ordinance enacted by the Sanggunian Panlalawigan, Sangguniang Panlunsod or Sangguniang Bayan of a Metro Manila municipality, at the rates not exceeding those prescribed under the LGC. Thus, the Sanggunian, as a policy, has the discretion to impose the tax or assessment levels at lower rates.

Also, it should be mentioned that EO 19, s.2017, was issued to reduce the RPT, as well as to condone the interests and penalties assessed on the power generation facilities of Independent Powers Producers (IPPs) that have Build-Operate-Transfer (BOT) agreements and contracts with government owned- and/or –controlled corporations (GOCCs).

The proposal to impose a ceiling of not more than 50 percent of one percent of the gross sales or receipts of the preceding calendar year on the sum of all local taxes levied by the province, city or municipality is equivalent to the tax imposed on businesses enjoying a franchise under Section 137 of the LGC. It is submitted that the proposed limitation should be left with the concerned LGUs which are in a better position to assess the costs and benefits of the projects. In addition, each LGU should be allowed to exercise its power to create its own sources of revenue and to levy taxes, fees and charges which is consistent with the basic policy of local autonomy.

On the proposal that business permits including any renewals shall be deemed automatically granted or issued upon tender of the required taxes and fees to the LGUs while this will promote conducive business environment and ease of doing business but it may subvert local government officials' accountabilities on the ground that the automatic issuance of business permits is tantamount to abdicating their power to regulate non-compliant power infrastructure projects as long as taxes are paid.

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HB 5325
Strengthening the Bureau of Internal Revenue and the Bureau of Customs, Appropriating Funds Thereof and for Other Purposes

HB 5325 seeks to strengthen the organizational capacity of the BIR and the BOC. The bill proposes the following:

a. The annual appropriation for the BIR and BOC shall be two percent of the actual hard collection from taxes and duties of the previous year which shall fund the agencies' personnel services, maintenance and other operating expenses (MOOE), capital outlay, and the setting up of the operations of the National Revenue Academy (NRA);

b. The BIR and BOC compensation package shall be performance-based including the successful completion and passing of the NRA required trainings and the use of comprehensive job analysis and evaluation of actual duties and responsibilities of officials and personnel compared to previous year's collection. The compensation package shall be approved by the DOF, subject to periodic review by the BIR and BOC in consultation with the Department of Budget and Management (DBM) and the Civil Service Commission (CSC).

   b.1. Adjustment in the personnel services/salaries shall depend on the previous year/s hard collection. The basic pay increase shall not be more than 30 percent of the previous year's rate provided that the incremental increase in the previous year's actual collection shall not be less than 15 percent from the year immediately preceding it. The bill also envisions that the implementation of the reforms shall be in conjunction with RA 9335 or the Attrition Law. Under the proposal, BIR and BOC officials and employees may still qualify for salary adjustment even if they do not meet their annual target for as long as the year-on-year increase in actual collection of taxes and duties is not less than 15 percent.

c. The creation of the National Revenue Academy (NRA) which shall handle all the trainings, continuing education programs and other courses for all the officials and personnel of both agencies shall be required to undergo retooling and enhancement seminars while all applicants to both Bureaus shall be required to pass the basic courses before they can be hired whether on contractual or permanent status. The budget of the NRA is proposed to be taken from the two percent annual hard collection of taxes and duties by the BIR and BOC.

d. The creation of the Appropriation Evaluation Board in the BIR and BOC to be composed of the Secretary (or Undersecretary) of the DOF as Chairman; the Secretary (or Undersecretary) of the DBM; Chairman (or Commissioner) of the CSC; two representatives from the rank-and-file employees; and a representative from the officials. The Board shall prescribe the rules and guidelines for the annual budget, review subsequent salary adjustments of the BIR and BOC personnel, and approve the proposed budget prepared by each agency.

On the earmarking of revenue to fund the operations of the BIR and BOC including the proposed NRA, the immediate impact of the proposal will be a drastic budget cut for most government agencies' projects and programs, including the budget allotted to LGUs through the IRA. On the other hand, providing adequate funding for the BIR and BOC will enable them to program their activities/expenditures for the year which could improve their service delivery to the taxpaying public. However, the process should first be the determination of the programs and plans that would merit the proposed funding.

Moreover, making the appropriations dependent and computed based upon the previous year's collection could cause delay in the determination of annual appropriations since total tax and duties collections are yet being finalized by the agencies at the start of the succeeding year.

Also, it may be recalled that there is a proposal to create a new internal revenue agency vested with corporate powers to replace and assume the powers and responsibilities of the BIR. The proposed NRA share have the primary responsibility and objective to raise revenue to finance the operations of the government consistent with fiscal and revenue collection targets. In return, the government will pay a service fee at a rate not lower than one percent but not higher than two percent of revenues collected in the immediately preceding calendar year, net of collections accruing to LGUs including IRA, and other agencies. The proposed percentage of service fee is within the international standards of other countries with similar set up. Moreover, the proposed corporatization of the BIR is envisioned to address the existing institutional and administrative constraints besetting the BIR and the BOC.

Therefore, it is suggested that the institutional set up of the BIR and BOC be first reformed before the grant of the proposed annual appropriation. The certainty that the increase in the budget will result in efficiency is higher since the administrative constraints in these agencies are already addressed.

On the proposal to exempt them from the Salary Standardization Law (SSL) and instead be granted a performance-based compensation package shall make their pay scales at par with the private sector and other government offices and is therefore supported.

The proposed exemption from the SSL is in line with BIR's program in 2017 to hire first-rate professionals and further improve their administrative support system and strengthen their revenue collection function. Also, it is in keeping and consistent with the provision of the Customs Modernization and Tariff Act (CMTA) directing the BOC to conduct a compensation study with the end view of developing and recommending to the President a competitive compensation and remuneration system to attract and retain highly qualified personnel, while ensuring that the Bureau remains financially sound and sustainable.

However, it is noted that the proposal to increase the salary even if the personnel of the Bureaus failed to meet their annual target as long as the year-on-year increase in actual collection of taxes and duties is not less than 15 percent is not consistent with the provisions of the Attrition Law which stipulate that incentives for the BIR and BOC employees may only be effected when the actual collection exceeds the revenue target. Therefore, it will defeat the original purpose of the Lateral Attrition Act of 2005, which provides incentives for good performance but at the same time penalizes underperformance. The proposed salary increase of the BIR and BOC employees should be reconciled with the criteria under the Lateral Attrition Act of 2005 in the grant of incentives to preclude possible conflict/confusion.

On the creation of a NRA, the need to strengthen the organizational capability of the BIR and BOC is recognized and supported. The proposal is envisioned to put the country at par with other countries. However, it may be noted that the proposed creation of the NRA may no longer be necessary as a similar tax academy has already been approved under RA 10143 (July 31, 2010), otherwise known as the Philippine Tax Academy Act.

Furthermore, the creation of an Appropriation Evaluation Board may no longer be necessary once the agencies are granted exemption from the SSL and instead be covered by the GCG-CPCS compensation scheme.

However, it is also recognized that higher appropriation and competitive salary pay scale alone do not guarantee enhanced performance of the BIR and BOC. These reforms may not be sufficient to ensure efficient and effective collection of taxes and duties but should be complemented with other policy and administrative reforms to make tax administration more efficient, such as the simplification of the tax system, promotion of voluntary compliance, full automation of tax and customs processes, improvement of tax enforcement, among others.

Moreover, a higher appropriation and salary for both BIR and BOC personnel means higher expectations in the output of these agencies. Therefore, the establishment of accurate performance indicators and standards, other than meeting the collection target, is suggested such as taxpayer's satisfaction, process improvement and compliance with the OPCR and IPCR, among others. In addition, safeguards should be established in order to maintain accountability and transparency in the operations of both agencies.

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HB 6037
Providing for Fiscal Incentives for Corporations with Business Enterprises Duly Established and Located in the Island of Mindanao

HB 6037 intends to transform the entire island of Mindanao into a highly developed agro-industrial, industrial, commercial, tourist, banking, investment, and financial center.

The bill proposes that duly qualified corporations located in Mindanao as may be determined by the

Mindanao Development Authority (MinDa) shall be entitled to the following fiscal incentives:

a. Reduced income tax rate of 10 percent for a period of five years upon approval of the MinDa.

b. Fiscal incentives as provided for under Presidential Decree (PD) No. 66 or those provided under Book VI of EO 226.

c. Exemption from national and local taxes, except RPT on land owned by developers. In lieu thereof, five percent of the gross income earned (GIE) by all business enterprises qualified under the bill shall be paid and remitted as follows:

   i. Three percent to the NG; and

   ii. Two percent which shall be directly remitted to the Treasurer's office of the municipality or city where the enterprise is located.

The intention to promote the growth and development of the Mindanao region is laudable and supported. It is in line with the prevailing industrialization policy of the government to promote investments in the countryside.

In addition to the 10 percent reduced income tax rate for five years and five percent GIE in lieu of all national and local taxes, the bill provides fiscal incentives under PD 66 or those provided under Book VI of EO 226. These incentives include: (a) income tax holiday (ITH); (b) tax and duty free importation of raw materials, capital equipment, machineries and spare parts; (c) net-operating loss carry over (NOLCO); (d) accelerated depreciation; (e) exemption from export tax; and (f) exemption from local imposts, fees and licenses.

The proposed five percent tax on GIE in lieu of all national and local taxes is similar to the five percent tax on GIE for Philippine Economic Zone Authority (PEZA) ecozones under RA 7916, as amended by RA 8748. However, the enjoyment must be on a sequential basis with the ITH to avoid undue revenue losses and for the enterprise to make use of the incentives on an optimal basis.

As to the proposed 10 percent reduced income tax rate for five years, it should be noted that during the availment of the ITH, the income of a promoted activity is exempt from income tax for a given period. Likewise, the registered enterprise during the GIE period is exempted from income tax as the GIE is in lieu of all national and local taxes, thus, the said incentives is no longer necessary during the ITH or GIE period.

The exclusion of the RPT on land from the local taxes to be waived under the five percent GIE scheme is supported inasmuch as the RPT is a financial mainstay of LGUs. Likewise, the two percent sharing out of the five percent tax with the municipality or city affected by the operation of the ecozone is consistent with the treatment of RPT on land owned by developers under RA 7916, as amended.

The proposed tax and duty free importation of raw materials, capital equipment, machineries and spare parts is no longer necessary during the availment of GIE since qualified enterprises during this period are exempt from all national taxes, including taxes and duties on importation.

With regard to the NOLCO, it should be noted that it is intended to temper the imbalance resulting from the use of an annual reporting period and a progressive tax rate structure by allowing a loss in one year to offset income in the following years. As a rule, the NOLCO finds no application to income taxpayers enjoying ITH and preferential rate on GIE since accumulated net operating losses of any person, natural, or juridical, enjoying exemption from income tax are not qualified for purposes of NOLCO.

Furthermore, exempting qualified enterprises from local imposts, fees and licenses is not consistent with the cost recovery principle which stresses that the cost of providing services should be recovered to sustain the services. In addition, the proposal goes against fiscal autonomy of LGUs as enshrined under Section 129 of RA 7160 or the LGC which provides that each LGU have the power to create its own sources of revenue and to levy taxes, fees, and charges consistent with the basic policy of local autonomy.

As to the proposed expansion of the powers of MinDa, it should be noted that under EO 226, it is the Board of Investment (BOI) which prepares the listing of specific activities in the country that can qualify for incentives under the code. Thus, the proposal to give MinDa the authority to determine which enterprises may qualify for the foregoing incentives will result to the duplication of function of the BOI.

Finally, there is an ongoing rationalization of fiscal incentive provisions under Package 2 of the CTRP which shall reform the fiscal incentives and integrate it into one single menu applicable to all Investment Promotion Agencies (IPAs). Given this initiatives, it may be more practical to put on hold the bill until the passage of Package 2 of the CTRP.

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HB 6188
Mandating the Adoption of On-Line Payment Scheme at the Bureau of Customs and Prescribing Penalties for Violation Thereof and for Other Purposes

HB 1688 proposes the enforcement of an on-line payment system at the BOC whereby individuals paying for any BOC transaction shall deposit their payment in the assigned state-run bank via on-line facilities.

The bill seeks to deter corruption and avoid incidents of cash changing hands over tara fees on certain shipments of some importers.

The proposal to enforce an on-line payment system at the BOC to curb corruption is laudable. However, the proposal may no longer be necessary as the use of information and communications technology (ICT) especially in the payment of taxes and duties is already instituted under the CMTA.

The electronic export and import processing system at the BOC has been in place for several years already. The electronic to mobile system (e2m) was pilot tested in 2009 in the port of Batangas per Customs Memorandum Order (CMO) No. 10-2009 and has been implemented by the BOC since then. To date, with the enactment of the CMTA in 2016, the BOC operations and procedures are mandated to be fully automated, which include on-line payment of taxes and duties.

Other electronic processing in the BOC includes, but are not limited to the following:

a. Online Cargo Release System (OLRS);

b. Online Visibility; and

c. Payment of documentary stamp tax (DST) by the exporters for the processing of electronic certificate of origin (e-CO).

The automation of BOC processes aims to, among others, reduce or curb corruption at the BOC by minimizing physical contact with BOC clients.

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HB 6390
Providing for a Classification System for Third Parties Under the Customs Modernization and Tariff Act

HB 6390 seeks to amend RA 10863 (May 30, 2016), otherwise known as the CMTA by amending Section 1226 (Supervision and Regulation of Third Parties) thereof. It proposes to provide classification system for third parties according to their capitalization and volume of transactions, which shall be used in the assessment of their capability to import, export, move, store or clear goods.

The proposal is envisioned to strengthen the supervision and regulation of third parties, which in turn, is expected to abate the smuggling of goods and ensure that proper duties and taxes on goods are collected.

In line with the vision to bring forward enhancement in trade facilitation and efficiency in customs control and operation, the proposal to establish a classification system for third parties is supported. Classifying third parties according to their capitalization and volume of transactions will be of great help in the effective assessment of their capability to import, export, move, store, or clear goods. It will strengthen the BOC's screening mechanism to ensure that those dealing with the Bureau are legitimate entities which can be prosecuted if found in violation of the CMTA and other laws.

