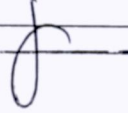


SENATE

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S.B. No. 1599

RECEIVED BY: 

INTRODUCED BY: SENATOR EMMANUEL D. PACQUIAO

**AN ACT RAISING THE EXCISE TAX ON TOBACCO PRODUCTS AND
AMENDING FOR THE PURPOSE PERTINENT SECTIONS OF THE NATIONAL
INTERNAL REVENUE CODE, AS AMENDED**

EXPLANATORY NOTE

The Sin Tax Reform Act (RA 10351) was legislated in December 2012, with the dual goals of (1) curbing cigarette and alcohol consumption, and (2) raising funds to finance the implementation of Universal Health Care (UHC), programs to meet Developmental Goals, and viable alternative livelihood for tobacco farmers. After four years since the law took effect, the country continues to reap the benefits that the law has promised. Indicators show that Philippine cigarette excise taxes should be further raised to maximize its potentials in improving health, revenue and other development goals.

Smoking prevalence among Filipinos declined from 31% in 2008 to 23% in 2015, according to the National Nutrition Survey (NNS) conducted by the Food and Nutrition Research Institute (FNRI) of the Department of Science and Technology. This is consistent with the result of the 2015 Global Adult Tobacco Survey (GATS), which points to the 5.6 percentage point drop in smoking prevalence, from 28.3% in 2009 to 22.7% in 2015. The law has increased quit rates among price-sensitive populations such as the poor, the rural folk, and the elderly. Reducing the affordability of cigarettes has the biggest effect on deterring to-be smokers from starting the habit. This is equivalent to at least 70,000 deaths averted from 2013 to 2015.

The law has also resulted in the largest increase recorded in the history of the national budget for health. Its budget more than doubled, from PhP57 billion prior to the passage of the Sin Tax Law in 2012 to PhP123 billion in 2016 (GAA 2013 - 2016). This has financed the coverage of additional 10.1 million poor families as well as 2.8 million elderly under the National Health Insurance Program. It has also financed programs related to Millennium Development Goals (MDGs). For instance, TB detection rate and treatment success rate increased from 174,000 in 2010 to 300,000 in 2015. Facility-based deliveries of mothers increased from 43.2% in 2010 to 81% in 2015. Number of malaria-free provinces increased from 23 in 2010 to 32 provinces in 2016, thanks to the funding from the 2012 sin tax law.

Despite the tobacco tax reform, the market has stabilized, as manifested in the volume of cigarette removals recorded between 2012 and 2015. Between 2012 and 2014, the volume of cigarette removals drastically declined from 5.7 billion packs to 3.6 billion packs.

However, in 2015, the volume of removals increased to 4.2 billion packs. Overall, the law reduced consumption by 26% between 2012 and 2015. But the increase in volume removal in 2015 suggests a new upward adjustment in the taxes for tobacco is needed.

Further despite the significant drop in smoking prevalence, the prevalence rate in the Philippines is still high, compared to countries in the region.

Thus, this bill seeks to legislate a tobacco tax reform policy that will increase the unitary cigarette excise tax to Php 60 by 2018 and stipulate a 9% annual increase in the excise tax, thereafter.

This bill upholds the superiority of the structure found in the 2012 law by having a unitary tax that is most responsive to maximizing revenue; preventing downshifting of consumption from high-priced to low-priced cigarettes, thus encouraging price-sensitive smokers to quit, neutralizing anti-competitive behavior; and making tax administration simpler to combat tax evasion.

Moreover the new taxes also address to reduce the economic burden arising from taxation, which in 2017 is estimated to be equivalent to at least Php 210 billion (Fajutrao and Dans, 2017).

Reducing affordability for health reasons, taking into account changes in income, cigarettes can remain affordable when per capita income increases faster than the annual adjustment rate of 4% in RA 10351.

