

THIRTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

04 OCT -6 P4:49

SENATE

RECEIVED



S.B. No. 1815

Introduced by Senator JUAN PONCE ENRILE

EXPLANATORY NOTE

Admittedly, excise taxation of certain products can be put to use to accomplish diverse goals in national policy. For instance, it can be used simply under the taxing power of the State to raise revenue. It can also be employed under the police power of the State to deter or discourage the consumption of products deemed inimical to the health of the people. Or it can be employed for both reasons: to provide revenue for the government and to protect the health of the community.

The last one is the objective of the proposed bill. It is intended to raise revenue for the government, to deter or discourage the consumption of tobacco products in general, and in particular, to protect passive smokers from the ill effects of negative environment arising from smoking machine packed cigarettes.

It is no longer a secret that cigarette smoking is hazardous to health. In fact, it is now a major cause of lung cancer in our modern day. There are varied estimates of the number of deaths in the country arising from lung cancer. One estimate says that it is between fifty (50) to one hundred (100) daily.

The Philippine Lung Center gives the estimate that 17,238 new cases will occur in 2005. The median survival time is six (6) months. Five-year survival rate is 5.28%. Ten-year survival is only 2.68%. Incidence rises steeply at age 40. Of the new cases in 2005, 13,273 will be males and 3,965 will be females. In the same year, 15,881 deaths are expected.

However, according to the World Health Organization, lung cancer and other tobacco-related diseases kill 20,000 Filipinos yearly and leave the government poorer by about P46 billion in economic and medical costs annually. On the basis of this WHO estimate, this would mean fifty-five (55) hapless individuals would depart daily from our temporal world and leave their love ones forever. It is also estimated that of the number of deaths from smoking-related diseases, about 99% come from the C, D, and E classes of our society.



Today, there are estimated 23.8 million adult smokers in the country. One percent (1%) of this comes from the A and B classes; 6%, from the C class; 66%, from the D class; and 27%, from the E class.

In terms of age, 24% belong to ages 24 years and below; 15% belong to ages 25 to 29 years; 25% belong to ages 30 to 39 years; and 36% belong to ages forty years and above.

As far as gender is concerned, 85% are males and 15% are females.

Probably, this too is the experience of other countries. And probably, this is also the impelling reason why many countries enact laws that severely regulate cigarette smoking and impose heavy excise taxes on the consumption of the product.

Compared to other countries, our excise taxes on machine packed cigarettes are among the lowest. For instance, at current exchange rate, Singapore imposes an excise tax equivalent to P193.20 per pack; Hongkong, P115.40 per pack; Japan, P81.20 per pack; Korea, P24.64 per pack; Taiwan, P19.60 per pack; Malaysia, P15.68 per pack; Germany, P409.7 per pack; United Kingdom, P365.28 per pack; France, P249.21 per pack; Denmark, P226.9 per pack; Italy, P154.30 per pack; and Spain, P74.82 per pack.

Under Paragraph (C) of Section 145 of the National Internal Revenue Code, machine packed cigarettes are classified into "Premium", "High", "Medium", and "Low". The excise tax rates differ widely for each of these four classifications.

The "Premium" cigarettes are taxed at P13.44 per pack under Subparagraph (1) of Paragraph (C), Section 145 of the National Internal Revenue Code. The only brand under this category is LUCKY STRIKE. In 2003, it had less than 0.1% share of the market. The total volume of sales of machine packed cigarettes for that year was 87,173,600,000 sticks, or 4,358,700,000 packs. The tax payment of the "Premium" class of cigarettes for 2003 was negligible.

The "High" cigarettes are taxed at P8.96 per pack under Subparagraph (2) of Paragraph (C), Section 145 of the National Internal Revenue Code. The brands under this class are: HOPE M 100, PM M 100, PM LTS M 100/PM 100s FTB, MB KS, MB LIGHTS FIL K, MB LIGHTS MK, MB FTB 10s, MB LIGHTS FTB 20s, MB KS FTB 20s, MB Menthols Lights FTB, MB FF MK, PM KS, BOWLING GREEN M 100, BOWLING GREEN PREM M, and JET SPECIAL FIL K.

