



BANTAY KITA MINING TAX BILL COMPARED

1 Simplifies tax administration

BK's Proposed Bill harmonizes taxation system for all mineral agreements from the current complicated tax regime.

4 Encourages domestic processing

Unlike other bills filed, BK's proposed mining tax bill puts forward an export tax and creation of a Mining Downstream Coordinating Council to encourage local processing and jobs creation.

2 Respects autonomy of IPs and LGUs

The MICC Bill of Sen. Drilon and Sen. Recto transfers power to negotiate of indigenous peoples and autonomy of local government units to collect local taxes to the national government.

5 Ensures intergenerational equity

BK's Proposed Bill provides for creation of trust funds for proceeds from mining. This is to ensure that the future generation also benefits.

3 Maximizes government share

BK's Proposed Bill, once enacted imposes mining royalties to ALL mining operations; collects a windfall profit tax; limits interest expense deductions; and treats each operation as a separate taxable personality to avoid ring fencing.

www.bantaykita.ph

Bantay Kita

1402 West Trade Center, 132 West Avenue,
Quezon City, Philippines

Matrix of Mining Tax Bills Provisions

PROVISIONS ON GOVERNMENT SHARE	3
PROVISIONS ON SHARE OF LGUS	4
PROVISIONS ON ROYALTY TO IP	6
PROVISIONS ON CORPORATE INCOME TAX	7
PROVISIONS ON INCENTIVES	8
PROVISIONS ON EXPORT TAX	9
PROVISIONS ON DOWNSTREAM INDUSTRY	10
PROVISIONS ON EXCISE TAX	11
PROVISIONS ON NATURAL RESOURCE TRUST FUND	12
PROVISIONS ON RING FENCING	13
PROVISIONS ON ZONING	13
PROVISIONS ON SCOPE AND APPLICATION	15
PROVISIONS ON COLLECTING AGENCY	16

Provisions on Government Share

Current Policy: Government collects 2% excise tax on minerals as government share. Only companies operating in mineral reservations pay an additional 5% royalty. Mining companies also pay regular taxes including corporate income tax, local business tax, withholding tax, customs duties, VAT among others. (Relevant Laws: IRR of RA 7942

Case in Point: The Philippines’ effective tax rate in mining is at second lowest quartile among select mining countries. The country’s 2% excise tax pales in comparison with Indonesia 3.75-5%, and Vietnam’s 10-15%. In 2013, payments totaled P5.7 billion pesos which is 7.65% of estimated total revenues that year.

BK’s Stand: A surcharge when prices of minerals are on the upswing is necessary for the country to benefit from windfall profits. BK’s proposal of levying the 5% royalty on mineral reservations on ALL mining operations and combining it with the current 2% excise tax in effect increases the share of national government from mining operations to 7% of gross value of production on top of other regular taxes that any given business establishment pays to government.