Reducing cigarette consumption and smoking prevalence: Raising cigarette excise taxes can help attain the Department of Health (DOH)'s target smoking prevalence of 19.8% . The Health Secretary has in fact called for a more aggressive target of reducing smoking prevalence to 10 percent in 2022. Note that for such goal, it is crucial that the cigarette excise tax structure remains unitary in order to prevent smokers from simply downshifting from expensive to cheap brands.

Raising incremental revenue to achieve Universal Health Care: While great strides have already been achieved in financing hospitalization and catastrophic care, more revenues are needed to help DOH fund a primary care system that can provide Filipinos basic consultations, medicines, and diagnostics .

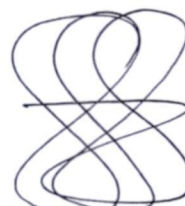
Maintaining broader fiscal space and macroeconomic fundamentals for the Philippines: The current administration seeks to make the country a high-middle income country by 2020. The Department of Finance (DOF) states that in order to do this, investments in human capital and infrastructure must be made, and this will require additional funds of about one trillion pesos per year in 2016 prices. The higher tobacco tax rates will be an important part of the tax package to raise said huge amount.

It must be emphasized that a tobacco tax has the distinct attribute of being price inelastic, which means a higher tax leads to a significant revenue increase at the same time it reduces smoking consumption. The evidence from the 2012 Sin Tax law says so.

In summary, the schedule (I) adjusts prices not only to inflation which the current law provides, but also to per capita income increase towards preventing revenue erosion and

reducing affordability for health reasons, (ii) raises the excise tax to a level that will further reduce smoking prevalence to 19.8% by 2020 at the same time will generate incremental revenue that will contribute to the national government's higher tax effort target, (iii) implements a unitary tax to limit downshifting. The revenues shall be used to sustain funding for primary care system and/or Universal Health Care (UHC), and shall help maintain broader fiscal space and macroeconomic fundamentals for the Philippines.

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

A stylized, handwritten signature in black ink, consisting of several overlapping loops and curves, positioned above the printed name.

EMMANUEL D. PACQUIAO

SENATE

S.B. No. 1599



Senate

Office of the Secretary

'17 OCT -3 P4:53

INTRODUCED BY: SENATOR EMMANUEL D. PACQUIAO

RECEIVED BY: _____

**AN ACT RAISING THE EXCISE TAX ON TOBACCO PRODUCTS AND AMENDING
FOR THE PURPOSE PERTINENT SECTIONS OF THE NATIONAL INTERNAL
REVENUE CODE, AS AMENDED**

*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, as amended by Republic
Act No. 10351, is hereby further amended to read as follows:

“(B) Cigarettes Packed by Hand. – There shall be levied, assessed and collected on
cigarettes packed by machine a tax at the rates prescribed below:

EFFECTIVE ON JANUARY 1, 2018, THE TAX SHALL BE SIXTY PESOS (P
60.00) PER PACK;

PROVIDED, THAT, ON JANUARY 1, 2019 AND EVERY YEAR THEREAFTER,
THE EXCISE TAX RATE PRESCRIBED HEREIN SHALL BE ADJUSTED
ANNUALLY BY 9%. THIS IS WITHOUT PREJUDICE TO THE PREROGATIVE
OF CONGRESS TO INCREASE THE INDEXED RATES IN ORDER TO MEET
THE SUMPTUARY GOALS OF THE TAX.

[“Effective on January 1, 2013, Twelve pesos (P12.00) per pack;
“Effective on January 1, 2014, Fifteen pesos (P15.00) per pack;
“Effective on January 1, 2015, Eighteen pesos (P18.00) per pack;
“Effective on January 1, 2016, Twenty-one pesos (P21.00) per pack; and
“Effective on January 1, 2017, Thirty pesos (P30.00) per pack.

“The rates of tax imposed under this subsection shall be increased by four
percent (4%) every year* effective on January 1, 2018, through revenue
regulations issued by the Secretary of Finance.]

