

Tax Bulletin

Special Issue on the Proposed Tax Reform



Highlights

The Department of Finance has endorsed to Congress the First Package of the Administration's Tax Reform Initiatives.

The First Package (subject of the House Bill introduced by Representative (Rep.) Dakila Carlo E. Cua) seeks to lower personal income taxes while broadening the VAT base and adjusting excise tax rates.

The bill contains proposed amendments to the National Internal Revenue Code of 1997, as amended (or Tax Code).

Also included in the discussions are the proposed amendments under House Bill No. 4688 (introduced by Rep. Joey Sarte Salceda) that are different from HB 4774's proposed amendments.

House Bill 4774 (Tax Reform for Acceleration and Inclusion Act)

I. PERSONAL INCOME TAX

Revision of Personal Income Tax Rates

At present, the graduated income tax rates for individuals (Philippine citizen and resident alien) are as follows:

Not over	10,000		5%
Over	10,000	But not over 30,000	500 + 10% of excess over 10,000
Over	30,000	But not over 70,000	2,500 + 15% of excess over 30,000
Over	70,000	But not over 140,000	8,500 + 20% of excess over 70,000
Over	140,000	But not over 250,000	22,500 + 25% of excess over 140,000
Over	250,000	But not over 500,000	50,000 + 30% of excess over 250,000
Over	500,000		125,000 + 32% of excess over 500,000

► Effective 1 July 2017

The threshold for income tax exemption is proposed to be increased from an annual taxable income of P 10,000 to P 250,000.

The tax table below is proposed to be effective from 1 July 2017 and taxable years 2018 and 2019:

Not over	250,000		0%
Over	250,000	But not over 400,000	20% of excess over 250,000
Over	400,000	But not over 800,000	30,000 + 25% of excess over 400,000
Over	800,000	But not over 2,000,000	130,000 + 30% of excess over 800,000
Over	2,000,000	But not over 5,000,000	490,000 + 32% of excess over 2,000,000
Over	5,000,000		1,450,000 + 35% of excess over 5,000,000

► The tax table below is proposed to be effective from 1 January 2020 and onwards:

Not over	250,000		0%
Over	250,000	But not over 400,000	15% of excess over 250,000
Over	400,000	But not over 800,000	22,500 + 20% of excess over 400,000
Over	800,000	But not over 2,000,000	102,500 + 25% of excess over 800,000
Over	2,000,000	But not over 5,000,000	402,500 + 30% of excess over 2,000,000
Over	5,000,000		1,302,500 + 35% of excess over 5,000,000

HB 4688's proposal is for the first table to take effect beginning taxable year 2018 and the second table for taxable year 2019.

While HB 4774 proposes that the taxable income levels shall be adjusted once every 5 years after 2020, HB 4668 proposes the same adjustment after 2019.

On the rate of tax for self-employed and/or professionals

- ▶ Those whose gross sales or gross receipts are below the VAT threshold, as provided in Sec. 109 (proposed at P3,000,000), will be subject to 8% income tax on gross sales or gross revenues in lieu of VAT and percentage tax.
- ▶ Those whose gross sales or gross receipts are above the VAT threshold in Sec. 109 (proposed at P3,000,000) shall be taxed in the same manner as corporations as to the applicable tax rate, minimum income tax and allowable deductions, as provided in Sections 27(A), 27(E) and 34 of the Tax Code.

On Personal and Additional Exemptions for Individual Taxpayers

Personal and additional exemptions are proposed to be removed as allowable deductions from taxable income of all individual taxpayers.

On Philippine Charity Sweepstakes and Lotto winnings

The exemption of Philippine Charity Sweepstakes and Lotto winnings from the 20% final tax in Section 24(B)(1) is proposed to be removed.

On Exclusions From Gross Income

- ▶ HB 4668 proposes to remove the 13th Month Pay and Other Benefits as Exclusions from Gross Income in Section 32(B)(7)(e). HB 4774 proposes to retain them.

Definition of Taxable Income

The following changes are proposed:

- ▶ The definition of taxable income no longer includes deductions authorized under special laws. (This applies to both individual and non-individual taxpayers).

[NOTE: This implies that discounts given to senior citizens and persons with disabilities (PWDs) are no longer deductible from gross income as they are deductible expenses provided under special laws, namely, RA No. 9994 and RA No. 9442, respectively]

On Deductions From Gross Income

- ▶ Premium payments on health and/or hospitalization insurance of an individual taxpayer shall no longer be allowed as a deduction from gross income.