<p>Alternative Mineral Management Bill (SB 1069 and SB 1191)</p>	<p>Mining Industry Coordinating Council (with versions filed under SB 225 and SB 927)</p>	<p>Bantay Kita Bill (with versions filed in Senate under SB 1125)</p>
<p>Section 98: The contractor shall pay taxes and fees as required by law including but not limited to:</p> <ul style="list-style-type: none"> a. Contractor’s income tax; b. Customs, duties and fees on imported capital equipment; c. Value added tax on imported goods and services; d. Withholding tax on interest payments on foreign loans; e. Withholding tax on dividends to foreign stockholders; f. Documentary stamp taxes; g. Capital gains tax; h. Excise tax on minerals; i. Local business tax; j. Real property tax; k. Community tax; l. Occupation fees; m. Registration, accreditation, and permit fees; and n. Water usage fees <p>Section 99. Aside from the taxes and fees referred to in the preceding section, Government shall have at least a share equivalent to ten percent (10%) of the gross revenues from the development and utilization of</p>	<p>Section 7: For every final mining area, the Government share that shall be paid by the contractor shall be whichever is higher of the following:</p> <ul style="list-style-type: none"> a) 10% of gross revenue or b) 55% of Adjusted Net Mining Revenue; provided, that in the event that the ANMR Margin exceeds 50% due to increase in metal prices or other factors, the Government, as owner of the mineral, shall get 55% of the of the threshold ANMR, as defined in this Act, plus 60% of the excess ANMR <p>The payment of government share shall be in lieu of all national and local taxes including corporate income tax, royalty for the ICCs, duties on imported specialized mining equipment, fees for mayor’s and/or business permits, and other fees and charges imposed by the host LGUs pursuant to the Local Government Code of 1991, as amended.</p> <p>Section 13: The government share shall be recorded by the BIR as follows:</p> <ul style="list-style-type: none"> a. 50% as corporate income tax b. 50% as royalty tax 	<p>Section 7. Mining Royalty. There shall be levied assessed and collected on minerals, mineral products and quarry resources a mineral royalty of 5% based on the market value of the gross output at the time of sale; or the value used by the Bureau of Customs in determining tariff and custom duties.</p> <p>Section 8. Cash Flow Surcharge. A surcharge of ten percent (10%) shall be imposed on the cash flows of each mining area for every taxable fiscal year. For purposes of the cash flow surcharge (CFS), each mining area shall be considered a separate taxable entity. The tax base of the CFS is determined by adding back the depreciation and interest expense and other financing charges to the regular taxable income used for the purposes of the corporate income tax, before the loss carryover, and before deducting any capital expenditure and the regular corporate income tax. Any surcharge loss is carried forward to subsequent years so as to avoid charging the CFS until the mining area has a positive cash flow.</p> <p>SECTION 10. Limitations on the Interest Expense Deductions. The following are limitation on mining contractors for any interest expense deductions:</p> <ul style="list-style-type: none"> A. If a contractor has a debt-to-equity ratio in excess of

<p>mineral resources that are owned by it to be set aside for the general fund of the government."</p>		<p>1.5 to 1 at any time during a taxable fiscal year, a deduction of the interest paid by the contractor in the portion of the debt which exceeds the 1.5 to 1 ration for that same fiscal year shall not be allowed.</p> <p>B. If the debt-to-equity ratio of a contractor exceeds the 1.5 to 1 ratio for a taxable fiscal year, subsection A will not apply, provided, that during the said fiscal year, the amount of the debt of the contractor should not exceed the arm's length debt amount.</p>
--	--	---

Provisions on Share of LGUs

<p>Current: The Local Government Code provides for a 40-60 sharing of nationally collected taxes levied on the national wealth in favor of the national government and a 70-30 sharing of local business taxes in favor of the host LGUs. (Relevant Laws: Sections 289-294 of Local Government Code)</p> <p>Case in Point: In 2013, local governments are entitled to an estimated 23% of total mining collections of P5.7 billion while national government retains 73% of the remaining. The brunt of the negative effects, however, are felt most in the local level. In 2012, poverty incidence in 10 of the 13 mining provinces is higher than the national average.</p> <p>BK's Stand: To ensure that mining contribute to sustainable and long-term development at the local level, BK is proposing that the share of LGUs be increased from 40% to 50% and the local business tax sharing be changed to 80-20% sharing in favor of the host LGU. The MICC Proposal transfers power of LGUs to collect 2% local business tax and other fees.</p>		
<p>Alternative Mineral Management Bill (SB 1069 and SB 1191)</p>	<p>Mining Industry Coordinating Council (with versions filed under SB 225 and SB 927)</p>	<p>Bantay Kita Bill (with versions filed in Senate under SB 1125)</p>
<p>Section 103. Local Government Unit share. Local Government Units shall be entitled to a share of the net revenues from mining operations which shall be paid directly to the provincial/independent component city/highly urbanized city treasurer/s for distribution to other local government units. To determine the government share, the following variables shall be considered: a) Classification of local government; b) Vulnerability; c) Human development index.</p> <p>A percentage of this amount shall be</p>	<p>Section 12: The Government Share shall be allocated as follows: a. National Government- 60% b. LGUs hosting the Mining Industry Zone : 40%</p> <p>If the contract area is in an ancestral land/ domain, the royalty for the ICC shall be taken from the Government Share. Thereafter, the Net Government Share shall be allocated to the National Government and the LGUs at the above stated ratio.</p>	<p>SECTION 14. Share of Local Government Units. The local government unit hosting the mining area shall have an equitable share in the proceeds derived from the utilization and development of the national wealth, including sharing the same with its inhabitants by way of direct benefits.</p> <p>A. A local government unit shall, in addition to the internal revenue allotment, have a share of fifty percent (50%) of the gross collection derived by</p>