“(C) Cigarettes Packed by Machine. – There shall be levied, assessed and collected on
cigarettes packed by machine a tax at the rates prescribed below:

1 EFFECTIVE ON JANUARY 1, 2018, THE TAX SHALL BE SIXTY PESOS (P
2 60.00) PER PACK, REGARDLESS OF BRAND OR NET RETAIL PRICE.
3

4 *PROVIDED, THAT,* ON JANUARY 1, 2019 AND EVERY YEAR THEREAFTER,
5 THE EXCISE TAX RATE PRESCRIBED HEREIN SHALL BE ADJUSTED
6 ANNUALLY BY 9%. THIS IS WITHOUT PREJUDICE TO THE PREROGATIVE
7 OF CONGRESS TO INCREASE THE INDEXED RATES IN ORDER TO MEET
8 THE SUMPTUARY GOALS OF THE TAX.
9

10 ALL BRANDS OF CIGARETTES EXISTING IN THE MARKET AT THE
11 TIME OF THE EFFECTIVITY OF THIS ACT SHALL BE CLASSIFIED
12 ACCORDINGLY FOR THE PROPER DETERMINATION OF THE TAX LIABILITY
13 IN ACCORDANCE WITH THE SCHEDULE PROVIDED ABOVE FOR THE YEAR
14 COMMENCING JANUARY 1, 2017.
15

16 ["Effective on January 1, 2013"

17 " (1) If the net retail price (excluding the excise tax and the value-added tax) is
18 Eleven pesos and fifty centavos (P11.50) and below per pack, the tax shall be
19 Twelve pesos (P12.00) per pack; and
20

21 " (2) If the net retail price (excluding the excise tax and the value-added tax) is
22 more than Eleven pesos and fifty centavos (P11.50) per pack, the tax shall be
23 Twenty-five pesos (P25.00) per pack.
24

25 "Effective on January 1, 2014

26 "(1) If the net retail price (excluding the excise tax and the value-added tax) is
27 Eleven pesos and fifty centavos (P11.50) and below per pack, the tax shall be
28 Seventeen pesos (P17.00) per pack; and
29

30 "(2) If the net retail price (excluding the excise tax and the value-added tax) is more
31 than Eleven pesos and fifty centavos (P11.50) per pack, the tax shall be Twenty-
32 seven pesos (P27.00) per pack.
33

34 "Effective on January 1, 2015

35 "(1) If the net retail price (excluding the excise tax and the value-added tax) is
36 Eleven pesos and fifty centavos (P11.50) and below per pack, the tax shall be
37 Twenty-one pesos (P21.00) per pack; and
38

39 "(2) If the net retail price (excluding the excise tax and the value-added tax) is more
40 than Eleven pesos and fifty centavos (P11.50) per pack, the tax shall be Twenty-
41 eight pesos (P28.00) per pack.
42

43 "Effective on January 1, 2016

44 "(1) If the net retail price (excluding the excise tax and the value-added tax) is
45 Eleven pesos and fifty centavos (P11.50) and below per pack, the tax shall be
46 Twenty-five pesos (P25.00) per pack; and

1
2 “(2) If the net retail price (excluding the excise tax and the value-added tax) is more
3 than Eleven pesos and fifty centavos (P11.50) per pack, the tax shall be Twenty-
4 nine pesos (P29.00) per pack.
5

6 “Effective on January 1, 2017,
7 the tax on all cigarettes packed by machine shall be Thirty pesos (P30.00) per pack.
8 “The rates of tax imposed under this subsection shall be increased by four percent
9 (4%) every year thereafter effective on January 1, 2018, through revenue regulations
10 issued by the Secretary of Finance.”]
11
12

13 **Section 2: Definition of Terms** – For the purposes of this Act, the following terms shall mean as
14 follows:
15

16 “Variants of existing brands and variants of new brands of cigarettes which are introduced in
17 the domestic market after the effectivity of this Act shall be taxed under the proper
18 classification thereof based on their suggested net retail price: *Provided, however,* That such
19 classification shall not, in any case, be lower than the highest classification of any variant of
20 that brand.
21