On Preferential Tax Rate of Managerial and Technical Employees of ROHQs, OBUs and Petroleum Service Contractors

The following classifications of non-resident alien (NRA) individuals who enjoy preferential income tax rates are proposed to be removed: alien individuals employed by regional or area headquarters and regional operating headquarters of multinational companies, offshore banking units established in the Philippines, and petroleum service contractors and subcontractors.

On Fringe Benefit Tax (FBT)

The following revisions are being proposed by HB 4774:

- ▶ Effective July 1, 2017, the FBT rate is proposed to be revised from 32% to 30%.
- ▶ In 2020 and onwards, the fringe benefit is proposed to form part of the gross income subject to the regular income tax rates.

The following provisions are being proposed by HB 4668:

- ▶ The rates of 32% and 68% are proposed to be effective January 1, 2018.
- ▶ The rates of 30% and 70% are proposed to be effective January 1, 2019.
- ▶ The clause in Section 33(A) on the imposition of FBT on fringe benefits furnished to employees and taxable under Section 25 (i.e., non-resident alien individual not engaged in trade or business within the Philippines, alien individual employed by regional or area headquarters and regional operating headquarters of multinational companies, alien individual employed by offshore banking units, and alien individual employed by petroleum service contractors and subcontractors) is proposed to be removed.
- ▶ Fringe benefits which are authorized and exempted from tax under special laws are proposed to be removed from the list of fringe benefits exempt from FBT.

On the Optional Standard Deduction (OSD)

HB 4774 is proposing that OSD for individual citizens and resident aliens be reduced from 40% to 20% of gross sales or gross receipts. HB 4668's proposal is to remove the OSD for domestic and resident foreign corporations altogether.

II. ESTATE AND DONOR'S TAX

ESTATE TAX

On the rate of Estate Tax

The estate tax proposed is 6% of the value of the net estate in lieu of the graduated schedule in Section 84 of the present Tax Code.

On the Exemption Allowed to Estates and Trusts

The P20,000.00 exemption from the income of the estate or trust under Section 62 of the Tax Code is proposed to be removed.

On the Computation of Net Estate

- ▶ The following allowable deductions are proposed to be removed:
 1. Expenses, losses, indebtedness and taxes
 2. Medical expenses
 3. Amount received by Heirs under Republic Act (R.A.) No. 4917 (An Act Providing That Retirement Benefits Of Employees Of Private Firms Shall Not Be Subject To Attachment, Levy, Execution, Or Any Tax Whatsoever.)
- ▶ The allowable deduction for the current fair market value of the decedent's Family Home is proposed to be increased from P1,000,000.00 to P3,000,000.00
- ▶ The following allowable deductions to estates of non-residents are proposed to be removed:
 1. Expenses, losses, indebtedness and taxes
- ▶ Section 86(D) on the condition required to allow the estate of a non-resident decedent who is not a citizen to claim deductions is proposed to be removed.

DONOR'S TAX

On the rate of Donor's Tax

- ▶ The donor's tax proposed is 6% to be computed on the basis of the total net gifts made during the calendar year in lieu of the graduated schedule in Section 99(A) of the present Tax Code.
- ▶ The provision in Section 99(B) on a 30% donor's tax on donations to a stranger is proposed to be removed.
- ▶ The exemption for annual net gifts not exceeding P100,000.00 is proposed to be retained.

III. VALUE-ADDED TAX (VAT)

The threshold amount to be required to register as a VAT taxpayer and be subject to 12% VAT is proposed to be increased from P1,500,000.00* to more than P3,000,000.00: Provided that not later than 31 January 2017 and every three years thereafter, the amount herein stated shall be adjusted to its present value using the Consumer Price Index, as published by the Philippine Statistics Authority (PSA).

(*supposed to be P1,919,500.00 per Rev. Regs. 16-2011).

Money Remittance Centers are being proposed to be included in the sale or exchange of services subject to 12% VAT.

Export Sales of Goods

The VAT zero-rated status of the following sales is proposed to be removed:

- ▶ Sale of raw materials or packaging materials to a non-resident buyer for delivery to a resident local export-oriented enterprise to be used in manufacturing, processing, packing or repacking in the Philippines of the said buyer's goods and paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas* (BSP);
- ▶ Sale of raw materials or packaging materials to export-oriented enterprise whose export sales exceed 70% of total annual production; and
- ▶ Those considered export sales under Executive Order No. 226, otherwise known as the Omnibus Investment Code of 1987, and other special laws.