The "High" class of cigarettes had 30.5% share of the market in 2003. The aggregate sale from this class in 2003 was 26,587,948,000 sticks, or 1,329,397,000 packs, and it contributed 60.6% or P11,935,170,000.00, out of the entire revenue of P19,680,478,179.40 of the government for that year from machine packed cigarettes.

The "Medium" cigarettes are taxed at P5.60 per pack under Subparagraph (3) of Paragraph (C), Section 145 of the National Internal Revenue Code. The brands under this class are: MONTREAL FIL K, CANNON M KS, CAMEL FIL K, CAMEL FIL BOX 20s, CAMEL LTS BOX 20s, CHAMPION INTL M 100, HOPE MK, MARK M 100, MORE INTL FIL K, MORE M 100, MARK PREM MK, CANNON M 100, FORBES FIL K, L & M KS SP, CASINO ROYALE FIL K, CASINO ROYALE M 100, CASINO ROYALE MK, WINSTON FIL K, and WINSTON LIGHTS FIL K.

The "Medium" class of cigarettes had 21.5% share of the market in 2003. The aggregate sale from this class in 2003 was 18,742,324,000 sticks, or 937,116,200 packs, and it contributed 27.3% or P5,376,735,000.00, to the entire revenue of the government for that year from machine packed cigarettes.

The "Low" cigarettes are taxed at P1.12 per pack under Subparagraph (4) of Paragraph (C), Section 145 of the National Internal Revenue Code. The brands under this class are: BOSS SK M 100, BOSS FK, CHAMPION MK, CHAMPION MK LIGHT, EVERGREEN M 100, FORTUNE INTL MK, FORTUNE INTL FK, JACKPOT M 100, LIBERTY M 100, PEAK M 100, PLAZA M 100, WEST POINT FIL K, WINTER M 100, MEMPHIS FK, MEMPHIS 100s, ASPEN M 100/Golden Key M100, ASPEN M KS, ASPEN FIL K/Golden Key FK, ASTRO M 100, ASTRO MK, ASTRO FK,

BOWLING GOLD M, BOWLING GOLD MK BOX, BOWLING GOLD FK BOX, LAS VEGAS M 100, MILLER INTL M, MILLER LIGHTS M 100, MILLER INTL MK, MORGAN INTL M 100, STORK INTL CLASSIC FK, STORK LIGHTS M 100, STORK LIGHTS MK, STORK SPECIAL LTS M, STORK INTL M, STORK INTL MK, STORK INTL FIL K, STORK M 100, STORK MK, UNION AMERICAN BLEND, UNION M 100, CHASE PREM INTL, MILLER FIL K, MORGAN SELECT M, BLUE SEAL M 100, GALLO FIL K, KINGS 100, KINGS, LA RED FIL K, LA LIGHTS, LA SPECIAL M 100, MARVEL M 100, MARVEL RED FIL K, MIGHTY KS, RIGHT/MIGHTY M 100, SUPER CIG 100, 68 KS, 68 M 100, ASIA BOSTON FIL K, ASIA BOSTON MK, ASIA BOSTON M 100, CANADIAN CLUB M100, MEDALLION M100, CHARTER LIGHTS FIL K, DALLAS M 100, FIGHTER MK, CHUNGHWA/SHUANGXI/YUNNAN, GREAT WALL INTL M 100, GOODWILL FK, GOOD CHAMPION LTS K, NAVY CLUB FIL K, PENTAGON M 100, SOCIAL CLUB FIL K, SOCIAL CLUB M 100, SOCIAL CLUB MK, SOMEONE MENTHOL 100's, SPOTLIGHT MENTHOL 100's, TRIPLE A FREEDOM M 100, TRIPLE A FREEDOM MK, VALENTINO M 100, GUESS FK, GLORY FK, MANHATTAN FIL K, SENATE FIL K, VILLA ESCUDERO MK, VISION 2000/ESCUDERO FK, VISION 2000 M 100, LIGHT HOUSE FIL K, STRIKE FIL K, RAINBOW FIL K, SMART FK, SMART M100, and CHAMPION M 100.