<p>set aside by the respective local government units for Disaster Risk Management. This fund shall likewise benefit ICCs/IPs within the territory of the local government unit. Provided, That the administrative and operational expenses of the Council shall also be taken from this share.</p>	<p>Section 13: The Government Share shall be remitted and paid by the Contractor to the Government.</p> <p>The ICC share shall be directly remitted and paid by the contractor to the ICC within 5 days from the end of each quarter.</p> <p>Within 5 days from the end of each quarter, the Contractor shall pay the government share, net of the ICC share, if applicable, through the Electronic Filing and Payment System (EFPS) facility of the BIR or its accredited bank which shall credit such payment. The BTr, within 5 banking days from the receipt thereof, shall deposit the 40% LGU share to the account of the LGUs through their respective GFIs or their authorized agent bank.</p> <p>The distribution of the LGU shares and the royalties allocated to the ICCs shall be based on existing laws. The utilization of these shares shall be covered by Section 18 of this Act.</p> <p>The Government Share shall be recorded by the BIR as follows:</p> <ul style="list-style-type: none"> a. 50%- Corporate Income Tax b. 50% - Royalty Tax 	<p>the national government from the preceding fiscal year from excise taxes, royalties and such other taxes, fees or charges, including related surcharges, interests or fines, and from its share in any co-production, joint venture or production sharing agreement in the utilization and development of the national wealth within their territorial jurisdiction. The 50% share shall be distributed among LGUs according to the Local Government Code of 1991 and its implementing rules and regulations. Provided that in the event that the operation is hosted by several local government units, the share shall be divided equitably among the host local government units based on the amount of ore extracted from the local government unit.</p> <ul style="list-style-type: none"> B. The Bureau of Internal Revenue (BIR) is given the authority to inspect mining sites and monitor the amount of mineral resources extracted by companies. The BIR, the Mines and Geosciences Bureau (MGB) and the Philippine Port Authority (PPA) shall reconcile their figures on the amount and value of minerals that were actually extracted and exported by companies. The reconciled figure will be the basis for taxation and allocation of share among units of government. C. With respect to payment of business tax, 80% of the payment shall go to the local government unit hosting the mining operation and the 20% of the payment shall go to the
---	--	--

		<p>local government unit where the main office of the business is located. If the mining operation is hosted by several local government units, the 80% shall be shared equally by the said LGUs.</p>
--	--	---

