Tax Reform:
Creating Real Changes in Society through the Destructive Power of Taxation

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"Every act of creation is first an act of destruction."
— Pablo Picasso

I. Introduction

Every state has a duty[1] to its people; a duty to provide for their needs, to protect[2] them from harm, to reduce social inequalities, and to promote their general welfare. In order for the state to perform this duty it became necessary to impose enforced contributions from the people in the form of taxes. Hence taxes emanated from necessity[3]. Because of this necessity the U.S. Supreme Court in the case of McCulloch v. Maryland held that **"the power to tax involves the power to destroy; ... the power to destroy may defeat and render useless the power to create"[4],** describing not the purpose of the said power, but the degree of vigor with which the taxing power may be employed[5] in order to fulfill these duties. Thus in order to create revenues for the state, to provide opportunities for economic advancement to the people and maintain the prize of civilization, that destructive power of taxation has to be continuously imposed and implemented, and in relation to this the said power must continue to be responsive[6] to the subsequent economic developments, the ever changing ways of doing business, not only in one state but in the whole global community, in order to be competitive and efficient since business transactions are no longer limited in one state economy. The dramatic increase in globalization of trade has led to harmful tax practices, such as transfer pricing[7] and tax havens[8], which have resulted in tremendous losses of tax revenues for governments. Temporality and transition is certain in the nature of taxation, and as new business emerges, and new loop holes are created in order to minimize or avoid the payment of taxes the government should destroy the old system in the name of creating a better procedure of levying and collection, so that the government will be able to maintain the necessary burden of preserving the State's sovereignty, and a means to give the citizenry an army to resist aggression, a navy to defend its shores from invasion, a corps of civil servants to serve, public improvements designed for the enjoyment

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1 *"The first duty of the Government is to afford protection to its citizens."- CONG.* GLOBE, 39th Cong., 2d Sess. 101 (1867) (remarks of Rep. Farnsworth) (debating Reconstruction Act of 1867).

2 Article II Section 4 of the 1987 Constitution of the Philippines provides that "The prime duty of the Government is to serve and protect the people"

3 National Power Corporation v. City of Cabanatuan, G.R. No. 149110, 9 April 2003

4 McCulloch v. Maryland ,17 U.S. 327 (1819)

5 1 Cooley 179-181

6 Mark Burton, *Responsive Regulation and the Uncertainty of Tax Law – Time to Reconsider the Commissioner's Model of Cooperative Compliance?,* available at http://www.austlii.edu.au/au/journals/eJlTaxR/2007/4.html#fn1

7 BIR Revenue Regulations No. 2-2013

8 A country or jurisdiction in which foreign individuals or countries can take advantage of policies that provide little or no tax liability, allowing them to avoid paying at least some taxes in their home country. Other terms are secrecy jurisdiction or offshore haven. Retrieved from http://www.voanews.com/a/panama-papers-what-is-a-tax-haven/3276065.html

of the citizenry and those which come within the State's territory and facilities, and protection which a government is supposed to provide.[9] Failure to address these changes in the global community means that the current tax system has not generated the desired regulation needed to create a robust environment for business to enable firms to compete better in the regional as well as the global market contrary to the policy of the state[10], and the failure to address these issues may be counterproductive.

II. Previous Tax Reforms

During the Marcos Regime, our government was in a fiscal crisis, the system of taxation was unresponsive, it was unnecessarily complicated, and very difficult to administer. Despite successive laws increasing taxes, actual revenues decreased, while the main burden of taxation fell on those least able to support it — the low and middle-income classes rather than the rich. And of the rich, those hardest hit were the most productive; for the tax system was a major disincentive to private enterprise, hence change was not optional, it was a necessity. The first major reform of the tax laws occurred after the EDSA Revolution with Mrs. Aquino's 1986 Tax Reform Program, introducing for the very first time the concept of VAT[11] to our tax system. In her Budget Message[12] the president pledged to undo the evils of the past and to lay the foundation for an equitable, responsive, and fair tax system. The reform was a success. It raised tax effort (taxes as percent of GDP) to a peak of 17% in 1987. Both tax effort and revenue effort rose steadily.[13]

By contrast to the successful 1987 tax reform program, in 1997 then President Ramos introduced the second major tax reform program, ironically billing it as the "comprehensive" tax reform program which seeks to widen the tax base, simplify the tax structure to minimize undeclared revenues and overstated deductions, and to make the system more elastic (DBM 1996). The program has 3 major components: 1) Income tax reform; 2) Excise tax reform, and; 3) Fiscal incentives reform, which is arguably the best part of the Comprehensive Tax Reform Program[14]. Unfortunately it was not comprehensive, it was long-winded rather than swift, and that the VAT base was narrowed rather than expanded[15]. Several aspects of the reform program such as the MCIT and VAT on banks were passed but was not implemented. The legislative subsequently made the situation worse when it approved several laws granting tax incentives resulting to the impairment of the economic efficiency of our tax system. Based on the Reside Paper[16] there is no direct correlation between incentives and attracting domestic or foreign investments and that the provision of fiscal incentives is very costly, yet in spite of the fact that they continue to be provided, there is limited evidence of their efficacy in inducing investment across countries. Incentives have very limited power to induce investments. Rather, incentives are of secondary importance compared to other more potent inducers of investment. In fact in 2011 the Department of Finance in its Tax Expenditures Report stated

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[9] Philippine Guaranty Co., Inc., v. Commissioner of Internal Revenue, et al.

