



HOUSE OF REPRESENTATIVES

H. No. 8937

BY REPRESENTATIVES SALCEDA, SUANSING (M.A.), DALIPE, MARCOS, VILLAFUERTE (L.R.), VILLAFUERTE (M.L.), HORIBATA, ENCISO, QUIMBO, COLADA, CUA, BRIONES, HARESCO, LAGON (S.), TY, DAYANGHIRANG, DIONISIO, SINGSON-MEEHAN, RECTO, ALVAREZ (J.), AMATONG, CAGAS, DAGOOC, DELOS SANTOS, FUENTEBELLA, GUTIERREZ, KHO (R.), LUISTRO, ORDANES, REYES, ROBES, SALO, SUAN, TAMBUNTING, TEVES, VERGARA, ZAMORA (M.C.), SUANSING (H.), LACSON-NOEL, BASCUG, DE JESUS, SALIMBANGON, LOYOLA, RODRIGUEZ (R.), CUARESMA, PALMA, GORRICETA, VIOLAGO, MARIÑO, AQUINO-MAGSAYSAY, CRUZ (A.), TAN-TAMBU, RIVERA, ACHARON, LARA, TAN (K.M.), GONZALES (A.), YAMSUAN, ALONTE, MARIANO-HERNANDEZ, GARCIA (P.J.), PRIMICIAS-AGABAS AND DY (F.)

**AN ACT
ENHANCING THE FISCAL REGIME FOR THE MINING INDUSTRY, AMENDING
FOR THE PURPOSE SECTION 34(B), AND CREATING NEW SECTIONS 151-A,
151-B, 151-C, AND 151-D, ALL UNDER REPUBLIC ACT NO. 8424, OTHERWISE
KNOWN AS THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS
AMENDED**

*Be it enacted by the Senate and House of Representatives of the Philippines in
Congress assembled:*

1 **SECTION 1.** Section 34(B) of the National Internal Revenue Code of 1997, as
2 amended, is hereby further amended to read as follows:

3 **"SEC. 34. Deductions from Gross Income. – x x x**

4 **(A) Expenses. –**

5 x x x

6 **(B) Interest. –**

7 (1) x x x

8 (2) x x x

9 (3) x x x

1 **(4) LIMITATION OF INTEREST EXPENSE DEDUCTIONS FOR METALLIC**
2 **MINING CONTRACTORS:**

3 **(A) IF A METALLIC MINING CONTRACTOR HAS A DEBT-TO-EQUITY**
4 **RATIO IN EXCESS OF 4 TO 1 AT ANY TIME DURING A TAXABLE YEAR,**
5 **DEDUCTION SHALL BE DISALLOWED AS TAX-DEDUCTIBLE EXPENSE FOR**
6 **THE INTEREST PAID BY THE METALLIC MINING CONTRACTOR DURING THAT**
7 **YEAR ON THAT PART OF THE DEBT EXCEEDING THE 4 TO 1 RATIO FOR THE**
8 **PERIOD THE EXCESS IN RATIO OCCURRED.**

9 **(B) FOR PURPOSES OF THIS SECTION, THE TERM:**

10 **(1) DEBT SHALL MEAN THE GREATEST AMOUNT, AT ANY TIME DURING**
11 **A TAXABLE YEAR, OF THE DEBT OBLIGATIONS OF THE METALLIC MINING**
12 **CONTRACTOR ON WHICH INTEREST IS PAYABLE AS DETERMINED**
13 **ACCORDING TO INTERNATIONAL FINANCIAL REPORTING STANDARDS;**

14 **(2) EQUITY SHALL MEAN THE GREATEST AMOUNT, AT ANY TIME**
15 **DURING A TAXABLE YEAR, OF THE EQUITY OF THE METALLIC MINING**
16 **CONTRACTOR AS DETERMINED ACCORDING TO INTERNATIONAL**
17 **FINANCIAL REPORTING STANDARDS AND INCLUDES AN OBLIGATION TO**
18 **MAKE A REPAYMENT OF MONEY IN RESPECT OF WHICH NO INTEREST IS**
19 **PAYABLE; AND**

20 **(3) METALLIC MINING CONTRACTOR SHALL MEAN A QUALIFIED**
21 **PERSON ACTING ALONE OR IN A CONSORTIUM WHO IS A PARTY TO ANY**
22 **MINERAL AGREEMENT OR FINANCIAL OR TECHNICAL ASSISTANCE**
23 **AGREEMENT.**