Provisions on Royalty to IP

<p>Current: Indigenous peoples (IPs) hosting mining operations are entitled to at least 1% of gross output. IPs are given rights by law to manage the natural resources within their ancestral domain (AD). Mining companies wanting to operate in an AD must secure concerned IPs' free prior and informed consent (FPIC). (Relevant Laws: Section 16, RA 7942 IRR AO 210-21)</p> <p>Case in Point: In 2013, indigenous peoples received a mere 4% of total collections derived from their royalty collections.</p> <p>BK's Stand: MICC proposal is to consolidate the IP royalty and the tax collected by LGUs to 10%. This provision will remove the IPs' power to bargain for their share of royalty. Note that the mining act states that IPs can collect minimum of 1% of gross sales suggesting there is room for negotiation between the IP communities and the mining companies.</p>		
<p>Alternative Mineral Management Bill (SB 1069 and SB 1191)</p>	<p>Mining Industry Coordinating Council (with versions filed under SB 225 and SB 927)</p>	<p>Bantay Kita Bill (with versions filed in Senate under SB 1125)</p>
<p>Section 100: Indigenous cultural communities' royalty. In case of mineral operations within ancestral domains, the contractor shall pay at least ten per cent (10%) of the gross revenues as royalty to the ICCs/IPs. Community development programs shall not be considered as royalty payment. The payment of the royalties shall directly be given to the communities in a process that build on the ICCs/IPs' traditional and customary laws; Provided, That the royalty established in this Act shall be a minimum royalty payment and may still be subject to other conditions to be agreed by the parties, free from any external manipulation, interference, coercion, and other analogous acts, and obtained after fully disclosing the intent and scope, including the positive and negative impacts of the activity, in a language and process understandable and acceptable to</p>	<p>Section 7: The payment of government share shall be lieu of all national and local taxes including corporate income tax, royalty for the ICCs, duties on imported specialized mining equipment, fees for mayor's and/or business permits, and other fees and charges imposed by the host LGUs pursuant to the Local Government Code of 1991, as amended.</p> <p>Section 13: The ICC share shall be directly remitted and paid by the contractor to the ICC within 5 days from the end of each quarter.</p> <p>The distribution of the LGU shares and the royalties allocated to the ICCs shall be based on existing laws.</p>	<p>SECTION 15. Share of IPs/ICCs. A minimum one percent (1%) royalty share from the gross output of a mine shall be accorded by mining companies operating in ancestral domains to the legitimate Certificate of Ancestral Domains Title (CADT) or Certificate of Ancestral Lands Title (CALT) holders and not to the head claimant only. When an ancestral domain is not covered by a CADT/CALT, or is covered by a different title issued in favor of members of the ICCs/IPs, then mineral resources shall nevertheless be managed by the ICCs/IPs concerned when it can be presumed that the area is part of ancestral domain. An area is presumed to be part of an ancestral domain by virtue of historic rights and self-delineation of the ICCs/IPs. The payment of the mining royalties shall directly be given to the ICCs/IPs in a process that build on their traditional and customary laws and indigenous political structure.</p> <p>A. Management of royalty</p>

<p>them.</p>		<p>payments and community based agreements shall build on the indigenous knowledge systems and practices of the IPs/ICCs.</p> <p>B. No mining activity shall be conducted within the ancestral domains/lands of ICCs/IPs without their free, prior and informed consent (FPIC), in addition to the conditions set for in the succeeding sections of this Act. For instances wherein there are questions on the legality or validity of the issued FPIC, mining activities for which the FPIC was issued shall be suspended until a resolution is reached.</p> <p>C. Violation of any of the conditions imposed by the ICCs/IPs on the contractor shall cause the cancellation of the mineral agreement.</p>
--------------	--	---

Provisions on Corporate Income Tax

<p>Current: Section 27-28, National Internal Revenue Code as amended by RA 9337</p>		
<p>Case in Point: In 2013, corporate income tax accounted for 27% of total mining collections amounting to P1.5 billion. Mining companies pay 30% rate but are also entitled to income tax holidays. In the region, PH's CIT rate is among the highest.</p>		
<p>BK's Stand:</p>		
<p>Alternative Mineral Management Bill (SB 1069 and SB 1191)</p>	<p>Mining Industry Coordinating Council (with versions filed under SB 225 and SB 927)</p>	<p>Bantay Kita Bill (with versions filed in Senate under SB 1125)</p>
	<p>Section 7: The payment of government share shall be lieu of all national and local taxes including corporate income tax, royalty for the ICCs, duties on imported specialized mining equipment, fees for mayor's and/or business permits, and other fees and charges imposed by the host LGUs pursuant to the Local Government Code of 1991, as amended.</p>	<p>None provided, assume status quo</p>

Provisions on Incentives

Current: Sections 92-93 of RA 7942 provides for incentives that mining companies can avail such as accelerated depreciation and carry forward tax losses.