Moreover, enhanced supervision and regulation of third parties through the proposed classification system is expected to provide monetary and non-monetary benefits to the BOC. It may be useful in plugging possible revenue leakages; minimizing the entry of prohibited goods and unprofessional handling of cargoes due to proliferation of fly-by-night freight forwarders and logistics providers, among others. Thus, the proposed classification system of third parties could be a useful tool to further improve trade facilitation, enhancing customs control and improving revenue generation.

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HB 6519
Creating the Overseas Filipino Workers Sovereign Fund

HB 6519 seeks to raise funds for government and government-assisted projects through the issuance of bonds and other debt instruments for subscription and investment by the overseas Filipino workers (OFWs), former OFWs, their immediate family members, and other Filipino citizens abroad. Such funds shall be pooled under a special fund to be known as the OFW Sovereign Fund.

The bill proposes the exemption from any and all kinds of taxes of the earnings to be derived by covered individuals from the investment instruments to be issued by the government in the implementation of the proposed Act.

Also, the bill provides in its rules and guidelines that bonds or other debt or investment instruments to be issued by the government shall be denominated in Philippine peso and in small denominations such as, but not limited to, P5,000.

There is merit in the proposal to accord tax exemption on the interest income and other earnings that will be derived by OFWs from their investments in government debt instruments and securities as this will encourage them to put up part of their remittances and earnings on investments.

At present, the tax on interest income depends on a number of factors/ conditions, namely: term of the instrument, issuer, currency and residency.

With the proposal, there will be a separate tax treatment of interest income or earnings derived by those covered under the bill from government securities or debts or other investment instruments. This special treatment based on the location of employment, Philippines or abroad, of an individual will further complicate the tax system. Moreover, the differing tax treatment on similar financial activities is deemed iniquitous and will open more avenues for tax arbitrage by various investors.

Lastly, it is worth noting that under Package 4 of the CTRP of the present administration, taxes imposed on the returns on financial capital and transactions is being reviewed with the objective of ensuring neutrality in tax treatment across financial institutions and products.

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HB 6629
Requiring All Government Agencies, Instrumentalities, Local Government Units, and Government Owned and Controlled Corporations and Private Establishments to Use Security Water-Marked Paper in All Receipts and Invoices, Permits, Licenses, Clearances, Official Papers or Documents

HB 6629, otherwise known as the Document Authentication and Security Act proposes to require all government agencies and instrumentalities, including GOCCs and all LGUs, and private and commercial establishments, whether corporations, partnerships or sole proprietorships, to use security water-marked papers in all receipts, invoices, forms, permits, licenses, clearances, official papers or documents which they issue to all natural and juridical persons transacting business with them.

The bill seeks to prohibit the use in any transaction in the Philippines of said official papers or documents printed in water-marked paper which remain unconsumed after the lapse of 6 months after the BIR has conducted an appropriate inventory thereof. Failure by any person including the parties involved in a transaction where the use of security water-marked paper is prescribed, as well as by any government functionary involved in the monitoring/regulating of these transactions, to comply with the requirements of this Act, shall be subject to all the appropriate sanctions and penalties provided for in the NIRC and other pertinent laws, rules and regulations.

The bill's objective in requiring the use of security water-marked paper in the printing of receipts, invoices, permits, licenses, clearances and all other official papers and documents used by the government and private entities in various transactions is supported in principle as the use of water-marked paper in all official papers may prevent the tampering of important information in official documents.

However, it was gathered that the printing of specialized watermarked papers is no foolproof guarantee that the same could not be tampered with or duplicated. There are cases where even check and treasury notes/bills which are printed on specialized paper and subjected to more rigid scrutiny, are still subject to counterfeiting. There are still no guarantee that such watermarked papers would be insulated from such illegal acts and practices. It may only reduce to a certain extent but not completely eliminate the use of falsified receipts and other documents in all commercial and business transactions.

A major drawback of the proposed security water-marked paper is the prohibitive cost involved in manufacturing the same. The use of specialized watermarked paper would mean increased cost to business establishments. The dandy roll must be specially ordered with the custom image that is to be applied. The cost of the custom dandy roll can add a substantial amount to the initial cost of the paper but is usually a one-time charge as long as the image does not change. The cost per hundred weight of the paper may also be affected. There are generally additional set-up charges from the mill, minimum order requirements, and extended lead times on the delivery of the paper. Also, the type and quality of paper to be used is a big factor in determining the cost. Thus, this may not be practical for small-scale and medium scale businesses and/or commercial establishments as it will substantially increase their cost of operations and adversely impact on their return on investment.

On the part of the government, there is no urgency for the proposed use of security water-marked paper. The NPO disclosed that all accountable forms including receipts, invoices, and licenses and some other official papers/documents being used by the government including LGUs and GOCCs are already watermarked. According to the NPO, even the regular/standard receipt has an NPO security mark feature and the price may even be higher depending on the quality, size, color whether one or multi-colored and the preferred design to be watermarked. However, it was gathered that the NPO has not lately been producing watermarked materials as the typical paper is quite expensive.

With regard to the issuance of falsified receipts which is among those intended to be solved by the proposal, this was addressed with the adoption of the VAT system which strongly motivates taxpayers to demand receipts to support claims for tax credits on input taxes for VAT. Likewise, a VAT division in the central office and VAT units in the district offices of the BIR have been established to monitor proper issuance of receipts and recording of transactions by VAT registered taxpayers.

Moreover, it may be noted that RA 10963 required an Electronic Sales Reporting System under Section 237-A to address unscrupulous sales data from those engaged in the export of goods and services, and which may eventually no longer require the issuance of official receipts.

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HB 7434
Imposing the Collection of a Tax on Foreign Visitors in the Country for the Purpose of Generating Funds for Tourist Welfare Services

HB 7434, otherwise known as the Tourist Welfare Tax Act of 2018, intends to build on the growth of the tourism industry in the Philippines by generating funds for the improvement of tourist welfare services in the country. The bill seeks to:

a. Impose a tourist tax, to be known as the “tourist welfare tax”, on all foreigners visiting the Philippines for tourism and leisure and staying in the country for a period of not more than 60 days. The tourist welfare tax shall be US$25.00 per foreign visitor or passenger and shall be integrated into airline ticket prices;

b. Exempt the following from the payment of the proposed tourist welfare tax:

   i. Foreign visitors in the country engaging in official business and have been issued a work visa or work permits;

   ii. Foreign visitors in transit to another destination and have not stayed in the country for more than 24 hours;

iii. Foreign visitors traveling in the country for more than 60 days but not more than 180 days;

iv. Foreign retirees with valid Special Retiree's Resident Visa issued by the Bureau of Immigration (BI);

v. OFWs returning to the country permanently or for vacation;

vi. Foreign students in the country for excursion or immersion nad have been issued a Student Visa;

vii. Persons with disabilities (PWDs);

viii. Children under the age of 12 accompanied by a guardian or adult and those under the age of 15 who have secured a Waiver of Exclusion Ground (WEG) from the BI and allowed admission to the country; and

ix. Officials and heads of foreign States visiting the Philippines.

c. Refund to any person who has erroneously paid or overpaid any tourist tax within three years from the time the erroneous payment or overpayment occurred;

d. Review the rate of the tourist tax every five years from effectivity of the Act by the Department of Tourism (DOT), DOF, and the BIR for inflation; and

e. Allocate the tax collected to the following:

i. 30 percent to the Tourism Development Fund to finance tourist welfare services such as existing and ensuing Tourism Information and Assistance Desks, the Tourist Police training and development program, specialized tourist programs for persons with special needs and PWDs and other tourist welfare programs set by the DOT;

ii. 40 percent to be used by the DOT to enhance its programs for improved services in airports and ports, road development projects through the Tourism Road Infrastructure Program, transportation development programs, and the improvement of the emergency response capability of the country; and

iii. 30 percent to the tourism infrastructure programs of LGUs to encourage the development of local tourism programs.

The intention of the bill to generate funds for the improvement of tourist welfare services as well as to enhance the DOT's programs concerning tourism-related infrastructure is laudable. However, the imposition of the proposed tourist welfare tax may pose adverse effects on the tourism industry and may derail all efforts of the government in promoting the country as a premier tourist destination.

Considering that the country lags behind other ASEAN member countries in terms of attracting tourists, a tax imposed thereon would further make the country uncompetitive. It may be worth mentioning that the Philippines ranked 79th out of 136 economies, down by five notches from its 74th ranking out of 141 in the previous year according to the 2017 Travel and Tourism (T&T) Competitiveness Report. It revealed that although the country's T&T continues to develop on the back of the country's rich natural resources and high price competitiveness, it shows a lower competitiveness performance due to a more restrictive visa policy that reduces its openness performance (60th place), a reduction of the government budget dedicated to the development of the T&T sector by almost half, and reduced efficiency of ground transport (107th place). In addition, security concerns remain high at 126th place. Although environmental policy has improved, it still remained low at 118th place, risking to undermine natural resources which is the main asset for attracting tourists in the country.

In sum, albeit the potential of the proposed Tourist Welfare Tax to raise the needed revenue for the government to be used for tourism-related projects and programs, its imposition, may be worth reconsidering given the negative effect it may pose to the tourism industry.

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Unnumbered HB
Promoting the Rehabilitation and Modernization of the Philippine National Railways, Further Amending Republic Act No. 4156, Entitled "An Act Creating the Philippine National Railways, Prescribing Its Powers, Functions and Duties, and Providing for the Necessary Funds for its Operation" in Substitution of HBs 250, 1867, 2037, 3582 and 4182

Unnumbered HB proposes the rehabilitation and modernization of the Philippine National Railways (PNR) as the instrumentality of the government in providing a nationwide railroad and transportation system.

The PNR shall remain in and under the majority ownership of the government with a share of at least 51 percent during its corporate existence. It is proposed to become open to joint ventures with the private sector up to a maximum share of 49 percent.

Also, the bill proposes the exemption of the PNR from the payment of all taxes of any kind and nature: municipal, city, provincial, or national, upon its capital stock, franchise, right of way, earnings, and all property owned or operated by it and all import duties on all railway materials, rolling stocks, spare parts, supplies and equipment imported in the Philippines by the PNR, and this exemption shall extend to wharfage dues, storage charges, arrastre, and shipside charges, and special duties on such importations, and other port charges upon carrying vessels whose entire cargo consist of materials for the construction of its projects and rehabilitation of its lines, facilities and to such proportion of the prescribed port charges on other vessels as the tonnage of materials for such constructions or equipment may bear to the tonnage of the entire cargo of the vessel.

The intention of the bill to promote the rehabilitation and modernization of the PNR is commendable and is therefore supported. The PNR is not only seen as a vital means of transportation but also as a symbol of the country's culture and history. Also, the proposal will: (a) reduce travel time and costs; (b) give support to greater passenger and cargo mobility; (c) abate traffic and air pollution; (d) contribute to investment and revenue generation and jobs creation; and (e) stimulate overall countryside growth.

As to the proposed fiscal incentives, the broad coverage of the tax exemptions to be granted to the PNR can give rise to policy issues and problems on the implementation of the provision and possible opportunities for discretion and leakages/abuses, especially in the absence of an effective and efficient monitoring system.

At present, it may be noted that the PNR does not enjoy tax exemptions as they were withdrawn by PD 1931 (June 11, 1984) and reiterated by EO 93 (issued December 17, 1986, effective March 10, 1987). Instead of an outright grant of tax exemption privilege, the PNR may continue to avail of the tax subsidy to cover the payment of its taxes and duty obligations as it has done in the past through the FIRB. Tax subsidy is a more practical alternative to the grant of tax exemption as it can be quantified and is easier to monitor by the government and thus, adheres to fiscal transparency particularly in the use of government resources.

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Unnumbered House Bill
Establishing Child Development, Physical Medicine and Rehabilitation Centers for Children and Youth with Disabilities Nationwide

Unnumbered Substitute Bill provides for the establishment of child development, physical medicine and rehabilitation centers for children and youth with disabilities (CYWDs) in the country in order to ensure that CYWDs are able to live freely and independently and thereby achieve a more meaningful, productive and satisfying life, pursuant to the United Nation's (UN) Convention on the Rights of the Child, the UN Convention on the Rights of Persons with Disabilities, the 1987 Constitution and the Magna Carta for Disabled Persons.

The bill seeks to accord tax incentives to the proposed rehabilitation centers by exempting from the donor's tax all grants, endowments, donations and contributions received by the centers and allowing the same to be deductible 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, provided that these shall be for the actual, direct, and exclusive use of the proposed Center/s.

Considering that the proposed CYWD rehabilitation centers shall be operated by the government or an NGO that is accredited by the government, in coordination with a host LGU, and its nature being that of providing services for the development, physical medicine and rehabilitation of CYWDs in the country, the same may therefore be entitled to the donor's tax exemption provided under Section 101(A)(1), (B)(1), 101(A)(2) and (B)(2) of the NIRC of 1997, as amended.

Likewise, under Sections 34(H), (H)(2)(a), and (H)(2)(c)(1) of the NIRC of 1997, as amended, grants, endowments, donations and contributions made to the proposed CWYD rehabilitation centers may be allowed as a deductible item from the gross income of the donor.

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SB 1701
Amending Republic Act No. 10708 or the Tax Incentives Management and Transparency Act, to Expand Its Coverage, in View of Further Enhancing State Fiscal Management and Accountability, and for Other Purposes

HB 7974
Amending Republic Act No. 10708, or the Tax Incentives Management and Transparency Act, Expanding Its Coverage to Enhance Fiscal Transparency and Accountability, and for Other Purposes

SB 1701 and HB 7974 seek to include tax incentives granted to registered entities administered by other government agencies (OGAs) within the coverage of Tax Incentives Management and Transparency Act (TIMTA). To attain this, other registered entities shall file with their respective OGAs a complete annual tax incentives report of their income-based tax incentives, VAT and duty exemptions, deductions, credits or exclusion from the tax base, including exemptions from local taxes, as provided in their respective laws.

The bills propose that the BIR and the BOC shall submit to the DOF: (a) the tax and duty incentives of registered business entities; 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. To achieve this, the DOF shall submit to the DBM the aggregate data on a sectoral and per industry basis of: (a) amount of tax incentives availed of by other registered entities; (b) the estimate of 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 same data shall be reflected by the DBM in the Tax Incentives Information (TII) section under the annual Budget of Expenditures and Sources of Financing (BESF).