24 **(C) Taxes. – x x x**

25 **(D) Losses. – x x x**

26 **(E) Bad Debts. – x x x**

27 **(F) Depreciation. – x x x**

28 **(G) Depletion of Oil and Gas Wells and Mines. – x x x**

29 **(H) Charitable and Other Contributions. – x x x**

- 1 (I) *Research and Development.* – x x x
- 2 (J) *Pension Trusts.* – x x x
- 3 (K) *Additional Requirements for Deductibility of Certain Payments.* – x x x
- 4 (L) *Optional Standard Deduction.* – x x x”

5 **SEC. 2.** The title of Chapter VII, Title VI of the National Internal Revenue Code
6 of 1997, as amended, is hereby amended to read as follows:

7 **“CHAPTER VII – [EXCISE TAX ON MINERAL PRODUCTS] TAXATION OF**
8 **MINERAL PRODUCTS”**

9 **SEC. 3.** A new section designated as Section 151-A under Chapter VII, Title VI
10 of the National Internal Revenue Code of 1997, as amended, is hereby inserted, and
11 shall read as follows:

12 **“SEC. 151-A. ROYALTY. –**

13 **(A) ROYALTY RATE FOR LARGE-SCALE METALLIC MINING**
14 **OPERATIONS. – ROYALTY RATE FOR LARGE-SCALE METALLIC MINING**
15 **OPERATIONS THAT ARE SUBJECT TO MINERAL AGREEMENTS AND**
16 **FINANCIAL OR TECHNICAL ASSISTANCE AGREEMENTS (FTAA):**

17 **(1) OPERATIONS WITHIN MINERAL RESERVATIONS. – LARGE-SCALE**
18 **METALLIC MINING OPERATIONS WITHIN MINERAL RESERVATIONS SHALL BE**
19 **SUBJECT TO THE ROYALTY RATE OF FOUR PERCENT (4%) OF THE GROSS**
20 **OUTPUT OF THE MINERALS OR MINERAL PRODUCTS EXTRACTED OR**
21 **PRODUCED.**

22 **(2) OPERATIONS OUTSIDE MINERAL RESERVATIONS. – LARGE-SCALE**
23 **METALLIC MINING OPERATIONS OUTSIDE MINERAL RESERVATIONS SHALL**
24 **BE SUBJECT TO A MARGIN-BASED ROYALTY ON INCOME FROM METALLIC**
25 **MINING OPERATIONS, IN ACCORDANCE WITH THE FOLLOWING TABLE:**

MARGIN	RATE
1% UP TO 10%	1.00%
ABOVE 10% UP TO 20%	1.50%
ABOVE 20% UP TO 30%	2.00%
ABOVE 30% UP TO 40%	2.50%

1	ABOVE 40% UP TO 50%	3.00%
2	ABOVE 50% UP TO 60%	3.50%
3	ABOVE 60% UP TO 70%	4.00%
4	ABOVE 70%	5.00%

5 **(B) ROYALTY RATE FOR SMALL-SCALE METALLIC MINING OPERATIONS.**
6 **– PURSUANT TO SECTION 13(D) OF REPUBLIC ACT NO. 7076, OTHERWISE**
7 **KNOWN AS THE ‘PEOPLE’S SMALL-SCALE MINING ACT OF 1991,’ THERE**
8 **SHALL BE LEVIED, ASSESSED, AND COLLECTED A ROYALTY RATE**
9 **EQUIVALENT TO ONE-TENTH (1/10) OF ONE PERCENT (1%) OF GROSS**
10 **OUTPUT OF THE MINERALS OR MINERAL PRODUCTS EXTRACTED OR**
11 **PRODUCED BY SMALL-SCALE METALLIC MINING OPERATIONS.**

12 **ALL PERSONS ENGAGED IN SMALL-SCALE METALLIC MINING**
13 **ACTIVITIES SHALL REGISTER WITH THE MINES AND GEOSCIENCES BUREAU**
14 **(MGB) AND THE MINING BOARD OF THE CONCERNED LOCAL GOVERNMENT**
15 **UNIT IN ACCORDANCE WITH REPUBLIC ACT NO. 7076, OTHERWISE KNOWN**
16 **AS THE ‘PEOPLE’S SMALL-SCALE MINING ACT OF 1991,’ AND MAY ORGANIZE**
17 **THEMSELVES INTO COOPERATIVES IN ORDER TO QUALIFY FOR THE**
18 **AWARDING OF A PEOPLE’S SMALL-SCALE MINING CONTRACT. A TAX**
19 **IDENTIFICATION NUMBER SHALL BE SECURED FROM THE BUREAU OF**
20 **INTERNAL REVENUE AS REQUIREMENT FOR REGISTRATION.**