Case in Point: In 2013, eight mining companies availed for tax incentives which account for about 50% of total sales of the sector. Income loss due to income tax holiday amounted to P3.2 billion in 2013 alone. Despite low effective tax rate and income tax incentives, the Philippines still ranked 17th out of 25 mining countries as most preferred globally among mining investors according to a 2011 survey of consultancy firm Behre Dolbear.

BK's Stand: Bantay Kita proposes that all incentives given to the companies be eliminated except those for pollution mitigation devices. Mining companies invest in a country not because of the incentives given by the government but because of the availability and quality of mineral deposits in the country.

Alternative Mineral Management Bill (SB 1069 and SB 1191)	Mining Industry Coordinating Council (with versions filed under SB 225 and SB 927)	Bantay Kita Bill (with versions filed in Senate under SB 1125)
<p>Section 105: "Incentives that shall be given to the contractors shall only be limited to pollution control or mitigation devices."</p>	<p>Section 9: Recoverable Pre-Operating Expenses- Pre-operating expenses allowed for recovery under this act be limited to actual expenses and capital expenditures relating to the following which shall have been incurred before the commencement of commercial operation:</p> <ul style="list-style-type: none"> a. Cost of acquisition, maintenance and administration of the contract area; b. Cost of exploration, evaluation of explored areas, feasibility and environmental studies, and rehabilitation of areas affected during the pre-operating period; c. Cost of meaningful CSR projects and activities undertaken for the affected communities within the contract area d. Payments to landowners surface rights holders, claim owners and IPs or ICCs if any e. Training expenses for personnel f. Consultancy fees incurred for work directly related to the mining operations and consistent with the contractor's approved work program g. Costs for establishment and administration of field and regional offices including administrative overheads 	<p>SECTION 13. Incentives. All tax incentives granted to mineral mining and quarry contractors shall be repealed upon effectivity of this Act. Incentives that shall be given to the contractors shall only be limited to pollution mitigation devices.</p>

	<p>incurred within the Philippines which are properly allocable to the mining operations and directly related to the performance of the contractor's obligation</p> <p>h. Cost of constructing and developing the mine which include machinery and equipment and real property; and</p> <p>i. General and administrative expenses actually incurred by the Contractor to support the exploration the exploration and the construction and development of the mines</p> <p>The actual cost of (c), (f), and (i) shall be allowed to be deducted but their aggregate amount shall not exceeds 5% of the aggregate costs of 9b) and (h)</p> <p>Payments made to Government, both national and local, shall not be considered for recovery. All pre-operating expenses reported for recovery shall be subject to verification by the MGB and/or PMDC or their designated representative or auditor.</p>	
--	---	--

Provisions on Export Tax

<p>Current: No provision on export tax on raw minerals and mineral products.</p>		
<p>Case in Point: Currently, 100% of our mineral ores are processed outside the country. Indonesia started imposing an average 20 percent duty on 14 mineral ore exports including copper, gold and nickel last May 2014 to encourage domestic processing.</p>		
<p>BK's Stand: Bantay Kita is proposing an export tax of 20% of the value of raw ore export. This is to maximize the country's benefit from these mineral resources by encouraging the development of higher value-added downstream industries which will bring additional benefits of mining to the country given the fact that the industry is not an employment generator.</p>		
<p>Alternative Mineral Management Bill (SB 1069 and SB 1191)</p>	<p>Mining Industry Coordinating Council (with versions filed under SB 225 and SB 927)</p>	<p>Bantay Kita Bill (with versions filed in Senate under SB 1125)</p>
<p>No export tax provision, assume status quo</p>	<p>No export tax provision, assume status quo</p>	<p>SECTION 11. Export Tax on Raw Ore. A progressive export tax system on the gross value of raw ore exported is hereby imposed to encourage the processing of raw ore in the country. A 20% export tax on the gross value of raw ore will be imposed two years upon effectivity of</p>

		<p>this Act; 40% on the following year; and 60% the year after.</p> <p>SECTION 12. Ban on Export of Raw Ore. To ensure availability of raw materials for processing plants locating in the Philippines, a ban on export of raw ore shall be imposed on the fifth year of this Act's effectivity.</p>
--	--	---