The "Low" class of cigarettes had *48% share of the market in 2003*. The aggregate sale from this class in 2003 was 41,843,328,000 sticks, or 2,092,166,400 packs. *And yet, it contributed only 12.1%, or P2,383,095,000.00, to the entire revenue of the government for that year from machine packed cigarettes.*

The inefficiencies in the structure of our excise taxes on tobacco products -- especially excise taxes on machine packed cigarettes -- and in their administration have made these taxes very ineffective, almost useless, tools of national policy. They have failed to accomplish their sumptuary aim simply because the rates of excise taxes are very mild.

It is, therefore, no wonder that our excise taxes on machine packed cigarettes do not and cannot provide sufficient deterrence or discouragement to individuals to smoke cigarettes, whether these are old or new smokers, and especially to the members of our younger population -- the teenagers. Nor do these excise taxes contribute sufficient revenue to the government to compensate for the immense social cost that cigarette smoking inflicts on society. It is worth repeating here what the World Health Organization said that the Philippines incurs annually some P46 billion in economic and medical costs because of smoking-related diseases.

In 2003, the tax revenue from tobacco products was but equal to 0.46 percent of GDP. This ratio is almost equal to the tax-to-GDP ratio twenty years ago.

The extremely poor performance of excise taxes on tobacco products is attributable to the complex structure of these taxes. Using price as basis to tax sin products is not effective and advantageous to the government. It benefits the producers, importers, and other major players extremely, but not the government.

This is especially true for those affecting machine packed cigarettes. The complexity of the structure of the excise tax on machine packed cigarettes attracts manipulations and misdeclarations of prices and productions. It also encourages shifting from one price classification to another, whenever it is advantageous, taxwise, to the producers, importers, or other players.

These manipulations, misdeclarations, and shifting from one classification to another for machine packed cigarettes are manifested in the erratic annual revenue of the government in relation to sales during the years from 1996 to 2003.

In 1996, the government collected P14.936 billion out of an aggregate sales of 77.035 billion sticks; in 1997, P16.020 billion out of an aggregate sales of 67.815 billion sticks; in 1998, P16.743 billion out of an aggregate sales of 70.748 billion sticks; in 1999, P16.504 billion out of an aggregate sales of 71.483 billion sticks; in 2000, P17.407 billion out of an aggregate sales of 70.866 billion sticks; in 2001, P19.420 billion out of an aggregate sales of 78.963 billion sticks; in 2002, P20.064 billion out of an aggregate sales of 83.828 billion sticks; and in 2003, P19.695 billion out of an aggregate sales of 88.266 billion sticks. These figures include both machine and hand packed cigarettes.

The above facts and figures indubitably show the distorted nature of the present structure of the excise tax on machine packed cigarettes. Worse, the present tax structure provides no mechanism at all that will allow the government to adjust the tax rates to make them fairer and more effective. And there is no way under the current system to make them correspond to changes in price levels either. The present structure of the excise tax on machine packed cigarettes has immensely benefited the "Low" class of machine packed cigarettes to the detriment of the government and society.

Ad valorem taxation of tobacco products failed in the past. It will fail again, if Congress will be incautious enough to adopt it once more as a mode to tax machine packed cigarettes.

In 1997, when the shift to Specific tax system was proposed, it was shown with clear proofs that the government was losing a very large portion of its revenue from machine packed cigarettes under the *Ad valorem* system because of elaborate tax avoidance scheme concocted by one of the main producers. It was established that the *Ad valorem* model allowed price manipulations and sham transactions. It was also shown that the *Ad valorem* system attracted a shift toward low priced and low taxed products. And it was furthermore established that the *Ad valorem* system was difficult to administer.

But more than its failure as a reliable method to raise revenue, it was also demonstrated in the investigation conducted by the Ways and Means Committee of the Senate that *ad valorem* taxation lends itself to massive corruption, tax avoidance, if not downright tax evasion. The records of the Senate hearings clearly and loudly attest to this fact.

Hence, the bill being presented aims to simplify the structure and administration of the tax on machine packed cigarettes through the following provisions:

1. The bill proposes to rationalize and adjust the presently distorted structure of the rates, especially the multi-tiered rates, of the excise tax on machine packed cigarettes so that ultimately the said excise tax will have a single rate.

The four-tiered rates we now have promote distortions in prices and productions. They promote production of low-priced cigarettes, which account for 48 percent share of the market in 2003, from only 28.8% in 1996.