The proposal provides that instead of the National Economic and Development Authority (NEDA), the Fiscal Incentives Review Board (FIRB) shall conduct cost-benefit analysis (CBA) on the investment and non-investment incentives to determine the impact of tax incentives on the relevant sectors and the Philippine economy.

The intention of the bills to promote fiscal prudence and transparency in the system of tax incentives through the inclusion of other registered enterprises administered by OGAs other than the Investment Promotion Agencies (IPAs) within the ambit of TIMTA monitoring and reporting of tax incentives is commendable and is, therefore, supported. It is in harmony with the objectives and ideals of the present administration for transparency, accountability and good governance.

The proposed mandatory reporting of tax incentives availment of other registered enterprises would lead to more comprehensive and efficient determination of amount of revenue foregone in connection with the grant of fiscal incentives. The provision on the administration, implementation and monitoring of the availment of tax incentive is necessary to ensure a better review and evaluation of government's tax incentives policy and the formulation of reforms, if needed, would make tax incentives more useful tool for growth and development.

The proposed inclusion of the tax incentives availed of by other registered entities in the TII section of the annual BESF is in accordance with the objective to promote overall fiscal prudence and transparency. This will give a complete picture of the tax incentives granted and revenue foregone in different sectors of the country. Also, this will provide information that can be used for the conduct of the CBA.

The proposal will align the recording, monitoring, and accounting of tax incentives given by different IPAs and OGAs to the current practice of the DBM and FIRB in granting tax subsidy. The inclusion of tax incentives information in the annual budget would 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.

Section 86 of RA 10963 (TRAIN Act), provides for the repeal of the VAT exemption provisions under various laws and subjects the affected persons and/or transactions to the VAT under Title IV of the NIRC, as amended, to broaden the VAT base. In the case of government agencies, their VAT obligations shall be chargeable to the Tax Expenditure Fund (TEF) provided for under the annual General Appropriations Act (GAA).

Further, Section 15(c) of the 2018 GAA (RA 10964) provides that GOCCs, state universities and colleges (SUCs) and other government instrumentalities (GIs) whose VAT exemptions have been repealed, may apply for tax subsidy which is granted through the FIRB.

With the current move of the government to rationalize the grant of tax incentives, it is logical that the conduct of CBA be done by the FIRB since it is the one responsible for the grant of tax subsidy to various government agencies.

Under the proposed Package 2 of the CTRP, the FIRB shall serve as the over-all administrator of all investment incentives, i.e., review of all IPA policy decisions related to the endorsement and availment of tax incentives, approve the grant of investment tax incentives as recommended by the IPAs, among others. The expanded function of the FIRB would allow it to conduct the CBA under the TIMTA.

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Unnumbered SB
Enhancing the Taxing Powers of Local Government Units by Amending Certain Provisions in Book II of Republic Act No. 7160, Otherwise Known as the Local Government Code of 1991

Unnumbered SB
Simplifying Local Taxes to Enhance Tax Compliance in Local Government Units by Amending Certain Provisions in Book II of Republic Act No. 7160, Otherwise Known as the Local Government Code of 1991

The unnumbered SBs seek to amend certain provisions of Book II (Local Taxation and Fiscal Matters) of RA 7160 or the Local Government Code (LGC) of 1991 as follows:

a. Section 141 (annual fixed tax for every delivery truck, or van of manufacturers or producers, wholesalers of, dealers, or retailers in certain products) by increasing the annual tax from not exceeding P500 to not exceeding P1,500. Also, it authorizes the Sangguniang Panlalawigan to increase the annual fixed tax once every three years based on the guidelines to be set by the Bureau of Local Government Finance (BLGF) using the consumer price index (CPI) as the basis of the increase;

b. Section 143 (tax on business), by simplifying the business tax structure by imposing a single tax rate of not more than 1.5 percent of gross sales or receipts of the preceding year regardless of the type of business, including those businesses subject to franchise tax under Section 137;

c. Section 146 (payment of business taxes) by moving the deadline of local business tax (LBT) payment from January 20 to March 31 of every year;

d. Section 150 (situs of the tax) by reducing the sales allocation of the city or municipality where the principal office is located from 30 percent to 10 percent and increasing that of the city or municipality where the factory, project office, plant or plantation is located from 70 percent to 90 percent; and

e. Section 192 (authority to grant tax exemption privileges) by providing

> that no law granting tax exemption from local government taxes, fees and charges shall be enacted unless otherwise provided under the LGC, as amended except that the LGUs, through duly approved ordinances, may grant tax exemptions, incentives, reliefs for the purpose of promoting or encouraging investments in their jurisdictions, under such terms and conditions as they may deem necessary which shall not exceed a total of six consecutive years from the effective date granting the incentive.

The proposal to increase the annual fixed tax on delivery vehicle, truck or van of manufacturers or producers, wholesalers of, dealers or retailers of certain products from P500 to P1,500 is supported. It is worthy to note that the LGC took effect on January 1, 1992 or more than 26 years ago. Thus, inflation has eroded the annual fixed tax especially if the LGU failed to exercise its authority to adjust the rates at not exceeding 10 percent every five years.

Assuming that the LGUs have consistently adjusted the rates of their annual fixed tax on delivery vehicles at the maximum of 10 percent every five years, the highest rates as of 2017 is P805 for provinces and P1,208 for cities. In this case, the proposed rate of P1,500 is higher. In the case of provinces, it will be higher by 86 percent as compared to potential rate for 2017.

However, using the CPI, the present value of the annual fixed tax on delivery truck would be P1,761 and P2,641 for provinces and cities, respectively. These amounts are higher than the proposed P1,500 and adjusted rates every five years based on the maximum allowable increase. This indicates that the annual fixed tax increased every five years at the maximum rate of 10 percent is even insufficient to cover the erosion brought about by inflation.

Authorizing the LGUs to index the annual fixed tax on delivery vehicle based on CPI will ensure that the rates are not eroded by inflation and will reflect the real value of the tax. However, to mitigate the impact of the increase of tax rate, it is suggested that the initial implementation of the increase be spread over a period of time to be determined by the concerned cities and municipalities. This will ensure that the increase will not be imposed abruptly which may prejudice the taxpayers.

On the LBT, the proposal will replace the rates prescribed under Section 143 of the LGC which provides for the schedules for each type of business. It is worthy to note that the LBT is a major revenue source of cities and municipalities which under the LGC is imposed on eight business clusters.

It should be mentioned that one of the features of an efficient tax system is simplicity which reduces the costs of compliance on the part of the taxpayer and the cost of administration on the part of government. If a uniform rate will be implemented, local revenue officials will simply apply the rate to the gross sales or receipts of a business during the preceding calendar year to determine its tax liability. A uniform rate will also prevent cross registration of business activities to avail of lower rates and will dispense the difficult aspect of determining the type of business for purposes of the LBT especially if the business entity is engaged in multiple business activities subject to different LBT rates.

With regard to the impact of a uniform rate, based on the tax schedules of 29 LGUs consisting of 17 cities and 12 municipalities, the effective LBT rate is about 0.72 percent which is lower than the proposed 1.5 percent. However, it is noted that actual effective tax rate (ETR) per LGU ranges from 0.13 percent to three percent. The proposed single rate of 1.5 percent may also increase the revenue of cities and municipalities estimated at P21 billion to P44 billion.

Moreover, it should be noted that the proposed uniform rate of 1.5 percent of the gross sales or receipts is the maximum rate or ceiling that may be imposed by municipalities while cities may impose rates higher but not more than 50 percent. This means that a lower tax rate may still be imposed depending on the wisdom of the sanggunian and by taking into account the expenditure needs of the concerned LGUs. The same holds true with regard to the proposed imposition of not exceeding 1.5 percent of the gross sales or receipts on businesses enjoying a franchise. It is worthy to note that businesses enjoying a franchise are subject to both the LBT and the local franchise tax imposed by the municipalities and provinces, if located in the municipality or both by the cities if located in a city.

The proposal to move the deadline of LBT payment from January 20 to March 31 of every year may be considered. The change will make the time of payment closer to the April 15 filing date of the audited financial statement and income tax return of the businesses to the BIR to ensure that the correct amount of the tax base is ascertained and determined.

In addition, the proposal may consider adopting payment schedule for the LBT based on the type of business and/or amount of gross receipts. For instance, businesses such as manufacturing with high gross receipts and large inventory may require more time to determine their gross receipts as compared to small retailers with low gross receipts. Thus, manufacturers may be scheduled to pay within the month of March while small retailers may be required to pay in the month of January.

On the situs of the tax, the proposal to reduce sales allocation to the LGUs where the principal office is located from 30 percent to 10 percent and increasing that of the LGUs where the factory, project office, plant or plantation is located from 70 percent to 90 percent is supported.

Generally, principal offices are located in the cities in Metro Manila and other regions in the country where most taxable activities are concentrated while factories, project offices, plants and plantations are mostly situated in rural or less developed municipalities with limited tax bases and financial resources. Thus, the proposal will increase the revenues of municipalities from the LBT where these factories, project offices, plants or plantations of big businesses are commonly located.

However, a more significant issue to address is the lack of transparency in the recording and declaration of sales by business enterprises. It is doubtful that the LGUs where the factory, project office, plant and plantation are located are getting their precise sales allocation for LBT purposes. There is a tendency for businesses to underdeclare their total sales since these are not directly reported/recorded in the factories, plantations, or project offices, but in the principal office that is outside the taxing jurisdiction of LGUs hosting the former.

Furthermore, the BLGF should issue concrete guidelines to operationalize the sales allocation scheme as provided in Section 150 or the situs of the tax rules. For this purpose, new forms may be devised. Also, LGU treasurers should be capacitated in establishing/verifying the amount of gross sales/receipts submitted by businesses. In this regard and considering the imposition of the proposed uniform LBT rate, the BLGF may conduct trainings, seminars or capacity build-up on the effective examination of taxpayers' books of accounts to ensure that correct amount of taxes are paid.

On the authority to grant local tax exemption privileges, it is worthy to note that under the LGC Implementing Rules and Regulations (IRR), the tax incentives apply only to new investments in the locality and the ordinance must prescribe the terms and conditions therefor. In this regard, the proposal clarifies the authority of the LGUs to grant local tax incentives subject to certain limitations.

The proposal to lengthen the maximum period of the grant of tax incentives from one year to six years is not supported. It is more appropriate to allow the LGUs to determine the duration of the grant of incentives which is consistent with the constitutionally enshrined policy of local autonomy.

On the proposed provision that "no law providing tax exemption from local government taxes, fees and charges shall be enacted unless provided in this Code" is supported. It will ensure that the revenue sources of LGUs will be preserved to generate the needed revenues to finance local development projects and basic services. This is consistent with the principle of local autonomy which empowers LGUs to create their own sources of revenue that carries with it the power to grant exemption to preferred sectors.

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HB 5489
Parking Building Tax Exemption Act of 2017

HB 5489 recognizes the need to solve the problem of unnecessary road congestion by providing more parking spaces. The bill proposes to encourage real property owners to convert idle lands or construct buildings for parking areas. Consequently, the bill seeks to provide a sustainable, organized, predictable, accessible and safe transportation system by providing adequate parking lots/buildings to reduce the number of cars parked on the road and encourage such users to take advantage of public transportations by allowing the parking of cars before commuting to their destinations.

The bill stipulates that the proposal shall only be applicable to all the cities and municipalities of Metro Manila, Cebu and Davao. It also provides that tax exemption shall only be applicable to idle lands and buildings that are used for an exclusive purpose other than parking.

The bill seeks to provide exemption from the payment of taxes which shall include but not limited to all real property, income and other business taxes on buildings, structures and other spaces that meet the following requisites:

i. It must actually be used and occupied to carry out parking operations;

ii. At least 80 percent of total land area is exclusively used for parking vehicles;

iii. Parking spaces are available to the general public; and

iv. Constructed or converted to a new parking building during the effectivity of the bill.

The exemption shall apply to those taxes imposed on the parking lot and/or building property and the owner of the parking lot/building shall only be exempted from taxes involving said parking lot and/or building but shall still be liable to taxes due on non-parking properties or operations. The tax exemption shall be automatically terminated if:

i. The building ceases to be exclusively used for parking operations.

ii. The building is converted to a non-parking use.

The tax exemption shall last for a period of three years beginning from the date where the construction of the parking building begins and extendible for another three years upon determination of the Department of Transportation (DOTr) and DOF that the need to alleviate land traffic congestion in the covered metropolitan areas through tax exemption still exists.

The bill also proposed that the Department of Interior and Local Government (DILG) shall conduct an investigation and grant the corresponding certification to property owners that would like to avail of the said tax exemption. The certification from the DILG shall be completed and released within five days upon request by the property owner after which its shall be submitted to the BIR upon application for the tax exemption.

In general, the bill envisions to achieve intermodal transportation. The proposed tax exemptions will encourage the construction or conversion of buildings and idle lands for the purpose of parking.

However, the proposed tax exemption is not supported on the ground that it is too generous considering that it covers both national and local taxes. Cities and municipalities impose property taxes which include the basic RPT, special education fund (SEF) tax and idle land tax and the local business tax under Section 143 of the LGC. Also, the operation of parking lots and buildings are subject to various national taxes under the NIRC, as amended, including the VAT (Section 108) or other percentage tax (Section 116) as well as the individual or corporate income tax. The proposed tax exemption will erode the revenue base of both the national and local governments.

Further, the proposal is inconsistent with the present thrust of the NG to rationalize tax incentives which are costly and redundant. Based on the 2017 gross receipts of 132 registered parking spaces businesses in the cities of Quezon, Pasay and Valenzuela, the estimated foregone revenue from the LBT alone is about P60.30 million while the estimated revenue loss from the VAT and other percentage tax is P274.33 million and P164.60 million, respectively or a total of P499.07 million. The total estimate excludes income and applicable RPTs.

Furthermore, the proposed grant of exemption from local taxes is not consistent with the constitutionally enshrined policy of local autonomy which grants the LGU the power to create its own sources of revenues and to levy taxes, fees and charges which shall accrue exclusively to them as self-reliant communities. While the power of Congress to grant tax exemptions is recognized, it is deemed more prudent to allow the concerned LGUs to identify the local taxes which they are willing to forego if they wish to encourage the construction or conversion of the lots and/or buildings for parking spaces.

