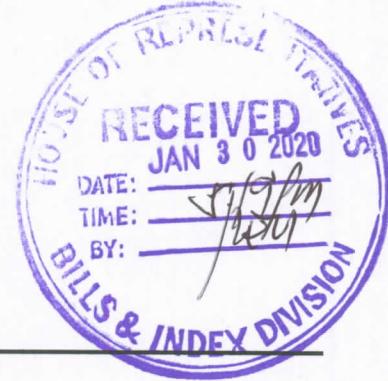


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Session



211
COMMITTEE REPORT NO.

Submitted by the Committees on Ways and Means and Appropriations on
JAN 30 2020

Re: House Bill No. 6135

Recommending its approval in substitution of House Bills Numbered 288, 560, 1687, 2557, 4541, 4874, 5022, and 5253

Sponsors: Representatives Joey Sarte Salceda, Isidro T. Ungab, Estrellita B. Suansing, and Sharon S. Garin

Mr. Speaker:

The Committees on Ways and Means and Appropriations to which were referred House Bill No. 288, introduced by Reps. Estrellita B. Suansing, and Horacio P. Suansing Jr., entitled:

"AN ACT ESTABLISHING THE FISCAL REGIME FOR MINING INDUSTRY,"

House Bill No. 560, introduced by Rep. Rodrigo A. Abellanosa, entitled:

"AN ACT ESTABLISHING THE FISCAL REGIME FOR THE MINING INDUSTRY,"

House Bill No. 1687, introduced by Rep. Luis Raymund "LRay" F. Villafuerte, Jr. entitled:

"AN ACT ESTABLISHING A UNIFORM TAXATION OF METALLIC MINING OPERATIONS, AND FOR OTHER PURPOSES,"

House Bill No. 2557, introduced by Rep. Sharon S. Garin, entitled:

"AN ACT ESTABLISHING THE FISCAL REGIME FOR THE MINING INDUSTRY,"

House Bill No. 4541, introduced by Rep. Vilma Santos-Recto, entitled:

"AN ACT INCREASING THE EXCISE TAX ON MINERALS, MINERAL PRODUCTS AND QUARRY RESOURCES, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED,"

House Bill No. 4874, introduced by Rep. Rufus B. Rodriguez, entitled:

"AN ACT ESTABLISHING THE FISCAL REGIME FOR THE MINING INDUSTRY,"

House Bill No. 5022, introduced by Rep. Joey Sarte Salceda, entitled:

"AN ACT ESTABLISHING THE FISCAL REGIME FOR MINING INDUSTRY, AMENDING FOR THIS PURPOSE SECTIONS 34 (B) AND 151 AND ADDING A NEW SECTION 151-A, ALL UNDER THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED AND FOR OTHER PURPOSES," and

House Bill No. 5253, introduced by Rep. Stella Luz A. Quimbo, entitled:

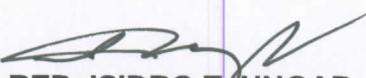
"AN ACT ESTABLISHING THE FISCAL REGIME AND REVENUE SHARING ARRANGEMENT FOR LARGE-SCALE METALLIC MINING, AND FOR OTHER PURPOSES,"

has considered the same and recommends that the attached House Bill No. 6135, entitled:

"AN ACT ESTABLISHING THE FISCAL REGIME FOR THE MINING INDUSTRY"

be approved in substitution of House Bills Numbered 288, 560, 1687, 2557, 4541, 4874, 5022, and 5253, with Representatives Estrellita B. Suansing, Horacio P. Suansing Jr., Rodrigo A. Abellano, Luis Raymund "LRay" F. Villafuerte, Jr., Sharon S. Garin, Vilma Santos-Recto, Rufus B. Rodriguez, Joey Sarte Salceda, Stella Luz A. Quimbo, Deogracias Victor "DV" B. Savellano, Junie E. Cua, Jose "Ping-Ping" I. Tejada, Micaela S. Violago, Greg G. Gasataya, Romeo M. Jalosjos, Jr., Jose Enrique "Joet" S. Garcia III, Juan Miguel Macapagal Arroyo, Peter John D. Calderon, Manuel Jose "Mannix" M. Dalipe, Ed Christopher S. Go, Manuel "Way Kurat" E. Zamora, Narciso R. Bravo, Jr., Glona G. Labadlabad, Joselito "Joel" S. Sacdalan, Francisco "Kiko" B. Benitez, Maximo Y. Dalog, Jr., Ramon "Mon-Mon" V. Guico III, Tyrone D. Agabas, Kristine Singson-Meehan, Adbullah D. Dimaporo, Yasser Alonto Balindong, Gabriel H. Bordado, Jr., Isagani S. Amatong, Joel Mayo Z. Almario, Lorenz R. Defensor, Alfred C. Delos Santos, Ferdinand R. Gaite, and Rossana "Ria" Vergara as authors thereof.

