

Tax Assessment of the Imposition of Excise Tax on Invasive Cosmetic Procedures Pursuant to Section 46 of Republic Act No. 10963*

I. INTRODUCTION

Section 46 of Republic Act (RA) No. 10963,¹ otherwise known as the “Tax Reform for Acceleration and Inclusion (TRAIN)” Law, which took effect January 1, 2018, inserted a new section designated as Section 150-A under Chapter VI, Title VI of the National Internal Revenue Code (NIRC) of 1997, as amended, which imposes a 5% excise tax on gross receipts derived from the performance of services, net of excise tax and value-added tax (VAT) on invasive cosmetic procedures, surgeries, and body enhancements. Said imposition was implemented by Revenue Regulations (RR) No. 2-2019.²

This paper assesses the revenue performance of the excise tax on invasive cosmetic procedures from 2018 to 2019 pursuant to the TRAIN Law as input to fiscal policymakers.

II. BACKGROUND INFORMATION

An excise tax or duty is a levy on the manufacture or sale of certain domestic or imported products. It is imposed as a special tax on the consumption of a commodity upon its retail sale or sale by the manufacturer or producer or importation (Amurao, 2019). The excise

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¹ Entitled, “An Act Amending Sections 5, 6, 24, 25, 27, 31, 32, 33, 34, 51, 52, 56, 57, 58, 74, 79, 84, 86, 90, 91, 97, 99, 100, 101, 106, 107, 108, 109, 110, 112, 114, 116, 127, 128, 129, 145, 148, 149, 151, 155, 171, 174, 175, 177, 178, 179, 180, 181, 182, 183, 186, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 232, 236, 237, 249, 254, 264, 269, and 288; Creating New Sections 51-A, 148-A, 150-A, 150-B, 237-A, 264-A, 264-B, and 265-A; and Repealing Sections 35, 62, and 89; All Under Republic Act No. 8424, Otherwise Known as the National Internal Revenue Code of 1997, as Amended, and for Other Purposes.”, (December 19, 2017).

² Entitled, “Rules and Regulations Implementing the Imposition of Excise Tax on Non-Essential Services Introduced by Republic Act No. 10963, Otherwise Known as the “Tax Reform for Acceleration and Inclusion (TRAIN) Law”, (February 20, 2019).

tax is in addition to the 12% VAT. One purpose of the excise tax is to impose an additional tax on luxury goods and services, which are considered expensive, unnecessary, and non-essentials, to raise additional government revenues. Presently, a 20% excise tax is imposed on non-essential goods such as jewelry, perfumes and toilet waters, yachts and other vessels intended for pleasure and sports.

Given the growing popularity of cosmetic procedures, surgeries, and body enhancements in the country, it is timely that said services be subject to the excise tax as some of these are deemed unnecessary and non-essentials, and for revenue generation.

Based on the International Survey on Aesthetic/Cosmetic Procedures conducted by the International Society of Aesthetic Plastic Surgery (ISAPS), an average of 22.95 million total cosmetic procedures were done globally from 2013 to 2019, where 10.58 million or 46.09% were surgical procedures and 12.38 million or 53.91% were non-surgical procedures. On average, the total cosmetic procedures grew by 1.36% during the same period where surgical and non-surgical procedures went up by 0.02% and 2.68%, respectively. (See Table 1.)

Table 1

Number of Cosmetic Procedures in the World, 2013 to 2019

Year	Number of Procedures (In Million)			Growth Rate (%)		
	Total	Surgical	Non-Surgical	Total	Surgical	Non-Surgical
2013	23.47	11.60	11.87	-	-	-
2014	20.24	9.65	10.59	-13.76	-16.81	-10.78
2015	21.70	9.64	12.06	7.21	-0.10	13.88
2016	23.63	10.42	13.21	8.89	8.09	9.54
2017	23.39	10.77	12.62	-1.02	3.36	-4.47
2018	23.27	10.61	12.66	-0.51	-1.49	0.32
2019	24.98	11.36	13.62	7.35	7.07	7.58
Average	22.95	10.58	12.38	1.36	0.02	2.68
Ave. % Share to Total	100.00	46.09	53.91	-	-	-

Notes. ISAPS. (n.d.). *International Survey on Aesthetic/Cosmetic Procedures Performed in 2013* [Data Set]. Retrieved from <https://www.isaps.org/wp-content/uploads/2017/10/2014-ISAPS-Results-3-1.pdf>.

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ISAPS. (n.d.). *International Survey on Aesthetic/Cosmetic Procedures Performed in 2018* [Data Set]. Retrieved from <https://www.isaps.org/wp-content/uploads/2020/10/ISAPS-Global-Survey-Results-2018-1.pdf>.