[10] R.A. 8424, Section 2

[11] Executive Order No. 273, July 25, 1987

[12] Corazon Aquino, *Budget Message of the President for 1987, available at http://www.gov.ph/1987/01/01/executive-order-no-87-s-1987/*

[13] Benjamin Diokno, *Politics of Tax Reform*, PER SE, February 21, 2012, available at http://www.econ.upd.edu.ph/perse/?p=815

[14] Rosario G. Manasan, *Income Tax Reform Under the CTRP: A Taxing Problem,* Philippine Institute for Development Studies, September 1997

[15] Retrieved from http://www.bworldonline.com/content.php?section=Opinion&title=the-next-president-should-reform-the-tax-system&id=125891

[16] Renato Reside, *Towards Rational Fiscal Incentives: Good Investments or Wasted Gifts?(*2006)

that Php144 billion of revenue was lost by the government due to redundant fiscal incentives for investments that would have been undertaken by investors regardless of the incentives[17].

Due to these budget deficits, President Arroyo had to look for additional sources of revenues to sustain basic social services which resulted into the creation of the E-VAT (expanded VAT) reform, in order to broaden the VAT base. The expanded VAT includes the "sale or exchange of services," for entities whose gross sales or receipts have exceeded PHP1.5 million in the past twelve months. All kinds of services for a fee, remuneration or consideration are subject to VAT, including toll gates[18] which however was not implemented by the said administration. During the Arroyo administration, the BIR issued revenue memorandum circulars (RMCs) that ordered the VAT collection on expressway tolls. RMC No. 52-2005, dated 28 September 2005, was specifically devoted to the VAT liability of the "Tollway Industry." On several occasions, the BIR demanded that the Toll Regulatory Board (TRB), which was then headed by the Transportation and Communications Secretary Leandro Mendoza, implement the VAT collection. Mr. Mendoza, a known agent of Mrs. Arroyo and a politicized TRB, simply ignored the BIR.[19]

In the recent Aquino administration our economy grew faster than it did in any period which has been validated by improve credit ratings. This growth was achieved particularly through remittances and revenue from the BPO industry allowing the government to double social services spending[20] leading to growth and macroeconomic stability resulting to job creation and poverty reduction. Despite this fact however, millions Filipinos are still living in poverty[21]; hence, the duty of the state to its people has not yet been truly fulfilled which is why there are some groups who are clamoring for a tax reform arguing that our current tax system is inadequate, inefficient, unresponsive and limiting, therefore it has to be changed; that much more can be done to ensure that everyone, especially the marginalized, will benefit from higher growth through a better tax system. However, the transition towards a better tax system was not favored in the previous administration by some stakeholders who were benefitting from the current status quo, and because of fear of revenue losses on the part of the government in the estimated amount of P173.8 billion made by the Department of Finance.[22]

Like the previous administration which was successful in the Sin Tax Reform, the Duterte Administration is undergoing yet another major, tax reorganization of income taxes, other excise taxes and VAT. The details have yet to be finalized, but one thing is for certain: Change is coming.

III. Problems with Current System of Taxation

"Turmoil has engulfed the Galactic Republic. The taxation of trade routes to outlying star systems is in dispute."[23]

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17 Gerard Daval-Santos, Fiscal incentives: *How rationalization beats abandonment*, Business World Online, May 19 2014

18 Diaz v. Secretary of Finance, G.R. No. 193007

19 Filomeno S. Sta Ana III, *Tax Reforms and Collective Action,*2010, available at http://www.aer.ph/taxjustice/wp-content/pdf/Tax_Reforms.pdf

20 *Simpler, Equitable, Efficient Tax System*, PHILIPPINE INQUIRER, December 28, 2014

21 More than 26 million Filipinos remain poor with almost half, or a little more than 12 million, living in extreme poverty and lacking the means to feed themselves, according to official government statistics for the first semester of 2015, *Retrieved from* http://newsinfo.inquirer.net/775062/12m-filipinos-living-in-extreme-poverty

22 *DOF Submits First Package Of Tax Reforms To Congress*, RAPPLER, September 27, 2016

23 Lucas Films, George Lucas (1999) *The Phantom Menace*

A. Fiscal Adequacy

Despite the reduction of the ratio of debt in relation to our GDP, our national debt which was P2.06 trillion in the year 2000 has tripled in amount to P5.955 trillion at the end of 2015 [24] This is a major problem which was brought about by our high reliance on indirect taxes-taxes on trade and on domestic sales-that had low income elasticities. The Philippines were also faced with problems of erosion of the tax base and difficulties in administering the existing tax system. There is no doubt that the current tax code, which is termed as the "comprehensive" tax reform program, is the product of the collective and brilliant minds of both the legislative and executive departments, and that there is no doubt as to the presumption of its validity and correctness[25], however such presumption is not conclusive, and in light of the changes in the socio-economic and political milieu, it is no longer responsive and therefore ineffective.