Respectfully submitted,



REP. ISIDRO T. UNGAB

Chairperson
Committee on Appropriations



REP. JOEY SARTE SALCEDA

Chairperson
Committee on Ways and Means

**THE HONORABLE SPEAKER
HOUSE OF REPRESENTATIVES
QUEZON CITY**



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Session
HOUSE BILL NO. 6135

(in substitution of House Bills Numbered 288, 560, 1687, 2557, 4541, 4874, 5022, and 5253)

Introduced by: Hon. Estrellita B. Suansing, Horacio P. Suansing, Jr., Rodrigo A. Abellanosa, Luis Raymund "LRay" F. Villafuerte, Jr., Sharon S. Garin, Vilma Santos-Recto, Rufus B. Rodriguez, Joey Sarte Salceda, Stella Luz A. Quimbo, Deogracias Victor "DV" B. Savellano, Junie E. Cua, Jose "Ping-Ping" I. Tejada, Micaela S. Violago, Greg G. Gasataya, Romeo M. Jalosjos, Jr., Jose Enrique "Joet" S. Garcia III, Juan Miguel Macapagal Arroyo, Peter John D. Calderon, Manuel Jose "Mannix" M. Dalipe, Ed Christopher S. Go, Manuel "Way Kurat" E. Zamora, Narciso R. Bravo, Jr., Glona G. Labadlabad, Joselito "Joel" S. Sacdalan, Francisco "Kiko" B. Benitez, Maximo Y. Dalog, Jr., Ramon "Mon-Mon" V. Guico III, Tyrone D. Agabas, Kristine Singson-Meehan, Adbullah D. Dimaporo, Yasser Alonto Balindong, Gabriel H. Bordado, Jr., Isagani S. Amatong, Joel Mayo Z. Almario, Lorenz R. Defensor, Alfred C. Delos Santos, Ferdinand R. Gaite, and Rossana "Ria" Vergara

AN ACT ESTABLISHING THE FISCAL REGIME FOR THE MINING INDUSTRY

Be it enacted by the Senate and the 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 amended to read as follows:
3

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

5 *"(A) Expenses. –*

6 *"x x x*

7 *"(B) Interest. –*

8 *"(1) x x x*

9 *"(2) x x x*

10 *"(3) x x x*

11 *"(4) LIMITATION OF INTEREST EXPENSE DEDUCTIONS FOR*
12 *MINING CONTRACTORS:*

13

(A) IF A MINING CONTRACTOR HAS A DEBT-TO-EQUITY RATIO IN EXCESS OF 3 TO 1 AT ANY TIME DURING A TAXABLE YEAR, A DEDUCTION IS DISALLOWED AS A TAX-DEDUCTIBLE EXPENSE FOR THE INTEREST PAID BY THE MINING CONTRACTOR DURING THAT YEAR ON THAT PART OF THE DEBT THAT EXCEEDS THE 3 TO 1 RATIO FOR THE PERIOD THE RATIO WAS EXCEEDED.

(B) IF THE DEBT-TO-EQUITY RATIO OF A MINING CONTRACTOR EXCEEDS 3 TO 1 FOR AN INCOME YEAR, SUBSECTION (A) DOES NOT APPLY IF, AT ALL TIMES, DURING THE YEAR, THE AMOUNT OF THE DEBT OF THE MINING CONTRACTOR DOES NOT EXCEED THE ARM'S LENGTH DEBT AMOUNT.

