

**Office of the President
of the Philippines
Malacañang**

MALACAÑANG RECORDS OFFICE

Manila, December 27, 2017

SECRETARY CARLOS G. DOMINGUEZ III
Department of Finance
Manila

Sir:

I have the honor to transmit for your information and guidance, a certified copy of Republic Act No. 10963 which was approved on December 19, 2017 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, 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, 196, 197, 232, 236, 237, 249, 254, 264, 269, AND 288; CREATING NEW SECTIONS 51-A, 148-A, 150-A, 150-B, 237-A, 264-A, 264-B, AND 265-A; AND REPEALING SECTIONS 35, 62, AND 89; ALL UNDER REPUBLIC ACT NO. 8424, OTHERWISE KNOWN AS THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES"**.

Thank you.

Very truly yours,



ATTY. CONCEPCION ZENY E. FERROLINO-ENAD
Director III – Acting Head



MALACAÑAN PALACE
MANILA

DEC 19 2017

**THE HONORABLE SPEAKER OF THE HOUSE
AND THE LADIES AND GENTLEMEN OF
THE HOUSE OF REPRESENTATIVES**

In accordance with my firm commitment to uplift the lives of the Filipino people, I sign into law **Republic Act (RA) No. 10963**, 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, 196, 197, 232, 236, 237, 249, 254, 264, 269, AND 288; CREATING NEW SECTIONS 51-A, 148-A, 150-A, 150-B, 237-A, 264-A, 264-B, AND 265-A; AND REPEALING SECTIONS 35, 62, AND 89; ALL UNDER REPUBLIC ACT NO. 8424, OTHERWISE KNOWN AS THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES,**" or the **Tax Reform for Acceleration and Inclusion (TRAIN) Act**.

I. GENERAL COMMENTS

For two decades, we have been constrained by the outdated provisions of our tax laws under the National Internal Revenue Code, as amended. In particular, the high personal income tax rates have placed a significant burden to our laborers. Today, a major breakthrough in the legislative history has taken place, where we not only break this trend but provide for additional resources that we will use to fund the social and economic infrastructure that will benefit the poor.

This momentous achievement would not be possible without the collective efforts of our legislators in the 17th Congress, in particular, the Chairmen of the House Committee on Ways and Means, and the Senate Committee on Ways and Means.

II. DIRECT VETO

By the power vested in me by Article VI, Section 27 (2) of the Constitution, which provides that "the President shall have the power to veto any particular item or items in an appropriation, revenue, or tariff bill," I hereby register the following line item vetoes to this law:

- A. Reduced income tax rate of employees of Regional Headquarters (RHQS), Regional Operating Headquarters (ROHQS), Offshore Banking Units (OBUS), and Petroleum Service Contractors and Subcontractors**

THE PRESIDENT OF THE PHILIPPINES

I am constrained to veto the proviso under Section 6 (F) of the enrolled bill that effectively maintains the special tax rate of 15% of gross income for the aforementioned employees, to wit:

“PROVIDED, HOWEVER, THAT EXISTING RHQS/ROHQS, OBUS OR PETROLEUM SERVICE CONTRACTORS AND SUBCONTRACTORS PRESENTLY AVAILING OF PREFERENTIAL TAX RATES FOR QUALIFIED EMPLOYEES SHALL CONTINUE TO BE ENTITLED TO AVAIL OF THE PREFERENTIAL TAX RATE FOR PRESENT AND FUTURE QUALIFIED EMPLOYEES.”

While I understand the laudable objective of the proposal, the provision is violative of the Equal Protection Clause under Section 1, Article III of the 1987 Constitution, as well as the rule of equity and uniformity in the application of the burden of taxation:

Section 1. No person shall be deprived of life, liberty, or property without due process of law, **nor shall any person be denied the equal protection of the laws.**

In line with this, the overriding consideration is the promotion of fairness of the tax system for individuals performing similar work. Given the significant reduction in the personal income tax, the employees of these firms should follow the regular tax rates applicable to other individual taxpayers.

B. Zero-rating of sales of goods and services to separate customs territory and tourism enterprise zones

Second, I am constrained to veto the provisions under Section 31 and Section 33 of the enrolled bill, to wit:

Section 31:

(2) SALE AND DELIVERY OF GOODS TO:

- (i) REGISTERED ENTERPRISES WITHIN A SEPARATE CUSTOMS TERRITORY AS PROVIDED UNDER SPECIAL LAWS; AND**
- (ii) REGISTERED ENTERPRISES WITHIN TOURISM ENTERPRISE ZONES AS DECLARED BY THE TOURISM INFRASTRUCTURE AND ENTERPRISE ZONE AUTHORITY (TIEZA) SUBJECT TO THE PROVISIONS UNDER REPUBLIC ACT NO. 9593 OR THE TOURISM ACT OF 2009.**

Section 33:

(8) SERVICES RENDERED TO:

- I. REGISTERED ENTERPRISES WITHIN A SEPARATE CUSTOMS TERRITORY AS PROVIDED UNDER SPECIAL LAWS; AND**

II. REGISTERED ENTERPRISES WITHIN TOURISM ENTERPRISE ZONES AS DECLARED BY THE TIEZA SUBJECT TO THE PROVISIONS UNDER REPUBLIC ACT NO. 9593 OR THE TOURISM ACT OF 2009.