For tax reform to be effective it must be founded on a clear understanding of the first principles of the economics of taxation. The basic principles of a sound tax system consist of the following, namely 1) fiscal adequacy; 2) theoretical justice; and 3) administrative feasibility. In Chaves v. Ongpin[26] fiscal adequacy requires that sources of revenue must be adequate to meet government expenditures and their variations.

At the present the Duterte Administration is intentionally increasing the share of public spending at 21 percent of the gross domestic product (GDP), which is much higher than the average government spending of 16.6 percent of GDP over the past ten years.[27] In his proposed national budget for 2017 which he describes as "for the people", the President clearly intends to spend more, abandoning the fiscally conservative approach which was adopted during the previous Aquino administration, and in line with the recommendation of the IMF in its September 2015 annual report[28]. Despite the dramatic increase in expenditures the principle of fiscal adequacy is present considering that the country's international reserve is at a respectable level of $85.5 billion; that the debt-to-GDP ratio which was previously mentioned is currently at its lowest[29]; that a tax reform which is promised to be more comprehensive is on its way to be implemented. Hence our revenue sources more than sufficiently covers our government expenditures.

B. Equitability

The second principle of a sound taxing system is theoretical justice. It postulates that a good tax system must be based on the taxpayer's ability to pay in line with the constitutional mandate that the Congress shall evolve a progressive system of taxation.[30] For many years, taxpayers have been unnecessarily overburdened by inequitable measures overlooking their respective capacities to pay, and this unfairness and inequality are all acknowledged by the congress in several pending bills in the House of Representatives and in the Senate all seeking to lower the rates of taxes on persons and corporations.

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[24] Retrieved from http://www.rappler.com/business/economy-watch/121368-ph-national-debt-december-2015

[25] Gray v. Commonwealth, 30 Va. App. 725, 731, 519 S.E.2d 825, 828 (1999)

[26] G.R. No. 76778

[27] Renan Piamonte, *Budget of the Philippines Inc.,* MANILA TIMES, August 24, 2016

[28] Retrieved from https://www.oxfordbusinessgroup.com/analysis/hot-topic-fiscal-focus-boosting-public-spending-%E2%80%93-especially-infrastructure-and-social-protection-%E2%80%93

[29] Ibid

[30] Section 28 (1), Article VI, 1987 Constitution of the Philippines

C. Administrative Feasibility

The last principle of a sound taxing system is administrative feasibility which means that taxes should be capable of being effectively enforced. Hence it may not lay down obstacles to business growth and economic development.[31] The BIR needs to significantly improve its administration of the tax system. Ranked as 127th out of 189 economies[32] when it comes to the ease of paying taxes, it was shown that it takes 193 staggeringly slow hours for a single company to pay 36 kinds of taxes here in the Philippines,[33] that is about the same time it takes Toyota to build 10 vehicles.[34] Aside from the retarded collection process another obstacle to economic growth and development is the Philippines high corporate tax rates.

D. Outdated Tax Rates

Virtually all governments are keen to attract foreign direct investment (FDI). It can generate new jobs, bring in new technologies and, more generally, promote growth and employment. Hence, it is the policy of the State to attract, promote and welcome productive investments from foreign individuals, partnerships, corporations, and governments, including their political subdivisions, in activities which significantly contribute to national industrialization and socio-economic development to the extent that foreign investment is allowed in such activity by the Constitution and relevant laws. Foreign investments shall be encouraged in the enterprises that significantly expand livelihood and employment opportunities, and shall be welcome as a supplement to Filipino capital and technology in those enterprises serving mainly the domestic market.[35] However, due to our outdated tax rates, the Philippines is losing direct foreign investments, which is widely considered to be one of the most crucial factors in helping developing economies grow, in comparison to other emerging markets in South East Asia[36] resulting to an annual decline of 8% to $120 billion last year, according to a report by the Association of Southeast Asian Nations (ASEAN). Another flaw in the current system which discourages investment is that we are taxing corporate profits twice, once at the company level and again at the individual level as dividends.

IV. Tax Reform: A matter of Social Justice

In the Philippines all aspects of law, including the transitions towards a better taxing system have always been exercises colored by both the politics and the economics of the administration. Though economic matters provide for the rhyme and the reason for the tax reform, nonetheless the resulting outcome is always shaped politically by the key holders, such as the state, corporations, as well as other neighboring countries.