(C) FOR PURPOSES OF THIS SECTION, THE TERM –

(1) ARM'S LENGTH DEBT AMOUNT SHALL MEAN THE AMOUNT OF DEBT THAT A BANK THAT IS NOT AN ASSOCIATE OF THE MINING CONTRACTOR WOULD BE PREPARED TO LEND TO THE MINING CONTRACTOR HAVING REGARD TO ALL THE CIRCUMSTANCES OF THE MINING CONTRACTOR

(2) ASSOCIATE SHALL MEAN ANY OTHER PERSON WHO ACTS OR MAY ACT IN ACCORDANCE WITH THE DIRECTIONS, REQUESTS, SUGGESTIONS, OR WISHES OF THE FIRST-MENTIONED PERSON, AND THE FIRST-MENTIONED PERSON IS AN ASSOCIATE OF THE SECOND-MENTIONED PERSON

(3) DEBT SHALL MEAN THE GREATEST AMOUNT, AT ANY TIME DURING AN INCOME YEAR, OF THE DEBT OBLIGATIONS OF THE MINING CONTRACTOR ON WHICH INTEREST IS PAYABLE AS DETERMINED ACCORDING TO INTERNATIONAL FINANCIAL REPORTING STANDARDS

(4) **DEBT OBLIGATION** SHALL MEAN AN OBLIGATION TO MAKE A REPAYMENT OF MONEY TO ANOTHER PERSON, INCLUDING AN OBLIGATION ARISING UNDER A PROMISSORY NOTE, BILL OF EXCHANGE, OR BOND, BUT NOT INCLUDING ACCOUNTS PAYABLE OR AN OBLIGATION TO MAKE REPAYMENT OF MONEY IN RESPECT OF WHICH NO INTEREST IS PAYABLE

1 (5) **EQUITY** SHALL MEAN THE GREATEST AMOUNT, AT
2 ANY TIME DURING AN INCOME YEAR, OF THE
3 EQUITY OF THE MINING CONTRACTOR AS
4 DETERMINED ACCORDING TO INTERNATIONAL
5 FINANCIAL REPORTING STANDARDS AND
6 INCLUDES AN OBLIGATION TO MAKE A REPAYMENT
7 OF MONEY IN RESPECT OF WHICH NO INTEREST IS
8 PAYABLE

9 “(C) *Taxes.* –

10 “x x x

11 “(D) *Losses.* –

12 “x x x

13 “(E) *Bad Debts.* –

14 “x x x

15 “(F) *Depreciation.* –

16 “x x x

17 “(G) *Depletion of Oil and Gas Wells and Mines.* –

18 “x x x

19 “(H) *Charitable and Other Contributions.* –

20 “x x x

21 “(I) *Research and Development.* –

22 “x x x

23 “(J) *Pension Trusts.* – x x x

24 “(K) *Additional Requirements for Deductibility of Certain Payments.* – x

25 x x

26 “(L) *Optional Standard Deduction.* – x x x

27 **SEC. 2.** The chapter title of Chapter VII, Title VI of the National Internal Revenue Code
28 of 1997 (NIRC), as amended, is hereby amended to read as follows:

29 **“CHAPTER VII – [EXCISE TAX ON MINERAL PRODUCTS] TAXATION OF
30 MINERAL PRODUCTS”.**

31 **SEC. 3.** The section title of Section 151, Chapter VII, Title VI of the National Internal
32 Revenue Code of 1997, as amended, is hereby amended to read as follows:

33 **“SEC. 151. TAX ON Mineral Products. –“**

1 SEC. 4. A new section shall be inserted as Section 151-A of the National Internal
2 Revenue Code of 1997, as amended, to read as follows:

3
4 **"SEC. 151-A. ROYALTY. –**

5
6 **(A) FOR LARGE-SCALE METALLIC MINING OPERATIONS WITHIN**
7 **MINERAL RESERVATIONS. – MINING CONTRACTORS OF**
8 **LARGE-SCALE METALLIC MINING OPERATIONS WITHIN**
9 **MINERAL RESERVATIONS SHALL PAY TO THE GOVERNMENT**
10 **A ROYALTY EQUIVALENT TO THREE PERCENT (3%) OF THE**
11 **GROSS OUTPUT OF THE MINERALS OR MINERAL PRODUCTS**
12 **EXTRACTED OR PRODUCED BY THE MINING OPERATIONS,**
13 **EXCLUSIVE OF ALL OTHER TAXES;**