The following provision on export sale is proposed to be revised as follows:

- ▶ The sale of goods, supplies, equipment and fuel to persons engaged in international shipping or international air transport operations; *Provided, that the goods, supplies, equipment and fuel shall be used for international shipping and air transport operations.*

The following sale is proposed to be added to the list of export sales:

- ▶ Direct exports by a registered export producer of exports products, or the sales of export products to another producer or to an export trader: provided, that the exports of export traders shall only be deemed export sales when actually exported by the latter, as evidenced by landing certificates or similar commercial documents

The following transaction is proposed to be removed from the list of VAT zero-rated export sales and is proposed to be an independent zero-rated transaction.

- ▶ Sale of gold to the BSP.

Zero-rated Sales of Goods

The VAT zero-rated status of the following is proposed to be removed:

- ▶ Foreign currency denominated sales. This is retained under HB 4668.
- ▶ Sale of goods to persons or entities whose exemption under special laws subject the supply to 0% rate.

The proposal is for zero-rating to apply only for "sales to persons or entities whose exemption under international agreements to which the Philippines is a signatory effectively subjects such sale to 0% rate." However, HB 4688 also proposes to remove this from the list of zero-rated sale of goods.

Zero-rated Sales of Services

The VAT zero-rated status of the following sales is proposed to be removed:

- ▶ Services rendered to persons or entities whose exemption under special laws effectively subjects the supply of such services to 0% rate;

The proposal is for zero-rating to apply only for “services rendered to persons or entities whose exemption under international agreements to which the Philippines is a signatory effectively subjects such services to 0% rate.” However, HB 4668 is also proposing to remove this from the list of zero-rated sales of services.

- ▶ Services performed by subcontractors and/or contractors in processing, converting, or manufacturing goods for an enterprise whose export sales exceed 70% of total annual production; and
- ▶ Sale of power or fuel generated through renewable sources of energy such as, but not limited to, biomass, solar, wind, hydropower, geothermal, ocean energy, and other emerging energy sources using technologies such as fuel cells and hydrogen fuels. This is now being proposed to be classified as a VAT-exempt transaction.

Unlike HB 4774, the following is additionally being proposed to be removed from the list of zero-rated sales of services by HB 4668:

- ▶ Services rendered to persons engaged in international shipping or international air transport operations, including leases of property for use thereof.

The following provisions on zero-rated sale of service are proposed to be revised, as follows:

- ▶ Services rendered to persons engaged in international shipping or international air transport operations, including leases of property for use thereof; *Provided, that these services shall be exclusively for international shipping and air transport operations.*
- ▶ Transport of passengers and cargo by domestic air or sea vessels from the Philippines to a foreign country.

VAT-Exempt Transactions

The VAT exemption of the following is proposed to be removed:

- ▶ Transactions which are exempt under special laws;
- ▶ Sales by agricultural cooperatives duly registered with the Cooperative Development Authority to their members [as well as sale of their produce, whether in its original state or processed form, to non-members]; their importation of direct farm inputs, machineries and equipment, including spare parts thereof, to be used directly and exclusively in the production and/or processing of their produce;

- ▶ Gross receipts from lending activities by credit or multi-purpose cooperatives duly registered with the Cooperative Development Authority;
- ▶ Sales by non-agricultural, non- electric and non-credit cooperatives duly registered with the Cooperative Development Authority: Provided, That the share capital contribution of each member does not exceed P15,000 and regardless of the aggregate capital and net surplus ratably distributed among the members;
- ▶ Sale of real property utilized for low-cost and socialized housing as defined by Republic Act No. 7279, otherwise known as the Urban Development and Housing Act of 1992, and other related laws, residential lot valued at P1,500,000* and below, house and lot, and other residential dwellings valued at P2, 500, 000** and below:

(*supposed to be P1,919,500.00 under RR 16-2011)

(**supposed to be P3,199,200.00 under RR 16-2011)

- ▶ Lease of a residential unit with a monthly rental not exceeding P10, 000*: Provided, that not later than 31 January 2009 and every 3 years thereafter, the amount herein stated shall be adjusted to its present value using the Consumer Price Index as published by the National Statistics Office (NSO); and

(*supposed to be P12,800.00 under RR 16-2011)

The following are proposed to be removed from the list of VAT exempt transactions by Rep. Salceda in addition to those proposed by Rep. Cua:

- ▶ 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 90 days before or after their arrival, 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*; and
- ▶ Importation of fuel, goods and supplies by persons engaged in international shipping or air transport operations.