The Philippines has the highest corporate income tax systems among the Association of the Southeast Asian Nations (ASEAN) economies and has the second highest in personal income tax next to Thailand and Vietnam's 35%, thus many have said that it is high time for the tax reform.[37] As the entire ASEAN region moves towards a borderless economic community;

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[31] Benjamin Aban, *Law of Basic Taxation in the Philippines,* Revised Edition, 2009 ed., p. 13

[32] Auditing and tax consultancy firm Pricewaterhouse Coopers (PwC) has a study – "*Paying Taxes 2015*" – which provides tax-related information on 189 economies. Data included in the study are the total tax rate per country, the average number of hours to file taxes (for companies), and various case studies from different economies, Retrieved from https://www.pwc.com/gx/en/paying-taxes/pdf/pwc-paying-taxes-2015-low-resolution.pdf

[33] Retrieved from https://www.moneymax.ph/blog/whats-being-done-to-fix-the-philippine-tax-system/

[34] It takes Toyota about 17-18 hours to build a car from start to finish, Retrieved from https://www.toyota.co.jp/en/kids/faq/b/01/06/

[35] Foreign Investment Act of 1991, R.A. No. 7042, Section 2

[36] Claire Jiao, *Philippines losing foreign investments to Vietnam,* CNN Philippines, September 8, 2016

[37] Chrisee Dela Paz, *Why PH has 2nd highest income tax in ASEAN*, RAPPLER, September 30, 2015, available at www.

instead of aligning our current tax system with that of other state economies in order to attract foreign investments and be economically competitive, our tax system remained to be at the peak of corporate income taxation making the Philippines economically unattractive and incompetent which is why tax reform is no longer simply an economic or political matter. It is a matter of social justice.

Based on our experience during the first major tax reform during the Cory Administration and the failed comprehensive tax reform introduced by President Ramos, to ensure the success of the tax reform it must be done at the start of the administration. With a fresh mandate from the people, and by describing the 2017 budget "for the people" the first package of the proposed bills made by the Duterte Administration has a higher probability of being approved and the intended results are more likely to be achieved. Moreover, the proposed tax reforms are more likely to be efficient and equitable in line with the presidents' all-out war on drugs which could help him sustain the country's robust growth while alleviating poverty[38].

The 32% personal and 30% corporate income tax are two of the most common agendas of bills that have been proposed by different lawmakers. One of them is Senator Angara who emphatically explained upon filing his new income tax reform bill that there is no difference between the rich and poor who are both paying 32 % of their income as tax to the government. He explained that under the National Internal Revenue Code of 1997, individuals with taxable income of over P500,000 are taxed with a fixed amount of P125,000 plus the 32 percent of the excess over P500,000. However, the value of P500,000 in 1997 does not have the same value today due to inflation hence the middle income earners who were mostly taxed at 25% in 1997 are now pushed into the top tax bracket at 32% percent together with the billionaires of our country because of our outdated tax system which is no longer equitable and progressive as mandated by the fundamental law of our land.[39] The said tax proposal earned a lot of support from Filipinos in different sectors while reiterating the number of years that had passed since the time when the present income tax rate schedule was first used as a basis for computing tax due from individual taxpayers. But despite the overwhelming support from Filipino people, the same was not approved during the previous administration invoking the possible revenue loss of P30 Billion.[40]

In reforming the corporate and personal income tax as proposed by our legislators, the Bureau of Internal Revenue estimates that our government would cost around P 30 billion pesos. It now creates many questions as to how our government would recover or compensate the said projected revenue loss. For while this amount may be regarded as a mere fraction of the total state budget which is P3-trillion as submitted by our President to the congress, many financial analysts consider the same as significant because of the possibility that there would be an increase in the infrastructure spending of the current administration. Following the many criticisms, the current administration eyes to bolster the reformation also of the Value Added Tax Revenue as supplementary revenue by increasing it from 12% to 14%, the President's current tax plans likewise reiterate his promise to tighten perks for foreign investor, with the

rappler.com/business/governance/107617-philippines-highest-income-tax-asean

[38] Doris Dumlao-Abadilla, *'Tax reforms winning it for Du30'*,Philippine Daily Inquirer, October 17, 2016

[39] Press Release of Senator Angara, November 6, 2016, *retrieved from* www.senate.gov.ph/press_release/2015/1106_angara1.asp

[40]Retrieved from www.bworldonline.com/content.php?section=Nation&Title=tax-cut-proposal-deadbr-in-the-water-asbr-house-shelves-bill&id=119179

inclusion of the possibility of cutting some of the VAT Exemptions.

V. Change is Coming

As shown above, tax reform has always played an important role in every change of administration as it largely affects the operations and the success of the government. In our country, the government generates revenues mainly through personal and income tax collection, although a small portion of non-tax revenue is also collected through fees, licenses, and income from other government operations and state-owned enterprises. [41]An effective revenue raising method has long been targeted by our government to help achieve the envisioned society of our constitution where people are provided sufficient economic and social benefits. In line with this, our legislators for the past two decades aimed to improve the tax administration system to comply with the progressive system of taxation whereby the payment of tax would depend largely on one's ability to pay. However, changing the way taxes are collected and managed is an essential part of the process. That is why numerous proposals have already been passed to improve tax collection, directly and indirectly, such as Personal Income Tax, Value Added Tax, and Corporate Income Tax. The idea of tax reform is not something new in our country. Even the First Aquino Administration in 1986 had used the same coupled with the introduction of value added tax as a means of reducing fiscal imbalance and improving tax collection after inheriting a large fiscal deficit from the previous administration.[42] This is actually a good manifestation of the very broad power of taxation as it can include the prerogative to increase / decrease the level of taxation of all people by the government at any time. It makes the tax system more progressive or less progressive, or simplifying the tax system and making the system more understandable or more accountable. The DOF estimated that the overall loss of government revenue due to the proposed tax reforms would reach P173.8 billion, but said it would be offset by potential gains from revenue-enhancing reform.