14
15 **(B) FOR LARGE-SCALE METALLIC MINING OPERATIONS**
16 **OUTSIDE OF MINERAL RESERVATIONS. – MINING**
17 **CONTRACTORS OF LARGE-SCALE METALLIC MINING**
18 **OPERATIONS OUTSIDE OF MINERAL RESERVATIONS SHALL**
19 **PAY TO THE GOVERNMENT A MARGIN-BASED ROYALTY ON**
20 **INCOME FROM MINING OPERATIONS IN ACCORDANCE WITH**
21 **THE FOLLOWING TABLE:**

MARGIN	ROYALTY
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%
ABOVE 40% UP TO 50%	3.00%
ABOVE 50% UP TO 60%	3.50%
ABOVE 60% UP TO 70%	4.00%
ABOVE 70%	5.00%

32
33 **(C) FOR SMALL-SCALE METALLIC MINING OPERATIONS. –**
34 **MINING CONTRACTORS OF SMALL-SCALE METALLIC MINING**
35 **OPERATIONS SHALL PAY TO THE GOVERNMENT A ROYALTY**
36 **EQUIVALENT TO ONE-TENTH (1/10) OF ONE PERCENT (1%)**
37 **OF GROSS OUTPUT;**

38
39 **(D) FOR THE PURPOSES OF THIS SECTION, THE TERM –**

40
41 **(1) *MARGIN* SHALL MEAN THE RATIO OF INCOME FROM**
42 **MINING OPERATIONS BEFORE CORPORATE INCOME**
43 **TAX TO GROSS OUTPUT.**

44
45 **(2) *INCOME FROM MINING OPERATIONS* SHALL MEAN THE**
46 **GROSS OUTPUT LESS DEDUCTIBLE EXPENSES WHICH**
47 **INCLUDES:**

- (a) MINING, MILLING, TRANSPORT AND HANDLING EXPENSES TOGETHER WITH SMELTING AND REFINING COSTS OTHER THAN SMELTING AND REFINING COSTS PAID TO THIRD PARTIES;
 - (b) GENERAL AND ADMINISTRATIVE EXPENSES ACTUALLY INCURRED BY THE MINING CONTRACTOR IN THE PHILIPPINES;
 - (c) ENVIRONMENTAL EXPENSES OF THE MINING CONTRACTOR, INCLUDING SUCH EXPENSES NECESSARY TO FULLY COMPLY WITH ITS ENVIRONMENTAL OBLIGATIONS AS STIPULATED IN THE ENVIRONMENTAL PROTECTION PROVISION OF THE MINERAL AGREEMENT OR FINANCIAL OR TECHNICAL ASSISTANCE AGREEMENT AND IN THE APPLICABLE IMPLEMENTING RULES AND REGULATIONS;
 - (d) EXPENSES FOR THE DEVELOPMENT OF HOST AND NEIGHBORING COMMUNITIES AND FOR THE DEVELOPMENT OF GEOSCIENCES AND MINING TECHNOLOGY, INCLUDING TRAINING COSTS AND EXPENSES AS STIPULATED IN THE MINERAL AGREEMENT, OR FINANCIAL OR TECHNICAL ASSISTANCE AGREEMENT, AND IN THE APPLICABLE IMPLEMENTING RULES AND REGULATIONS;
 - (e) ROYALTY PAYMENTS TO CLAIM OWNERS OR SURFACE LAND OWNERS RELATING TO THE CONTRACT AREA DURING THE OPERATING PERIOD, IF ANY;
 - (f) CONTINUING EXPLORATION AND DEVELOPMENT EXPENSES WITHIN THE CONTRACT AREA AFTER THE PRE-OPERATING PERIOD;
 - (g) INTEREST EXPENSES CHARGED ON LOANS OR SUCH OTHER FINANCING-RELATED EXPENSES INCURRED BY THE MINING CONTRACTOR SUBJECT TO THE FINANCING REQUIREMENT IN THE MINERAL AGREEMENT OR FINANCIAL OR TECHNICAL ASSISTANCE AGREEMENT, WHICH SHALL NOT BE MORE THAN THE PREVAILING INTERNATIONAL RATES CHARGED FOR SIMILAR TYPES OF TRANSACTIONS AT THE TIME THE FINANCING WAS

1 ARRANGED, AND WHERE SUCH LOANS ARE
2 NECESSARY FOR THE OPERATION;

3 (h) DEPRECIATION, DEPLETION, AND AMORTIZATION;

4 (i) TAXES, DUTIES, FEES, AND CHARGES; AND

5 (j) ALL OTHER COSTS AND EXPENSES RELATED TO
6 MINING OPERATIONS AND SALE OF MINERALS AND
7 MINERAL PRODUCTS.

