



SENATE

'19 AUG 28 P 5:25

S.B. No. 987

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INTRODUCED BY: SENATOR EMMANUEL D. PACQUIAO

AN ACT
INCREASING THE EXCISE TAX ON HEATED TOBACCO PRODUCTS AND
VAPOR PRODUCTS, AMENDING FOR THIS PURPOSE SECTIONS 144 (B),
144 (C), 147 AND 150 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997,
AS AMENDED, AND FOR OTHER PURPOSES

EXPLANATORY NOTE

The e-cigarette and vapor products industry have significantly attracted more users globally and locally as a popular alternative to tobacco-based products. Further, based on current trends, it is most likely that HTPs or heated tobacco products will be introduced in more countries, as well.

Heated Tobacco Products are not e-cigarettes. HTPs heat tobacco in order to generate nicotine while e-cigarettes heat e-liquid.

The Philippine government, in an attempt to reduce consumption of cigarettes while attaining incremental revenue targets for R.A. 11223 or the UHC law, seeks to insure implementation of R.A. 11346 to fill the funding gaps.

However, there is a need to substantially adjust the current tax rates of these products to significantly add funding for the Universal Health Care program. The additional funding that will be generated through this bill will assure coverage of quality health care for every Filipino families.

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

EMMANUEL D. PACQUIAO

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AN ACT
INCREASING THE EXCISE TAX ON HEATED TOBACCO PRODUCTS AND
VAPOR PRODUCTS, AMENDING FOR THIS PURPOSE SECTIONS 144 (B),
144 (C), 147 AND 150 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997,
AS AMENDED, AND FOR OTHER PURPOSES

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

Section 1. Section 144 (B) and 144 (C) of the National Internal Revenue Code of 1997, as amended, are hereby further amended to read as follows:

Sec. 144 (B) Heated Tobacco Products. – There shall be levied, assessed and collected on heated tobacco products an excise tax at the rate prescribed below:

“(1) [Ten pesos (P10.00)] FORTY-FIVE PESOS (P45.00) per pack of twenty (20) units or packaging combinations of not more than twenty (20) units effective on January 1, 2020;

“FIFTY PESOS (P50.00) per pack of twenty (20) units or packaging combinations of not more than twenty (20) units effective on January 1, 202[0]1;

“FIFTY-FIVE PESOS (P55.00) per pack of twenty (20) units or packaging combinations of not more than twenty (20) units effective on January 1, 202[0]2;

“SIXTY PESOS (P60.00) per pack of twenty (20) units or packaging combinations of not more than twenty (20) units effective on January 1, 202[0]3;

“(2) PROVIDED THAT t[T]he rates of tax imposed under this Subsection shall be increased by five percent (5%) every year effective on January 1, 202[1]4, through revenue regulations issued by the Secretary of Finance.

“Heated tobacco products shall only be packed in twenties and other packaging combinations of not more than twenty (20) units.

“No heated tobacco products manufactured in the Philippines and produced for export shall be removed from their place of manufacture or exported without posting of an export bond equivalent to the amount of the excise tax due thereon if sold domestically: Provided, however, That heated tobacco products for export may be transferred from the place of manufacture to a bonded facility, upon posting of a transfer bond, prior to export.

“Heated tobacco products imported into the Philippines and destined for foreign countries shall not be allowed entry without posting a bond equivalent to the amount of customs duty, excise and value-added taxes due thereon if sold domestically.

“Manufacturers, distributors, and importers of heated tobacco products shall, within thirty (30) days from the effectivity of this Act, and within the first five (5) days of every month

1 thereafter, submit to the Commissioner a sworn statement of the volume of sales AND
2 REMOVALS for each particular brand of heated tobacco products sold for the three-month
3 period immediately preceding.

4 "Any manufacturer, distributor, or importer who, in violation of this Section,
5 misdeclares, or misrepresents in his or its sworn statement herein required any pertinent data
6 or information shall, upon the final findings by the Commissioner that the violation was
7 committed, be penalized by a summary cancellation or withdrawal of his/her or its permit to
8 engage in business as manufacturer, distributor, or importer of heated tobacco products.