Likewise, it is observed that some taxes that may be covered by the proposal are earmarked for certain services. In the case of VAT, it is well settled that for VAT to be effective, it should be broad based and with limited exemptions. In addition, LGUs have a share in the incremental collection of VAT, thus, exemption from this tax will reduce collection and may eventually affect LGUs of their share.

On the proposal that it shall be made applicable to all the cities and municipalities comprising Metro Manila, Cebu, and Davao, it is observed that there are other regions that have higher number of registered motor vehicles as compared to Region VII (Cebu) and Region XI (Davao). For instance, Region IV-A and III account for 12.78 percent and 11.81 percent of the total registered vehicles in 2017. Also, Region I and VI account for 5.84 percent and 5.57 percent of total registered vehicles which are higher than 4.59 percent of Region XI (Davao).

On the other hand, the proposal to limit the period of exemptions may be adopted by LGUs that will grant incentives to parking areas. It is generally accepted that any grant of tax incentives should be time-bound because both the national and local governments cannot afford to forego revenues that it need to provide the increasing costs of basic services. Also, it is suggested that the amount of incentives to be granted under the proposal should be accounted annually to properly measure and assess the economic costs and benefits of the incentives.

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HBs 6338 and 8221
Establishing and Institutionalizing the Seal of Good Local Governance for Local Government Units, and Allocating for this Purpose the Seal of Good Local Governance Fund

HBs 8221 and 6338 seek to institutionalize the Seal of Good Local Governance (SGLG) as initiated by the DILG to promote transparency and accountability in the use of public funds by delivering basic services that are responsive to people's needs. It aims to encourage all LGUs to take on greater challenges, encourage outcome-based performance and to reward local government for their effort in pursuing the general welfare of their constituency and in enforcing existing laws.

HB 8221 seeks to cover in the SGLG all LGUs while HB 6338 excludes barangays. Also, HB 8221 requires LGUs to comply, qualify and pass all assessment areas in order to be conferred and awarded the SGLG and granted the corresponding incentives while HB 6338 only requires LGUs to comply, qualify and pass all four core assessment areas and at least one essential assessment area.

HB 6338 provides the following criteria in evaluating the awarding or conferment of the SGLG award:

a. Core areas of concern and indispensable areas of consideration

   i. Good fiscal or financial administration

   ii. Health compliance and responsiveness

   iii. Disaster management, preparedness and timeliness

   iv. Social protection and sensitivity program

b. Essential areas of consideration

   i. Local business sociability and viability

   ii. Safety, peace and order

   iii. Environmental progressive management and protection

   iv. Local tourism/heritage development and management

On the other hand, HB 8221 provides the following criteria in evaluating the awarding or conferment of the SGLG award:

a. Good fiscal or financial administration or financial sustainability

b. Health compliance and responsiveness

c. Disaster preparedness

d. Social protection and sensitivity program

e. Programs for sustainable education

f. Business friendliness and competitiveness

g. Safety, peace and order

h. Environmental management

i. Tourism, culture and arts

The bills provide for an initial allotment of P1 billion as SGLG Incentive Fund. HB 8221 authorizes the Council of Good Local Governance to determine the monetary incentives for LGUs based on the number of awardees while HB 6338 specially provides the maximum incentives to be awarded to each LGUs, to wit:

a. Provinces – P7 million;

b. Cities – P5 million; and

c. Municipalities – P3 million.

The bills authorize the re-evaluation and increase of incentives which shall not be oftener than every three years subject to sufficiency of funds.

Also, both bills provide for the use and limitations on expenditures. In general, it prohibits the use of payouts from SGLG Fund for programs that duplicate or overlap with programs and projects that are already being implemented and funded by the NG. The Fund may not serve as a counterpart fund by LGUs to support projects identified and primarily implemented by the NG. Specifically, the bills provide that payouts from SGLG Fund shall not be used for any of the following:

a. Financing micro credits and loans;

b. Travel expenses, whether domestic or foreign, except when the purpose is to effect the purpose of this Act;

c. Administrative expenses of the LGU including but not limited to cash gifts, bonuses, food allowances, staff uniforms, communication bills, utilities, transportation costs and the like;

d. Purchase, maintenance or repair of any motor vehicles or motorcycles not directly used for the SGLG undertaking;

e. Salaries, wages, emoluments, per diems or overtime pay of employees;

f. Construction, repair, or refurnishing of administrative offices; and

g. As a loan guarantee.

The intention of the bills to institutionalize the SGLG to promote performance, accountability, transparency and participation among LGUs is supported. It is fair to mention that the criteria stipulated in both bills have the same intentions and objectives provided in DILG MC No. 2014-39, which is to promote transparency and accountability in the use of public funds by delivering basic services that are responsive to people's needs. Thus, both bills are endorsed. Identifying concrete assessment criteria will provide benchmark for good local governance. It will reinforce prudence and discipline among local governments to promote transparency in local government budgets and plans.

With the issuance of DILG MC No. 2018-49, the DILG raised the criteria for the awarding of the SGLG, as an alternative of using the previous assessment criteria or the "4+1 method", where LGUs need to pass four core areas and at least one essential area. For 2018, SGLG's minimum requirement is for the LGUs to meet the seven areas, namely: financial administration, disaster preparedness, social protection, peace and order, business friendliness, environmental protection, and tourism, culture, and arts.

On the coverage of the SGLG award, HB 6338 excludes barangay while HB 8221 covers all LGUs. It should be mentioned that the SGLG for Barangay (SGLGB) has been recently implemented by the DILG to encourage and challenge barangays to improve their performance and practice of good governance that is primarily in accord to accountability, transparency, performance and effectiveness.

On the limitation on the use of SGLG payouts, the same is supported as it seeks to ensure that the incentives given will be used for local development projects with far reaching impact on the LGUs which are neither funded by the NG nor undertaken by the NG with the LGUs. In addition, the guidelines and limitations on the utilization of the annual internal revenue allotment is applicable to the utilization of the payout from the SGLG award as far as practicable. Thus, the proposed 20 percent allocation from the payouts for development projects is also supported.

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HB 6893
Regulating the Use of Treatment Technology for Municipal and Hazardous Wastes, Repealing for the Purpose Section 20 of Republic Act No. 8749, Entitled, The Philippine Clean Air Act of 1999

HB 6893 promotes the protection of human health and the environment from the potential risks of hazardous and radioactive wastes within the framework of sustainable development.

The bill provides for the following tax incentives for registered enterprises which will invest in waste treatment facilities:

a. Income Tax Holiday (ITH) – Within the first seven years of its operations, the treatment facility is exempt from income taxes levied by the NG;

b. Tax and duty exemption on imported capital equipment and vehicles – Within the first 10 years of operations, registered enterprises are entitled to tax and duty free importation of machinery, equipment, vehicles and spare parts used for setting up the treatment facility under following conditions:

   i. They are not manufactured domestically in sufficient quantity, of comparable quality and reasonable prices;

   ii. They are reasonably needed and will be used exclusively by the registered enterprise in the manufacture of its products, unless prior approval of the board is secured for the part-time utilization of said equipment in a non-registered activity to maximize usage thereof or the proportionate taxes and duties are paid on the specific equipment and machinery being permanently used for non-registered activities;

iii. The importation of such machinery, equipment, vehicle and spare parts has been approved by the Board of Investment (BOI) of the Department of Trade and Industry (DTI); and

iv. The sale, transfer, or disposition of such machinery, equipment, vehicle and spare parts within five years from the date of acquisition shall be prohibited, without prior approval of the BOI, otherwise, the registered enterprise and the vendee, transferee or assignee shall be solidarily liable to pay twice the amount of tax and duty exemption given it.

c. Tax Credit on Domestic Equipment – A tax credit equivalent to 100 percent of the amount of the VAT and custom duties that would have been paid on the machinery, equipment, components, parts and materials had these items been imported shall be given to a contract holder who purchase machinery, equipment, components, parts and materials provided that such are directly needed and shall be used exclusively by the waste treatment facility.

d. Tax and Duty Exemption of Donations, Legacies and Gifts – All legacies, gifts and donations to LGUs, enterprises or private entities, including NGOs for the support and maintenance of the program for setting up of treatment technologies shall be exempt from all internal revenue taxes and customs duties, and shall be deductible in full from the gross income of the donor for income tax purposes.

The primary intention of the bill is to develop and implement national and local integrated and comprehensive hazardous and radioactive waste management programs, including resource and recovery system to improve waste management techniques, promote environmentally safe disposal of residues, minimize the generation of hazardous and radioactive wastes by encouraging cleaner production, and institutionalizing public participation in the development and implementation of such programs, among others.

Under the 2017 Investment Priorities Plan (IPP), Industrial Waste Treatment is already included as one of the preferred investment areas. This sector covers the establishment of treatment facilities for toxic and hazardous wastes from an industrial operation. Activities included in the IPP are registrable with the BOI and once registered, may avail of the incentives under EO 226, as amended.

On the tax and duty exemption, the proposal is contrary to the thrust of the government to do away with outright tax exemption and to adopt a broad-based VAT system for a more effective taxation. It is instead suggested that the concerned enterprises be registered with the BOI since Industrial Waste Treatment is included in the 2017 IPP. Once registered, they may avail of incentives under EO 226, as amended.

Anent the proposed exemption from donor's tax of gifts and donations for the support and maintenance of hazardous and radioactive wastes management, it should be noted that donations or gifts to the NG or any government entity are already exempt from donor's tax pursuant to Section 101 of the NIRC, as amended, and are deductible in full from the donor's gross income for purposes of the income tax pursuant to Section 34(H)(2)(a) of the NIRC, as amended.

Further, under Section 45(1)(c) of RA 9003 (Ecological Solid Waste Management Act of 2000, January 26, 2001), all legacies, gifts and donations made to private entities, including NGOs, for the support and maintenance of solid waste management program are exempt from all internal revenue taxes and customs duties and shall be deductible in full from the gross income of the donor for income tax purposes. The proposed similar tax exemption to all legacies, gifts and donations to private entities for the support of and maintenance of hazardous and radioactive management program and its deductibility from the taxable income of the donor for income tax purposes will likely encourage more donations of the program.

Legacies to government agencies are in effect exempt from estate taxes as the same are deductible from the gross estate for purposes of determining the value of the net estate subject to tax. The effect of such a deduction is to free the legacies from estate tax. Thus, the proposed exemption may no longer be necessary.

With regard to donations to NGOs, these are exempt from donor's tax only if the NGOs are accredited by the Philippine Council for NGO Certification (PCNC) and not more than 30 percent of said gifts are used for administration purposes. For legacies to be exempted, these should be made in favor of social welfare, cultural and charitable institutions and not more than 30 percent thereof is used for administration purposes under Section 87(D) of the NIRC, as amended. All such donations may be taken as deduction for income tax purposes, subject to the provisions of the NIRC, as amended. For consistency of tax treatment and to prevent abuses/leakages, it is better to align the proposal with respect to NGOs with existing codal provisions.

As to imported donations for the support and maintenance of hazardous and radioactive wastes management program, since the exemption from taxes and customs duties applies to the acquisition of the items needed for the said program, the same should likewise apply to imported donations subject to the same conditions provided for under the proposed grant of tax and duty-free importation. This will encourage the entry of new technology from more advanced countries to support government's hazardous and radioactive wastes program.

Finally, there is an ongoing rationalization of fiscal incentives under Package 2 of the CTRP. This is to reform the fiscal incentives and integrate it into one single menu applicable to all IPAs. Given this initiative, it may be more practical to align the proposals with Package 2 of the CTRP.

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HB 7622
Giving Tax Credit to Physicians Rendering Pro bono Services to Poor Patients

HB 7622 seeks to entitle physicians rendering pro bono services to poor patients to a tax credit to be deducted from their gross income. The bill mandates the Department of Health (DOH) and the Philippine Medical Association (PMA) to evaluate the pro bono services rendered by physicians taking into consideration the number of hours and nature of treatment involved. The BIR in consultation with the DOH and PMA shall promulgate the rules and regulations for the effective enforcement thereof.

The bill proposes to protect and promote the right to health of the people, by give incentives to doctors in order to persuade them not to leave the country which could worsen the shortage of healthcare workers who are crucial in the delivery of basic health services.

The proposed tax incentive which shall be computed based on the number of hours rendered by the physician and the nature of treatment involved is deemed vague. This is for the reason that even if the DOH and the PMA will evaluate the pro bono services rendered by physicians based on the said parameters, the said institutions will also just rely on the reports made or submitted to them by the physicians. Unless a well-established monitoring and recording scheme is set in place, the authenticity of information contained in such reports which will be the basis of the amount of tax incentive that may be claimed, will rest solely on the honest disclosure of the subject beneficiaries of the bill. Without such efficient and effective administrative mechanism, the proposal may be open to abuses which could lead to serious revenue leakages.

Also, the proposal is deemed too generous especially for physicians in private practice which classified as self-employed and professionals (SEPs). It should be noted as SEPs, they are entitled to claim allowable items of deductions from their gross income as provided under Section 34 of the NIRC of 1997, as amended. On the other hand, in lieu of the itemized deductions, said taxpayers may opt for an optional standard deductions (OSD) which is equivalent to an amount not exceeding 40 percent of his/her gross receipts. As a consequence of such allowable deductions from their gross income/receipts, physicians just like any other SEPs are able to reduce their income subject to income tax. This in fact one of the foremost reasons why the share of SEPs to total income tax collection fall behind those collected from compensation income earners (CIEs). Giving them additional tax deductible expense which is difficult to verify and monitor will not only reduce further income tax collection but would also perpetuate the inequity in the tax treatment between CIEs and SEPs.

Further, under RA 10963, otherwise known as the TRAIN law, a tax relief is accorded to individual income taxpayers including SEPs like physicians. Likewise, BIR Revenue Regulations (RR) No. 8-2018 provides that financial statements is not required to be attached in filing the final income tax return. If the SEP/s gross sales/receipts and other non-operating income exceeds the VAT threshold, such income shall be taxed at the regular PIT rates.

