



TAX MANAGEMENT ASSOCIATION OF THE PHILIPPINES, INC.



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August 11, 2014

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Chairman, Committee on Ways and Means
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Gentlemen:

The **Tax Management Association of the Philippines (TMAP)** respectfully submits to your honors our comments and recommendations to the following proposed bills, which seek to amend the income tax provisions of the National Internal Revenue Code of 1997:

- (i) Senate Bill No. 716 filed by Sen. Recto;
- (ii) Senate Bill No. 1942 filed by Sen. Aquino;
- (iii) Senate Bill No. 2149 filed by Sen. Angara;
- (iv) House Bill No. 4099 filed by Cong. Gunigundo; and
- (v) House Bill No. 4829 filed by Cong. Quimbo

Individual Income Tax

Adjustment of Income Tax Brackets

1. TMAP supports the adjustment of income tax brackets to consider the current Consumer Price Index (CPI). Such adjustment will increase disposable income, improve the living standards of our countrymen and fuel the economy.
2. TMAP likewise supports the periodic automatic indexation of the income brackets by the Department of Finance based on the criteria set by Congress. The indexation of the income brackets to CPI will ensure that the citizens, whom every government must ultimately serve, are assured of disposable income sufficient to cope with the rising cost of living.
3. TMAP endorses the exemption from income tax of low income earners because their income levels are barely enough to meet basic needs.

For this purpose, your honors may want to consider legislating the exemption of

marginal income earners, whose activities are principally for sustenance and livelihood, from income and business taxes, as well as from compliance with the registration, invoicing and other administrative requirements applicable to regular taxpayers.

As a background, the term "Marginal Income Earner" was first defined by the Department of Finance in Revenue Regulations (RR) No. 11-2000, as referring "to those individual whose business do not realize gross sales or receipts exceeding P100,000 in any 12-month period."

In 2012 the tax exemption of marginal income earners was reiterated by the Department of Finance in RR 7-2012. However, RR 7-2012 required marginal income earners to register with the BIR and was silent on the exemption of marginal income earners from compliance with the issuance of registered receipts or sales/commercial invoices prescribed under Section 237 of the Tax Code of 1997 which was expressly granted under RR 11-2000.

In Revenue Memorandum Circular (RMC) No. 7-2014, the BIR excluded from the definition of marginal income earners the following: "licensed professionals, consultants, artists, sales agents, brokers and others similarly situated, including all others whose income have been subjected to withholding tax" even if their annual sales or receipts do not exceed P100,000. Examples of marginal income earners which were excluded in the qualified definition of marginal income earners under RMC 7-2014 are farmers and fisher folks selling their produce to restaurants or manufacturers and individuals engaged in personal direct selling of goods.

Because of the costly and tedious process of registration and procuring BIR registered receipts, these marginal income earners are effectively deprived of opportunities for livelihood because they cannot deal with businesses, which are required by the BIR, as a condition for deductibility of the expense, to demand only BIR registered invoices or receipts from their suppliers of goods and services.

With this, TMAP recommends that the individual income tax brackets should provide for a 0% tax rate at the level of those defined as "marginal income earners", regardless of the nature of their source of livelihood. Currently, even those individuals with P10,000 annual taxable income are taxed at 5%.

The P100,000 threshold for marginal income earners, which was set in 2000, may also be adjusted to reflect changes in the CPI. Alternatively, this may also be aligned with the level of income derived by minimum wage earners, which enjoy income tax exemption.

Reduction in Income Tax Rates

4. Aside from an adjustment in the income tax brackets, TMAP also supports

a reduction in income tax rates. Currently, the top individual income tax rate of 32% is higher than the corporate income tax rate of 30%, which makes the current system inequitable. TMAP believes that the top individual income tax rate should, at the very least, be the same as that for corporations or even lower.

5. TMAP supports a tax structure where the rate increases as the income level goes higher. However, while it is equitable to impose a higher tax rate on high income earners, the income tax rates on the high income earners should be aligned as much as possible to the income tax imposed by our ASEAN neighbors to avoid tax-driven migration.

A comparison of the individual tax rates prevailing in our ASEAN neighbors is shown in the attached table. The comparison shows that the 32% tax on taxable income of Php500,000 is the highest in the region.