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

12 "SELLING OF HEATED TOBACCO PRODUCTS AT A PRICE LOWER THAN THE
13 COMBINED EXCISE AND VALUE-ADDED TAXES IMPOSED UNDER THE LAW
14 SHALL BE PROHIBITED. THE SELLER OF SUCH PRODUCTS SHALL BE PUNISHED
15 WITH A FINE OF NOT LESS THAN TEN (10) TIMES THE AMOUNT OF EXCISE PLUS
16 VALUE-ADDED TAXES DUE BUT NOT LESS THAN TWO HUNDRED THOUSAND
17 PESOS (P200,000.00) NOR MORE THAN FIVE HUNDRED THOUSAND PESOS
18 (500,000.00), AND IMPRISONMENT OF NOT LESS THAN FOUR (4) YEARS BUT NOT
19 MORE THAN SIX (6) YEARS.

20 "THE BUREAU OF INTERNAL REVENUE IS MANDATED TO ISSUE A
21 REVENUE REGULATION PRESCRIBING THE FLOOR PRICE OR THE MINIMUM
22 PRICE OF HEATED TOBACCO PRODUCT TAKING INTO ACCOUNT THE SUM OF
23 THE EXCISE AND VALUE-ADDED TAXES AS PROVIDED HEREIN.

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

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

31 "The sale and distribution, or transfer of heated tobacco products by any person to
32 minors; purchasing, or otherwise receiving heated tobacco products from a minor; and the sale,
33 purchase, and use of heated tobacco products by minors, shall be prohibited. 'Minor' refers to
34 any person below eighteen (18) years old. Any violation of this provision shall be punishable
35 with the same penalties provided for in Republic Act No. 9211, otherwise known as the
36 "Tobacco Regulation Act of 2003'."

37 "It shall not be a defense for the person selling or distributing that he/she did not know
38 nor had any reason to believe that the product was for the consumption of the minor to whom
39 it was sold."

40 "Unit packets and any outside wrapping of heated tobacco products and other similar
41 products shall carry a health warning compliant with the Republic Act No. 10643, otherwise
42 known as "The Graphic Health Warnings Law'."

43 "Manufacturers and importers are given a period of one (1) year from the effectivity of
44 this Act to comply therewith."

45 "Eighteen (18) months after the effectivity of this Act, no person or legal entity shall
46 sell or commercially distribute or display any heated tobacco product without ensuring that the
47 labels and packages, as well as any other container used in displaying the said products meet
48 the requirements under this Act."

1 “Any violation of the foregoing provisions on health warnings shall be punishable with
2 the same penalties as provided for in Republic Act No. 10643, otherwise known as “The
3 Graphic Health Warnings Law.”

4
5 Section 144 (C) Vapor Products. – There shall be levied, assessed and collected on
6 vapor products excise tax at the rates prescribed below:

7
8 EFFECTIVE ON JANUARY 1, 2020, FORTY-FIVE (P45.00) PER MILLILITER OR
9 A FRACTION THEREOF;

10 EFFECTIVE ON JANUARY 1, 2021, FIFTY PESOS (P50.00) PER MILLILITER OR
11 A FRACTION THEREOF;

12 EFFECTIVE ON JANUARY 1, 2022, FIFTY-FIVE PESOS (P55.00) PER
13 MILLILITER OR A FRACTION THEREOF;

14 EFFECTIVE ON JANUARY 1, 2023, SIXTY PESOS (P60.00) PER MILLILITER OR
15 A FRACTION THEREOF;

16
17 PROVIDED THAT THE RATES OF TAX IMPOSED UNDER THIS SUBSECTION
18 SHALL BE INCREASED BY FIVE PERCENT (5%) EVERY YEAR EFFECTIVE
19 JANUARY 1, 2024, THROUGH REVENUE REGULATIONS TO BE ISSUED BY THE
20 SECRETARY OF FINANCE.

