SIXTEENTH CONGRESS OF THE REPUBLIC OF THE PHILIPPINES
First Regular Session

SENATE

S. No. 457

Introduced by Senator Ralph G. Recto

Explanatory Note

The national government is perpetually searching for sources of revenues to finance its operations. Over the years, the tax rates on some excisable products have remained unchanged. Hence, increments in tax collections from these products come from increases in the volume of removals or the products' prices.

Historically, the excise tax on nonmetallic minerals and quarry resources is imposed based on the actual value of the gross output at the rate of one and a half percent (1.5%) from 1939 to 1977. Then it was increased to three percent (3%) until 1994. The rate was reduced in 1994 to two percent (2%) of the actual market value or the value used by the Bureau of Customs in determining the tariff and customs duties in the case of importation.

The rate on metallic minerals was initially set at one and a half percent (1.5%) of actual market value of the annual gross output, and then increased to five percent (5%) in 1977. With the passage of Republic Act No. 7729 in 1994, the rates were trimmed down: for copper and other metallic minerals, to one percent (1%) until 1997 and slowly increased to its present rate at two percent (2%); and for gold and chromite, two percent (2%) of actual market value of the annual gross output. Under the National Internal Revenue Code (NIRC), as amended, the rates were uniform at two percent (2%) of actual market value of the annual gross output.

Based on available data, the excise tax collections from minerals and quarry resources were 942.1 M in 2007; 660.3 M in 2008; 718.8 M in 2009, 1.3 B in 2010 and 6.98 B in 2011. [1]

This bill proposes to increase the tax on minerals and quarry resources from two percent (2%) to seven percent (7%). Although the *ad valorem* rate guarantees increased tax revenues during periods of high commodity prices, these increments are volatile. With the passage of this bill, the national government can look forward to higher revenues than it has collected in recent years.

The potential revenue from the proposed increase in excise tax on mineral products shall be equally divided between the national government and the local government units (LGUs) where the mineral and quarry resources are extracted. In particular, revenues from the three and a half percent (3.5%) tax on minerals shall accrue to the National Treasury, while revenues from the other three and a half percent (3.5%) tax on minerals shall be remitted directly to the LGUs as support for the Special Education Fund (SEF) of the LGUs. With the infusion of additional funds, it is hoped that the perennial shortages of classrooms, tables and chairs, books, teaching aids and other educational materials will be addressed.

The proposed increase in the excise tax on mineral and quarrying activities would not even be commensurate to the natural hazards brought about by mining and quarrying activities to

[1] Mines and Geosciences Bureau. "Mining Industry Statistics, 2013" http://www.mgb.gov.ph/Files/Statistics/HistoricalMineralIndustryStatistics.pdf. (accessed February 28, 2013).

our environment particularly in areas that are rich in biodiversity, in geohazard zones or within the ancestral domain of indigenous peoples. Mineral wastes cause sulfurous dust clouds that result in acid rain. Abandoned strip mines are often used as unregulated landfills for hazardous wastes. Mine tailings and their associated metal contaminants, such as arsenic, cadmium, lead, mercury, sodium cyanide, and zinc can contaminate nearby water sources rendering them useless as sources of food, water, and livelihood. Mining in upland areas further reduce forest cover and leave a toxic heritage for succeeding generations. [2]

It is hoped that the increase in tax on mineral products will become synonymous to a revitalized and strengthened responsible mining and environmental protection.

In view of the foregoing, approval of this bill is earnestly requested.

RALPH G. RECTO

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[2] "Exacting Growth From Mining." Senate Economic Planning Office, (November 2005), p.4.

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S. No. [illegible]

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AN ACT
INCREASING THE EXCISE TAX ON MINERALS, MINERAL PRODUCTS AND QUARRY RESOURCES, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED

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

SECTION 1. Section 151(A), Chapter VII, Title VI of the National Internal Revenue Code of 1997, as amended, is hereby amended to read as follows:

"SEC. 151. *Mineral Products.* –

(A) *Rates of Tax.* - There shall be levied, assessed and collected on minerals, mineral products and quarry resources, excise tax as follows:

"(1) On coal and coke, a tax of Ten pesos (P10.00) per metric ton;

"(2) On all [nonmetallic] minerals, MINERAL PRODUCTS and quarry resources, a tax of SEVEN [two] percent (7%) [(2%)] based on the actual market value of the gross output thereof at the time of removal, in the case of those locally extracted or produced; or the value used by the Bureau of Customs in determining tariff and customs duties, net of excise tax and value-added tax, in the case of importation.

"Notwithstanding the provision of paragraph (3) [(4)] of Subsection (A) of this Section, locally extracted natural gas and liquefied natural gas shall not be subject to the excise tax imposed herein.

["(3) On all metallic minerals, a tax based on the actual market value of the gross output thereof at the time of removal, in the case of those locally extracted or produced; or the value used by the Bureau of Customs in determining tariff and customs duties, net of excise tax and value-added tax, in the case of importation, in accordance with the following schedule:

"(a) Copper and other metallic minerals:

(i) On the first three (3) years upon effectivity of Republic Act No. 7729, one percent (1%);

(ii) On the fourth and the fifth years, one and a half percent (1 ½%); and

(iii) On the sixth year and thereafter, two percent (2%);

"(b) Gold and chromite, two percent (2%).]