For example, in the Philippines, income in excess of P500,000 is taxed at 32% whereas in our ASEAN neighbors the tax on income in excess of P500,000 is substantially lower:

Country	Equivalent Local Currency of Php500,000	Applicable Personal Income Tax Rate with Top Tax Rate	Top Tax Rate with PHP Equivalent
Brunei Darussalam		No tax	
Cambodia	KHR46 Million	Top rate of 20%	
Indonesia	IDR132 Million	5% on the first IRD50M 15% on the excess;	30% for over IDR 500 Million (approx. PHP 1.8 Million)
Lao PDR	LAK 92 Million Or 7.67 Million monthly income	12%	20% for over LAK 480 Million (approx. PHP 2.8 Million)
Malaysia	MYR36,775	11%	26% for over MYR 100,000 (approx. PHP 1.37 Million)
Myanmar		Progressive rate of 1% to 25%, brackets not available	
Singapore	SGD14,260	2.0%	20% for over SGD 320,000 (approx. PHP 11.2 Million)

Thailand	THB367,805	10%	35% for over THB 4,000,000 (approx. PHP 5.4 Million)
Vietnam	VND243 Million	20%	35% for over VND 960 Million (approx. PHP 1.99 Million)

Note that, even if the top rate for Thailand and Vietnam is higher at 35%, the tax base for said top rate is significantly higher than the Philippine's P500,000.

With this, TMAP endorses a top tax rate for individuals within a range of 20% to 30% in order to make the Philippine workforce competitive with its ASEAN neighbors.

Simple and More Equitable Tax System

5. Aside from adjusting the income tax brackets and reducing the income tax rates on individuals, TMAP respectfully suggests that the income taxation of individuals be simplified to enhance compliance and help broaden the tax base. This simplified structure -- e.g., gross income taxation, flat taxation for self-employed individuals/professionals, minimum income tax, etc., however, will require further study and consultation with the affected sectors.

6. TMAP recommends the alignment of the tax base of self-employed individuals and corporations for the availment of the 40% optional standard deduction (OSD). Currently, the availment of OSD for individuals is based on "gross sales/receipts" while, that for corporations is based on "gross income." With this, corporations are allowed to deduct direct costs in arriving at the OSD base. This disparity in the OSD base definition makes the tax base for individuals higher than that of corporations.

TMAP recommends that the tax base of self-employed individuals for the availment of the 40% OSD be based on "gross income," instead of "gross sales/receipts." With this, individuals will be allowed to deduct direct costs in arriving at the OSD base.

7. To ease the compliance burden of individuals, TMAP also recommends the adjustment of income tax deadline for 1st quarter income tax returns (ITRs). Currently, individuals are required to file their 1st quarter ITRs on April 15, which is the same deadline for the filing of the annual ITR. Consistent with the deadline for other quarterly ITRs, TMAP suggests that the deadline be moved from April 15 to May 15.

Corporate Income Tax

8. With regard to the amendment to corporate income tax proposed by House Bill 4099, TMAP supports the simplification of the tax system. A simple tax system will hopefully enhance compliance and minimize the discretion of the BIR examiners. However, further empirical study should be made to determine the impact of adopting gross income taxation, considering as well the tax system of our neighboring ASEAN countries.

9. TMAP also wishes to point out the existing unrealistic rates of creditable withholding tax ranging from 1% to 15% of gross sales/ receipts being imposed by the Department of Finance (DOF), which far exceed the effective income tax rate of the taxpayer.

The creditable withholding tax is an advance income tax payment. However, when the margin of income of the taxpayer is low, an excess and unutilized creditable withholding tax will result. The BIR does not act on claims for refund so the taxpayer is constrained to resort to judicial action just to recover the over-withheld income tax which is a long, tedious and expensive process.

With this, TMAP recommends the imposition of a cap on the withholding tax rates that may be imposed by the DOF.

10. To boost our competitiveness as an investment destination, we also suggest that the present 30% corporate income tax rate be aligned with our ASEAN neighbors.

A comparison below of the regular corporate income tax rates within the ASEAN region shows that our 30% corporate income tax rate is the highest in the region.

ASEAN Country	Regular Corporate Tax Rate
Brunei Darussalam	20%
Cambodia	20%
Indonesia	25%
Lao PDR	24%
Malaysia	25%
Myanmar	25%
Singapore	17%
Thailand	20%
Vietnam	22% (2014) to 20% (2016)

With this, TMAP endorses a top corporate tax rate within a range of 20% to 25% in order to make the country competitive with its ASEAN neighbors.

We trust that our recommendations above will merit your consideration. We will also be available to further assist your Committees in helping incorporate these suggestions/comments into the proposed bills and performing a more detailed review of Philippine income taxation, as a whole, in order to promote a simple and more equitable tax system.

Thank you for giving us this opportunity to share our position regarding this important tax matter. May we all work towards ensuring greater fairness in our income tax system.

Very truly yours,

(original signed)
Rina-Lorena R. Manuel
President