21
22 “THE MANUFACTURE, IMPORTATION, SALE AND DISTRIBUTION OF
23 VAPOR PRODUCTS WITH FLAVORING OTHER THAN PLAIN TOBACCO OR PLAIN
24 MENTHOL, SHALL BE PROHIBITED.

25 “Manufacturers, distributors, and importers of vapor products shall be required to
26 indicate on the package the actual volume in milliliters of the liquid solutions and gels.

27 “No vapor products manufactured in the Philippines and produced for the export shall
28 be removed from their place of manufacture or exported without posting of an export bond
29 equivalent to the amount of customs duty, excise and value-added taxes due thereon if sold
30 domestically. Provided, however, That vapor products for export may be transferred from the
31 place of manufacture to a bonded facility, upon posting of a transfer bond prior to export.

32 “Vapor products imported into the Philippines and destined for foreign countries shall
33 not be allowed entry without posting a bond equivalent to the amount of customs duty, excise
34 and value-added taxes due thereon if sold domestically.

35 “Manufacturers, distributors, and importers of vapor products shall, within thirty (30)
36 days from the effectivity of this Act, and within the first five (5) days of every month thereafter,
37 submit to the Commissioner a sworn statement of the volume of sales for each particular brand
38 of vapor products sold for the three-month period immediately preceding.

39 “Any manufacturer, distributor, or importer who, in violation of this Section,
40 misdeclares or misrepresents in his/her or its sworn statement herein required pertinent data or
41 information shall, upon final findings by the Commissioner that the violation was committed,
42 be penalized by a summary cancellation or withdrawal of his/her or its permit to engage in
43 business as manufacturer, distributor, or importer of vapor products.

44 “Any corporation, association or partnership liable for any for any of the acts or
45 omissions in violation of this Section shall be fined treble the amount of deficiency taxes,
46 surcharges and interest which may be assessed pursuant to this Section.

47
48 “SELLING OF VAPOR PRODUCTS AT A PRICE LOWER THAN THE
49 COMBINED EXCISE AND VALUE-ADDED TAXES IMPOSED UNDER THE LAW
50 SHALL BE PROHIBITED. THE SELLER OF SUCH PRODUCTS SHALL BE PUNISHED

1 WITH A FINE OF NOT LESS THAN TEN (10) TIMES THE AMOUNT OF EXCISE PLUS
2 VALUE-ADDED TAXES DUE BUT NOT LESS THAN TWO HUNDRED THOUSAND
3 PESOS (P200,000.00) NOR MORE THAN FIVE HUNDRED THOUSAND PESOS
4 (500,000.00), AND IMPRISONMENT OF NOT LESS THAN FOUR (4) YEARS BUT NOT
5 MORE THAN SIX (6) YEARS.

6 "THE BUREAU OF INTERNAL REVENUE IS MANDATED TO ISSUE A
7 REVENUE REGULATION PRESCRIBING THE FLOOR PRICE OR THE MINIMUM
8 PRICE OF VAPOR PRODUCTS TAKING INTO ACCOUNT THE SUM OF THE EXCISE
9 AND VALUE-ADDED TAXES AS PROVIDED HEREIN.

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

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

16 "The sale and distribution, or transfer of vapor products by any person to minors;
17 purchasing, or otherwise receiving vapor products from a minor; and the sale, purchase, and
18 use of vapor products by minors, shall be prohibited. 'Minor' refers to any person below
19 eighteen (18) years old. Any violation of this provision shall be punishable with the same
20 penalties provided for in Republic Act No. 9211, otherwise known as the "Tobacco Regulation
21 Act of 2003".

22 "It shall not be a defense for the person selling or distributing that he/she did not know
23 or was not aware of the real age of the minor. Neither shall it be a defense that he/she did not
24 know nor had any reason to believe that the product was for the consumption of the minor to
25 whom it was sold.

26
27 "Unit packets and any outside wrapping of vapor products and other similar products
28 shall carry a health warning compliant with Republic Act No. 10643, otherwise known as "The
29 Graphic Health Warnings Law."