The following VAT-exempt transactions are being proposed to be revised, to read as follows:

- ▶ Importation of professional instruments and implements, tools of trade, occupation or employment, wearing apparel, domestic animals, and personal household effects belonging to persons coming to settle in the Philippines or Filipinos or their families and descendants who are now residents of citizens of other countries, such parties hereinafter referred to as overseas Filipinos, in quantities and to the class suitable to the profession, rank or position of the persons importing said items, for their own use and not for barter or sale, accompanying such persons, or arriving within reasonable time: Provided, that the Bureau of Customs may, upon the production of satisfactory evidence that such persons are actually coming to settle in the Philippines and that the goods are brought from their former place of abode; Provided, further, that vehicles, vessels, aircrafts, machineries and other similar goods for use in manufacture, shall not fall within the classification and shall therefore be subject to duties, taxes and other charges.

- ▶ Importation of fuel, goods and supplies by persons engaged in international shipping or air transport operations; *Provided, that the fuel, goods, and supplies, shall be used for international shipping or air transport operations.*
- ▶ Sale or lease of goods or properties or the performance of services other than the transactions mentioned in the preceding paragraphs, the gross annual sales and/or receipts do not exceed the amount of P3,000,000: *Provided, that not later than 31 January 2017 and every 3 years thereafter, the amount herein stated shall be adjusted to its present book value using the Consumer Price Index, as published by the National Statistics-Office (NSO);*

The following provision on the sale of power or fuel generated through renewable sources of energy is proposed to be classified as a VAT-exempt transaction, whereas it is presently classified as a VAT zero-rated transaction, thus:

- ▶ Sale of power or fuel generated through renewable sources of energy such as, but not limited to, biomass, solar, wind, hydropower, geothermal, ocean energy, and other emerging energy sources using technologies such as fuel cells and hydrogen fuels.

Tax Credits:

Unlike HB 4774, HB 4668 is proposing to revise the Section 110(B) on tax credits, to read as follows:

“(B) Excess Output or Input Tax. - If at the end of any taxable quarter the output tax exceeds the input tax, the excess shall be paid by the VAT-registered person. If at the end of the first three taxable quarters, the input tax exceeds the output tax, the excess shall be carried over to the succeeding quarter. Any excess input tax at the end of the last quarter of the year shall not be carried over to the succeeding year, but such excess input tax may be refunded. *Provided, however, that any input tax attributable to zero-rated sales by a VAT-registered person may at his option be refunded or credited against other internal revenue taxes, subject to the provisions of section 112.*

Provided further, the accumulated excess input taxes carried over from prior years to the year 2018 may be carried over to the succeeding quarter or quarters of 2018, provided that such accumulated input tax shall not be carried over to the succeeding year (2019), but the same may be refunded at the end of the last taxable quarter of 2018.”

Percentage Tax Liability of Persons Who Failed to Meet the VAT threshold of more than P3 Million

Any person whose gross annual sales or gross receipts do not exceed Three Million (P3,000,000.00) and is not a VAT-registered person shall pay a tax equivalent to 3% of his gross quarterly sales or receipts; *Provided, that cooperatives shall be exempt from the 3% gross receipts herein imposed.*

Invoicing and Accounting Requirements

Electronically-generated VAT invoices and receipts, duly registered in accordance with the requirements prescribed by the Commissioner of Internal Revenue, as approved by the Secretary of Finance, shall be recognized for input VAT purposes.

IV. EXCISE TAXES

On Petroleum Products

The rates of excise taxes on certain articles of petroleum products are proposed to be increased, effective 1 January 2017.