"(3)[(4)] On indigenous petroleum, a tax of three percent (3%) of the fair international market price thereof, on the first taxable sale, barter, exchange or such similar transaction, such tax to be paid by the buyer or purchaser before removal from the place of production. The phrase 'first taxable sale, barter, exchange or similar transaction' means the transfer of indigenous petroleum in its original state to a first taxable transferee. The fair international market price shall be determined in consultation with an appropriate government agency.

"x x x."

SEC. 2. Section 287, Chapter II, Title XI of the National Internal Revenue Code of 1997, as amended, is hereby amended to read as follows:

"SEC. 287. x x x

"(A) *Amount of Share of Local Government Units (LGUs).* – Local government units shall, in addition to the internal revenue allotment, have a share of forty percent (40%) of the gross collection derived by the national government (NG) from the preceding fiscal year from [excise taxes on mineral products,] royalties[,] and such other taxes, fees or charges, including related surcharges, interests or fines, and from its share in any co-production, joint venture or production sharing agreement in the utilization and development of the national wealth within their territorial jurisdiction.

"(B) *REVENUE FROM THE EXCISE TAX ON MINERALS, MINERAL PRODUCTS AND QUARRY RESOURCES.* – THE REVENUE COLLECTED FROM THE EXCISE TAX ON MINERALS, MINERAL PRODUCTS AND QUARRY RESOURCES SHALL BE EQUALLY DIVIDED BETWEEN THE NG AND THE LGUs WHERE THE MINERALS, MINERAL PRODUCTS AND QUARRY RESOURCES ARE EXTRACTED. REVENUES EQUIVALENT TO THREE AND A HALF PERCENT (3.5%) EXCISE TAX ON MINERALS, MINERAL PRODUCTS AND QUARRY RESOURCES SHALL ACCRUE TO THE NG, AS PROVIDED IN SECTION 283 OF THIS CODE, AND REVENUES EQUIVALENT TO THE REMAINING THREE AND A HALF PERCENT (3.5%) EXCISE TAX ON MINERALS, MINERAL PRODUCTS AND QUARRY RESOURCES SHALL BE DIRECTLY REMITTED TO THE LGUs WHERE THE RESOURCES ARE EXTRACTED.

PROVIDED, THAT, THE REVENUES EQUIVALENT TO THE REMAINING THREE AND A HALF PERCENT (3.5%) EXCISE TAX ON MINERALS, MINERAL PRODUCTS AND QUARRY RESOURCES ALLOCATED TO THE LGUs SHALL BE SET ASIDE AND USED EXCLUSIVELY AS SUPPORT TO THE SPECIAL EDUCATION FUND (SEF) ADMINISTERED BY THE LGUs TO FINANCE THE HIRING OF NEW TEACHERS, REPAIR OF CLASSROOMS, ACQUISITION OF CHAIRS AND TABLES, AND PURCHASE OF TEXTBOOKS, TEACHERS' MANUALS AND TEACHING AIDS, AND OTHER INSTRUCTIONAL MATERIALS.

PROVIDED, FINALLY, THAT THE ALLOCATION OF THE LOCAL GOVERNMENT SHARE ON EXCISE TAX ON MINERALS, MINERAL PRODUCTS AND QUARRY RESOURCES SHALL BE DISTRIBUTED AS SPECIFIED IN SUBSECTION (D) HEREOF.

[(B)] "(C) *Share of the Local Governments from Any Government Agency or Government-Owned or -Controlled Corporation.* – Local Government Units shall have a share, based on the preceding fiscal year, from the proceeds derived by any government agency or government-owned or -controlled corporation engaged in the utilization and development of the national wealth based on the following formula, whichever will produce a higher share for the [local government unit] LGU:

(1) One percent (1%) of the gross sales or receipts of the preceding calendar year, or

(2) Forty percent (40%) of the excise taxes on mineral products, royalties, and such other taxes, fees or charges, including related surcharges, interests or fines the government agency or government-owned or -controlled corporations would have paid if it were not otherwise exempt.

[(C)] "(D) *Allocation of Shares.* – The share in the preceding Section shall be distributed in the following manner:

(1) Where the natural resources are located in the province:

(a) Province – twenty percent (20%);

(b) Component city/municipality – forty-five percent (45%); and

(c) Barangay – thirty-five percent (35%).

Provided, however, That where the natural resources are located in two (2) or more provinces, or in two (2) or more component cities or municipalities or in two (2) or more barangays, their respective shares shall be computed on the basis of: (1) Population – seventy percent (70%); and (2) Land area – thirty percent (30%).

(2) Where the natural resources are located in a highly urbanized or independent component city:

(a) City – sixty-five percent (65%); and

(b) Barangay – thirty-five percent (35%).

Provided, however, That where the natural resources are located in two (2) or more cities, the allocation of shares shall be based on the formula on population and land area as specified in subsection [(C)] (D)(1) hereof.

SEC. 3. *Implementing Rules and Regulations.* – The Secretary of Finance shall, upon the recommendation of the Commissioner of Internal Revenue, promulgate not later than thirty (30) days upon the effectivity of this Act the necessary rules and regulations for its effective implementation.

SEC. 4. *Separability Clause.* – If any provision of this Act is declared unconstitutional or invalid, other parts or provisions hereof not affected thereby shall continue to be in full force and effect.

SEC. 5. *Repealing Clause.* – All laws, decrees, executive orders, rules and regulations or parts thereof which are contrary to or inconsistent with this Act are hereby repealed, amended or modified accordingly.

SEC. 6. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in any two (2) newspapers of general circulation.

Approved,