21 **(C) FOR PURPOSES OF THIS SECTION AND IN SECTION 151-B OF THIS**
22 **CHAPTER, THE TERM:**

23 **(1) GROSS OUTPUT SHALL MEAN THE ACTUAL MARKET VALUE OF**
24 **MINERALS OR MINERAL PRODUCTS FROM EACH MINE OR MINERAL LAND**
25 **OPERATED AS A SEPARATE ENTITY, WITHOUT ANY DEDUCTION FOR MINING,**
26 **PROCESSING, REFINING, TRANSPORTING, HANDLING, MARKETING OR ANY**
27 **OTHER EXPENSES: PROVIDED, THAT OF THE MINERALS OR MINERAL**
28 **PRODUCTS SOLD OR CONSIGNED ABROAD BY THE MINING CONTRACTOR**
29 **UNDER COST, INSURANCE AND FREIGHT (CIF) TERMS, THE ACTUAL COST**
30 **OF OCEAN FREIGHT AND INSURANCE SHALL BE DEDUCTED: PROVIDED,**
31 **FURTHER, THAT IN THE CASE OF MINERAL CONCENTRATES WHICH ARE NOT**
32 **TRADED IN COMMODITY EXCHANGES IN THE PHILIPPINES OR ABROAD,**
33 **SUCH AS COPPER CONCENTRATES, THE ACTUAL MARKET VALUE SHALL BE**

1 **COMPUTED AS THE WORLD PRICE QUOTATIONS OF THE REFINED MINERAL**
2 **PRODUCTS CONTENT THEREOF PREVAILING IN THE SAID COMMODITY**
3 **EXCHANGES, AFTER DEDUCTING THE SMELTING, REFINING, TREATMENT,**
4 **INSURANCE, TRANSPORTATION AND OTHER CHARGES INCURRED IN THE**
5 **PROCESS OF CONVERTING MINERAL CONCENTRATES INTO REFINED METAL**
6 **TRADED IN THOSE COMMUNITY EXCHANGES;**

7 **(2) INCOME FROM METALLIC MINING OPERATIONS SHALL MEAN THE**
8 **GROSS OUTPUT LESS DEDUCTIBLE EXPENSES WHICH INCLUDE:**

9 **(A) MINING, MILLING, TRANSPORTING, AND HANDLING EXPENSES**
10 **TOGETHER WITH SMELTING AND REFINING COSTS INCURRED IN THE**
11 **PHILIPPINES;**

12 **(B) GENERAL AND ADMINISTRATIVE EXPENSES ACTUALLY INCURRED**
13 **BY THE MINING CONTRACTOR IN THE PHILIPPINES;**

14 **(C) ENVIRONMENTAL EXPENSES OF THE METALLIC MINING**
15 **CONTRACTOR, INCLUDING SUCH EXPENSES NECESSARY TO FULLY**
16 **COMPLY WITH ITS ENVIRONMENTAL OBLIGATIONS AS STIPULATED IN THE**
17 **ENVIRONMENTAL PROTECTION PROVISION OF THE MINERAL AGREEMENT**
18 **OR FINANCIAL OR TECHNICAL ASSISTANCE AGREEMENT AND IN THE**
19 **APPLICABLE IMPLEMENTING RULES AND REGULATIONS;**

20 **(D) EXPENSES FOR THE DEVELOPMENT OF HOST AND NEIGHBORING**
21 **COMMUNITIES AND FOR THE DEVELOPMENT OF GEOSCIENCES AND MINING**
22 **TECHNOLOGY, INCLUDING TRAINING COSTS AND EXPENSES AS**
23 **STIPULATED IN THE MINERAL AGREEMENT OR FINANCIAL OR TECHNICAL**
24 **ASSISTANCE AGREEMENT AND IN THE APPLICABLE IMPLEMENTING RULES**
25 **AND REGULATIONS;**