- ▶ For lubricating oils and greases, including, but not limited to, basestock for lube oils and greases, high vacuum distillates, aromatic extracts, and other similar preparations, and additives for lubricating oils and greases, whether such additives are petroleum based or not, per liter and kilogram respectively, of volume capacity or weight
 1. HB 4774: increased to P 7 from P 4.50 (to P 9 in 1/1/18 and to P 10 in 1/1/19);
 2. HB 4668: increased to P 10 from P 4.50
- ▶ For processed gas, per liter of volume capacity
 1. increased to P 3 from P 0.05 (to P 5 in 1/1/18 and to P 6 in 1/1/19);
 2. HB 4668: increased to P 6 from P 0.05
- ▶ For waxes and petrolatum, per kilogram
 1. HB 4774: increased to P 7 from P 3.50 (to P 9 in 1/1/18 and to P 10 in 1/1/19);
 2. HB 4668: increased to P 10 from P 3.50
- ▶ For denatured alcohol to be used for motive power, per liter of volume capacity
 1. HB 4774: increased to P 3 from P 0.05 (to P 5 in 1/1/18 and to P 6 in 1/1/19);
 2. HB 4668: increased to P 6 from P 0.05
- ▶ For naphtha, regular gasoline and other similar products of distillation, per liter of volume capacity
 1. HB 4774: increased to P 7 from P 4.35 (to P 9 in 1/1/18 and to P 10 in 1/1/19);
 2. HB 4668: increased to P 10 from P 4.35
- ▶ For leaded premium gasoline, per liter of volume capacity
 1. HB 4774: increased to P 7 from P 5.35 (to P 9 in 1/1/18 and to P 10 in 1/1/19);
 2. HB 4668: increased to P 10 from P 5.35
- ▶ For unleaded premium gasoline, per liter of volume capacity
 1. HB 4774: increased to P 7 from P 4.35 (to P 9 in 1/1/18 and to P 10 in 1/1/19);
 2. HB 4668: increased to P 10 from P 4.35
- ▶ For aviation turbo jet fuel, per liter of volume capacity
 1. HB 4774: increased to P 7 from P 3.67 (to P 9 in 1/1/18 and to P 10 in 1/1/19);
 2. HB 4668: increased to P 10 from P 3.67
- ▶ For kerosene, per liter of volume capacity
 1. HB 4774: increased to P 3 from P 0 (to P 5 in 1/1/18 and to P 6 in 1/1/19);
 2. HB 4668: increased to P 6 from P 0

- ▶ For diesel fuel oil, and on similar fuel oils having more or less the same generating power, per liter of volume capacity
 1. HB 4774: increased to P 3 from P 0 (to P 5 in 1/1/18 and to P 6 in 1/1/19);
 2. HB 4668: increased to P 6 from P 0
- ▶ For liquefied petroleum gas, per liter
 1. HB 4774: increased to P 3 from P 0 (to P 5 in 1/1/18 and to P 6 in 1/1/19);
 2. HB 4668: increased to P 6 from P 0
- ▶ For asphalts, per kilogram,
 1. HB 4774: increased to P 3 from P 0.56 (to P 5 in 1/1/18 and to P 6 in 1/1/19);
 2. HB 4668: increased to P 6 from P 0.56
- ▶ For bunker fuel oil, and on similar fuel oils having more or less the same generating power, per liter of volume capacity
 1. HB 4774: increased to P 3 from P 0 (to P 5 in 1/1/18 and to P 6 in 1/1/19);
 2. HB 4668: increased to P 6 from P

Mandatory Fuel Marking

All petroleum products, (manufactured oil and other fuel) refined, manufactured and/or imported into the Philippines, whether the same were exempt from the payment of taxes and duties, or entered into a free zone shall be marked with the official marking agent designated by the Department of Finance (DOF) in accordance with existing rules.

The person, entity, or taxpayer who owns or enters the petroleum products to whom the said petroleum products are consigned, or whoever brings the same into the country shall cause the marking of said petroleum products with the official marking agent.

Presumption When Marker is Absent

In the event that the petroleum products which do not contain the official marker are found in the domestic market or in possession of anyone or under any situation where said petroleum products are subject to duties and taxes, it shall be presumed that the same were refined, manufactured, and/or imported or withdrawn with the intention to evade the payment of the taxes and duties due thereon and shall be proceeded against pursuant to law, unless the contrary be proven through the presentation of valid documents and/or other evidence contrary.

The absence of the marker or the use of a fraudulent marker on the petroleum products shall be considered *prima facie* evidence that the same have been withdrawn or imported without the payment of the excise tax.

The failure of the person, entity, or taxpayer responsible for the marking of the petroleum products as herein required within 15 days from due notice shall subject such owner, consignee or importer and the articles to such sanctions as may be imposed in accordance with the National Internal Revenue Code of 1997, as amended and the *Tariff and Customs Code of the Philippines*, as amended, and other relevant existing laws and rules and regulations in pursuance of law.

Program Implementation Office (PIO)

A PIO, headed by a DOF senior officer to be designated by the Secretary of Finance, and with the Commissioner of the Bureau of Customs (BOC) and the Commissioner of the Bureau of Internal Revenue (BIR) or their duly authorized representatives with the rank of Deputy Commissioner as members shall directly coordinate and supervise the proper and effective implementation of this act. The PIO shall be supported by personnel of the DOF, as well as those assigned or seconded from agencies attached to the DOF.