8 (3) **MINING CONTRACTOR** SHALL MEAN A QUALIFIED
9 PERSON ACTING ALONE OR IN CONSORTIUM WHO IS A
10 PARTY TO A MINERAL AGREEMENT OR FINANCIAL AND
11 TECHNICAL ASSISTANCE AGREEMENT.”

12 **SEC. 5.** A new section shall be inserted as Section 151-B of the National Internal
13 Revenue Code of 1997, as amended, to read as follows:

14 "SEC. 151-B. **WINDFALL PROFITS TAX –**

15 IN ADDITION TO THE TAXES IMPOSED UNDER THIS CODE, THERE IS
16 HEREBY IMPOSED FOR EACH TAXABLE YEAR A MARGIN-BASED
17 WINDFALL PROFITS TAX ON INCOME FROM MINING OPERATIONS
18 BEFORE CORPORATE INCOME TAX, IN ACCORDANCE WITH THE
19 FOLLOWING TABLE: PROVIDED, THAT IT SHALL BE DEDUCTIBLE
20 FROM TAXABLE INCOME, AS DEFINED IN SECTION 31, CHAPTER V,
21 TITLE II OF THIS CODE:

MARGIN	RATE
MORE THAN 35% UP TO 40%	1%
MORE THAN 40% TO 45%	2%
MORE THAN 45% TO 50%	3%
MORE THAN 50% TO 55%	4%
MORE THAN 55% TO 60%	5%
MORE THAN 60% TO 65%	6%
MORE THAN 65% TO 70%	7%
MORE THAN 70% TO 75%	8%
MORE THAN 75% TO 80%	9%
MORE THAN 80%	10%

22 **SEC. 6. Each Mining Operation Treated as a Separate Taxable Entity.** – Each mining
23 operation, which is subject to a Mineral Agreement or Financial or Technical
24 Assistance Agreement, shall be treated as a separate taxable entity. A mining
25 contractor shall be treated as a separate taxpayer with respect to each and every
26 Mineral Agreement or Financial or Technical Assistance Agreement it holds or is a
27 party to.

28 If a Mineral Agreement or Financial or Technical Assistance Agreement is renewed,
29 the renewal shall be treated as part of the original agreement.

1
2 **SEC. 7. Exemption from Confidentiality Clauses.** – Mining contractors for all metallic
3 and nonmetallic mining operations, whether large-scale or small-scale, shall observe
4 fiscal transparency and comply with the requirements of the Extractive Industries
5 Transparency Initiative (EITI) of government, and, for this purpose, shall be exempted
6 from application of the confidentiality clauses of the National Internal Revenue Code
7 of 1997, as amended, including Section 270 in relation to Section 71 therein, to the
8 extent of their participation in the EITI.
9

10 **SEC. 8. Fiscal Regime Under Financial or Technical Assistance Agreements and**
11 **Other Mineral Agreements.** – The fiscal regime provided herein and the applicable
12 terms and conditions provided under existing laws shall be embodied in the Mineral
13 Agreements and Financial or Technical Assistance Agreements entered into by the
14 government.
15

16 **SEC. 9. Vested Rights.** – A valid mineral agreement and financial and technical
17 assistance agreement existing prior to the effectivity of this Act shall continue to be
18 governed by its terms and conditions, except if these provide that terms and conditions
19 resulting from repeal or amendment of existing laws or regulations or from the
20 enactment of a new law or regulation shall be considered a part of said financial and
21 technical assistance agreement and mineral agreement.
22