LIST OF PROPOSED AMENDMENTS[43]

Author	Details
Romero "Miro" S. Quimbo	(HB 4829) Adjusting the taxable income brackets and setting a flat for Self-Employed and Corporations
Salvacion "Sally" S. Ponce-Enrile	(HB 210) Increasing the tax brackets from 7 to 13 with a rate ranging from 2.5% - 32%
Magtanggol I T. Gunigundo	(HB 4099) Reducing the top bracket tax rate from 32% to 30% and a flat rate of 15% for Corporations
Arthur C. Yap	(HB 4849) Increasing tax brackets from 7 to 8 with a rate ranging from 2% to 30%
Roman T. Romulo	(HB 4880) Reducing tax brackets from 7 to 6 and two-part implementation with a rate ranging from 13%-30% for 2016 that will become 10%-28% in 2017

[41] Department of Budget and Management, *Financing of National Government Expenditures*, *available at* www.dbm.gov.ph/wp-content/uploads/2012/03/PGB-B5.pdf

[42] Retrieved from www.bir.gov.ph/index.php/transparency/bir-history.html

[43] Retrieved from http://www.econ.upd.edu.ph/wp-content/uploads/2014/09/should-we-re-think-income-taxation-in-the-philippines-sep-12_4PM_rev.pdf

Rodrigo A. Abellanosa, Angelina "Helen" D.L. Tan, Maximo B. Rodriguez Jr., Rufus B. Rodriguez	(4278, 4372, and 4890) Reducing tax brackets from 7 to 5 and three part implementation with a rate of 15%-32% this 2015, 13%-28% this 2016, and 10%-25% this 2017
Dakila Carlo E. Cua	(HB 4600) Imposing a flat rate of 10% for professionals
Victoria G. Noel	(HB 4925) Reduction of tax brackets from 7 to 6, three part implementation of individual tax rates of 15%-32% from 2015, 13%-28% for 2016, and 10%-25% for 2017 as well as for Corporation Income Tax Rates of 30% for 2015, 27% for 2016, and 25% for 2017
Juan Edgardo "Sonny" M. Angara	(SB 2149) Adjusting tax brackets and lowering income tax rates, with the highest rate to be reduced from 32% to 25% by 2017
Paolo Benigno "Bam" A. Aquino	(SB 1942) Adjusting tax brackets, lowering income tax rates, and exempting Marginal Income Earners (not Over P60,000); with automatic indexation to inflation every 6 years.
Ralph G. Recto	(SB 716) Adjusting tax brackets and lowering income tax rates, with automatic indexation to inflation every 6 years without need for legislative action

First Package

The Department of Finance officially started on the road to tax reform with the formal submission of a bill outlining the first batch of proposed tax reforms to the House of Representatives [44] which includes the restructuring of the personal income tax system and the expansion of the value added tax (VAT) base by reducing the coverage of its exemptions. The maximum rate of personal income tax will be reduced over time to 25% from the current 32%, except for the highest income earners. The DOF estimated that the overall loss of government revenue due to the proposed tax reforms would reach P173.8 billion, but said it would be offset by potential gains from revenue-enhancing reform.[45]These include an estimated gain of almost P200 billion from raising fuel excise tax, P164.4 billion from broadening the tax base through VAT-based expansion, around P18 billion for an excise tax to be applied to sweets, and P33.8 billion from rationalizing fiscal incentives. However, to offset lower income taxes, the president plans to remove exemptions from VAT, including VAT exemptions of senior citizens for luxuries.[46]

VI. Comparative Analysis

A. Individual Tax Rate Schedule

Since the effectivity of 1997 NIRC up to now, the Income of residents in Philippines is taxed progressively up to 32%. Resident citizens are taxed on all their net income derived from sources within and outside the Philippines. For nonresident, whether an individual or not of

[44] *DOF submits first package of tax reforms to Congress*, RAPPLER, September 27, 2016

[45] Ibid

[46] *13th month pay may be slapped with tax under reform push*, ABS-CBN News, September 28, 2016

the Philippines, is taxable only on income derived from sources within the Philippines.[47]

TAX TABLE – PRESENT INDIVIDUAL TAX RATE SCHEDULE

If TAXABLE INCOME is:	TAX DUE is:
Not over P 10,000	5%
Over P 10,000 but not over P 30,000	P 500 + 10% of the excess over P 10,000
Over P 30,000 but not over P 70,000	P 2,500 + 15% of the excess over P 30,000
Over P 70,000 but not over P 140,000	P 8,500 + 20% of the excess over P 70,000
Over P 140,000 but not over P 250,000	P 22,500 + 25% of the excess over P 140,000
Over P 250,000 but not over P 500,000	P 50,000 + 30% of the excess over P 250,000
Over P 500,000	P 125,000 + 32% of the excess