The large gaps and disparities in the excise tax rates for the various classes of machine packed cigarettes attract creative tax avoidance, if not outright tax evasion practices. And they do not promote effective tax administration and compliance.

The adoption of a uniform tax rate will bring forth the sumptuary purpose of taxation. Smoking, regardless of brands and prices of cigarettes, should be deterred or discouraged.

2. The bill also proposes to adopt a mechanism that will provide an automatic adjustment of tax rates relative to inflation every two years starting in 2013.

Section 109(z) of the National Internal Revenue Code provides for the use of the Consumer Price Index (CPI) as published by the National Statistics Office in the adjustment of sales of small traders to its current value. The indexation provision of this bill uses the CPI to adjust the tax rates to enhance buoyancy of revenues in relation to price changes. Some governments, such as New Zealand, Australia, and the United Kingdom, use indexation as an effective tool to sustain a buoyant tax collection through time.

3. It likewise proposes to protect the government from frontloading of cigarette production or importation in anticipation of increases in tax rate. It was estimated that government lost more than one billion pesos in 1997 due to this practice.

The proposal is estimated to generate P18.04 billion in additional revenues in 2005, P3.3 billion yearly in 2006, 2007, and 2008, P4.9 billion in 2009 and P6.5 billion in 2010.

Increases in tax rates for cigarettes presently classified as "High", "Medium", and "Low" will be phased in six years: from P9.50 per pack in 2005 to P13.50 per pack in 2010 for "High" and from P6.00 per pack in 2005 to P13.50 per pack in 2010 for "Medium" and "Low". The cigarettes classified as "Premium" will pay an excise tax of P13.50 beginning on January 1, 2005.

There are four other brands, which do not come under the classification of either "Premium", "High", "Medium", or "Low". These are: SALEM M 100, SALEM MK, SALEM MK BOX 20's, and SALEM MK LTS BOX 20's. Currently, these are subject to a uniform excise tax rate of P6.96 per pack. It is proposed that these will all be placed under a uniform rate of P7.50 per pack effective on January 1, 2005, and they shall continue to be under that uniform rate until the end of 2006.

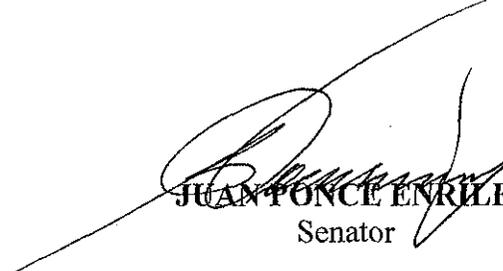
After 2006, the brands SALEM M 100, SALEM MK, SALEM MK BOX 20's and SALEM MK LTS BOX 20's will all be placed under the rates applicable to the brands presently classified as "Medium" and "Low," respectively, in Subparagraphs (3) and (4) of Paragraph (C), Section 145 of the National Internal Revenue Code for the years 2007, 2008, 2009, and 2010.

As a revenue safeguard, the bill provides that machine packed cigarettes that are currently subject, if there are any, to a higher tax rate than the proposed rates must continue to be subject to the higher rate.

This bill will promote revenue-productivity, enhanced tax administration, simplicity in tax structure, fulfill the sumptuary purpose of taxation, and in addition, level the playing field for the cigarette industry.

The bill will also redound to the benefit of the tobacco farmers, especially in the North because their share, by virtue of Republic Act No. 7171, from the resulting higher tax revenue will greatly increase.

In view of the foregoing, approval of this bill is earnestly sought.



JUAN PONCE ENRILE
Senator

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SENATE

S.B. No. 1815

Introduced by Senator JUAN PONCE ENRILE

AN ACT
FURTHER AMENDING SECTION 145 OF THE NATIONAL INTERNAL
REVENUE CODE OF 1997

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

SECTION 1. Section 145 of the National Internal Revenue Code of 1997 is hereby **FURTHER** amended to read as follows:

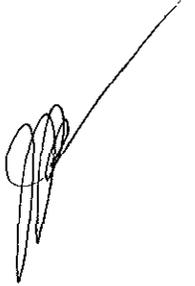
"SEC. 145. *Cigars and Cigarettes.* -

(A) *Cigars.* [There] **BEGINNING ON JANUARY 1, 2005, THERE** shall be levied, assessed and collected on cigars a tax of [One peso (₱1.00)] **ONE PESO AND FIFTY CENTAVOS (P1.50)** per cigar[;].