The PIO, which is hereby authorized to call on any official of the Department of Energy and its attached agencies for such assistance as may be necessary, as well as to require the participation of experts to help achieve the objectives of the act, shall have the following duties and responsibilities:

- ▶ To issue the terms of reference and engagement of the official marking provider;
- ▶ To ensure that all operational and technical written instructions are in place and properly disseminated to all concerned to ensure the effectiveness of the marking system;
- ▶ To identify and resolve operational and technical difficulties identified in the course of implementation; and
- ▶ Submit monthly progress report to the Secretary of Finance on the implementation of this act.

The PIO, in launching the nationwide roll-out of the program, in consultations with the BOC and the BIR, shall submit to the Secretary of Finance, among others, the following:

- ▶ Specifications of the national marker;
- ▶ The marker to be used and the marking service provider;
- ▶ Terms of reference and engagement of the provider;
- ▶ Performance measures of the program; and
- ▶ Ports/Places where the fuel marking program will be rolled out.

Counting or Metering Devices

Manufacturers as well as importers shall have the necessary number of suitable counting or metering devices including Fuel Marking (in case of petroleum products) to accurately determine as much as possible the volume, quantity or number of said petroleum products.

All petroleum products shall be mandatorily marked with the official marking agent designated by the DOF.

The following qualifying provisions are proposed to be transferred to the end of the Section 148 (Manufactured Oils and Other Fuels) on excise taxes on petroleum products, from the specific provision on lubricating oils and greases:

- ▶ Provided, however, that the excise taxes paid on the purchased feedstock (bunker) used in the manufacture of excisable articles and forming part thereof shall be credited against the excise tax due therefrom.
- ▶ Provided, further, that lubricating oils and greases produced from basestocks and additives on which the excise tax has already been paid shall no longer be subject to excise tax.

- ▶ Provided, finally, that locally produced or imported oils previously taxed as such but are subsequently reprocessed, re-refined or recycled shall likewise be subject to the tax imposed under this subsection.
- ▶ The tax rates imposed under this subsection shall be increased by 4% every year thereafter effective on January 1, 2020 through Revenue Regulations issued by the Secretary of Finance, unless the average Dubai crude oil price in the month preceding the scheduled indexation exceeds USD100 per barrel.

Note, however, that unlike, HB 4774, the proposal of HB 4668 is for the tax rates on petroleum be increased by 10% every year thereafter effective on 1 January 2018 through revenue regulations issued by the Secretary of Finance, unless the average Dubai crude oil price in the month preceding the scheduled indexation exceeds USD85 per barrel.

On Automobiles

For the net manufacturer's price or importer's selling price stated below, the excise tax rates are proposed to be increased as follows:

	HB 4774	HB 4668
Up to P600,000	increased to 4% (from 2%)	increased to 5%
Over P600,000 to P 1.1 million	increased to P24k plus 40% in excess of P600,000 from P12,000 plus 20% in excess of P600,000)	increased to 20% of Net Manufacturing/ Importation Price
Over P 1.1 million to P 2.1 million	increased to P224k plus 100% in excess of P1.1 million (from P112,000 plus 40% in excess of P1.1 million)	increased to 40% of Net Manufacturing/ Importation Price
Over P 2.1 million	increased to P1.224 million plus 200% in excess of P2.1 million (from P512,000 plus 60% of the excess over P2.1 million)	Increased to 60% of Net Manufacturing/ Importation Price

For purposes of determining the applicability of the excise tax schedule on automobiles, pick-ups shall be considered as trucks, hence, not covered by the increase in excise tax.

V. OTHER PROPOSED AMENDMENTS

A. ORGANIZATION AND FUNCTION OF THE BUREAU OF INTERNAL REVENUE

Proposed revision of Section 6 of the Tax Code:

“Power of the Commissioner to Make Assessments and Prescribe Additional Requirements for Tax Administration and Enforcement”

The authority of the Commissioner in Section 6(F) of the Tax Code to Inquire into Bank Deposit Accounts and Other Related Information Held by Financial Institutions is proposed to be amended as follows:

- ▶ The Commissioner is not only authorized to inquire into bank deposits but is also authorized to receive information on bank deposits and other related data held by financial institutions.

