



# AMCHAM PHILIPPINES

The American Chamber of Commerce of the Philippines, Inc.

March 13, 2012

## STATEMENT ON HOUSE BILL 4444 - RATIONALIZING TAXES IMPOSED ON INTERNATIONAL CARRIERS

AmCham Philippines appreciates receiving a letter of invitation to provide its views at the March 13 public hearing on House Bill 4444 "Rationalizing the Taxes Imposed on International Air Carriers Operating in the Philippines." Very briefly stated, Amcham supports the proposed legislation.

One of the key functions of the House Ways and Means Committee is to review taxes levied by the Philippine Government and the efficiency of their collection with a view to achieving an appropriate mix that enhances public revenue while also encouraging private initiative and corporate investment.

Thus today's hearing is highly appropriate and indeed urgent because the tax that is the subject of HB 4444 has become burdensome to the Philippine economy by impeding faster growth of tourism and making it more difficult for Filipinos to travel abroad by reducing choices of international flights. By contrast, our regional competitors – who do not impose a similar tax on foreign airlines – are experiencing increasing international air transportation connectivity and higher growth in foreign tourist arrivals than the Philippines.

The Board of Airline Representatives (BAR) as well as the International Air Transport Association (IATA) have repeatedly communicated strong opposition to the Common Carriers Tax (CCT) and the Gross Philippine Billings (GPB) imposed on foreign airlines operating in the Philippines. These taxes are not imposed by other countries and raise costs for foreign visitors vis-à-vis competitive destinations in Southeast Asia such as Malaysia, Thailand, and Vietnam. A tax regime comparable to international standards and practices will make the Philippines more attractive for foreign airlines as a destination, increase foreign tourism to the country, benefit the airline business (plus auxiliary services such as catering, maintenance and repair, food manufacturing) of Philippine-owned carriers and expand the income streams of local tourism destinations.

In the highly competitive international aviation industry, foreign airlines connecting the Philippines to foreign airports operate at very low profit margins. The current taxes create a serious risk that remaining foreign airline services to the Philippines will be suspended, reduced, and terminated. This has been the pattern for several years, especially with European airlines, and the forthcoming termination of Air France-KLM direct service to Manila marks the end of any direct flights from Europe to the Philippines. The recent decision of Qatar Airways to end nearly a decade of direct flights between Doha and Cebu is another example of what is happening to reduce connectivity.

In June 2011 foreign airline companies doing business in the Philippines experienced a major setback with the issuance of a Bureau of Internal Revenue tax ruling maintaining a revised Common Carriers Tax (CCT) policy. Under the National Internal Revenue Code, international air carriers are levied as high as much as a 5.5% tax on their revenues: 3% CCT on gross receipts and 2.5% Gross Philippine Billings Taxes (GPBT) on all cargo and passenger revenues originating from the Philippines in an uninterrupted flight, regardless of the place of sale or issue of a ticket.

The 2011 policy changed the tax base from the previous average billing to actual billing per passenger and added rental fees, advance payments, penalties, and other service charges in computing the tax, alongside ticket price, excess baggage fees, cargo fees, and mail fees. It has been the position of Amcham, the BAR, and foreign carriers that the ruling reinforced the lack of a level playing field in the Philippines for foreign airlines and that the Philippines could better balance revenue generation and attracting more investors and tourists into the country.



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Amcham recommends eliminating both the discriminatory CCT and the GPBT and strongly supports HB 4444, filed by Representative Jerry P. Trenas, rationalizing the airline tax regime with the intent to stimulate tourism and trade through enhanced international airline connectivity.

We support the approach by Congressman Trenas to remove the CCT through the deletion of Section 118 of the National Internal Revenue Code of 1997, as amended. However, we propose that HB 4444 be amended to include the following provision to ensure the correct interpretation of this intent to remove the burden from the CCT via the deletion of Section 118.

Proposed new provision in HB 4444:

Section 108 of the National Internal Revenue Code of 1997, as amended, is hereby further amended, to read as follows:

“Section 108 - Value Added Tax on sale of services and use or lease of properties

(A) xxxxx

(B) transactions subject to zero percent rate - the following services performed in the Philippines by VAT registered persons shall be subject to zero percent rate:

(1) xxxxx

(6) transport of passengers and cargo by DOMESTIC AND INTERNATIONAL air or sea [vessels] CARRIERS from the Philippines to a foreign country.

We support HB 4444 in also removing the GPBT, which is a form of income tax. We are aware of the objections to complete removal of the GPBT via deletion of Section 28 (A)(3). However the losses from such collections should be compensated by the gains from tourism and trade growth.

We back the BAR position to pursue reciprocal income tax exemptions through an exchange of diplomatic notes rather than the long arduous tax treaty negotiation process, as required under HB 4302 presently pending Second Reading.

Three US airlines currently serve Manila: Continental, Delta, and Hawaiian. United, which succeeded Pan American, withdrew during the 1997 Asian Financial Crisis and has not resumed service to the Philippines, although it expands its operations elsewhere in Asia. We strongly believe that enhanced connectivity between the United States and the Philippines – by both American and Filipino-owned airlines – is important for both our countries, and we support the restoration of Category 1 status of the Civil Aviation Authority of the Philippines as soon as possible.

We encourage presidential certification of HB 4444 for immediate enactment, which is urgently needed to prevent further reductions of services by foreign airlines connecting the Philippines and the rest of the world.