Since the primary objective of the bill is to ensure that indigents are able to have full access to medical care, it may be best that the proposal be seen in the light of the continuous efforts of the government to make healthcare accessible to all. Likewise, the DOH should strengthen its many deployment programs under its Health Human Resource Development Bureau. These programs are aimed at providing human resource for health (HRH) to areas of needs (unserved and underserved) in order to provide more effective and efficient health service delivery.

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Unnumbered HB
Providing for the Regulation and Organization of Islamic Banks

Unnumbered HB declares it the policy of State to recognize the vital role of Islamic banking and finance in creating opportunities for greater financial inclusion especially for the Muslim population, in expanding the funding base for small-and-medium-sized enterprises as well as large government infrastructure through the use of financial arrangements which have risk-sharing as their core-element, and in contributing to the achievement of financial stability through the use of financial contracts that are founded on risk-sharing and prohibition on speculation.

The bill provides that the government shall endeavor to achieve neutral tax treatment between Islamic banking transactions and equivalent conventional banking transactions. The BIR shall issue policies and guidelines to implement tax neutrality conducive to the growth of Islamic banking transactions.

Currently, there are no existing laws and regulations covering Islamic banking products in the Philippines. However, under RA 6848, Al Amanah Islamic Investment Bank of the Philippines (AAIIBP) is entitled to basic rights of investors applicable to commercial operations of the Islamic Bank such as repatriation of profits and protection against sequestrations or nationalization. Under Sections 37 and 38 of RA 6848, it is granted the following tax incentives:

a. An investment in Islamic banking business to the extent of actual participation in profit and loss sharing scheme, paid in cash or property, shall be granted an exemption from all taxes under the NIRC, except income tax: provided, that an investment tax allowance shall be permitted as a deduction from taxable income under such transactions to the extent that the Islamic Bank pays out "zakat[85]" on the income of investors capital and surplus reserves for the duration of the joint investment period.

b. Exemption from all national taxes of the bank's assets, profit distributions and all contracts, deeds and transactions related to its conduct of business from year one to year eight of its operations with certain limitations, as follows:

   i. 100 percent for the first 5 years; and

   ii. 75 percent for the 6th through the 8th year: provided, however, that said exemption shall apply only to such taxes, fees, charges and assessments for which the Islamic Bank would otherwise be liable, and shall not apply to the taxes, fees, charges or assessments payable by persons or other entities doing business with the Islamic Bank.

c. Exemption from customs duties and compensating taxes payable thereon on importations by the bank of machinery, equipment, calculators and computers and accompanying spare parts, as may be necessary for its operation within the first five years of operation of the Islamic Bank.

[85] Zakat represents an annual "tithe" payable by the Bank on behalf of its shareholders and investors in compliance with Islamic Shari'a principles.

Tax neutrality, being a form of tax incentive, is a relief given to tax charges that are supposed to be imposed on the Islamic financial transactions and thereby can help reduce the cost of transferring assets of Islamic financial products. In Islamic finance, certain financial transactions require additional financial intermediaries between the provider and demander of funds, e.g. Sukuk Ijarah.

The Sukuk Ijarah transactions are considered similar with the real estate investments trusts (REITs). Though subject to VAT, gains realized from the transfer or exchange of real properties to a Philippine publicly-listed REIT in exchange of the REIT's share of stocks are exempt from income tax, creditable withholding tax, capital gains tax, and documentary stamp tax.

Tax neutrality applies when the transfer component of Sukuk Ijarah transactions will be entitled to same tax exemption privileges given to REITs. Such exemption privileges are basically provided under RA 9856 which the BIR implemented through the issuance of RR 13-2011. In the same manner, there is a need for the enactment of a law which will serve as the basis for imposing tax and providing tax exemption privileges of certain Islamic financial transactions.

Further, while it is recognized that tax neutrality will remove opportunities for tax arbitrage and ensure that every individual's decision is not influenced by tax considerations, it is deemed necessary to identify first the transactions, products or services, that are common or similar to both conventional and Islamic banking in order to determine where neutrality should be introduced. Furthermore, the provision on tax neutrality under the bill should be devised in consultation with government agencies that regulate financial institutions and other stakeholders in order to craft the most appropriate provision that will remove the obstacles for a more developed Islamic banking in the country.

On implementing tax neutrality by authorizing the BIR to modify applicable taxes on Islamic banking, the same can be interpreted as giving the BIR the legislative power of taxation. The modification of applicable taxes necessarily implies amendment to the provisions under the NIRC of 1997, as amended, which only Congress can do.

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Unnumbered HB
Promoting and Supporting the Development of the Corn Industry, Establishing for the Purpose the Philippine Corn Research and Development Institute and Appropriating Funds Thereof

Unnumbered HB seeks to establish the Philippine Corn Research and Development Institute (PhilCorn), a corporate body attached to the Department of Agriculture (DA) to modernize the corn industry and consequently improve the livelihood and household income of resource-poor corn farmers in the rainfed, upland and dryland farming communities and to empower farmers with the tools of science and technology so that they can cope with problems of low yields, droughts, floods, land degradation, global warming and other risks arising from environmental and climate change.

It proposes to exempt the PhilCorn from the payment of any and all forms of taxes, duties, fees and charges on any and all importations of equipment, materials, articles, and services, provided, that the same are not available locally on favorable terms.

The intention of the bill to promote the corn industry is supported considering its tremendous potential to increase the income of corn farmers and workers through improved productivity, product diversification and employment generation.

On the proposed exemption of the PhilCorn from the payment of any and all forms of taxes, duties, fees and charges on any and all importation of equipment, materials, articles and services, such importation may already be subject to zero percent duty rate in accordance with the Association of Southeast Asian Nations (ASEAN) Trade in Goods Agreement (ATIGA).

Currently, import duties for machines and equipment coming from countries other than the ASEAN Member States (AMSs) are subject to the most-favored nation (MFN) duty rate. In case the proposed exemption from import duties of equipment, materials, articles and services, will push through, such a provision will set a precedent for other sectors to clamor for the same treatment which in turn could adversely affect the revenue of the government. Also, it may be noted that most trade concessions are arrived at through bilateral or multilateral trade talks in order to receive the same tax treatment from other countries.

The proposal to exempt the PhilCorn from fees and charges is not consistent with the cost recovery principle which stresses that the cost of providing services should be recovered wholly or partially to sustain the services which can also benefit the PhilCorn. Further, most fees and charges are nominal in nature. It aims to relieve the government of its funding burden by making the entity receiving the services share the burden of the expenses incurred by the government.

Moreover, for policy consistency and fiscal transparency, it is recommended that similar to other GOCCs, the PhilCorn should instead avail of the tax subsidy provision implemented by the FIRB subject to the provisions of EO 93 (issued December 17, 1986, effective March 10, 1987) and the annual GAA. Tax subsidy is the more practical alternative to outright grant of tax exemption to PhilCorn. It is more precise and direct and adheres to fiscal transparency particularly in the use of government resources.

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Unnumbered HB
Reorganizing and Strengthening the Cooperative Development Authority, Repealing for the Purpose Republic Act No. 6939, Creating the Cooperative Development Authority

Unnumbered HB otherwise known as the Cooperative Development Authority of 2018 seeks to reorganize and strengthen the Cooperative Development Authority (CDA) to carry out the provisions of RA 9529, otherwise known as the Philippine Cooperative Code of 2008.

The bill vests solely to the proposed Authority the power to register cooperatives. Likewise, it provides that the Certificate of Registration to be issued by the Authority to a duly registered cooperative shall *ipso facto* constitute as the sole basis or requirement for the full enjoyment of the tax exemption and incentives granted under Articles 60 and 61 of RA 9520.

The bill further provides that any public official or employee who violates or in any manner circumvents this provision shall be penalized pursuant to Section 140 of RA 9520. Said provision shall be cited by the Authority in the Certificate of Registration and that the Authority shall furnish the BIR, LGUs which include provincial, highly urbanized and independent cities and other concerned agencies with a certified list of duly registered cooperatives for purposes of tax exemptions.

The proposed Certificate of Registration as the sole legal basis or requirement for the full enjoyment of the tax exemption implies that all existing documentary requirements in securing the Certificate of Tax Exemption (CTE) shall be dispensed with and supplanted by the Certificate of Registration.

The proposal to limit the documentary requirements in securing a CTE to the Certificate of Registration issued by the CDA will benefit cooperatives as it will streamline the requirements and do away with the documentations, save for the Certificate of Registration. It will mean savings in terms of time, manpower and resources on the part of cooperatives as they will be spared from the tedious process of completing all the documentary requirements before they can fully enjoy the benefit of tax exemption granted under Articles 60 and 61 of RA 9520, thereby providing ease in transacting between the cooperative/s and the government.

It is worthy to note that the documentary requirements for the issuance of Certificate of Registration by the Authority do not jibe with the checklist of documentary requirements both for the original issuance and/or renewal of CTE by the BIR. This is because the CDA has a different objective in the issuance of Certificate of Registration vis-à-vis the issuance of CTE by the BIR. Given the limited information contained in the Certificate of Registration, it is deemed more prudent to allow the BIR to set its own documentary requirements and require the submission of other supporting documents to confirm the qualification of a cooperative for the tax incentives.

As in the case of tax exemptions extended to other parties and by reasons of the privilege granted by existing laws, the enjoyment of the tax exemption by cooperatives should proceed from the satisfaction of the BIR-prescribed documentary requirements for the latter to ensure compliance with the conditions attached to the tax exemption and to ascertain the possible existence of other income derived from non-exempt activities and provide tax treatment thereon.

Considering the government's policy of promoting the viability and growth of cooperatives, there may be a need to streamline, within reason, the documentary requirements in the issuance/renewal of CTE but not totally dispense with the requirements in securing a CTE.

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Unnumbered Substitute Bill to HBs 5483 and 6005
Strengthening Technical-Vocational Education and Training (TVET) by Incorporating Apprenticeship and Dual Training, Recognizing the Importance of Continuous Training of the Unemployed, and Expanding the Provision of Enterprise-Based Education and Training

Unnumbered HB proposes to grant incentives to enterprises, groups or associations, industry organizations or civic groups participating in the enterprise-based training program. These incentives include:

a. Additional deduction from taxable income equivalent to 50 percent of the training expenses incurred, provided that such expenses shall not exceed five percent of their total direct labor expenses but in no case shall exceed P25 million a year;

b. Deductibility for income tax purposes of donation, contribution, bequest, subsidy or final aid actually paid or made to a participating training institution within the taxable year for income tax purposes in an amount not to exceed five percent of the taxable business income of the participating enterprise, group or association, industry organization or civic group computed without the benefit of deduction; and

c. Exemption from donor's tax, provided, that not more than 30 percent of said donations shall be used by the training institution for administration purposes.

The measure is sought to strengthen Technical Vocational Education and Training (TVET) so that the State can be assured of an ever-growing supply of educated and globally competitive manpower equipped with appropriate skills and desirable work habits.

The intent of the bill to enhance the skills of middle-level workforce of the country is recognized. Indeed, one of the characteristics of a successful nation is an empowered workforce. However, the government is currently rationalizing the grant of fiscal incentives to make it simpler, time-bound, performance-based, and transparent. Considering the initiatives, it would be practical and reasonable to maintain the status quo in the incentives provided under the present laws. The proposed incentives provision in the bill, therefore, needs to be reconsidered.

On additional deductions for training expenses, there are various laws which already provide for additional deduction for expenses incurred in the training of employees. For instance, Section 9 of RA 7686, otherwise known as the Dual Training Systems Act of 1994 or DTSA, for brevity, is similarly worded as the proposal, that is, on the 50 percent additional deduction for training expenses incurred, provided such amount does not exceed five percent of direct labor cost and P25 million a year. Moreover, Sections 52 and 71 of PD 442 or the Labor Code of the Philippines (LCP) and RA 7916 or the Philippines Economic Zone Authority (PEZA) law sanction the additional deductibility of training expense from the gross income of the enterprise. These laws allow half of the training expense to be an additional deduction. The DTSA similarly capped its availment at five percent of the labor cost and should not exceed P25 million a year, whereas under the LCP the cap is only 10 percent of the direct labor cost. In the case of PEZA-registered enterprises, half of the value of the training expenses incurred can be deducted from the national government's share of three percent.

The underlying principle for the grant of the incentives under the laws as well as the proposal are the same. Hence, to avert the possibility of multiple claims of deductions, or confusion as to which provision will apply, it may be prudent to clarify in the bill whether the proposed measure will amend, modify, or grant as an alternative incentive to those already in place. There should be a provision in the bill precluding multiple claims of deductions for the same training expense.

On the deductibility of donations, contributions, bequest, subsidy or final aid from the taxable business income and exemption from the donor's tax, there is a need to clarify in the bill particularly on who will claim the deduction of donations made to participating training institution. It is observed that the limitation of not exceeding five percent is based on the taxable business income of "participating enterprise, group or association, industry organization or civic group" which gives the impression that they are the ones entitled to such deduction. Under the NIRC of 1997, as amended, it is the donor who benefits from this kind of tax incentive and not the donee thereof.

Likewise, the donees or recipients of the donations or contributions are enterprises, groups or association, industry organizations or civic groups participating in the enterprise-based training program. Their eligibility to be a qualified donee is not clearly established in the bills as the proposed donor's tax exemption and deductibility of donations are not explicitly referenced to be in accordance with the provisions of the law. The accreditation or registration of participating enterprises with the proper regulatory agency of the government should be made an indispensable requirement before such enterprise can avail of the tax incentives. Otherwise, this could lead to abuses and revenue loss on the part of the government.

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Unnumbered HB in Substitution to HB 6349
Creating the Siargao Islands Development Authority, Prescribing Powers, Functions and Duties, and Providing Funds Therefor

Unnumbered HB seeks the establishment of a corporate body which shall be known as the Siargao Islands Development Authority (SIDA) in order to carry out the aims and purposes set forth in the Act.

The bill provides for the creation of the Siargao Islands Special Economic and Freeport Zone (SISEFZ), within the Siargao Islands. Also, it provides that the Freeport Zone shall be developed into a self-sustaining, industrial, commercial, financial, agro-industrial, banking and investment center to generate employment opportunities in and around the Freeport Zone and to attract and promote productive local and foreign investments.