Provisions on Downstream Industry

<p>Current:</p> <p>Case in Point: About 95% of our copper, for example, is exported abroad while the only copper-processing plant in the Philippines processes imported copper. The extraction of minerals is oriented towards export and not directly linked to industries such as manufacturing. As a result, GDP (average 0.7%) and employment contribution (average 0.6%) of the sector has been minimal.</p> <p>BK's Stand: The country needs to link extraction of minerals with other industries and induce domestic processing to generate more jobs and value-adding activities.</p>		
<p>Alternative Mineral Management Bill (SB 1069 and SB 1191)</p>	<p>Mining Industry Coordinating Council (with versions filed under SB 225 and SB 927)</p>	<p>Bantay Kita Bill (with versions filed in Senate under SB 1125)</p>
<p>Section 93: ... Mineral processing shall be included in the Investment Priority plan to be prepared by the Board of Investment in accordance with Executive Order No. 226, as amended, otherwise known as the Omnibus Investment Code of 1987 and shall always be listed as preferred area of investment.</p>	<p>None provided</p>	<p>SECTION 17. There is hereby created the Mining Downstream Coordinating Council. The DENR, in coordination with Department of Trade and Industry (DTI), Department of Science and Technology (DoST), National Economic Development Authority (NEDA), the mining industry, civil society, shall submit within a period of six (6) months a 15-year strategic mining downstream development program and road-map based on the Philippine Development Plan and National Industrialization Plan for the development of downstream industries and creation of jobs for strategic metallic and nonmetallic minerals subject to review every 5 years.</p> <p>SECTION 18. The MDCC shall be co-chaired by the Secretaries of DENR and DTI and shall have the following additional members: Representative, mining industry; Representative, civil society organizations; Chairperson, Board of Investments.</p>

		<p>SECTION 19. The Council shall have the following powers and functions:</p> <ul style="list-style-type: none"> A. Submit a work plan within sixty (60) days from the effectivity of this Act for the development of the mining downstream industry; B. Conduct and facilitate the necessary capacity and institutional building programs for all concerned government agencies and instrumentalities and stakeholders; C. Request the assistance of any government agency or instrumentality, including government-owned and controlled corporations and local government units (LGUs), in the implementation of the mining downstream development program and road-map; D. Conduct quarterly meetings among members of the council; E. Submit quarterly progress reports to the President on the status of the implementation of the mining downstream development program and road-map; and, <p>Perform such other functions and acts as may be necessary, proper or incidental to the attainment of its mandates and objectives, or as may be directed by the Chairpersons</p>
--	--	---

Provisions on Excise Tax

<p>Current: The 2% excise tax on mineral products as determined under the National Internal Revenue Code, is the government’s share from production of minerals under the Philippine Mining Act.</p>		
<p>Case in Point:</p>		
<p>BK’s Stand:</p>		
<p>Alternative Mineral Management Bill (SB 1069 and SB 1191)</p>	<p>Mining Industry Coordinating Council (with versions filed under SB 225 and SB 927)</p>	<p>Bantay Kita Bill (with versions filed in Senate under SB 1125)</p>
	<p>None provided, assume status quo</p>	<p>None provided, assume status quo</p>

Provisions on Natural Resource Trust Fund

Current: The Philippines has no natural resource trust fund for minerals. Government proceeds from mining go directly to the national treasury.

Case in Point: Many resource rich countries have amassed enormous wealth from their natural resources but were not directly spent but rather saved in a trust fund. Norway holds the largest sovereign wealth fund sourced from commodities amounting to USD 885 billion as of 2016. In the region, Brunei holds a wealth fund amounting to USD 40 billion while Timor Leste has USD 17 billion - 13 times its nominal GDP.

BK's Stand: BK proposes that national and local trust funds be created. This is to ensure that proceeds are well accounted for and that benefits trickle down to future generations.