THE TAX RATE SPECIFIED IN PARAGRAPH (A) HEREOF FOR THE CALENDAR YEAR 2005 SHALL BE ADJUSTED EFFECTIVE ON JANUARY 1, 2007, BY USING FOR THAT PURPOSE THE AVERAGE OF THE INCREASES IN THE CONSUMER PRICE INDICES OF THE TWO IMMEDIATELY PRECEDING CALENDAR YEARS; AND EVERY TWO YEARS THEREAFTER, THE LAST PRECEDING ADJUSTED RATE SHALL BE ADJUSTED BY USING FOR THAT PURPOSE THE AVERAGE OF THE INCREASES IN THE CONSUMER PRICE INDICES OF THE TWO IMMEDIATELY PRECEDING CALENDAR YEARS FOLLOWING THE LAST ADJUSTMENT.

(B) *Cigarettes Packed by Hand.* [There] **BEGINNING ON JANUARY 1, 2005, THERE** shall be levied, assessed and collected on cigarettes packed by hand a tax of [Forty centavos (₱0.40)] **SIXTY CENTAVOS (P0.60)** per pack[;].

THE TAX RATE SPECIFIED IN PARAGRAPH (B) HEREOF FOR THE CALENDAR YEAR 2005 SHALL BE ADJUSTED EFFECTIVE ON JANUARY 1, 2007, BY USING FOR THAT PURPOSE THE AVERAGE OF THE INCREASES IN THE



CONSUMER PRICE INDICES OF THE TWO IMMEDIATELY PRECEDING CALENDAR YEARS; AND EVERY TWO YEARS THEREAFTER, THE LAST PRECEDING ADJUSTED RATE SHALL BE ADJUSTED BY USING FOR THAT PURPOSE THE AVERAGE OF THE INCREASES IN THE CONSUMER PRICE INDICES OF THE TWO IMMEDIATELY PRECEDING CALENDAR YEARS FOLLOWING THE LAST ADJUSTMENT.

(C) *Cigarettes Packed by Machine.* [There] **BEGINNING ON JANUARY 1, 2005, THERE** shall be levied, assessed and collected on cigarettes packed by machine a tax at the rates prescribed below:

[(1) If the net retail price (excluding the excise tax and the value-added tax) is above Ten pesos (₱10.00) per pack, the tax shall be Twelve pesos (₱12.00) per pack;]

[(2) If the net retail price (excluding the excise tax and the value-added tax) exceeds Six pesos and fifty centavos (₱6.50) but does not exceed Ten pesos (₱10.00) per pack, the tax shall be Eight pesos (₱8.00) per pack;]

[(3) If the net retail price (excluding the excise tax and the value-added tax) is Five pesos (₱5.00) but does not exceed Six pesos and fifty centavos (₱6.50) per pack, the tax shall be Five pesos (₱5.00) per pack;]

[(4) If the net retail price (excluding the excise tax and the value-added tax) is below Five pesos (₱5.00) per pack, the tax shall be One peso (₱1.00) per pack;]

[Variants of existing brands of cigarettes which are introduced in the domestic market after the effectivity of R.A. No. 8420 shall be taxed under the highest classification of any variant of that brand.]

[The excise tax from any brand of cigarettes within the next three (3) years from the effectivity of R.A. 8240 shall not be lower than the tax which is due from each brand on October 1, 1996: *Provided, however,* That in cases where the excise tax rates imposed in paragraphs (1), (2), (3) and (4) hereinabove will result in an increase in excise tax of more than seventy percent (70%), for a brand of cigarette, the increase shall take effect in two tranches: fifty percent (50%) of the increase shall be effective in 1997 and one hundred percent (100%) of the increase shall be effective in 1998.]

[Duly registered or existing brands of cigarettes or new brands thereof packed by machine shall only be packed in twenties.]

[The rates of excise tax on cigars and cigarettes under paragraphs (1), (2), (3) and (4) hereof, shall be increased by twelve percent (12%) on 1, 2000.]

[New brands shall be classified according to their current retail price.]