23 **SEC. 10. Registration of Small-scale Miners for Taxation Purposes.** – All persons
24 engaged in small-scale mining activities shall register with the Mines and Geosciences
25 Bureau (MGB) and with the Mining Board of the concerned local government unit in
26 accordance with Republic Act No. 7076 or the “People’s Small-Scale Mining Act of
27 1991,” and may organize themselves into cooperatives in order to qualify for the
28 awarding of a people’s small-scale mining contract.
29

30 The Mining Board shall submit an annual report to the MGB of all the small-scale
31 mining contracts entered into for the small-scale utilization of a plot of mineral land
32 including the respective production output, taxes and fees paid.
33

34 For this purpose, a tax identification number shall be required for registration and
35 secured from the Bureau of Internal Revenue.
36

37 **SEC. 11. Disposition of Royalties for the Natural Resource Trust Fund.** – The
38 provisions of existing laws to the contrary notwithstanding, the revenues collected from
39 the margin-based royalty paid by the large-scale metallic mining operations outside of
40 mineral reservations shall accrue to the Natural Resource Trust Fund under this Act.
41 The Bureau of Treasury shall create a Special Account on said revenues and shall
42 serve as its fund manager.
43

44 The Natural Resource Trust Fund shall be remitted to the Bureau of Treasury within
45 the first quarter of the succeeding income year. The fund shall redound to the benefit
46 of provinces, cities, municipalities, and barangays directly affected by mining
47 operations which shall commence three (3) years after the effectivity of this Act, and
48 every six (6) years thereafter.
49

1 The Natural Resource Trust Fund shall be used by the local government unit
2 concerned to support educational programs, technological research programs of local
3 relevance, disaster risk management, rehabilitation of abandoned mines before the
4 enactment of Republic Act No. 7942 or the "Philippine Mining Act of 1995," and health
5 services programs of the communities directly affected by mining activities: *Provided*,
6 That the Department of Budget and Management, in consultation with the Department
7 of Environment and Natural Resources and the Department of Finance, shall issue
8 rules and regulations governing the allocation and disbursement of the fund allocated
9 to provinces, cities, municipalities, and barangays not later than one hundred and
10 eighty (180) days from the effectivity of this Act.

11
12 **SEC. 12. Implementing Rules and Regulations.** – The Department of Finance, after
13 consultation with other concerned government agencies, shall, within ninety (90) days
14 from the effectivity of this Act, promulgate rules and regulations to implement the intent
15 and provisions of this Act.

16
17 **SEC. 13. Repealing Clause.** –

- 18
19 (a) The second paragraph of Section 5 of Republic Act No. 7942, otherwise known
20 as the Philippine Mining Act of 1995 is hereby amended to assign the Bureau
21 of Internal Revenue as the collecting agent of the payment of royalty.
22
23 (b) Section 13 of Department of Environment and Natural Resources
24 Administrative Order No. 2010-21 is hereby amended insofar as it governs the
25 payment of 5% royalty to the Mines and Geosciences Bureau by a
26 contractor/permit holder/lessee operating within a mineral reservation.
27
28 (c) All laws, acts, decrees, executive orders, rules and regulations, or parts thereof
29 which are contrary to or inconsistent with this Act are hereby repealed,
30 amended or modified accordingly.

31
32 **SEC. 14. Separability Clause.** – If any provision of this Act is declared unconstitutional
33 or invalid, other parts or provisions hereof not affected thereby shall continue to be in
34 full force and effect.

35
36 **SEC. 15. Effectivity.** – This Act shall take effect fifteen (15) days after its publication in
37 the *Official Gazette* or in a newspaper of general circulation.

38
39 Approved,



Republic of the Philippines
House of Representatives
Quezon City, Metro Manila

COMMITTEE ON WAYS AND MEANS

FACT SHEET

6135

House Bill No. _____

(in substitution of House Bills No. 288, 560, 1687, 2557, 4541, 4874, 5022, and 5253)

"AN ACT ESTABLISHING THE FISCAL REGIME FOR THE MINING INDUSTRY"