ISAPS. (n.d.). *International Survey on Aesthetic/Cosmetic Procedures Performed in 2019* [Data Set]. Retrieved from <https://www.isaps.org/wp-content/uploads/2020/12/Global-Survey-2019.pdf>.

In 2019, breast augmentation, liposuction, and eyelid surgery were the top surgical procedures done worldwide. For non-surgical procedures worldwide, botulinum toxin (botox), hyaluronic acid, and hair removal were on the top of the list. Said top three procedures shared 41.90% and 85.39% of the total surgical and non-surgical procedures, respectively, for the same year. (See Table 2.)

Table 2

Top 3 Cosmetic Procedures Done Worldwide, 2019 (In Million)

Surgical procedures		Non- surgical procedures	
Breast Augmentation	1.80	Botox	6.27
Liposuction	1.70	Hyaluronic Acid	4.32
Eyelid Surgery	1.26	Laser Hair Removal	1.04
Total	4.76	Total	11.63
% to Total Procedures	41.90	% to Total Procedures	85.39

Note. ISAPS. (n.d.). *International Survey on Aesthetic/Cosmetic Procedures Performed in 2019* [Data Set]. Retrieved from <https://www.isaps.org/wp-content/uploads/2020/12/Global-Survey-2019.pdf>.

In the Philippines, conservative estimates using the 265 total members of the Philippine Association of Plastic, Reconstructive and Aesthetic Surgeons, Inc. (PAPRAS) and the Philippine Society for Cosmetic Surgery (PSCS) show that there were around 143,100 cosmetic procedures performed in the country in 2019 with 65,955 or 46.09% surgical procedures and 77,145 or 53.91% non-surgical procedures. (See Table 3.)

Table 3

Estimated Number of Cosmetic Procedures Performed in the Philippines, 2019

Particulars	Number
Total	143,100
Surgical	65,955
Non-surgical	77,145

Notes. The estimated number of cosmetic procedures in the Philippines was derived using the 540 average procedures per surgeon based on the Top 10 countries with the highest number of procedures reported by the 2019 ISAPS Survey multiplied by the 265 total PAPRAS and PSCS members. Applying the 2013-2019 average worldwide ratios of 46.09% for surgical procedures and 53.91% for non-surgical procedures to estimate the cosmetic procedures performed in the Philippines for 2019. (See Table 1.)

There are 1,507 registered Filipino plastic surgeons and dermatologists as of February 2021. The Philippine Dermatological Society (PDS) has the highest number of members totaling 1,242, followed by the PAPRAS and the PSCS with 178 and 87 members, respectively. On the other hand, Filipino doctors performing cosmetic procedures who are members of the ISAPS, American Society of Plastic Surgeons (ASPS), and American Academy of Cosmetic Society (AACS) totaled 26. (See Table 4.)

Table 4

Number of Doctors Performing Cosmetic Procedures by Membership as of February 22, 2021

Associations	No. of members
<i>Philippine Associations</i>	
PDS	1,242
PAPRAS	178
PSCS	87
Total	1,507
<i>International Associations</i>	
ISAPS	16
ASPS	9
AACS	1
Total	26

Notes. AACS. (2021). *Member search*. Retrieved February 22, 2022, from <https://www.cosmeticsurgery.org/search/newsearch.asp>.

ASPS. (2021). *Find a Plastic Surgeon near me*. Retrieved February 22, 2022, from <https://find.plasticsurgery.org/country/philippines>.

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PSCS. (2021). *A Comprehensive List of Surgeons Proficient to Perform Cosmetic Surgery Procedures*. Retrieved February 22, 2022, from <http://www.pscs.ph/projects.html>.

III. TAX ASSESSMENT OF THE IMPOSITION OF EXCISE TAX ON COSMETIC PROCEDURES

The TRAIN Law imposes a 5% excise tax based on the gross receipts derived from the performance of services, net of excise tax and VAT, on invasive cosmetic procedures, surgeries, and body enhancements directed solely towards improving, altering, or enhancing the patient's appearance and do not meaningfully promote the proper function of the body or prevent or treat illness or diseases.

The 5% excise tax does not apply to procedures necessary to correct a deformity arising from or directly related to a congenital or developmental defect or abnormality, a personal injury resulting from an accident or trauma, or disfiguring disease, tumor, virus, or infection, and to cases and treatments covered by the National Health Insurance Program.