SENATE BILL 147 is one of the many pending bills in the Senate which seeks to amend section 24 of the National Internal Revenue Code of 1997 or the tax code. It was filed on June 30, 2016 by Senator Villar after the previous administration had rejected the proposal of Senator Angara. The author of the bill hopes that the President would be more open to this idea in amending and lowering the personal income tax rate for the benefit of our countrymen. In reading the preamble of the bill, the same reiterates the fact that the Philippines has one of the highest average tax rate in the ASEAN following Vietnam and Thailand. The senator even argued that rich and highly developed Singapore has the lowest marginal tax rate at both ends of its tax bracket spectrum, at 2% for the lowest qualifying income earners and 20% for the wealthiest while in our country, the tax rate established by law ranges from 5% for the lowest income earners to 32% for the wealthy. And yet those paying within the 32% bracket, those earning just a little over P500,000 pay income tax at the same rate as those earning in the millions. Our more advanced ASEAN members even see that at certain income levels, our taxpayers should have more disposable cash or purchasing power in their hands to enable them to have a decent life for themselves as well as for their families. This is one of the reasons why it is very difficult for us to understand or comprehend how these rich countries require their citizens to pay taxes that are way lower than ours. In addition to high taxes, Filipinos are having difficulties to meet the expensive demands of daily living due to inflation. 48

TAX TABLE – **PROPOSED** INDIVIDUAL TAX RATE SCHEDULE

If TAXABLE INCOME is:	TAX DUE is:
Not over P 20,000	5%
Over P 20,000 but not over P 60,000	P 1,000 + 10% of the excess over P 20,000
Over P 60,000 but not over P 140,000	P 5,000 + 15% of the excess over P 60,000
Over P 140,000 but not over P 280,000	P 17,000 + 20% of the excess over P 140,000
Over P 280,000 but not over P 500,000	P 45,000 + 25% of the excess over P 280,000
Over P 500,000 but not over P 1,000,000	P 100,000 + 30% of the excess over P 500,000
Over P 1,000,000	P 250,000 + 32% of the excess over P 1,000,000

To illustrate the effect of this proposed amendment, we will compute the savings that an individual taxpayer may have after applying the proposed tax schedule. First, we should

[47] Retrieved from www.bir.gov.ph/index.php/tax-information/income-tax.html

[48] Retrieved from www.senate.gov.ph/press_release/2016/0708_villar1.asp

compute the tax liability of an Individual taxpayer using the current tax schedule and then compare it with the tax liability derived using the proposed tax schedule. For Example: If Juan dela Cruz is employed with a monthly salary of P 50,000 per month and he is married with three qualified dependent children. His take home pay will only be P 40,208 by using the current personal income tax schedule.

TAXABLE COMPENSATION INCOME (P 50,000 X 12MONTHS)	P 600,000
LESS: PERSONAL EXEMPTIONS	
BASIC PERSONAL EXEMPTION	(P 50,000)
ADDITIONAL PERSONAL EXEMPTION (P25,000 X 3)	(P 75,000)
	=======
EQUAL TAXABLE NET INCOME OF	**P 475,000**
First 250,000 -	50,000
Excess (P 475,000-250,000) @ 30%	67,500
ANNUAL INCOME TAX DUE	**P 117,500**
MONTHLY INCOME TAX DUE (117,500/12 MONTHS)	**P 9,792**
TAKE HOME PAY (P 50,000 – 9,792)	**P 40,408**

But using the proposed amendment in section 24 of the NIRC, Mr. Juan dela Cruz would have a take home pay of P 42,188 which allows him to have an additional savings amounting to P 1,780 per month.

To illustrate:

First 280,000 -	P 45,000
Excess (475,000-280,000) @ 25%	P 48,750
ANNUAL INCOME TAX DUE	**P 93,750**
MONTHLY INCOME TAX DUE (93,750/12 MONTHS)	**P 7,812**
TAKE HOME PAY (P 50,000 – 7,812)	**P 42,188**

Another interesting proposal is from the Department of Finance who is also working to finalize their new tax brackets which primarily changes the 32% ceiling to 25%. Under their proposals, those who are earning P 25,000 or less would be exempted from tax because according to them, a common household would have to earn P 25,000-27,000 per month to have a decent life hence that is the bracket they would base on. DOF aims to implement the new tax system by the first quarter of 2017 but would still depend on how quick the congress can pass the measure. The proposed tax system is similar to suggestions made by tax experts such as the Tax Management Association of the Philippines.[49]

B. Corporate Income Tax Rate

The tax rate in our country for both domestic and resident foreign corporations is 30% based on net taxable income. Excluded from the income tax are dividends received from domestic corporations; interest on Philippine currency bank deposit and yield from trust funds. It is important to note that foreign corporations, whether resident or nonresident, are taxable on income derived from sources within the Philippines. HOUSE BILL 2379 was filed by House Deputy Speaker Miro Quimbo which seeks to adjust the income tax rate from 30% to 25% by amending the National Internal Revenue Code of 1997. According to him, corporate

[49] Retrieved from www.cnnphilippines.com/business/2016/07/26/government-tax-reform-plans.html

income taxation framework in the country poses a "great threat" in light of the Association of Southeast Asian Nations (ASEAN) integration. With lower tax rates, higher investments are projected, potentially bringing Philippine investment levels closer to the ASEAN member-countries. In turn, this may increase the country's competitiveness, stimulate the country's economic growth, and consequently, encourage the growth within the ASEAN. [50]