[For the above purposes, "*net retail price*" shall mean the price at which the cigarette is sold on retail in twenty (20) major supermarkets in Metro Manila (for brands of cigarettes marketed nationally), excluding the amount intended to cover the applicable excise tax and the value-added

tax. For brands which are marketed only outside Metro Manila, the "net retail price" shall mean the price at which the cigarette is sold in five (5) major supermarkets in the region excluding the amount intended to cover the applicable excise tax and the value-added tax.]

[The classification of each brand of cigarettes based on its average retail price as of October 1, 1996 as set forth in Annex D shall remain in force until revised by Congress.]

["Variant of a brand" shall refer to a brand on which a modifier is prefixed and/or suffixed to the root name of the brand and/or a different brand which carries the same logo or design of the existing brand.]

(1) FOR THOSE FALLING UNDER SUB-PARAGRAPH (1) OF PARAGRAPH (C) OF SECTION 145 OF THE NATIONAL INTERNAL REVENUE CODE AS OF DECEMBER 31, 2004 -- EFFECTIVE JANUARY 1, 2005, THIRTEEN PESOS AND FIFTY CENTAVOS (P13.50) PER PACK. THIS RATE SHALL REMAIN UNTIL ADJUSTED IN THE YEAR 2013, IN ACCORDANCE WITH THIS ACT.

(2) FOR THOSE FALLING UNDER SUB-PARAGRAPH (2), PARAGRAPH (C) OF SECTION 145 OF THE NATIONAL INTERNAL REVENUE CODE AS OF DECEMBER 31, 2004--

EFFECTIVE ON JANUARY 1, 2005, NINE PESOS AND FIFTY CENTAVOS (P9.50) PER PACK;

EFFECTIVE ON JANUARY 1, 2006, TEN PESOS (P10.00) PER PACK;

EFFECTIVE ON JANUARY 1, 2007, TEN PESOS AND FIFTY CENTAVOS (P10.50) PER PACK;

EFFECTIVE ON JANUARY 1, 2008, ELEVEN PESOS (P11.00) PER PACK;

EFFECTIVE ON JANUARY 1, 2009, TWELVE PESOS (P12.00) PER PACK; AND

EFFECTIVE ON JANUARY 1, 2010, THIRTEEN PESOS AND FIFTY CENTAVOS (P13.50) PER PACK.

(3) FOR THOSE FALLING UNDER SUB-PARAGRAPHS (3) AND (4) OF SECTION 145 OF THE NATIONAL INTERNAL REVENUE CODE AS OF DECEMBER 31, 2004--

EFFECTIVE ON JANUARY 1, 2005, SIX PESOS (P6.00) PER PACK;

EFFECTIVE ON JANUARY 1, 2006, SEVEN PESOS AND FIFTY CENTAVOS (P7.50) PER PACK;

EFFECTIVE ON JANUARY 1, 2007, NINE PESOS (P9.00) PER PACK;

EFFECTIVE ON JANUARY 1, 2008, TEN PESOS AND FIFTY CENTAVOS (P10.50) PER PACK;

EFFECTIVE ON JANUARY 1, 2009, TWELVE PESOS (P12.00) PER PACK; AND

EFFECTIVE ON JANUARY 1, 2010, THIRTEEN PESOS AND FIFTY CENTAVOS (P13.50) PER PACK.

(4) FOR SALEM 100, SALEM MK, SALEM MK BOX 20's, AND SALEM LTS BOX 20's --

EFFECTIVE ON JANUARY 1, 2005 UNTIL DECEMBER 31, 2006, SEVEN PESOS AND FIFTY CENTAVOS (P7.50) PER PACK;

EFFECTIVE ON JANUARY 1, 2007, NINE PESOS (P9.00) PER PACK;

EFFECTIVE ON JANUARY 1, 2008, TEN PESOS AND FIFTY CENTAVOS (P10.50) PER PACK;

EFFECTIVE ON JANUARY 1, 2009, TWELVE PESOS (P12.00) PER PACK; AND

EFFECTIVE ON JANUARY 1, 2010, THIRTEEN PESOS AND FIFTY CENTAVOS (P13.50) PER PACK.