Pursuant to Section 2.2 of RR 2-2019, cosmetic surgery refers to a type of plastic surgery that aims to improve a person's appearance through invasive cosmetic procedures, surgeries, and body enhancements directed solely at improving, altering, or enhancing the person's appearance and do not necessarily promote the proper functions of the body or prevent or treat illness or disease. Cosmetic procedures can be classified as either invasive or non-invasive defined as follows:

- a. Invasive cosmetic procedure refers to a cosmetic surgery carried out by entering the body through the skin or through a body cavity or anatomical opening, but with the smallest damage possible to these structures. It includes, but is not limited to, liposuction, mammoplasty, breast lift, buccal fat removal, buttocks augmentation, chin augmentation, facelift/necklift, thread lift, embedded protein threads, hair restoration/transplantation, eyelid surgery, vaginal plastic surgery, abdominoplasty or tummy tuck, auto grafting, rhinoplasty/alar trimming, and otoplasty (Section 2.4 of RR 2-2019).
- b. Non-invasive cosmetic procedure refers to a conservative treatment that does not require an incision into the body or the removal of tissue or when no break in the skin is created, and there is no contact with mucosa, skin break, or internal body cavity beyond a natural or artificial body orifice. It includes, but is not limited to, acupuncture rejuvenation therapy, air dissector, botulinum toxin injection/treatment, collagen induction therapy, dermal fillers, non-surgical face-lifting and skin tightening using radio frequency/ultrasound/infrared, carbon dioxide fractional laser resurfacing, laser and light treatments, body treatments and contouring procedures, cleanings and facials, peelings (face and body), and injectable and weight management treatment (Section 2.5 of RR 2-2019).

On the imposition of the 5% excise tax, the term "gross receipts" shall mean the total amount of money or its equivalent representing the contract price or service fee, including deposits applied as payments for services rendered and advance payments actually or constructively received for services performed or to be performed for another person, but excluding the 5% excise tax and VAT (Section 3 of RR 2-2019). For purposes of determining

the VAT base, the gross receipts shall be inclusive of the 5% excise tax. (Section 3 of RR 2-2019) Filing and payment of the tax must be made within 10 days following the close of the month via over-the-counter of authorized agent banks under the jurisdiction of the revenue district office where the taxpayer is registered.

Although not subject to the excise tax, individual practitioners or juridical entities performing non-invasive cosmetic procedures must execute and submit sworn statements stating that they are performing only non-invasive cosmetic procedures. In the case of juridical entities, the sworn statement should be executed by the president/CEO of the company.

Meanwhile, all individual practitioners and juridical entities, including medical clinics and hospitals, performing invasive cosmetic procedures, whether in a clinic or hospital or any place other than a clinic or hospital, are required to update their Certificate of Registration to include the tax type – Excise Tax on Invasive Cosmetic Procedures with Excise Large Taxpayers Division or Large Taxpayers Assistance Division for Large Taxpayers registered under Large Taxpayers Services or with the Revenue District Office for non-large taxpayers having jurisdiction thereof.

Any convicted person who willfully evades the payment of excise tax on invasive cosmetic procedures will be imposed a fine of not less than P500,000 but not more than P10 million and imprisonment of not less than six years but not more than 10 years.

The rationale for the imposition of the excise tax is that invasive cosmetic procedures are deemed unnecessary, not life-threatening, and not required for survival and only a privileged few can afford to undergo the said procedures and will bear the tax.

It may be noted that the 5% excise tax on cosmetic surgery and other aesthetic procedures was not originally part of the initial TRAIN Law bill. It was seen as one of the offsetting measures in the TRAIN Law to meet the revenue goal of the government after it provided income tax cuts for the majority of Filipino taxpayers, as well as raised additional funds to help support the government's accelerated spending on its "Build, Build, Build" and social services programs. It is in line with the policy objective of improving the equity and progressivity of the tax system where essential goods/services are taxed less. In contrast, non-essential goods/services are taxed more and burdened those who have the means to pay for the said luxury services.

Presently, medical services rendered by doctors of medicine duly registered with the Professional Regulatory Commission with gross receipts exceeding P3 million derived from the medical service performance are subject to the 12% VAT. Accordingly, doctors can claim input VAT on purchases related to the practice of their profession as long as these expenses are supported by receipts issued under their name. In cases where hospitals or clinics received payment for services rendered by doctors, it is their duty and responsibility to withhold and remit taxes due on the professional fees of their respective accredited medical practitioners, paid by patients who were admitted and confined in such hospitals and clinics as follows (Section 2 of RR 11-2018). (See Table 5.)

Table 5

Summary of Creditable Withholding Tax on Professional Fees, Talent, etc. for Services Rendered

Particulars	Gross income	Tax rate
Individual Payee	- Less than P3 million	5%
	- More than P3 million	10%
Non-individual Payee	- Less than P720,000	10%
	- More than P720,000	15%

Note. Bureau of Internal Revenue, Amending Certain Provisions of Revenue Regulations No. 2-98, as amended, to Implement Further Amendments Introduced by Republic Act No. 10963, Otherwise Known as the “Tax Reform for Acceleration and Inclusion (TRAIN)” Law, Relative to Withholding of Income Tax, Revenue Regulation No. 11-2018, Section 2 (January 31, 2018).