- ▶ On the authority of the Commissioner to inquire and receive information on a specific taxpayer, the proposal is to add the phrase “upon an obligation to exchange tax information to a foreign tax authority, whether on request, automatic or spontaneous.”
- ▶ In case the exchange of information with a foreign tax authority be automatic or spontaneous, it is proposed that the Commissioner shall provide tax information obtained from banks and financial institutions in accordance with international common reporting standards.
- ▶ It is proposed that the Commissioner may inquire and receive information on bank deposit accounts and other related data held by financial institutions of any taxpayer against whom a criminal case is initiated for offenses covered under Sections 254 and 255 of RA No. 8424, as amended, subject to the rules and regulations prescribed by the Secretary of Finance upon recommendation of the Commissioner of Internal Revenue.

B. KEEPING OF BOOKS OF ACCOUNTS

Corporations, Companies, Partnerships or Persons Required to Keep Books of Accounts

- ▶ The requirement of keeping and using simplified set of bookkeeping records is proposed for those whose quarterly sales, earnings, receipts or output do not exceed P250,000 (up from P50,000).
- ▶ The requirement for annual audit by independent Certified Public Accountants and their income tax returns accompanied with a duly accomplished Account Information Return (AIF) is proposed for those with quarterly sales, earnings, receipts or outputs in excess of P750,000 (up from the current P150,000).
- ▶ Upon recommendation of the Commissioner, the Secretary of Finance shall require the mandatory interconnection of certain books of accounts to the BIR systems.

C. ISSUANCE OF RECEIPTS OR SALES OR COMMERCIAL INVOICES

- ▶ Section 237 is proposed to refer to “Electronic Receipts or Electronic Sales or Commercial Invoices” (the word “Electronic” is added).
- ▶ All persons subject to an internal revenue tax shall, for each sale/transfer of merchandise or for services rendered valued at P25.00 or more, issue duly registered Electronic Receipts or Sales or Commercial Invoices. The requirement for preparation in duplicate of the receipt/invoice is removed.
- ▶ Additional information to be indicated in the Electronic Invoice or Receipt shall be the Tax Identification Number of the purchaser in the following cases:
 1. In case of sales, receipts or transfers amounting to P100.00 or more, or
 2. Regardless of amount of sales, receipts or transfers, where the sale/transfer is made by a person liable to VAT to another person also liable to VAT, or
 3. Where the electronic receipt/invoice shall be issued to cover payment made as rentals, commissions, compensations or fees.

- ▶ It is proposed that the issuance to the buyer of an electronic receipt or electronic invoice shall be accomplished either electronically or by tendering a printed copy thereof.
- ▶ It is also proposed that the electronic receipt or electronic invoice be transmitted to the BIR at the same time and date of each sale transaction.

D. ELECTRONIC SALES REPORTING SYSTEM

This Section is proposed to be added to the Tax Code as Section 237-A:

- ▶ Within one and a half years from effectivity of this Act:
 1. The BIR shall create an electronic system that will link sales and purchase data entered in cash register/point-of-sales (CRM/POS) machines of VAT-registered taxpayers to the BIR's servers for simultaneous reporting of sales and purchase data.
 - ▶ The acquisition of the CRM/POS machines and the linking to BIR servers will be at the taxpayers' expense;
 - ▶ The taxpayer shall ensure that the CRM/POS machines have the capacity to simultaneously transmit data to the servers of the BIR
 2. The BIR shall establish electronic interconnectivity with the following:
 - ▶ Bureau of Customs
 - ▶ Land Transportation Office
 - ▶ Department of Trade and Industry
 - ▶ Department of Agriculture
 - ▶ Securities and Exchange Commission
 - ▶ Other appropriate government agencies
- ▶ The provisions on unlawful divulgence of taxpayer information and with RA No. 10173 or the "Data Privacy Act" shall be strictly complied with.
- ▶ The data processing of sales and purchase data shall comply with the Data Privacy Act.

E. FAILURE TO LINK SALES AND PURCHASE DATA ENTERED ON CRM/POS MACHINES TO THE BIR'S SERVERS DUE TO NEGLIGENCE OR INTENT TO DEFRAUD THE GOVERNMENT

This Section is proposed to be added to the NIRC as Section 264-A:

- ▶ The penalty for the violation is proposed at one-half of one percent (1/2 of 1%) of the annual net income of the VAT-registered taxpayer as reflected in its audited financial statement for the second year preceding the current taxable year, for each day of violation;
- ▶ Payment of the penalty shall be made simultaneously with the payment for VAT on a monthly basis as provided in Section 114(A) of the Tax Code;
- ▶ An additional penalty of permanent closure is proposed if the aggregate number of the days of violation exceed 180 days within a taxable year.