The bill provides that the SISEFZ shall grant incentives such as tax and duty-free importations of raw materials, capital and equipment to registered enterprises located therein. However, exportation or removal of goods from the territory of the Freeport Zone to other parts of the Philippines shall be subject to customs duties and taxes under the Tariff and Customs Code of the Philippines, as amended, and the NIRC of 1997, as amended.

The intention of the proposal to adopt sustainable and progressive development strategies of forestlands, national parks, marine areas and fish sanctuaries, and the resources therein, to promote the economic and social development of the Siargao Islands through the creation of a SISEFZ is recognized. Such policy initiative is in line with the provision on Article II, Section 16 of the 1987 Philippine Constitution.

However, for policy consistency, the proposed ecozone should adhere to the provisions of RA 7916, as amended by RA 8748 (June 1, 1999) which provides that areas that may be established as ecozones shall require a proclamation to be issued by the President of the Philippines subject to the evaluation and recommendation of the PEZA. These are necessary to ensure that the establishment of an ecozone would result in optimum benefits to all concerned. Also, the recommendation is necessary to preclude instances of leakages and overlapping of jurisdictions over an ecozone.

The proposal to make Siargao Islands a free port is not endorsed. The proliferation of free ports would pose a serious threat to the domestic economy as their operations are highly susceptible to leakages, especially in the absence of an effective and efficient security system.

Otherwise put, the SISEFZ may be established as en ecozone using the PEZA modality. Under this mode, an area may be established as an economic zone upon the recommendation of the PEZA based on a detailed feasibility and engineering study which must conform to certain criteria.

On the proposed tax incentive such as tax and duty-free importations of raw materials, capital equipment to registered enterprises located in the SISEFZ, Section 23 of RA 7916 provides that business establishments operating within the ecozones shall be entitled to fiscal incentives as provided for under PD 66 (law creating the Export Processing Zone Authority), or those provided under Book VI of EO 226 (Omnibus Investments Code of 1987).

Finally, there is an ongoing rationalization of fiscal incentives provisions under Package 2 of the CTRP. This is to reform the fiscal incentives and integrate it into one single menu applicable to all IPAs. Given this initiative, it may be more practical to put on hold this bill until the passage of Package 2 of the CTRP.

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Unnumbered HB
Institutionalizing Reforms in Real Property Valuation and Assessment in the Philippines, Reorganizing the Bureau of Local Government Finance, and Appropriating Funds Therefor

Unnumbered HB seeks to promote the development and maintenance of a just, equitable, impartial and nationally consistent real property valuation system based on internationally accepted valuation standards, concepts, principles and practices. In this regard, the bill proposes the following:

a. Establish a Real Property Valuation Service (RPVS) within the Bureau of Local Government Finance (BLGF) governed and managed by the BLGF Executive Director. The RPVS shall have Regional Offices responsible on all matters relating to valuation/ appraisal and the SMVs in the region and a Regional Consultative Committee will be established to serve as a consultation forum in the region on valuation-related matters;

b. Develop, maintain, and implement uniform valuation standards to govern the valuation of real property in the country;

c. Use the Schedule of Market Values (SMVs) as the single real property valuation base for the assessment of all real property-related taxes imposed by national and LGUs, and for valuing or appraising real property for various transactions by all government agencies;

d. Revise the SMVs at not earlier than 3 years from the date of the last revision, but not later than 5 years;

e. Seek to authorize the Secretary of Finance to approve the SMVs prior to the enactment of an ordinance;

f. Develop and maintain an up-to-date electronic database of all real property transactions;

g. Appointment of the provincial, city and municipal assessors and assistant assessors by the local chief executive;

h. Require local assessors to prepare a tax impact report of new SMVs; and

i. Impose sanctions on the Assessor for failure to prepare the SMVs.

The proposed establishment of RPVS within the BLGF to be headed by the BLGF Executive Director is endorsed. At present, the BLGF oversees the formulation and execution of policies, rules and regulations pertaining to real property valuation and assessments for real property purposes in the country. Given this, it is in the best position to handle real property-related valuation and assessment functions stated in the proposal.

Also, the BLGF currently maintains local government database on tax collections, and real property assessments and valuations and makes them available and accessible online. In view thereof, the BLGF has the capacity to maintain a comprehensive electronic database of all local government property valuation or assessment transactions and reports. The current database may just need further enhancements and development to support the Valuation Database and Information System (VDIS) database requirements and other property valuation technologies.

The proposal will strengthen the role of the BLGF as the local government agency and authority in local finance by assuming institutional responsibility for the proposed valuation reforms. Thus, the proposal is supported.

The establishment and maintenance of valuation standards that would govern real property valuation in the Philippines will promote integrity, transparency and fairness in the valuation and appraisal practices in the country.

It is worth noting that under the Land Administration and Management Project 2 (LAMP2), the DOF issued Department Order No. 37-09 which prescribed the adoption of the International Valuation Standards (IVS) under the Philippines setting. The Philippine Valuation Standards (PVS) was an initial step in developing uniform concepts, principles and procedures, which adhere to a uniform valuation standard stemmed from globally accepted appraisal principles and policies. The BLGF spearheaded the development of the said standards which has been rolled out to the LGUs.

For purposes of property taxation, the implementation of these standards is mandatory to all local government assessors and other concerned DOF agencies. The private sector valuers are similarly required to comply with these standards when undertaking valuations for non-taxation purposes.

On the use of SMV as the single real property valuation base, presently, there are two systems of valuing real properties for taxation purposes. For property-related taxes collected by the national government like the estate tax and donor's tax, the fair market value (FMV) as shown in the Schedule of Zonal Values prepared by the BIR or the FMV as shown in the SMVs of the LGUs, whichever is higher, is applied. In the case of capital gains tax (CGT) and documentary stamp tax (DST), the zonal value, the FMV as shown in the SMV or the gross selling price whichever is the highest is applied. On the other hand, LGUs prepare, legislate and implement their own SMVs on which the assessment of real properties for local tax purposes is based. However, the LAMP study indicated that the differences in the valuation methodologies and procedures adopted by the BIR and the LGUs which are compounded by the infrequency or differences in the dates of revision or adjustment of values have resulted to disparities in the values used for taxation purposes. The lack of adequate technical supervision on valuation matters creates multiple systems and methods of property appraisal which results to confusion in the public mind and a lack of confidence in the valuation system.

It has been the advocacy of the LAMP2 to have a single valuation base, the SMV for all national and local property-related taxes to eliminate the current duplication of efforts involved in applying different valuation methodologies at the national and local levels and ensure that a nationally consistent, equitable, and impartial valuation system for real property is put in place. Besides, land classifications applied under SMV and zonal value need to be harmonized for this purpose.

To improve the collection of RPT at the local level, the DOF and the DILG issued Joint Memorandum Circular (JMC) No. 2010-01 reiterating the LGC provision on the revision of property assessments every three years and directing all LGUs to revise the SMVs of real properties in their jurisdiction. As of August 2018, only 29 out of 81 provinces have updated SMVs and six with SMV due this 2018. In the case of cities, 108 out of 146 cities have outdated SMVs while 38 cities have updated SMVs, eight of which are also due to revise their SMVs in 2018.

Various studies point to politics as the main reason for the reluctance of LGUs to revise property values. The proposed revision of SMV within three to five years from the date of last revision is deemed reasonable as it gives flexibility to the LGUs to decide the frequency of general revision within the time frame provided in the bill.

The proposal authorizing the Secretary of Finance to approve the SMV prior to the enactment of an ordinance may appear inconsistent with the intention of the LGC to allow LGUs to handle responsibilities which directly affect their localities. However, there is a merit in the proposal considering that the Secretary of Finance, being a national government official, is considered to have a more objective view necessary to minimize inequality in the valuation of real properties among different provinces and cities. His perspective is nationwide and comprehensive, thus will enable to determine the probable disparity in values of comparable properties in or near the territorial boundaries of LGUs.

The proposed development of an electronic property transaction database intended to support the LGUs in the preparation of SMV being consistent with IVS, thus, is supported. This will strengthen data linkages of concerned NGAs, LGUs and the private sector, as well as expedite access to data information for assessment and appraisal work. Moreover, the database will serve as valuable input in the assessment of real properties in determining the base of the tax to be collected by the national and local tax collection agencies.

The proposal requiring the assessor to submit to the local chief executive (LCE) and the sanggunian a tax impact report of the new SMV as against the existing assessment levels and tax rates is essential in evaluating and revising, if needed, the tax policy adopted by the LGU when it enacts the new SMV.

In this connection, it is noted that the LAMP recommended the tax impact study of SMV revision should likewise be conducted by the assessor. Said studies can provide information to taxpayers and policy makers on the impact of the adjustment on the values and the reclassification of properties during the SMV revision.

On the other hand, the lack of sanctions in the LGC for failure to revise the SMVs has contributed to the escalation of the current practice of postponing the conduct of SMV revision every 3 years. This, in effect, contributed to low productivity of the real property tax and unequal distribution of the RPT burden. Thus, the imposition of sanctions for failure to prepare the SMV will discourage extended delays and promote commitment and promptness in the conduct of SMV revision.

The proposal that the appointment of the local assessors by the LCEs be made from the list of at least three ranking eligible recommendees as endorsed by the DOF Secretary would depoliticize the current practice and promote the merit system in the appointment of local assessors.

Lastly, LGUs regular coordination and with the BLGF will essentially ensure that assessors are adequately performing their duties with regard to the process of updating their SMVs.

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Unnumbered HB
Establishing the Scope and Procedure for Philippine Ship Registry, Recognition and Enforcement of Maritime Claims, and Limitations of Liability, as well as Providing Essential Incentives, which Collectively will Promote a Comprehensive and Orderly Philippine Ship Registry System for the Regulation of Vessels Carrying the Flag State

Unnumbered HB, to be known as the Philippine Ship Registry System Act, seeks to establish a comprehensive and orderly Philippine Ship Registry System (PSRS) for the regulation of vessels carrying the flag State with the Maritime Industry Authority (MARINA) as the implementing agency.

The PSRS intends to pursue the following objectives:

a. To establish the Philippines as a leading maritime nation and respected flag State;

b. To ensure that Filipino owned and manned maritime fleets or vessels are strengthen and assisted to meet the minimum global standards for reliability, safety, competitiveness, and effectiveness;

c. To provide protection to our merchant marine fleets, and help expand Philippine international trade;

d. To encourage Philippine vessel acquisition, development, modernization and expansion through systematized and sustainable programs;

e. To implement policies that will attract more ship owners to register under Philippine flag, thus ensuring the country's economic growth;

f. To align the tax structure for its domestic and overseas shipping fleet to make it competitive; and

g. To provide a mechanism for the early adoption and implementation of international maritime regulations and conventions.

The bill provides for an annual tonnage tax which must be paid by the owner, manager or bareboat charterer of the vessel in order that they may be issued and continually possess a valid and subsisting Certificate of Philippine Registration (CPR). The annual tonnage tax shall be computed at the rate of US$0.10 per net register tonnage (NRT) or its equivalent in Philippine Peso based on the present or latest exchange rate posted by the BSP on the date of payment of the tonnage tax. A lower rate of tonnage tax equivalent to US$0.08 per NRT may be applicable, provided the ship-owner, manager, operator, or bareboat charterer, on one hand, and all its crew officers and employees, on the other, have valid, subsisting and duly implemented collective bargaining agreement (CBA) that conforms to international labor standards, rules and conventions. However, if it is determined by the MARINA, that the conditions for the reduced tonnage tax are violated or the proof shown for the existence of the CBA is fabricated, the CPR of the concerned vessel/s may be revoked. As provided, the annual tonnage tax shall be in lieu of any income tax due from the ship owner, manager, agent or bareboat charterer and the withholding tax due on the lease or bareboat charter fees earned by the ship owner.

Also, the bill provides that the importation by the owner, manager, agent, or bareboat charterer of a vessel, and the spare parts, steel/metal plates and equipment needed for the refurbishing, repair and maintenance of registered vessels shall be exempt from the payment of import duties and taxes, VAT and all other pertinent taxes.

Further, the bill provides that all crewing personnel of the registered foreign-owned vessel shall be exempt from the income tax and all other taxes that may be imposed on their salaries and remunerations received by reason of or in connection with their employment with the ship owner, manager or bareboat charterer of the registered foreign-owned vessel.

One of the objectives of the bill in introducing the tonnage tax system is to attract more ship-owners to register their vessel/s under the Philippine flag which will not only address the declining Philippine-registered overseas fleet (PROF), but will also contribute to the country's economy.

At present, there are disparities in the taxation of ship-owners, managers or bareboat charterers within the Domestic Shipping Sector (DSS) and Overseas Shipping Sector (OSS), and between the two sectors which the bill wants to align. Under the proposed tonnage tax, these tax treatments will be uniform where the NRT of the vessel is the basis of taxation. However, the bareboat charterers under the OSS will still be required to pay DST on bareboat charter registration as this is not included in the exemption.

On the other hand, the proposal is deemed generous as it shall be in lieu of any income tax due compared to that of other countries including Singapore, where the income tax exemption is limited only to income derived from shipping activities. Some European tonnage tax countries even provide ring-fencing measures or an essential set of measures that prevent spillover effects in favor of non-qualifying activities or non-shipping activities such as separate accounting of shipping and non-shipping activities, arm's length principle, among others.

Also, most countries use the NRT/net tonnage (NT) of the vessel as the tax base which is the same as the proposal in the bill. Other countries like the Cayman Islands and Greece use gross tonnage (GT) of the vessel as tax base. Almost all of the countries assess and tax the NT of the vessel while in Finland and Taiwan, the tonnage tax is based on the NT of the company's shipping fleet or the total NT of all ships owned by a company.

The proposed change in the basis of taxation for those in the shipping industry, from by type of taxpayer to NRT, while promoting uniformity within the industry will result in a disparity of tax treatment within the entire tax system. This is because while other taxpayers will be taxed based on their classification and the kind of income that they earn, the shipping sector will be taxed on the basis of variable that is unique to their industry, that is, tonnage. Therefore, the proposal is a deviation from regular taxation and may be considered as a special tax regime for those in the shipping industry. If pushed through, it can be made as precedent for other industries to clamor for a similar special tax regime which will further complicate the tax system.

Further, it should be mentioned that reforms on corporate income taxation and the rationalization of fiscal incentives are being pursued under Package 2 of the CTRP of the government. The thrust is to make taxation simpler, fairer, and more efficient and the grant of incentives or preferential tax treatment be more targeted, time-bound, performance-based, and transparent.