26 **(E) LEASE AND ROYALTY PAYMENTS TO CLAIM OWNERS OR**
27 **SURFACE LANDOWNERS RELATING TO THE CONTRACT AREA DURING THE**
28 **OPERATING PERIOD, IF ANY;**

29 **(F) CONTINUING EXPLORATION AND DEVELOPMENT EXPENSES**
30 **WITHIN THE CONTRACT AREA AFTER THE PRE-OPERATING PERIOD;**

1 (G) INTEREST EXPENSES CHARGED ON LOANS, PURSUANT TO
2 SECTION 34(B)(4) OF THIS CODE OR SUCH OTHER FINANCING-RELATED
3 EXPENSES INCURRED BY THE METALLIC MINING CONTRACTOR SUBJECT TO
4 THE FINANCING REQUIREMENT IN THE MINERAL AGREEMENT OR FINANCIAL
5 OR TECHNICAL ASSISTANCE AGREEMENT, WHICH SHALL NOT BE MORE
6 THAN THE PREVAILING INTERNATIONAL RATES CHARGED FOR SIMILAR
7 TYPES OF TRANSACTIONS AT THE TIME THE FINANCING WAS ARRANGED,
8 AND WHERE SUCH LOANS ARE NECESSARY FOR ITS OPERATIONS;

9 (H) DEPRECIATION, DEPLETION, AND AMORTIZATION; AND

10 (I) TAXES, DUTIES, FEES, AND CHARGES.

11 (3) MARGIN SHALL MEAN THE RATIO OF INCOME FROM MINING
12 OPERATIONS TO GROSS OUTPUT."

13 SEC. 4. A new section designated as Section 151-B under Chapter VII, Title VI
14 of the National Internal Revenue Code of 1997, as amended, is hereby inserted, and
15 shall read as follows:

16 "SEC. 151-B. WINDFALL PROFITS TAX. – IN ADDITION TO THE TAXES
17 IMPOSED UNDER THIS CODE, THERE IS HEREBY IMPOSED FOR EACH
18 TAXABLE YEAR A WINDFALL PROFITS TAX ON INCOME FROM METALLIC
19 MINING OPERATIONS, IN ACCORDANCE WITH THE FOLLOWING TABLE:
20 PROVIDED, THAT IT SHALL NOT BE DEDUCTIBLE FROM TAXABLE INCOME,
21 AS DEFINED IN SECTION 31, CHAPTER V, TITLE II OF THIS CODE:

MARGIN	RATE
MORE THAN 35% UP TO 40%	1.00%
MORE THAN 40% TO 45%	2.00%
MORE THAN 45% TO 50%	3.00%
MORE THAN 50% TO 55%	4.00%
MORE THAN 55% TO 60%	5.00%
MORE THAN 60% TO 65%	6.00%
MORE THAN 65% TO 70%	7.00%
MORE THAN 70% TO 75%	8.00%
MORE THAN 75% TO 80%	9.00%
MORE THAN 80%	10.00%

1 **FOR THE PURPOSE OF COMPUTING WINDFALL PROFITS, THE OPTIONAL**
2 **STANDARD DEDUCTION STATED UNDER SECTION 34(L) OF THIS CODE**
3 **SHALL NOT APPLY.”**

4 **SEC. 5.** A new section designated as Section 151-C under Chapter VII, Title VI
5 of the National Internal Revenue Code of 1997, as amended, is hereby inserted, and
6 shall read as follows:

7 **“SEC. 151-C. TAX TREATMENT OF METALLIC MINING OPERATIONS. –**
8 **EACH METALLIC MINING OPERATION THAT IS SUBJECT OF A MINERAL**
9 **AGREEMENT OR FINANCIAL OR TECHNICAL ASSISTANCE AGREEMENT**
10 **SHALL BE TREATED AS A SEPARATE TAXABLE ENTITY FOR TAX AND**
11 **ROYALTY REPORTING AND PAYMENT. A METALLIC MINING CONTRACTOR**
12 **SHALL BE TREATED AS A SEPARATE TAXPAYER WITH RESPECT TO EACH**
13 **AND EVERY MINERAL AGREEMENT OR FINANCIAL OR TECHNICAL**
14 **ASSISTANCE AGREEMENT IT HOLDS OR IS A PARTY TO.”**

15 **SEC. 6.** A new section designated as Section 151-D under Chapter VII, Title VI
16 of the National Internal Revenue Code of 1997, as amended, is hereby inserted, and
17 shall read as follows:

18 **“SEC. 151-D. SUBMISSION OF SALES AND EXPORTATION OF**
19 **MINERALS, MINERAL PRODUCTS, AND RAW ORES. – ALL METALLIC MINING**
20 **CONTRACTORS SHALL PROVIDE THE BUREAU OF INTERNAL REVENUE A**
21 **COPY OF APPROVED MARKETING CONTRACTS AND SALES AGREEMENTS,**
22 **INCLUDING THOSE SUBMITTED TO THE MINES AND GEOSCIENCES BUREAU,**
23 **ON ALL SALES AND EXPORTATION OF MINERALS, MINERAL PRODUCTS, AND**
24 **RAW ORES.**

25 **THE MINES AND GEOSCIENCES BUREAU SHALL REQUIRE METALLIC**
26 **MINING COMPANIES TO SUBMIT ASSAY REPORT FOR EACH SHIPMENT**
27 **BEFORE LEAVING THE LOADING PORTS. THE REPORT SHALL BE SHARED**
28 **WITH THE DEPARTMENT OF FINANCE AND THE BUREAU OF INTERNAL**
29 **REVENUE.**

1 **THE BUREAU OF INTERNAL REVENUE SHALL BE ENTITLED TO**
2 **EXAMINE AND AUDIT FOR TAX PURPOSES ALL SALES AND EXPORTATION**
3 **OF MINERALS, MINERAL PRODUCTS, AND RAW ORES, INCLUDING THE**
4 **TERMS AND CONDITIONS OF ALL SALES COMMITMENTS.”**

5 **SEC. 7. *Fiscal Regime Under Financial or Technical Assistance***
6 ***Agreements and Other Mineral Agreements.*** – The fiscal regime and revenue
7 sharing arrangement provided hereof, and the applicable terms and conditions
8 provided under existing laws shall be embodied in the mineral agreements and
9 Financial or Technical Assistance Agreements entered into by the government.

10 **SEC. 8. *Vested Rights.*** – Valid Mineral Agreements and Financial or Technical
11 Assistance Agreements existing prior to the effectivity of this Act shall continue to be
12 governed by their respective terms and conditions, except if said agreements provide
13 that terms and conditions resulting from the repeal or amendment of existing laws or
14 regulations or from the enactment of a new law or regulation shall be considered part
15 of said Mineral Agreements and Financial or Technical Assistance Agreements.

16 **SEC. 9. *Fiscal Transparency and Accountability.*** – The Government,
17 through the Department of Finance, and in coordination with other relevant agencies,
18 shall institutionalize a mechanism for the public disclosure and scrutiny of all mining
19 related data, including tax and revenue data in the extractives value chain, pursuant
20 to best practices on the open, accountable, and good governance of mineral
21 resources.

22 All businesses and activities engaged in the exploration, development, and
23 utilization of minerals and other natural resources, shall be exempt from the application
24 of confidentiality clauses of the National Internal Revenue Code of 1997, as amended,
25 including Section 270 in relation to Section 71, on disposition of income tax returns
26 and the publication of list of taxpayers and filers.

1 **SEC. 10. *Implementing Rules and Regulations.*** – The Department of
2 Finance shall, upon the recommendation of the Bureau of Internal Revenue, and in
3 consultation with the Department of Environment and Natural Resources, issue rules
4 and regulations to implement this Act within ninety (90) days upon its effectivity. Failure
5 to promulgate said rules and regulations shall not prevent the implementation of this
6 Act upon its effectivity.

7 **SEC. 11. *Separability Clause.*** – If any provision of this Act is declared invalid,
8 the other provisions not affected thereby shall remain in full force and effect.

9 **SEC. 12. *Repealing Clause.*** – Section 5 of Republic Act No. 7942, otherwise
10 known as the Philippine Mining Act of 1995, on assigning the Bureau of Internal
11 Revenue as collecting agent of royalty payments which shall be classified as non-tax
12 revenue is hereby repealed or modified accordingly.

13 All other laws, acts, decrees, executive orders, rules and regulations, or parts
14 thereof which are contrary to or inconsistent with this Act are likewise hereby repealed
15 or modified accordingly.

16 **SEC. 13. *Effectivity.*** – This Act shall take effect after fifteen (15) days following
17 its complete publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,