



# The Foreign Chambers of the Philippines

American Chamber of Commerce of the Phils., Inc. ♦ Australian-New Zealand Chamber of Commerce (Phils.), Inc.  
Canadian Chamber of Commerce of the Phils., Inc. ♦ European Chamber of Commerce of the Phils., Inc.  
Japanese Chamber of Commerce & Industry of the Phils., Inc. ♦ Korean Chamber of Commerce of the Phils., Inc.  
Philippine Association of Multinational Companies Regional Headquarters, Inc.

June 9, 2005




The Honorable Cesar V. Purisima  
Secretary  
DEPARTMENT OF FINANCE  
Roxas Blvd. Cor. Pablo Ocampo Street  
1004 Manila




Dear Mr. Secretary:


The Joint Foreign Chambers of Commerce recognize the administration for the passage and signing into law of the significant revenue measure, RA 9337 or the Expanded Value Added Tax Law.




When fully implemented early next year, the new VAT law, along with important revenue administrative reforms, is expected to begin to close the budget deficit, reduce the CPSD and ease the cost of public sector borrowing.




While these aspects of the new VAT are very positive, the law contains some provisions which continue to concern our members. These concerns are summarized below:

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1. Section 110 (A) (2)- Treatment of VAT for the purchase of capital equipment with cost in excess of PhP 1 million;
  2. Section 110 (B)- Treatment of monthly VAT payments;
  3. VAT on Power; and
  4. Increase of Corporate tax rate from 32% to 35%.



From the items listed above, the primary concern is the cap on the amount of input VAT at 70% of output VAT that can be credited per quarter. This restriction – which appears to have been altered in the Bicameral Conference from 90% (in the Senate bill) to 70% in the law – places an unfair revenue burden on those companies which will be forced to defer a growing amount of input VAT paid because their input VAT continually exceeds the 70% limit.



We had understood the motivation for the limitation was to reduce cheating on input VAT claims. But the solution penalizes honest firms unable to claim credit for all their input VAT payments against the output VAT liabilities collections they remit to the government.

Provisions that will have serious negative cash flow repercussions to businesses are:

1. Section 110 (A) (2) Treatment of VAT for the purchase of capital equipment more than PhP1M

| PREVIOUS LEGISLATION   |  | RA 9337   |   |
|--|--|---|---|
| VAT is to be taken up in the month the capital equipment was purchased |  | VAT is to be taken progressively over the capital equipment's estimated useful life |   |
| Example:   | PhP  | Example:  | PhP   |
| Output VAT:  | 50M from sales   | Output VAT:   | 50M from sales  |
| Input VAT:   | 40M from expenses<br>7M from capital equipment acquisition | Input VAT:  | 40M from expenses<br>0.117K from capital equipment acquisition<br>(useful life 60 mths)(PhP7M/60mths) |
| Amt to be paid to BIR:   | 3M (50M-47)  | Total Input VAT:  | 40.117K   |
|  |  | Amt to be paid to BIR:  | 9.883 (50M-40.117M)   |

Needless to say, the impact on cashflow is potentially huge.

2. Section 110 (B) Treatment of monthly VAT payments

| PREVIOUS LEGISLATION                                       |                   | RA 9337  |                   |
|--|-------------------|--|-------------------|
| VAT payment is nil if Input VAT is greater than Output VAT |                   | VAT payment shall not be lower than 30% of Output VAT received |                   |
| Example:   | PhP               | Example:   | PhP               |
| Output VAT:  | 50M from sales    | Output VAT:  | 50M from sales    |
| Input VAT:   | 40M from expenses | Input VAT:   | 40M from expenses |
| Amt. to be paid to BIR:                                    | 10M (50M - 40M)   | Amt. to be paid to BIR:  | 15M (50M @ 30%)   |
| Amt. to be paid to BIR if Co. has excess VAT credits:      | nil               | Amt. to be paid to BIR if Co. has excess VAT credits:          | 15M               |

As you are aware, the basic feature of the Philippine VAT regime is the application of the invoice or credit method of determining VAT liability.

The invoice or credit method is generally employed by the EEC countries and other countries that have adopted VAT. The invoice or credit method is considered to be readily subject to administrative supervision and control.

Under the invoice or credit method, the taxpayer multiplies all taxable sales by the applicable VAT rate. From that amount, the taxpayer credits the total VAT paid on purchases of goods and services during the same period and remits the net amount to the Government. There is no cap in the input VAT.

Imposing a cap of 70% on the input VAT is an unwarranted deviation from the VAT system being enforced by other countries that have employed the VAT regime.

Needless to say, the said cap has created an uncalled for distortion in the employment of the VAT system in the country vis-à-vis other VAT regimes employed in other taxing jurisdictions.


In the long term, the cap would affect the competitiveness and, ultimately, the overall financial viability of VAT-registered entities who have always been good corporate citizens.

Our members are also concerned with the rise in the cost of electric power resulting from the new VAT on power generation and transmission, combined with increases in Napocor rates approved by the ERC. Our concern is with the competitiveness of manufacturing in the Philippines.

Many of our members are large exporters whose headquarters continually assess relative costs of operations at different regional and global locations. To alleviate this concern we urge the administration to move ahead as rapidly as possible with the full implementation of RA No. 9136 ("EPIRA"). Specific emphasis should be placed on the privatization of the generating assets of Napocor and the privatization of TRANSCO. This will allow for the implementation of the Wholesale Electricity Spot Market envisioned under EPIRA which our members believe will have the long-term, positive impact of reducing the cost of power within the Philippines.

Finally, our members believe the increase in the corporate tax rate is a negative development when competing economies are reducing their taxes. We welcome the reduction to a 30% rate in four years and urge periodic reassessment of reducing the rate sooner.

With best regards,



**RICK M. SANTOS**  
President

The American Chamber of Commerce  
of the Philippines, Inc.




**RICHARD BARCLAY**  
President

Australian-New Zealand Chamber of  
Commerce of the Philippines, Inc.



**STEWART HALL**  
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Canadian Chamber of Commerce  
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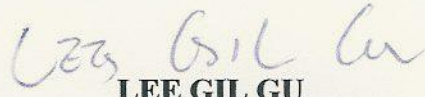


**WILLIAM BAILEY**  
President

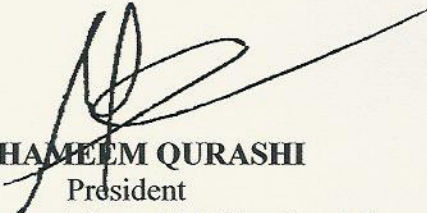
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cc: Executive Secretary Eduardo B. Ermita  
Sec. Juan B. Santos, Department of Trade and Industry  
Secretary Romulo Neri, National Economic Development Authority