22 “A ‘*variant of a brand*’ shall refer to a brand on which a modifier is prefixed and/or suffixed
23 to the root name of the brand.
24

25 “Duly registered or existing brands of cigarettes or new brands thereof packed by machine
26 shall only be packed in twenties.
27

28 “Any downward reclassification of present categories, for tax purposes, of existing brands of
29 cigars and cigarettes duly registered at the time of the effectivity of this Act which will
30 reduce the tax imposed herein, or the payment thereof, shall be prohibited.
31

32 “‘*New brand*’ shall mean a brand registered after the date of the effectivity of [R.A. No.
33 8240] **THIS ACT**.
34

35 “‘*Suggested net retail price*’ shall mean the net retail price at which new brands, as defined
36 above, of locally manufactured or imported cigarettes are intended by the manufacturer or
37 importer to be sold on retail in major supermarkets or retail outlets in Metro Manila for those
38 marketed nationwide, and other regions, for those with regional markets. At the end of three (3)
39 months from the product launch, the Bureau of Internal Revenue shall validate the suggested
40 retail price as defined herein and determine the correct tax bracket to which a particular new
41 brand of cigarette, as defined above shall be classified. After the end of eighteen (18) months
42 from such validation, the Bureau of Internal Revenue shall revalidate the initially validated
43 net retail price against the net retail price as of the time of revalidation in order to finally
44 determine the correct tax bracket under which a particular new brand of cigarettes shall be
45 classified.
46

1 [: *Provided, however,* That brands of cigarettes introduced in the domestic market between
2 January 1, 1997 and December 31, 2003 shall remain in the classification under which the
3 Bureau of Internal Revenue has determined them to belong as of December 31, 2003. Such
4 classification of new brands and brands introduced between January 1, 1997 and December
5 31, 2003 shall not be revised except by an act of Congress.]
6

7 "Manufacturers and importers of cigars and cigarettes shall, within thirty (30) days from the
8 effectivity of this Act, and within the first five (5) days of every third month thereafter,
9 submit to the Commissioner a sworn statement of the volume of sales for each particular
10 brand of cigars and/or cigarettes sold for the three-month period immediately preceding.

11 "Any manufacturer or importer who, in violation of this Section, knowingly misdeclares or
12 misrepresents in his or its sworn statement herein required any pertinent data or information
13 shall, upon final findings by the Commissioner that the violation was committed, be
14 penalized by a summary cancellation or withdrawal of his or its permit to engage in business
15 as manufacturer or importer of cigars or cigarettes.
16

17 "Any corporation, association or partnership liable for any of the acts or omissions in
18 violation of this Section shall be fined treble the amount of deficiency taxes, surcharges and
19 interest which may be assessed pursuant to this Section.
20

21 "Any person liable for any of the acts or omissions prohibited under this Section shall be
22 criminally liable and penalized under Section 254 of this Code. Any person who willfully
23 aids or abets in the commission of any such act or omission shall be criminally liable in the
24 same manner as the principal.
25

26 "If the offender is not a citizen of the Philippines, he shall be deported immediately after
27 serving the sentence, without further proceedings for deportation."
28

29 **Section 3: *Implementing Rules and Regulations*** - The Secretary of Finance shall, upon the
30 recommendation of the Commissioner of Internal Revenue, promulgate the necessary rules and
31 regulations for the effective implementation of this Act.
32

33 **Section 4: *Separability Clause***. - If any of the provisions of this Act is declared invalid by a
34 competent court, the remainder of this Act or any provision not affected by such declaration of
35 invalidity shall remain in force and effect.
36

37 **Section 5: *Repealing Clause***. - All laws, decrees, ordinances, rules and regulations, executive or
38 administrative orders, and such other presidential issuances as are inconsistent with any of the
39 provisions of this Act are hereby repealed, amended or otherwise modified accordingly.
40

41 **Section 6: *Effectivity***. - This Act shall take effect on January 1, 2018.
42
43
44

45 Approved,
46