30 "Manufacturers and importers are given a period of one (1) year from the effectivity of
31 this Act to comply therewith.

32 "Eighteen (18) months after the effectivity of this Act, no person or legal entity shall
33 sell or commercially distribute or display any vapor product without ensuring that the labels
34 and packages, as well as any other container used in displaying the said products meet the
35 requirements under this Act.

36 "Any violation of the foregoing provisions on health warning shall be punishable with
37 the same penalties provided for in Republic Act No. 10643, otherwise known as "The Graphic
38 Health Warnings Law".

39 "Notwithstanding the provisions of this Act on heated tobacco products and vapor
40 products, this Act acknowledges the need for further scientific evidence on the health impact
41 of these products.

42
43 **Section 2.** Section 147 of the National Internal Revenue code of 1997, as amended, is hereby
44 further amended to read as follows:

45 "SEC.147. Definition of Terms. – x x x.

46 x x x

47 (f) 'Vapor products' shall mean any liquid solution or gel which contains nicotine that
48 transforms into an aerosol without combustion through the employment of a mechanical
49 heating element, battery or circuit that can be used to heat such solution or gel, and includes
50 but is not limited to, a cartridge, a tank, and the device without a cartridge or tank. It is

commonly known as ‘e-liquids’ for ‘e-cigarettes.’ IT INCLUDES NICOTINE SALT/SALT NICOTINE, AND CONVENTIONAL “FREEBASE” OR “CLASSIC” NICOTINE, AND OTHER SIMILAR PRODUCTS. It also includes electronic nicotine and non-nicotine delivery systems (ENDS/ENNDS) which are combinations of non-tobacco containing e-liquids or refills which contain up to sixty- five milligrams per milliliter (65mg/ml) of nicotine in the e-liquid or refill and an electronic delivery device to produce an aerosol, mist or vapor that users inhale by mimicking the act of smoking.”

Section 3. Section 150 of the NIRC, as amended, is hereby amended to read as follows:
SEC. 150. Non-essential Goods. – There shall be levied, assessed and collected a tax equivalent to twenty-percent (20%) based on the wholesale price or the value of importation used by the Bureau of Customs in determining tariff and customs duties, net of excise tax and value-added tax, of the following goods:

xxx

(c) Yachts and other vessels intended for pleasure or sports; AND [.]
(D) TOBACCO HEATING SYSTEMS AND ELECTRONIC OR MECHANICAL CIGARETTE DEVICES, WHICH INCLUDE BUT ARE NOT LIMITED TO ELECTRONIC AND/OR NON-ELECTRONIC NICOTINE DELIVERY SYSTEMS, E-CIGARETTES, VAPES, VAPORIZERS, VAPING SYSTEMS, TANK SYSTEM, MODS, AND E-HOOKAHS, OR ANY SIMILAR PRODUCT, AS MAY BE DETERMINED BY REVENUE REGULATION, AND ANY MANDATORY COMPONENT THEREOF EXCLUDING BATTERIES, CHARGERS, AND CHARGING CABLES WHEN SOLD SEPARATELY. HOWEVER, IF BATTERIES, CHARGERS, CHARGING CORDS, AND OTHER ACCESSORIES ARE SOLD OR PACKAGED TOGETHER WITH A TOBACCO HEATING OR ELECTRONIC OR MECHANICAL CIGARETTE DEVICE AS ONE SALEABLE ITEM, THE VALUE THEREOF SHALL FORM PART OF THE WHOLESALE PRICE OR THE VALUE OF IMPORTATION.

Section 4. *Implementing Rules and Regulations.* – The Secretary of Finance shall, upon the recommendation of the Commissioner of THE BUREAU OF Internal Revenue, promulgate the necessary rules and regulations for the effective implementation of this Act.

Section 5. *Repealing Clause* – All laws, decrees, executive orders, rules and regulations or parts thereof which are contrary to or inconsistent with this Act are hereby repealed, amended or modified accordingly.

Section 6. *Effectivity.* – This Act shall take effect upon its publication either in the Official Gazette or in a newspaper of general circulation.

Approved,