

**COMMENTS ON SENATE BILL NO. 2223, 2227 AND PROPOSED SENATE
RESOLUTION NO. 563 EXEMPTING MARGINAL INCOME EARNERS FROM
TAXES**

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1. The proposed **Senate Resolution No. 563** ably argues why marginal income earners (MIEs) should not be exempt from the income tax. First, subjecting MIEs to the income tax is inequitable given that minimum wage earners (MWEs) are exempt under RA 9504. Given the current levels of the minimum wage, MWEs earn PhP 140,000-PhP 170,000 a year which is even higher than the gross receipts/ sales cap for MIEs in BIR's RMC No. 7-2014 of PhP 100,000. Second and more important, while MWEs earn income which is available for consumption, the cap under RMC 7-2014 refers to gross sales/ receipts. Following the logic of SR 563, gross sales/ receipts of PhP 140,000 translates to gross receipts of PhP 11,667 per month or PhP 384 per day. If one assumes a profit margin of 20%, this yields an income of PhP 77 per day or PhP 28,000 per year. Or if one assumes a profit margin of 50%, this yields an income of PhP 192 per day or PhP 70,000 per year. In either case, these amounts are well below the poverty threshold of PhP 114,000 for the typical poor family.
2. **Senate Bill 2227** (Aquino version) and **Senate Bill 2223** (Recto version) both propose to exempt MIEs from the income tax, the VAT and other percentage tax. These two bills deviate on three counts: (i) the income cap or threshold amount, (ii) the wording of the VAT exemption, and (iii) provision with respect to the payment of the annual registration fee. The income cap under the Aquino version is PhP 150,000 while under the Recto version it is PhP 140,000. This is really a very minor difference.
3. Under the Recto version, "sales of goods and services by MIEs" is listed as one of the exempt VAT transactions under Section 109 of the NIRC of 1997. This means that MIEs are not required to pay the 12% VAT on their output. On the other hand, the Aquino version simply states that "MIEs shall likewise be exempt from the 12% VAT ad any percentage tax imposed under the NIRC of 1997...." In this case, it is not clear whether the intent is to exempt the MIE from the payment of the 12% VAT on his output or to exempt the MIE from the payment of the 12% VAT on what he consumes in the same way that senior citizens are exempt from the 12% VAT on his restaurant bill for example. On this, point, while it makes sense to exempt the MIE from the payment of the 12% VAT on his output, it may not be prudent to exempt the MIE from the payment of the 12% VAT on his consumption as this would further complicate the administration of the VAT.

4. Finally, the Recto bill includes an explicit provision that exempts MIE from the Annual Registration Fee while the Aquino version does not. This provision of the Recto version further clarifies the intent of the proposed bill.
5. While the Recto version clearly exempts MIEs from the 12% VAT on their sales of goods or services, it is has no explicit provision exempting MIEs from the “other percentage tax” under Section 116 of the NIRC. Such a provision will make even clearer the intent of the proposed bill.