BRANDS OF CIGARETTES PACKED BY MACHINE, INCLUDING THEIR VARIANTS, SHALL CONTINUE TO PAY THE CORRESPONDING EXCISE TAX DUE ON EACH PACK OF CIGARETTES UNDER THOSE BRANDS ON DECEMBER 31, 2004, IF SUCH EXCISE TAX IS HIGHER THAN THE EXCISE TAX FOR EACH PACK OF CIGARETTES OF SUCH BRANDS UNDER THE NEW RATES PROVIDED UNDER SUB-PARAGRAPHS (1), (2), (3), AND (4) OF PARAGRAPH (C) HEREOF.

ANY NEW BRAND INTRODUCED INTO THE MARKET AFTER THE EFFECTIVITY OF THIS ACT SHALL BE SUBJECT TO THE HIGHEST TAX RATE UNDER SUB-PARAGRAPH (1) OF PARAGRAPH (C) HEREOF.

FOR EASY VERIFICATION AND IDENTIFICATION, ALL CIGARETTES PACKED BY MACHINES BEING MARKETED OR TO BE MARKETED IN THE PHILIPPINES, MUST CARRY EITHER AN EXISTING BRAND, A REGISTERED BRAND, OR A NEW BRAND, AND SHALL ONLY BE PACKED IN TWENTY STICKS OF CIGARETTES PER PACK.

THE TAX RATE SPECIFIED IN SUB-PARAGRAPHS (1), (2), (3), AND (4) OF PARAGRAPH (C) HEREOF FOR THE CALENDAR YEAR 2010 SHALL BE ADJUSTED EFFECTIVE ON JANUARY 1, 2013, BY USING FOR THAT PURPOSE THE AVERAGE OF THE INCREASES IN THE CONSUMER PRICE INDICES OF THE TWO IMMEDIATELY PRECEDING CALENDAR YEARS; AND EVERY TWO YEARS THEREAFTER, THE LAST PRECEDING ADJUSTED RATE SHALL BE

ADJUSTED BY USING FOR THAT PURPOSE THE AVERAGE OF THE INCREASES IN THE CONSUMER PRICE INDICES OF THE TWO IMMEDIATELY PRECEDING CALENDAR YEARS FOLLOWING THE LAST ADJUSTMENT.

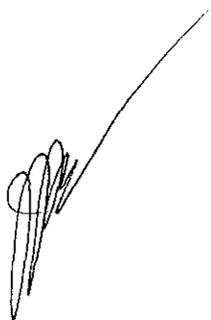
IN ALL CASES UNDER PARAGRAPHS (A), (B), AND (C) HEREOF, THE ADJUSTMENTS OF THE TAX RATES AS PROVIDED THEREIN SHALL BE DONE BY THE SECRETARY OF FINANCE, UPON THE RECOMMENDATION OF THE COMMISSIONER OF INTERNAL REVENUE AND THE HEAD OF THE NATIONAL STATISTICS OFFICE, AND EVERYTIME AN ADJUSTMENT OF ANY OF THE RATES IS MADE, THE SECRETARY OF FINANCE SHALL FORTHWITH ANNOUNCE THE NEWLY ADJUSTED TAX RATE THROUGH APPROPRIATE REVENUE REGULATIONS.

IN THE CASE OF MACHINE PACKED CIGARETTES, FROM THE APPROVAL OF THIS ACT UNTIL DECEMBER 31, 2010, NO MANUFACTURER, IMPORTER, OR WHOLESALER OF MACHINE PACKED CIGARETTES SHALL INCREASE ITS MONTHLY PRODUCTION, IMPORTATION, OR INVENTORY FROM THE FIRST OF JULY UNTIL DECEMBER THIRTY FIRST OF EVERY YEAR BY A QUANTITY THAT EXCEEDS THE AVERAGE MONTHLY GROWTH RATE OF ITS PRODUCTION, IMPORTATION, OR INVENTORY IN THE LAST TWO YEARS PRECEDING THE CURRENT YEAR.

THE SAME RULE SHALL APPLY FOR THE LAST YEAR OF THE PERIODIC TWO-YEAR INTERVAL IMMEDIATELY PRECEDING AN ADJUSTMENT OF THE TAX RATE PROVIDED FOR UNDER PARAGRAPHS (A), (B), AND (C) HEREOF.