Considering that the registered foreign-owned vessels are engaged exclusively in international trade, the proposed income tax exemption of all Filipino crews/personnel of the said vessels is just a reiteration of the income tax exemption of overseas contract workers under Section 23(C) of the Tax Code, as amended. Also, the proposed exemption from the payment of the VAT on importation of passenger or cargo vessels, including engine, equipment and spare parts thereof for domestic or international transport operations is a restatement of Section 109(S) of the Tax Code of 1997, as amended by RA 9337. The proposal therefore, may no longer be necessary.

On the proposed exemption from import duties and taxes, the same is already provided under Section 6 of RA 7471. It provides that the importation by a Philippine shipping enterprise or Philippine shipping company under OSS of oceangoing vessels for registration under the Philippine flag are exempt from the payment of import duties and taxes.

On the other hand, Section V(7) of MARINA Circular No. 2017-04 provides that tax incentives on the importation of passenger ships intended for domestic shipping can be availed of under the following: (a) EO 226; (b) Investment Priority Plans of the BOI; (c) RA 9337 and its IRR; and (d) from MARINA, provided compliance to the specific provisions of the Circular is made. One specific requirement of the Circular is that the passenger ships to be imported should have a GT of not less than 500 and should not be more than 20 years old upon the filing of the application.

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 17th Congress and were thus published in previous NTRC Annual Reports or were already passed into law:

1. 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 1646 and HB 6475)

2. Enhancing Revenue Administration and Collection by Granting an Amnesty on All Unpaid Internal Revenue Taxes Imposed by the National Government for Taxable Year 2016 and Prior Years (Unnumbered Senate Bill in Substitution of SBs 293, 920, 942, and 1494, taking into consideration HB 4814)

3. Reducing the Rates of Income Tax Imposed on Corporations in the Philippines, Amending for the Purpose Republic Act No. 8424, Otherwise Known as the National Internal Revenue Code of 1997, as Amended, and for Other Purposes (HB 36)

4. Creating the Mindanao Power Corporation and Providing Funds Therefor (HB 122)

5. Reducing the Corporate Income Tax Rate, Amending Sections 27 and 28 of the National Internal Revenue Code of 1997, as Amended, and for Other Purposes (HBs 1537, 1658, 2379, 3835, and 5384)

6. Designating the National Music Competitions for Young Artists (NAMCYA) as the National Youth Development Program for Music, Defining Its Role and Functions as Such, and Appropriating Funds Therefor (HB 2660)

7. Increasing Revenues and Providing the Foundation for an Effective Implementation of Tax Reforms by Granting an Amnesty on All Unpaid Internal Revenue Taxes Imposed by the National Government for Taxable Year 2015 and Prior Years (HB 3655)

8. Granting Tax Amnesty on All Unpaid Internal Revenue Tax Liabilities for Taxable Period January 2006 to June 2016 (HB 3832)

9. Enhancing Revenue Administration and Increasing Revenue Collection by Granting an Amnesty on All Unpaid Internal Revenue Taxes Imposed by the National Government for Taxable Year 2015 and Prior Years (HB 4011)

10. Granting Tax Amnesty on All Unpaid Internal Revenue Tax Liabilities for Taxable Period January 1, 2016 to June 30, 2016 (HB 4133)

11. Enhancing Revenue Administration and Collection by Granting an Amnesty on All Accrued Penalties and Charges (HB 4412)
12. Increasing the Taxes on Finite Minerals and Mineral Products and Quarry Resources (HB 6029)

13. Creating the Cagayan de Oro River Basin Development Authority, Defining Its Powers and Functions and Appropriating Funds Therefor (HB 6862)

14. Amending Sections 20, 22, 27, 28, 34, 40, 50, 220, 237, 237-A, 290, 291, 292, and Adding Sections 293, 294, 295, 297, 298-A, 299, 300, 301, 302, 303, 304, 305, and 306 under Chapters I, II, III, IV, and VI, All under the National Internal Revenue Code of 1997, as Amended (HB 7214)

15. Creating the Regional Investment and Infrastructure Corporation of Central Luzon to Facilitate the Creation of the Central Luzon Investment Corridor, and for Other Purposes (HB 7381)

16. Amending Sections 20, 22, 27, 28, 34, 40, 50, 73, 112, 119, 203, 204, 220, 222, 228, 237, 237-A, 248, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 275, 290, 291, 292, and Adding Sections 293, 294, 295, 297, 298, 298-A, 299, 300, 301, 302, 303, 304, 305, and 306 under Chapters I, II, III, IV, and VI, All under the National Internal Revenue Code of 1997, as Amended, and for Other Purposes (HB 7458)

17. Enhancing Revenue Administration and Collection by Granting Amnesty on All Unpaid Impositions Levied by Government for Taxable Year 2017 and Prior Years (Unnumbered HB)

18. Creating the Lake Mainit Development Authority, Prescribing Its Power, Functions and Duties, and Providing Funds Therefor (Unnumbered HB in Substitution to HB 2485)

19. Creating the Mindanao Railways Corporation, Prescribing Its Powers, Functions, and Duties, and Providing Funds Therefor (Unnumbered HB in Substitution of HBs 123, 358, 1653, 2066, 3159, 3909, and 4987)

20. Strengthening the National Museum of the Philippines, Repealing for the Purpose Republic Act No. 8492, Otherwise Known as the National Museum Act of 1998, and Appropriating Funds Therefor (Unnumbered HB in Substitution of HBs 1177, 1502, 1727, 1813, 3201, 3333, and 3820)

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 2018, the NTRC prepared studies/papers on the following: (a) staffing, skills and budget requirements of the proposed expansion of FIRB; (b) magnitude of tax subsidy grant and utilization, by recipient, from 2002 to 2017; (c) status reports on tax subsidy approved by the FIRB in 2018; and (d) FIRB accomplishment reports.

The NTRC also served in the meetings of the FIRB and its Technical Committee. It prepared the following: agenda and minutes of the meetings; 10 reports; 3 evaluations and studies; 473 endorsements and/or letter replies to queries for tax subsidy availment; 4 FIRB Resolutions; and 6 Certificates of Entitlement to Subsidy.

Also, as FIRB Secretariat, the NTRC conducted ocular inspection of commissaries and attended consultation meetings with various GIs/GOCCs/Commissaries/SUCs on tax subsidy requests and other tax matters.

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 prepared the following:

a. Collection of Securities and Exchange Commission (SEC) from fees and charges, CYs 2015-2017;

b. Compliance report for the streamlining of government frontline services (SONA Directive No. 2017-0007);

c. Physical Performance Report to DBM for July-December 2018 on the monitoring and rendering technical assistance to fee collecting NGAs and TCRPV meetings; and

d. Revised the SRTSB Citizen's Charter per RA 11032 or the Ease of Doing Business Act.

The NTRC also extended technical assistance to the following: Department of Finance – Philippine Tax Academy; Department of Agriculture – Bureau of Agriculture and Fisheries Engineering (DA – BAFE); National Privacy Commission; and Technical Education and Skills Development Authority (TESDA) in connection with fees and charges.

TECHNICAL COMMITTEE ON REAL PROPERTY VALUATION

The NTRC continuously acted as a 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 (RDOs) 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 commitments to its 2018 GAD Plan, the NTRC attended the DOF and attached agencies GAD Focal Point System (FPS) Planning Sessions/Seminars/Workshops, conducted tax fora and GAD related seminars/workshops; and rendered technical services to GAD related activities. Moreover, a number of NTRC representatives participated in the GAD Forum on Women Inspiring Women and GAD Seminar on Women Empowerment held on March 26, 2018 at the Ayuntamiento Building, Bureau of Treasury (BTr), Intramuros, Manila during the National Women's Month Celebration as well as in the GAD-FPS Assembly held on March 27, 2018 at the Department of Finance, Roxas Blvd., Manila. It also prepared the 2018

GAD Accomplishment Report and GAD plan and Budget for 2019. The NTRC also displayed streamers on the National Women's Month Celebration (March 1-31, 2018) and the 18-Day Campaign to End VAW (November 25 – December 12, 2018) in the strategic location of NTRC; and posted it in the NTRC website.

TAX INFORMATION DISSEMINATION

In line with its tax information dissemination and taxpayer's awareness program, the NTRC published and sent and distributed 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 included the following:

1. NTRC Tax Research Journal (published bi-monthly)
2. NTRC Annual Report
3. 2017 Philippine Public Finance and Related Statistics
4. 2017 Philippine Capital Income and Financial Intermediation Statistics
5. Infographics Uploaded in the NTRC Website

The NTRC also compiled the 2018 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).

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4 STAFF DEVELOPMENT AND OTHER ACTIVITIES

A. Conferences and Seminars Abroad

1. **Roselyn C. Domo**, Supervising Tax Specialist, Direct Taxes Branch, attended the Transfer Pricing: Policy and Practice Program offered by the Duke Center for International Development (DCID) held on June 11-15, 2018 at the Durham, North California, U.S.A.

2. **Trinidad A. Rodriguez**, Executive Director, Office of the Executive Director and **Marlene L. Calubag**, Chief, Tax Specialist, Indirect Taxes Branch, attended the Comparative Tax Policy and Administration Program, upon the invitation of Harvard Kennedy School Executive Education at Massachusetts, USA held on August 13-24, 2018.

B. Local Conferences and Seminars

1. **Gian Carlo D. Rodriguez**, Chief Administrative Officer, **Elizabeth Miriam L. Paredes**, Administrative Officer V and **Perlita V. Yumul**, Administrative Officer II, all from the Administrative & Financial Branch, attended the Focus Group Discussion with Client Agencies held on February 6, 2018 at the Procurement Service (PS) Conference Room, RR Road, Cristobal St., Paco, Manila.

2. **Armelita C. Colano**, Administrative Officer II, Administrative and Financial Branch, attended the briefing/seminar on the Tax Reform for Acceleration and Inclusion (TRAIN) Law held on February 6, 2018 at the 8th Floor, BIR Building II, Intramuros, Manila.

3. **Trinidad A. Rodriguez**, Resource Speaker, Executive Director, Office of the Executive Director, and **Leo Paul A. Marcellana**, Computer Maintenance Technologist II, Information Technology Unit, attended the National Wages and Productivity Commission (NWPC) 2018 CO-RB Planning Exercises held on February 6-7, 2018 at The New Town Plaza Hotel, Baguio City.

4. **Trinidad A. Rodriguez**, Resource Speaker, Executive Director, Office of the Executive Director, attended the General Assembly (GA) of the Philippine Social Science Council (PSSC) 2018 held on February 17, 2018 at the PSSC Building, Commonwealth Avenue, Diliman, Quezon City.

5. **Trinidad A. Rodriguez**, Resource Speaker, Executive Director, Office of the Executive Director, attended the Briefing on Packages 1 and 2 held on February 20-22, 2018 in Zamboanga City.

6. **Gian Carlo D. Rodriguez**, Chief Administrative Officer, **Elizabeth Miriam L. Paredes**, Administrative Officer V and **Perlita V. Yumul**, Administrative Officer II, all from the Administrative & Financial Branch, attended the Forum for its Client Agencies held on March 1, 2018 at the National Museum of the Philippines, Finance Road, Ermita, Manila.

7. **NTRC Executive Staff and Selected NTRC Employee** attended the Technical Guidance on Management Review held on March 03, 2018 at the NTRC Function Hall, 3rd Floor, Palacio del Gobernador, Intramuros, Manila.

8. **Gian Carlo D. Rodriguez**, Chief Administrative Officer and **Elizabeth Miriam L. Paredes**, Administrative Officer V, both from the Administrative & Financial Branch, attended the Training on the Use of the Revised Agency Procurement Compliance and Performance Indicators (APCPI) System held on March 7, 2018 at the Mt. Everest Function Room, 8th Floor, BSA Twin Towers Hotel, Mandaluyong City.

9. **Trinidad A. Rodriguez**, Resource Speaker, Executive Director, Office of the Executive Director, attended the Cebu TRAIN Caravan held on March 8-9, 2018 at Parklane International Hotel, Cebu City.

10. **Lorelli D. Villaflores**, Administrative Officer V, Administrative & Financial Branch, attended the Training on Talent + Digital held on March 22, 2018 at the 10th Floor, Landbank Plaza, Malate, Manila.

11. **Selected NTRC Officials and Employees**, attended the Women Inspiring Women Forum and Women Empowerment held on March 26, 2018 and GAD-FPS Assembly held on March 27, 2018 at the Department of Finance (DOF).

12. **Edrei Y. Udaundo**, Statistician III, Tax Statistics Branch, **Ronnel L. Yambao**, Tax Specialist II, Planning and Coordinating Branch, and **Leo Paul A. Marcellana**, Computer Maintenance Technologist II, Information Technology Unit, attended the DOF Data Governance Workshop 2018 held on March 26-28, 2018 at the Convention Hall, 3rd Floor, Palacio de Gobernador, Intramuros, Manila.

13. **All NTRC Officials and Employees**, attended the NTRC 58th Anniversary Celebration, Athletic and Cultural and GAD Activities held on April 9-10, 2018 at Shercon Resort and Ecology Park, Mataas na Kahoy, Batangas City.

14. **Monica G. Rempillo**, Economist V, Economics Branch, attended the Roundtable Discussion on the Philippines' Membership to the Asian Infrastructure Investment Bank (AIIB) and the Safeguards from Abuses in Access to Foreign Loans held on April 19, 2018 at the 3rd Floor Conference Room, Bocobo Hall, UP Law Center, Diliman, Quezon City.

15. **Anna Catherine V. Revilles**, Administrative Assistant III and **Rita B. Par**, Administrative Assistant II, both from the Administrative & Financial Branch, attended the 2nd PAGBA Quarterly Seminar and Meeting held on May 1-5, 2018 at the Crown Legacy Hotel, Baguio City.

16. **Madonna Claire V. Aguilar**, Senior Tax Specialist, Local Finance Branch, **Florida J. Jurado**, Senior Tax Specialist, Indirect Taxes Branch, and **Eva Marie N. Pelayo**, Economist III, Economics Branch, attended the Supervisory Development Course (SDC) Track 1 held on May 8-11, 2018 at Luxent Hotel, Quezon City.