Alternative Mineral Management Bill (SB 1069 and SB 1191)	Mining Industry Coordinating Council (with versions filed under SB 225 and SB 927)	Bantay Kita Bill (with versions filed in Senate under SB 1125)
	None.	<p>SECTION 16. Natural Resource Trust Fund. To ensure intergenerational equity as a right of future generations of Filipinos and transparency and accountability in the use of proceeds from the extraction of mineral and quarry resources, the national government shall create a national natural resource trust fund where all the proceeds from mining activities excluding shares of local government units shall accrue. Likewise, local government units are mandated to create a local natural resource trust fund where shares from national government and locally collected taxes from mining and quarrying shall accrue.</p> <ul style="list-style-type: none"> A. The national trust fund shall be governed by the Department of Budget and Management under a special account. B. The local trust funds shall be governed as legislated by local sanggunians concerned provided that transparency and accountability mechanisms are put in place. C. The governing bodies may invest up to 60% of the money in the trust and shall not be required to return the balance of the trust to the national government at the end of every fiscal year. D. The funds may be used by the national and local

		<p>governments to support educational programs, technological research programs of national and local relevance, and health services deemed to benefit future generations of Filipinos.</p> <p>E. The funds are strictly subjected to annual audit by state auditors and mandatory disclosures to the Philippine Extractive Industries and Transparency Initiative.</p>
--	--	---

Provisions on Ring Fencing

<p>Current:</p> <p>Case in Point:</p> <p>BK’s Stand: “Ring fencing” prevents the consolidation of income and expenses across mining projects by the same taxpayer. It limits the consolidation of income and tax deductions from exploration and development expenditures for different activities and projects undertaken by the same investor. This means that losses from other mining projects are prevented from being deducted from projects that are more profitable. Both Bantay Kita and MICC proposals have ring fencing provisions.</p>		
<p>Alternative Mineral Management Bill (SB 1069 and SB 1191)</p>	<p>Mining Industry Coordinating Council (with versions filed under SB 225 and SB 927)</p>	<p>Bantay Kita Bill (with versions filed in Senate under SB 1125)</p>
	<p>Section 7: Each final mining area is treated as a separate taxable entity. If the Contractor has more than one final mining area in a contract area or is a party to more than one mineral agreement, each final mining area shall be treated as a separate taxable entity.</p>	<p>Section 6. Separate Taxable Personality. Each mining operation in a mining area will be considered a separate taxable entity. If a mining contractor is party or holds more than one mineral agreement, he shall be treated as a separate person in respect of the business operations related to each mining area.</p>

Provisions on Zoning

<p>Current:</p> <p>Case in Point:</p> <p>BK’s Stand: Creating MIZ will have implications in the Local Government Code and will remove the Local Chief Executive’s regulatory power over mining operations to issue the power to business permits and other license requirements. This will also affect an LGU’s power to create its own source of revenue from levying of taxes, fees, and charges, which is contrary to the principle of local autonomy</p>

<p>Alternative Mineral Management Bill (SB 1069 and SB 1191)</p>	<p>Mining Industry Coordinating Council (with versions filed under SB 225 and SB 927)</p>	<p>Bantay Kita Bill (with versions filed in Senate under SB 1125)</p>
<p>None provided, assume status quo</p>	<p>Section 5: Mining industry Zone- All Mining Areas governed by this Act shall be declared by the President as Mining Industry Zone (MIZ), through a presidential proclamation upon endorsement by the Secretary of the Department of Environment and Natural resources (DENR). For this purpose, only the mining areas approved and certified by the Mines and Geosciences Bureau (MGB) may be endorsed by the DENR-Secretary to the President.</p> <p>The MGB approval and certification process shall pass through consultation with the concerned Local Government Unit (LGU) and the Indigenous Cultural Communities (ICC), if the mining area is well within ancestral domain. This consultation process shall include an LGU endorsement for the establishment of the mining area as MIZ. In consideration of the payment to LGU of 40% of the total government share referred to in section 12 of this Act, the LGU endorsement shall include a waiver of its power to regulate the mining business operations through issuance of business permits and other license requirements imposed by the LGU pursuant to the Local Government Code of 1991, as amended.</p> <p>The establishment of the MIZ must conform to the following criteria:</p> <ol style="list-style-type: none"> a. The proposed area is a “Go Zone” as identified by an appropriate government agency or under any applicable law b. The final mining area shall be endorsed by the Secretary of the Department of Environment and Natural Resources (DENR) to the President; c. The final mining area must have a significant 	<p>None provided, assume status quo</p>