ANY TOBACCO PRODUCTS (ESPECIALLY MACHINE PACKED CIGARETTES) PRODUCED, IMPORTED, OR HELD IN INVENTORY IN EXCESS OF THE SAID AVERAGE MONTHLY GROWTH RATE OF PRODUCTION, IMPORTATION, OR INVENTORY OF A MANUFACTURER, IMPORTER, OR WHOLESALER SHALL BE SUBJECT TO THE HIGHER TAX RATE OF THE IMMEDIATELY SUCCEEDING YEAR.

THE COMMISSIONER OF INTERNAL REVENUE SHALL TAKE, NOT LATER THAN THREE (3) DAYS IMMEDIATELY FOLLOWING THE APPROVAL OF THIS ACT, AN INVENTORY OF ALL TOBACCO PRODUCTS (ESPECIALLY MACHINE PACKED CIGARETTES) PRODUCED, IMPORTED, OR HELD BY MANUFACTURERS, IMPORTERS, OR WHOLESALERS. SUCH INVENTORY TAKING SHALL BE DONE REGULARLY EVERY MONTH THEREAFTER, USING FOR THAT PURPOSE ANY EFFECTIVE PROCESS, SUCH AS STAMPING MACHINES, TAMPER RESISTANT STAMPS ATTACHED TO EVERY PACK OF MACHINE PACKED CIGARETTES TO INDICATE PAYMENT OF TAX DUE, OR ANY SIMILAR DEVICE THAT WILL ENABLE THE COMMISSIONER OF INTERNAL REVENUE TO ACCOUNT FOR ALL TOBACCO PRODUCTS (ESPECIALLY MACHINE PACKED CIGARETTES) PRODUCED, IMPORTED, OR HELD BY MANUFACTURERS,



IMPORTERS, OR WHOLESALERS DURING A GIVEN PERIOD AND TO ASSURE THE PAYMENT OF ALL EXCISE TAXES DUE THEREON.

Manufacturers, [and] importers, **AND WHOLESALERS** of [cigars and] cigarettes **AND CIGARS**, shall within thirty (30) days from the effectivity of [Republic Act No. 8240] **THIS ACT** and within the first five (5) days of every month thereafter submit to the Commissioner **OF INTERNAL REVENUE** a sworn statement of the **QUANTITY OR** volume of sales [for each particular brand] of [cigars and /or] cigarettes **AND/OR CIGARS** sold at his establishment for the three-month period immediately preceding.

Any manufacturer, [or] importer, **OR WHOLESALER** who, in violation of this Section, knowingly misdeclares or misrepresents in his or its sworn statement herein required any pertinent data or information shall, upon discovery, be penalized by a summary cancellation or withdrawal of his or its permit to engage in business as manufacturer, [or] importer, **OR WHOLESALER** of [cigars or] cigarettes **OR CIGARS**.

Any **PERSON (WHETHER AN INDIVIDUAL**, corporation, association, or partnership) liable for any of the acts or omissions in violation of this Section shall be fined treble the **AGGREGATE** deficiency taxes, surcharges, and interest which may be assessed pursuant to this Section.

Any person liable for any of the acts or omissions prohibited under this Section shall be criminally liable and penalized under Section 254 of this Code. Any person who willfully aids or abets in the commission of any such act or omission shall be criminally liable in the same manner as the principal.

If the offender is not a citizen of the Philippines, he shall be deported immediately after serving the sentence without further proceedings for deportation."

SECTION 2. FIVE PERCENT (5%) OF THE INCREMENTAL REVENUE GENERATED UNDER THIS ACT OVER THE REVENUE OF THE GOVERNMENT FROM MACHINE PACKED CIGARETTES IN THE CALENDAR YEAR 2004 SHALL BE ALLOCATED EQUALLY TO THE PHILIPPINE LUNG CENTER, THE PHILIPPINE HEART CENTER, AND THE PHILIPPINE KIDNEY CENTER, FOR THEIR MODERNIZATION, AND ANOTHER FIVE PERCENT (5%) TO BE USED TO ASSIST AND MODERNIZE ALL REGIONAL HOSPITALS THROUGHOUT THE COUNTRY.

SECTION 3. All laws, acts, executive orders, rules and regulations inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SECTION 4. This Act shall take effect fifteen (15) days following its publication in at least two (2) newspapers of general circulation.

APPROVED,