Introduced by: Hon. Estrellita B. Suansing, Horacio P. Suansing, Jr., Rodrigo A. Abellanosa, Luis Raymund "LRay" F. Villafuerte, Jr., Sharon S. Garin, Vilma Santos-Recto, Rufus B. Rodriguez, Joey Sarte Salceda, Stella Luz A. Quimbo, Deogracias Victor "DV" B. Savellano, Junie E. Cua, Jose "Ping-Ping" I. Tejada, Micaela S. Violago, Greg G. Gasataya, Romeo M. Jalosjos, Jr., Jose Enrique "Joet" S. Garcia III, Juan Miguel Macapagal Arroyo, Peter John D. Calderon, Manuel Jose "Mannix" M. Dalipe, Ed Christopher S. Go, Manuel "Way Kurat" E. Zamora, Narciso R. Bravo, Jr., Glona G. Labadlabad, Joselito "Joel" S. Sacdalan, Francisco "Kiko" B. Benitez, Maximo Y. Dalog, Jr., Ramon "Mon-Mon" V. Guico III, Tyrone D. Agabas, Kristine Singson-Meehan, Abdullah D. Dimaporo, Yasser Alonto Balindong, Gabriel H. Bordado, Jr., Isagani S. Amatong, Joel Mayo Z. Almario, Lorenz R. Defensor, Alfred C. Delos Santos, Ferdinand R. Gaite, and Rossana "Ria" Vergara

Committee Referral: COMMITTEE ON WAYS AND MEANS

Committee Chairperson: HON. JOEY SARTE SALCEDA

OBJECTIVES:

- To rationalize and institutionalize a fiscal regime applicable to all mineral agreements;
- To enhance the equitable share of the government in the utilization of natural resources without compromising the mining sector's need for reasonable return on its investment;
- To institutionalize the Philippine Extractive Industries Transparency Initiative (PH-EITI); and
- To promote intergenerational responsibility in protecting the environment and the needs of host local government units through the Natural Resource Trust Fund.

KEY PROVISIONS:

- Imposes **royalty payments** in accordance with the following:

COVERAGE	RATE OF ROYALTY PAYMENTS	
Large-scale metallic mining operations within mineral reservations	Three percent (3%) on the gross output	
Large-scale metallic mining operations outside mineral reservations	PROFIT 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%
	Above 40% up to 50%	3.00%
	Above 50% up to 60%	3.50%
	Above 60% up to 70%	4.00%
Small-scale metallic mining operations	Above 70%	5.00%
	1/10 of 1% of gross output	

- Imposes a margin-based windfall profits tax gained from mining operations in accordance with the following:

PROFIT 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%

- Introduces thin capitalization so that businesses will not depend on excessive debt funding that may result in high interest expense deductions, thereby reducing corporate tax liability;
- Proposes ring-fencing to prevent consolidation of income and expenses of all mining projects by the same taxpayer, to ensure that losses from other mining projects could not be deducted from more profitable projects;
- Exempts mining contractors from the application of the confidentiality clauses of the National Internal Revenue Code of 1997, as amended, for the purpose of complying with the requirement of the Philippine Extractive Industries Transparency Initiative (PH-EITI);
- Requires small-scale miners to register with the Mining Board of the concerned local government unit and the Mines and Geosciences Bureau for taxation purposes; and

- Creates a Natural Resource Trust Fund from the revenues to be collected from the margin-based royalty (paid by large-scale metallic mining operations outside of mineral reservations) to fund projects that will redound to the benefit of local governments directly affected by mining activities.

RELATED LAWS:

- Republic Act No. 8424, otherwise known as the National Internal Revenue Code of 1997, as amended;
- Presidential Decree No. 1899, Establishing Small-Scale Mining as a New Dimension in Mineral Development, 1984;
- Republic Act No. 7076, otherwise known as the Peoples' Small-Scale Mining Act of 1991;
- Republic Act No. 7942, otherwise known as the Philippine Mining Act of 1995;
- Republic Act No. 8371, otherwise known as the Indigenous Peoples' Rights Act (IPRA) of 1997;
- DENR Department Administrative Order No. 2010-21 – Implementing Rules and Regulations of R.A. No. 7942;
- Executive Order No. 79 s. 2012, Institutionalizing and Implementing Reforms in the Philippine Mining Sector, Providing Policies and Guidelines to Ensure Environmental Protection and Responsible Mining in the Utilization of Mineral Resources;
- DENR Department Administrative Order No. 2015-03 – Implementing Rules and Regulations of R.A. No. 7076; and
- Republic Act No. 11038, otherwise known as the Expanded National Integrated Protected Areas System Act of 2018