C. Value-Added Tax

In many discussions about tax reform, proposals to increase the Value Added Tax from 12 % - 14% are made primarily to compensate the projected revenue loss of the BIR from the reduction of personal and corporate income tax.[51] However, some argue that increasing the VAT would just render nugatory the very objective of tax reform because it is an indirect tax that can be shifted by the manufacturer, wholesaler and retailer to the direct consumer by way of imposing higher prices in the primary commodities.[52] Thus, the savings of an ordinary employee coming from the reduced personal income tax would just pass through their hands. To illustrate this argument, we will use the previous illustration. The proposed tax reform would allow Mr. Juan dela Cruz to save an additional amount of P 1,780. Let us assume that his previous take home pay amounting to P 40,408 prior the proposed tax reform are all being spent on goods that are subject of vat. So to compute the input tax from it we will divide P 40,408 by 1.12 to arrive at P 36,079 exclusive of vat expenditures. From this, we are able to determine that his previous vat expenditure is only P 4,329, the difference of P 40,408 and P 36,079 exclusive of vat. Applying now the proposed Value-Added Tax rate which is 14% to P36,079 we will arrive at P5,052, an amount that is higher by P 722 compared to his previous vat expenditure of P 4,329. In effect his saving is not really P 1,780 after the tax reform, but only P 1,056 after considering the additional tax expenditures from the proposed increase in VAT. Therefore, the proposal to increase vat could really affect the savings that an employee would receive from the proposed tax reform.

Interestingly, this argument was already discussed in the case of Tolentino vs. Secretary of Finance where the Supreme Court ruled that while Value Added Tax is regressive in nature, marginal income earners are mostly consuming products that are exempted from vat, or if not exempted are subject of zero rated hence the consumption price for these marginal earners will not be materially affected by the proposed increase in VAT. [53]

Corporations and other business entities whose transactions are subject of VAT are also affected in this proposed vat increase. For while they can shift the same to the direct consumer by imposing higher prices, the same could affect the demands of their products especially if these are luxurious goods which would then lead to the reduction of their gross revenue. This is the main reason why other proposals such as raising excise taxes on oil products; and restructuring the excise tax on automobiles, save for buses; cargo vans, jeeps, jeepney substitutes, special purpose vehicles as well as trucks are also made because they are well aware that increasing the VAT alone is not enough to cover the projected revenue loss. [54]

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[50] Retrieved from www.rappler.com/business/economy-watch/141903-bill-reduce-corporate-income-tax

[51] Retrieved from www.bworldonline.com/content.php?section=opinion&title=start-the-debates-on-tax-reform&id=128094

[52] Retrieved from www.newsinfo.inquirer.net/802445/angara-says-vat-hike-would-only-burden-ordinary-filipino-consumers

[53] www.lawphil.net/judjuris/juri1995/oct1995/gr_115455_1995.html

[54] www.dof.gov.ph/index.php/dof-submits-first-package-of-tax-reforms-to-congress

VIII. Conclusion

One of the basic principles of Fiscal Policy is the rule of Fiscal responsibility that every proposed revenue or expenditure measure should always have an implication that is neutral on the overall fiscal position of the government just to help ensure fiscal sustainability. The said principle is very important especially when the government's revenue does not meet the ideal tax administration or when the revenue couldn't even meet the public expenditures needs.

A. Advantages

After analyzing carefully the projected revenue loss by the Bureau of Internal Revenue, the same should not prevent us from pursuing the tax reform because tax policies that are well designed have the potential to improve economic growth of our country. This is the reason why our legislators are confident in proposing these tax bills which reduce the Individual and corporate income tax rates albeit there are many criticisms. **First**, if we lower our corporate and individual income tax rate, it would make our country more competitive not only in the ASEAN but also with our Asian neighbors because investors would no longer have the fear that they might just suffer huge losses from their investments long before they could reach the payback period for their capital investments because of high taxes. More investments would create more jobs reducing unemployment rate. **Second**, if we lower tax rates, the same could inspire professionals, businessmen, corporations and other entities subject of tax especially the large taxpayers to be honest in declaring the proper amount of tax and instead disengage from the current system of widespread underpayment and tax evasion for they would no longer consider our tax system as being confiscatory and unjust. **Third**, the direct beneficiaries of these proposals are individual employees and other small time entrepreneurs which would mean that a big part of their gross earnings will become either additional savings or more disposable income which would allow them to enjoy more of their hard-earned income. Even Speaker Belmonte and Senator Angara are one in saying that if we will just compare the value of money nowadays and the value of money since the time when the present NIRC took effect, we would realize that it's high time that the government should lower taxes. A lower tax rate for individual would be of much help in stimulating economic growth because the same would mean less pressure for employers to increase wages and therefore would create more savings and more consumers spending. **Fourth**, if we lower tax rates, chances are, many taxpayers would pay on time without any complain for unfair tax assessments because they would consider the same as fair and just which would then boost the overall tax collections of our government in the long run. Improving tax collections would allow the government to circulate better the money in different projects improving the overall economy of our country, that is why the fears of those who criticize these proposals are not absolutely true. The same beliefs and conclusions are in line with what late US President John F. Kennedy said before that lowering tax rates has positive impact because it could boost businesses, economic growth and larger tax revenues.