F. AUTOMATED SALES SUPPRESSION DEVICES

This Section is proposed to be added to the NIRC as Section 264-B:

- ▶ Criminal liability shall be incurred by any person who shall purchase, use, possess, sell or offer to sell, update, upgrade, keep or maintain any software or device designed for or is capable of:
 1. Suppressing the creation of electronic records or sale transactions required to be kept; and/or
 2. Modifying, hiding, or deleting electronic records of sales transactions and providing a ready means of access to them.

- ▶ Penalty will be as follows:
 1. Fine of not less than P200,000.00 but not more than P500,000.00; and
 2. Imprisonment of not less than two (2) years but not more than 4 years.

G. DISPOSITION OF INCREMENTAL REVENUE

The following provision under Section 288 is proposed:

“40% of the first year incremental revenues generated from the petroleum excise tax shall be allocated to fund highly targeted transfer programs and subsidies to public utility vehicles for one year from the effectivity of this Act.

The remaining 60% of the first year of revenue, and incremental revenues in succeeding years shall be allocated for infrastructure, health, education and social protection expenditures.”

On the other hand, HB 4668 is proposing the following:

“25% of the incremental revenues generated from the petroleum excise tax under section xx of this act shall be allocated to fund highly targeted subsidy programs in the first 3 years from the effectivity of this act. An inter-agency committee composed of the department of social welfare and development, department of finance and the department of budget and management shall prepare the subsidy programs.

The remaining 75% shall be allocated for other social and infrastructure expenditures. Provided, that the revenues from this act shall accrue to the general fund after the 3-year period.

The inter-agency committee shall issue rules and regulations governing the allocations and disbursement of incremental revenues referred to in this paragraph.”

Repealing Clause

The following laws or provisions of laws are repealed and the persons and/or transactions affected made subject to VAT, subject to the provision of Title IV of the Tax Code as amended:

- ▶ Section 9, with respect to Value-added Tax, or RA 9511 or the National Grid Corporation of the Philippines Act;

- ▶ Article 60 and 61(1) with respect to the VAT, and Article 61(2)(b) of RA 9520 or the Philippine Cooperative Code of 2008;

- ▶ Section 9 of RA 10744 or the Credit Surety Fund Cooperative Act of 2015;
- ▶ Section 4(a) and (b) and Section 19(a) of RA 9295 or the Domestic Shipping Development Act of 2004;
- ▶ Section 11(a) and (b) of RA 10073 or the Girl Scouts of the Philippines Charter of 2009;
- ▶ Section 22(b) of RA 10747 or Rare Diseases Act of the Philippines;
- ▶ Section 13(1) and (2), with respect to Value-added Tax, or P.D. 1869 s. 1983 or the Franchise and Powers of The Philippine Amusement and Gaming Corporation;
- ▶ Section 15(g) of RA 9513 or the Renewable Energy Act of 2008;
- ▶ Last paragraph of Section 8 of RA 7278 or the Boy Scout of the Philippines with respect to Value-added tax.
- ▶ Section 16(a) and (b), and Section 17 of P.D. 972 s. 1976 or The Coal Development Act of 1976, with respect to excise tax and VAT;

Provided, further, that the following special provisions under specific laws are repealed:

- ▶ Section 33(A) of RA 7277, as amended by RA 10754 or the Magna Carta for Persons with Disabilities;
- ▶ Section 22(B) of RA 10165 or the Foster Care Act of 2012;
- ▶ Section 4 or RA 1169 or "An Act Providing For Charity Sweepstakes, Horse Races and Lotteries"

All other laws, acts, presidential decrees, executive orders, issuances, presidential proclamations, rules and regulations or parts thereof, which are contrary to and inconsistent with any provisions of this Act are hereby repealed, amended or modified accordingly.

HB 4668 is proposing to repeal the following provisions of these special laws:

- ▶ Section 4 of RA 9994 or the Expanded Senior Citizens Act of 2010, pertaining to the value-added tax exemption;
- ▶ Section 32(a) of RA 7277, as amended by RA 10754 or the Magna Carta for Persons with Disabilities;

Effectivity

The Act is proposed to take effect 15 days after its complete publication in the Official Gazette or in at least 2 newspapers of general circulation.

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