	<p>advantage to the economy and its potential profitability can be established and;</p> <p>d. Other criteria may be determined by the Mining Industry Coordinating Council (MICC) or an inter-agency Group that may be created, tasked or assigned by the President</p> <p>No mining operations can be undertaken in any mining area without the LGU/ ICC endorsement and the Presidential proclamation of an MIZ.</p>	
--	--	--

Provisions on Scope and Application

Current: The Philippine government may enter into one of the following forms of a mineral agreement: mineral production sharing agreement, a co-production agreement, and a joint venture agreement. A mineral agreement grants the contractor exclusive right to conduct mining operations.

Case in Point: As of October 31, 2016, there are 311 mineral production sharing agreements covering 587, 497 hectares nationwide. Executive Order 79 of President Benigno Aquino III imposed a moratorium on the issuance of new permits until a new mining fiscal regime is put in place.

BK’s Stand: Bantay Kita proposes that the new tax structure be applicable to current contracts.

<p>Alternative Mineral Management Bill (SB 1069 and SB 1191)</p>	<p>Mining Industry Coordinating Council (with versions filed under SB 225 and SB 927)</p>	<p>Bantay Kita Bill (with versions filed in Senate under SB 1125)</p>
	<p>Section 4: This Act shall govern and apply to new Mineral Agreements and Financial or Technical Assistance Agreements covering large-scale metallic mineral operations that are entered into upon the effectivity of this Act. This shall also cover existing MAs and FTAAAs where such agreements provide that any terms and conditions resulting from repeal or amendment of any existing laws or regulations or from the enactment of a law, regulation or administrative order shall be considered a part of said agreements.</p>	<p>Section 5. Scope and Application. This Act shall and apply to new Mineral Agreements and FTAAAs covering large-scale mineral mining operations that are entered into upon the effectivity of the Act. This shall also cover existing Mineral Agreements and FTAAAs where such agreements provide that any terms and conditions resulting from repeal or amendment of any existing laws or regulation or from the enactment of a law, regulation or administrative order shall be considered a part of said agreements.</p> <p>The renewal and renegotiation of existing Mineral Agreements and FTAAAs shall also be governed by this Act.</p>



Provisions on Collecting Agency

<p>Current:</p> <p>Case in Point:</p> <p>BK's Stand: The MICC bill provides for a period when the Bureau of Treasury should transfer the share to LGUs. The IP share is directly given to IP communities. It proposes to amend the mining act by removing the requirement that IP shares be put in a trust fund.</p>		
<p>Alternative Mineral Management Bill (SB 1069 and SB 1191)</p>	<p>Mining Industry Coordinating Council (with versions filed under SB 225 and SB 927)</p>	<p>Bantay Kita Bill (with versions filed in Senate under SB 1125)</p>
	<p>Section 13: The government share shall be remitted and paid quarterly by the Contractor to the government.</p> <p>The ICC share shall be directly remitted and paid by the contractor to the ICC within 5 days from the end of each quarter.</p> <p>Within 5 days from the end of each quarter, the Contractor shall pay the government share, net of the ICC share, if applicable, through the Electronic Filing and Payment System (EFPS) facility of the BIR or its accredited bank which shall credit such payment to the Bureau of Treasury (BTr) on the following banking day from payment. The BTr, within 5 banking days from the receipt thereof, shall deposit the 40% LGU share to the account of the LGUs through their respective GFIs or their authorized agent bank.</p>	<p>None provided, assume status quo</p>