Luckily, the executive and legislative are united in pursuing the tax reforms which means that we could reasonably expect that a new tax system will be passed in the present administration. However, despite the abovementioned there are still many stumbling blocks like corruption, non-strict implementation, tax evasion and thus there's no absolute guarantee that all tax changes will improve economic performance without possible legal implications. Stated differently, it is not the reduction of rates alone that could really help our economy to grow since the taxpayers are expected in return to obey and cooperate in paying their taxes correctly. This is why we are not surprised about the advocacy of Department of Finance

(DOF) to amend the Bank Secrecy Law (R.A. No. 1405) and strengthen the Anti-Money Laundering Act (R.A. No. 9160, as amended just to ensure that the government would get what is fair from the taxpayers. Thus, even the Joint Foreign Chamber suggested to them to draft a bill for the proposed amendments which must be submitted to the Congress as soon as possible, while AMLA amendments under consideration in the Congress have not been reported out of the committee. If this amendment would be approved, our country would no longer be considered as one of the three countries in the world having strict bank secrecy laws along with Lebanon and Switzerland. It would be easier also for the government to prosecute those who are not declaring their income from illegitimate sources that should have been taxable also. Philippine revenue collection authorities would have better access to domestic bank accounts in order to strengthen their capacity to collect the correct personal income taxes from all taxpayers so as to ensure that this projected revenue losses from the tax reform would fully be addressed.[55]

B. Disadvantages

Research group IBON said that the Department of Finance's (DOF) proposed tax reform program relieves the rich and burdens the poor. The group said that this will worsen inequality in the country and should be replaced by a tax program that taxes the rich instead and is backed with the required political will. The DOF proposed tax reform program seeks to raise an additional Php600 billion by 2019. IBON noted that it will do this by raising taxes on the country's poor majority and reducing taxes paid by the rich and big corporations.

According to the group, the rich will benefit from lower income taxes, property-related taxes, and capital income taxes: 1.) The top personal income tax rate will go down from 32% to eventually just 25 percent. Around 6.7 million deserving wage and salary earners also stand to benefit from the DOF's plan to update 19-year-old tax brackets. These will result in Php139.0 billion less revenues for the government in just the first year of implementation. 2.) The corporate income tax will go down from 30% to 25 percent. Corporations will pay Php34.8 billion less in income taxes. 3.) The tax rate on property-related transactions of the wealthy will be cut. The estate tax of 20% will go down to 6% of the value of property being transferred. Donor taxes and transaction taxes on land will also be cut. The rich will pay Php3.5 billion less in estate and donor taxes. 4.) The tax on interest income earned on peso deposits and investments will also go down from 20% to 10 percent. The rich will pay Php1.0 billion less in capital income taxes

IBON observed that the DOF plans to offset lower taxes paid by the wealthiest Filipinos by increasing taxes on the poor majority. The poor will suffer higher prices from value-added tax (VAT) being charged on previously exempt items, higher excise taxes on petroleum products, and a new sweets tax:

1. The 12% VAT will be charged on the widest range of consumer items in the country's history with exemptions on just very few necessities like raw food, education and health. Consumers will pay Php163.4 billion more for the same goods and services.
2. There will be higher excise taxes of Php6-10 per litre or kilogram on diesel, LPG, kerosene and the entire range of oil product prices. Consumers will pay Php178.2 billion more when they buy oil products or pay for correspondingly more expensive goods, services and transport fares.
3. The sugar excise tax starting at Php5 per kilogram will increase the prices of sugary

[55] Retrieved from www.dof.gov.ph/index.php/philippines-seeks-to-strengthen-financial-systems-legal-framework/

foods, fruit drinks, sodas, sweetened tea and coffee, sports drinks, and other sweetened products. Consumers will pay Php18.1 billion more for the sugary products they buy.[56]

In Closing

For all the confusion happening in the present, the all out war on drugs, and the clash between bedans who are occupying key governmental positions, despite all of these a consensus has emerged in one important area, that the current corporate-tax system is broken, like our penal system[57], hence it is imperative that a tax reform must take place. Our government is in a phase of the creative process focusing on “destruction” of the flaws in the system in order to pave the way for a sound tax system. Within a few months we will learn the details of the tax reform. Uncertainty abounds. The details have yet to be finalized, but one thing is for certain: Change is coming.

[56] Retrieved from www.ibon.org/2016/09/dof-tax-reforms-relieve-rich-while-burdening-poor-ibon/

[57] Andrew Kats, *This Photograph Makes Life Inside a Philippines Jail Look Like Dante's 'Inferno',* TIME, August 3 3016 Retrieved from http://time.com/4438112/philippines-overcrowded-prison-manila-rodrigo-duterte/ ; See also: www.preda.org/media/research-documents/the-situation-of-the-philippine-penitentiaries/