The above provisions go against the principle of limiting the VAT zero-rating to direct exporters. The proliferation of separate customs territories, which include buildings, creates significant leakages in our tax system. This makes the tax system highly inequitable and significantly reduces the revenues that could be better used for the poor. As to tourism enterprises, the current law only allows for duty and tax free importation of capital equipment, transportation equipment and other goods. The TIEZA Law explicitly allows only duty and tax free importation of capital equipment, transportation equipment and other goods (in certain cases and always subject to rules provided by the DOF). Thus, this provision actually grants a new incentive to suppliers of registered tourism enterprises. At any rate, the TIEZA law, which is still in effect for two more years, can be used to avail of the above-mentioned incentives.

C. Exemption from percentage tax of gross sales/receipts not exceeding five hundred thousand pesos (P500,000.00)

I am constrained to veto the provision which provides for the above under line 12 of Sec. 38 in the enrolled bill, to wit:

“AND BEGINNING JANUARY 1, 2019, SELF-EMPLOYED AND PROFESSIONALS WITH TOTAL ANNUAL GROSS SALES AND/OR GROSS RECEIPTS NOT EXCEEDING FIVE HUNDRED THOUSAND PESOS (P500,000).”

The proposed exemption from percentage tax will result in unnecessary erosion of revenues and would lead to abuse and leakages. The subject taxpayers under this provision are already exempted from the VAT, thus, the lower three percent percentage tax on gross sales or gross receipts is considered as their fair share in contributing to the revenue base of the country.

D. Exemption of various petroleum products from excise tax when used as input, feedstock, or as raw material in the manufacturing of petrochemical products, or in the refining of petroleum products, or as replacement fuel for natural gas fired combined cycle power plants

I am constrained to veto the provision which provides for the above under line 25 Sec. 43 of the enrolled bill, to wit:

“PETROLEUM PRODUCTS, INCLUDING NAPHTHA, LPG, PETROLEUM, COKE, REFINERY FUEL AND OTHER PRODUCTS OF DISTILLATION, WHEN USED AS INPUT, FEEDSTOCK OR AS RAW MATERIAL IN THE MANUFACTURING OF PETROCHEMICAL PRODUCTS, OR IN THE REFINING OF PETROLEUM PRODUCTS, OR AS REPLACEMENT FUEL FOR NATURAL-GAS-FIRED-COMBINED CYCLE POWER PLANT [,] IN LIEU OF LOCALLY-EXTRACTED NATURAL GAS DURING THE NON-AVAILABILITY THEREOF, SUBJECT TO THE RULES AND REGULATIONS TO BE PROMULGATED BY THE SECRETARY OF FINANCE, PER LITER OF VOLUME CAPACITY, ZERO (P0.00); FURTHERMORE, THAT THE BY-PRODUCT INCLUDING FUEL OIL, DIESEL FUEL, KEROSENE,

PYROLYSIS GASOLINE, LIQUIFIED PETROLEUM GASES, AND SIMILAR OILS HAVING MORE OR LESS THE SAME GENERATING POWER, WHICH ARE PRODUCED IN THE PROCESSING OF NAPHTHA INTO PETROCHEMICAL PRODUCTS SHALL BE SUBJECT TO THE APPLICABLE EXCISE TAX SPECIFIED IN THE SECTION, EXCEPT WHEN SUCH BY-PRODUCTS ARE TRANSFERRED TO ANY OF THE LOCAL OIL REFINERIES THROUGH SALE, BARTER OR EXCHANGE, FOR THE PURPOSE OF FURTHER PROCESSING OR BLENDING INTO FINISHED PRODUCTS WHICH ARE SUBJECT TO EXCISE TAX UNDER THIS SECTION.”

The provision runs the risk of being too general, covering all types of petroleum products, which may be subject to abuse by taxpayers, and thus lead to massive revenue erosion. At any rate, the tax code already identifies which petroleum products can be exempted.

E. Earmarking of incremental tobacco taxes

I am constrained to veto the provision which provides for the above in lines 20 to 29 of Sec. 82 of the enrolled bill, to wit:

“NOTWITHSTANDING ANY PROVISIONS HEREIN TO THE CONTRARY, THE INCREMENTAL REVENUES FROM THE TOBACCO TAXES UNDER THIS ACT SHALL BE SUBJECT TO SECTION 3 OF REPUBLIC ACT NO. 7171, OTHERWISE KNOWN AS ‘AN ACT TO PROMOTE THE DEVELOPMENT OF THE FARMER IN THE VIRGINIA TOBACCO PRODUCING PROVINCES’, AND SECTION 8 OF REPUBLIC ACT NO. 8240, OTHERWISE KNOWN AS ‘AN ACT AMENDING SECTIONS 138, 140 & 142 OF THE NATIONAL INTERNAL REVENUE CODE, AS AMENDED, AND FOR OTHER PURPOSES.’”

The provision effectively amends the Sin Tax Law, or RA 10351, which provides for guaranteed funds for universal health care. The provision will effectively diminish the share of the health sector in the proposed allocation.

III. CLOSING STATEMENT

I am very pleased to sign this very important piece of legislation mainly because of my sincere objective to help our poor countrymen and ease the burden of the common taxpayers. This government will do its best to implement this noble objective under the tax reform package while maintaining fiscal discipline and adhering to the true principles of taxation: fair, simple, and efficient.