17. **Mariane Daiseree P. Mojica**, Tax Specialist I, Tax Statistics Branch, attended the Seminar on "Communicating Statistics through Infographics" held on May 17-18, 2018 at the University of the Philippines School of Statistics, U. P. Campus, Diliman, Quezon City.

18. **Ronnel L. Yambao**, Tax Specialist II, Planning and Coordinating Branch and **Leo Paul A. Marcellana**, Computer Maintenance Technologist II, Information Technology Unit, attended the DOF Enterprise Risk Management Workshop (2018) held on May 21-23, 2018 at the Ballroom A, Hotel Jen Manila, Roxas Blvd., Pasay City.

19. **Teresita L. Solomon**, Director III, attended the 45th Founding Anniversary of the Career Executive Service Board (CESB) held on May 23, 2018 at the Diamond Hotel, Roxas Boulevard, Malate, Manila.

20. **Elizabeth Miriam L. Paredes** and **Cecilia V. Salvatierra**, both Administrative Officer V, Administrative & Financial Branch attended the 40th Annual National Convention and Seminar held on May 22-26, 2018 at the Waterfront Hotel, Lahug, Cebu City.

21. **Roberto D. Alvarez**, Administrative Aide VI, Planning and Coordinating Branch, attended the Seminar on Duplo and Digital Lines Operators' Day held on May 24, 2018 at GPI Multi-Purpose Hall, 130 GPI Building Aurora Blvd., San Juan City.

22. **Marilou S. Banzon**, Administrative Assistant II, Administrative & Financial Branch, attended the Seminar on Management and Governance of Cooperatives held on May 24-25, 2018 at the Main Hall, Labor Governance and Learning Center Blas Ople Hall, Intramuros, Manila.

23. **Gian Carlo D. Rodriguez**, Chief Administrative Officer, Administrative & Financial Branch, attended the 1st Data Privacy Conference held on May 28-29, 2018 at the Reception Hall, Philippine International Convention Center (PICC), Pasay City.

24. **Abraham P. Solomon**, Computer Maintenance Technologist III, Information Technology Unit and **Leanelle D. Reyno**, Librarian I, Administrative & Financial Branch, attended the Training on Installation Troubleshooting and Processing of KOHA Integrated Library System

(ILS) held on May 29-31, 2018 at the National Library of the Philippines (NLP), Ermita, Manila.

25. **Marlene L. Calubag**, Chief Tax Specialist, Indirect Taxes Branch, **Monica G. Rempillo**, Economist V, Economics Branch, and **Ma. Rhea L. Caro**, Supervising Tax Specialist, Planning & Coordinating Branch, attended the GAD Immersion Program held on May 28 to June 1, 2018 at the Marco Polo Hotel, Davao City.

26. **Ma. Rhea L. Caro**, Supervising Tax Specialist and **Lillian S. Flores**, Senior Tax Specialist, both from the Planning and Coordinating Branch, attended the 5th National Bureau of Internal Revenue (BIR) GFPS Assembly on June 08, 2018 at the Ayuntamiento Building, Bureau of the Treasury, Intramuros, Manila.

27. **Selected NTRC Officials and Employees**, attended the 2018 Independence Day Celebration on June 12, 2018 at the Rizal Park, Manila.

28. **Gian Carlo D. Rodriguez**, Chief Administrative Officer and **Elizabeth Miriam L. Paredes**, Administrative Officer V, both from the Administrative & Financial Branch, attended the Orientation on the Guidelines for the Grant of FY 2018 Performance-Based Bonus (PBB) on June 14, 2018 at the AFPCOC Tejeros Hall, Camp Aguinaldo, Quezon City.

29. **Jason P. Raposas**, Supervising Tax Specialist, Special Research and Technical Services Branch, attended the Civil Service Institute (CSI) leadership series on "Digital Leadership" held on June 20, 2018 at the Crown Plaza Manila, Ortigas, Pasig City.

30. **Marlene L. Calubag**, Chief, Tax Specialist, Indirect Taxes Branch, **Monica G. Rempillo**, Economist V, Economics Branch, **Ma. Rhea L. Caro**, Supervising Tax Specialist, Planning and Coordinating Branch and **Gian Carlo D. Rodriguez**, Chief Administrative Officer, Administrative & Financial Branch, attended the Gender and Development Orientation/Reorientation on June 25, 2018 at the Landbank Plaza, Malate, Manila.

31. **NTRC Executive Staff and Selected NTRC Employees** attended the 2018 NTRC Executive Staff Mid-Year Assessment and Review and GAD Planning Workshop held on July 6-8, 2018 at the Vitalis Villas Resort, Santiago, Ilocos Sur.

32. **Gian Carlo D. Rodriguez**, Chief Administrative Officer, **Grace A. Manalo**, Accountant III, and **Milagros G. Alvarez,** Planning Officer II, all from the Administrative & Financial Branch, attended the Forum on the Cash Planning Report (CPR) and Integration of NGAs Accounts to TSA held on July 12, 2018 at the Marble Hall, Bureau of the Treasury, Ayuntamiento de Manila, Intramuros, Manila.

33. **Lorelli D. Villaflores**, Administrative Officer V, Administrative & Financial Branch, attended the 2018 Public Sector HR Symposium held on July 17-21, 2018 at the SMX Convention Center, SM Lanang, Davao City.

34. **Eva Marie N. Pelayo**, Economist III and **Kayla C. Seacor**, Economist I, both from the Economics Branch, attended the Carbon Taxation Workshop held on July 19-20, 2018 at AG New World Hotel, Manila.

35. **Mark Lester L. Aure**, Chief Tax Specialist and **Jun V. Ocol**, Tax Specialist II, both from the Local Finance Branch, attended the conference on "Federalism and Philippine Competitivenesss: Increasing Productivity and Promoting Shared Prosperity" held on July 26, 2018 at Makati Diamond Residences, Makati City.

36. **Marlene L. Calubag**, Chief, Tax Specialist, Indirect Taxes Branch, **Monica G. Rempillo**, Economist V, Economics Branch, and **Ma. Rhea L. Caro**, Supervising Tax Specialist, Planning and Coordinating Branch, attended the Gender Sensitivity Training held on July 26-27, 2018 at the Bureau of the Treasury (BTr), Ayuntamiento Building, Intramuros, Manila.

37. **Leo Paul A. Marcellana**, Computer Maintenance Technologist II, Information Technology Unit, attended the Seminar on "Managing ICT Services in Government (ITIL Framework)" held on August 6-8, 2018 at the AVR 1 & 2 Room, 7th Floor, EDPC Building, Bangko Sentral ng Pilipinas Building, Roxas Blvd., Manila.

38. **Monica G. Rempillo**, Economist V, Economics Branch, **Ma. Rhea L. Caro**, Supervising Tax Specialist, Planning and Coordinating Branch and **Gian Carlo D. Rodriguez**, Chief Administrative Officer, Administrative & Financial Branch, attended the Workshop on Gender Mainstreaming held on August 14-15, 2018 at the Bayleaf Hotel, Intramuros, Manila.

39. **Selected NTRC Officials and Employees**, attended the Civil Service Commission-National Capital Region "R.A.C.E. to Serve Fun Run" held on September 2, 2018, at the Quirino Grandstand, Manila.

40. **Mark Lester L. Aure**, Chief Tax Specialist, Local Finance Branch and **Jonah P. Tibubos**, Tax Statistics Branch, attended the CSI Leadership Series (3rd Quarter Offering) held on September 12, 2018 at the Civil Service Commission (CSC) Building, Diliman, Quezon City.

41. **Leanelle D. Reyno**, Librarian I, Administrative & Financial Branch, attended the Forum entitled "Sparks: Igniting your Inner Creativity" at the 39th Manila International Book Fair (MIBF) held on September 13, 2018 at Seminar Rooms 2 and 3, at SMX Convention Center, SM Mall of Asia Complex, Pasay City.

42. **Venchito P. Salvador**, Supervising Administrative Officer, Administrative & Financial Branch, attended the Seminar-Workshop on Records Counter Disaster Preparedness and Business Continuity held on September 16-21, 2018 at Mallberry Suites Business Hotel, Limketkai Center, Cagayan de Oro City.

43. **Milagros G. Alvarez**, Planning Officer II and **Aileen Juana G. Antigua**, Administrative Assistant II, both from the Administrative & Financial Branch, attended the Seminar on Accounting for Non-Accountants held on September 27-28, 2018 at the Main Hall, Labor Governance and Learning Center Blas Ople Hall, San Jose Street, Intramuros, Manila.

44. **Donaldo M. Boo**, Chief Tax Specialist, Direct Taxes Branch, attended the Joint Seminar on Beneficial Ownership (BO) and Exchange of Information on Request (EOIR) Assessor Training held on October 8-12, 2018 at the Asian Development Bank Auditorium: 6 ADB Avenue, Ortigas Center, Mandaluyong City.

45. **Gian Carlo D. Rodriguez**, Chief Administrative Officer, Administrative & Financial Branch, **Leo Paul A. Marcellana**, Computer Maintenance Technologist II, Information Technology Unit, attended the Orientation Stage; Best Practices Review and Cyberattack and Data Breach Simulation held on October 12, 18 and 26, 2018 at the Department of Finance.

46. **Gian Carlo D. Rodriguez**, Chief Administrative Officer, Administrative & Financial Branch, **Leo Paul A. Marcellana**, Computer Maintenance Technologist II, Information Technology Unit, attended the DOF Blockchain 101 held on October 15-17, 2018 at the Marble Hall, Bureau of Treasury, Intramuros, Manila.

47. **Selected NTRC Officials and Employees**, attended the Annual Association of Government Accountants of the Philippines (AGAP) Convention-Seminar and the awarding rites for CY 2017 Outstanding Accounting Offices held on October 16-20, 2018 at the Iloilo Convention Center, Megaworld Blvd., Mandurriao, Iloilo City.

48. **Madonna Claire V. Aguilar**, Senior Tax Specialist, and **Jun V. Ocol,** Tax Specialist II, both from the Local Finance Branch, attended the Seminar on Federalism on October 17, 2018 at the Philamlife Tower, Paseo de Roxas Avenue, Makati City.

49. **Marlene L. Calubag**, Chief, Tax Specialist, Indirect Taxes Branch, **Monica G. Rempillo**, Economist V, Economics Branch, and **Ma. Rhea L. Caro**, Supervising Tax Specialist, Planning and Coordinating Branch attended the Training on Gender Analysis held on October 17-19, 2018 at the Insurance Commission, United Nations Avenue, Manila.

50. **Clarence D. Moral**, Statistician II, attended the Training Workshop on Basic Forecasting and Data Analysis held on November 7, 2018 at the Novotel Manila, Cubao, Quezon City.

51. **Gian Carlo D. Rodriguez**, Chief Administrative Officer, Administrative & Financial Branch, **Maria Cecelia B. Rodriguez**, Senior Tax Specialist, Special Research and Technical Services Branch and **Krystal Jem Czarina L. Abanes**, Senior Tax Specialist, Fiscal Incentives Branch, attended the Training on Streamlining and Process Improvement of

Critical Services for national government agencies (NGAs) held on November 14-16, 2018 at the Function Room, Hotel H2O, Luneta, Manila City.

52. **Trinidad A. Rodriguez**, Resource Speaker, Executive Director, Office of the Executive Director, and **Jocet Consisa R. Pabilona**, Senior Tax Specialist, Direct Taxes Branch, attended the Seminar on Tax Amnesty held on November 16, 2018 in Subic, Olongapo City.

53. **Gian Carlo D. Rodriguez**, Chief Administrative Officer, Administrative & Financial Branch, attended the 4th Quarter CSI Leadership Series Forum held on November 21, 2018 at the Auditorium, CSC Building, Diliman, Quezon City.

54. **Gian Carlo D. Rodriguez**, Chief Administrative Officer, Administrative & Financial Branch, attended the workshop on GAD Planning and Budgeting for FY 2020 held on November 26-30, 2018 at the DOF Cottage, Baguio City.

55. **Selected NTRC Officials and Employees** attended the Workshop on Transfer Pricing Policy and Practice held on December 4-7, 2018 at the Ayuntamiento de Manila, Intramuros, Manila.

56. **Maria Cecelia B. Rodriguez**, Senior Tax Specialist, Special Research and Technical Services Branch, and **Edrei Y. Udaundo**, Statistician III, Tax Statistics Branch, attended the SDC Track 1 held on December 4-7, 2018 at the Civil Service Commission – NCR, Quezon City.

57. **Lorelli D. Villaflores**, Administrative Officer V, attended the PFCC Manila Chapter Year-End Christmas Party Assembly held on December 7, 2018 at the FFCCCII G/F Federation Center Building, Muelle de Binondo, Binondo, Manila.

58. **Gian Carlo D. Rodriguez**, Chief Administrative Officer, and **Arden Mar S. Llanto**, Accountant I, both from the Administrative & Financial Branch attended the Forum on 5S Good Housekeeping Implementation for Government Agencies on December 7, 2018 at the Crown Plaza Hotel, Pasig City.

59. **Ma. Rhea L. Caro**, Supervising Tax Specialist, Planning and Coordinating Branch, attended the SERP-P 5th meeting on December 10, 2018 at the PIDS Office 18th Floor Three Cyberpod Centris, North Tower, Quezon City.

60. **Trinidad A. Rodriguez**, Resource Speaker, Executive Director, Office of the Executive Director, and **Edrei Y. Udaundo**, Statistician III, Tax Statistics Branch, attended the Year-End MIMAROPA-REGATA Conference and Seminar held on December 11-12, 2018 in Clark, Pampanga.

61. **Anna Catherine V. Revilles**, Administrative Assistant III, Administrative & Financial Branch, attended the 2018 Fourth Quarter Human Resource Managers Fellowship Meeting held on December 13, 2018 at the Social Hall A. Environmental Management Bureau (EMB), Department of Environment & Natural Resources (DENR), Visayas Avenue, Quezon City.

62. **Ma. Rhea L. Caro**, Supervising Tax Specialist, Planning and Coordinating Branch, attended the Year-End GAD Assessment and Pre-Planning 2019 held on December 19, 2018 at the Level 3 Multipurpose Room, GSIS Building, Financial Center, Macapagal Avenue, Pasay City.

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