Doctors of medicine whose gross sales/receipts and non-operating income do not exceed the VAT threshold have the option to avail of the graduated rates of personal income tax ranging from 20% to 35% or the 8% tax on gross sales/receipts and other non-operating income in excess of P250,000 in lieu of the graduated personal income tax and percentage tax. [Section 3(C) of RR 8-2018]

Although RR 2-2019, which implements the 5% excise tax on cosmetic procedures was only released in February 2019, there was already a collection of P4.0 million in 2018. In 2019, the total excise tax collection from invasive cosmetic procedures increased to P5.0 million or 25%. (See Table 6.)

Table 6

TRAIN Revenues from Excise Tax, CYs 2018 to 2019 (Amounts in Million Pesos)

Particulars	2018	2019
Collection	4.0	5.0
Growth Rate (%)	n.a.	25.0

Note. Bureau of Internal Revenue (official communication, 2018 – 2019).

The cosmetic procedures tax yielded a meager revenue for the government, as it has a low rate and a narrow tax base compared to the 20% excise tax on non-essential goods. The 5% excise tax is relatively new, so tax compliance can still be challenging for the taxpayers.

Prior to its implementation, there was a perception that the excise tax on invasive cosmetic procedures would drive away patients and avail of the said services abroad. However, invasive cosmetic procedures in the Philippines are very affordable compared to other

countries. The Philippines has relatively lower prices on selected invasive cosmetic procedures based on available latest published price lists. Breast implants in the Philippines only cost around P161,000 compared to P360,461 in other countries such as India. The country offers the third-lowest average price for rhinoplasty, amounting to P60,833. Facelift procedures in the country cost P129,550 only vis-a-vis neighboring countries like Thailand (P135,197) and Vietnam (P111,502). Similarly, liposuction and tummy tuck in the country are relatively cheaper than in Thailand, India, and Colombia. (See Table 7.)

Table 7

*Cross-Country Comparison of Prices of Selected Invasive Cosmetic Procedures, 2021
(amounts in pesos)*

Country	Breast implants	Rhinoplasty	Face lift	Liposuction	Tummy tuck
Colombia	240,307	144,184	249,919	216,276	240,307
India	360,461	297,981	346,042	230,695	374,879
Jordan	101,890*	101,890*	NA	122,076*	169,657*
Mexico	201,858	173,021	297,981	120,154	201,858
Philippines	161,000	60,833	129,550	107,278	174,455
South Korea	240,307	197,052	288,368	NA	NA
Thailand	84,107	15,043*	135,197	90,115	343,303
Ukraine	175,424	168,215	194,649	12,977	182,633
Vietnam	173,502*	37,488*	111,502*	245,594*	181,191*

Notes. Bangko Sentral ng Pilipinas. (2021). *Statistics – Exchange rates*: [Data Set]. Retrieved from <https://www.bsp.gov.ph/SitePages/Statistics/ExchangeRate.aspx>.

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* - Minimum amounts

January 2021 average exchange rate: US\$1.000 = PHP48.0614

In addition, the Philippines has many modern and world-class aesthetic facilities that meet and surpass high standards, which include St. Luke's Medical Center, Makati Medical Center, Medical City, and Asian Hospital, to name a few. Aside from the availability of highly skilled physicians who have undergone trainings abroad, the other advantages of the country as a leading medical tourism destination include the availability of English-speaking healthcare providers, proximity to most of Asia's major cities, and the ability of a caring local community.

Although the possibility of patients traveling to neighboring countries to avail of cosmetic procedures cannot be discounted, the abovementioned advantages of the Philippines over other cosmetic tourism destinations will help the country's cosmetic surgery industry remain competitive.

IV. CONCLUSION

Although the 5% excise tax on invasive cosmetic procedures cannot be considered a major revenue-raising measure of the government, it improved the equity and progressivity of the TRAIN Law as only those belonging to the upper and middle-income groups bear the burden of the tax.

Also, the fact that there were those who still voluntarily paid the tax in 2018, despite the absence of rules and regulations to interpret the applicability of the 5% excise tax on cosmetic procedures, was indicative of taxpayers' willingness to contribute their fair share to the government.

While the excise tax collected on invasive cosmetic procedures remained meager, with RR 2-2019 now in place, the revenue stream from the said tax will eventually increase. At this time of the COVID-19 pandemic, whatever little revenue the government collects would greatly help bring the economy back into full swing.

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