

FOURTEENTH CONGRESS OF THE)
REPUBLIC OF PHILIPPINES)
Second Regular Session)

9 APR 28 AIO :44

SENATE
S. No. 3191

RECEIVED BY: 

Introduced by Senator Lacson

EXPLANATORY NOTE

Paragraph 1, Section 28, Article VI of the 1987 Constitution provides that: "The rule of taxation shall be uniform and equitable. The Congress shall evolve a progressive system of taxation."

Four (4) years after the passage of RA No. 9334, otherwise known as the Sin Tax Reform of 2005, it was found out that the existing law contains several structural flaws that have rendered the same inoperative. In particular, the excise taxes on tobacco products failed to achieve its twin goals: (1) to generate the expected revenues and (2) to discourage smoking.

The current cigarette tax system is characterized by multiple rates, discrimination against brands that were introduced after December 31, 2003 and non-indexation to track price movements. The multi-tiered rates create opportunities for discretion in classification of cigarette brands as well as drive smokers to consume lower priced, and therefore lower taxed, brands of cigarettes. The distinction between old and new brands creates an uneven playing field among cigarette products. The absence of a transparent benchmark by which the excise tax rates is adjusted to track inflation resulted in lower-than-projected revenue collection.

This bill intends to address these problems so that the government can achieve its twin purpose of revenue generation and control tobacco consumption by imposing a unitary specific tax rate for tobacco products. The unification of the cigarette tax rates will be undertaken in two phases. The two lowest classifications will be taxed at a lower rate than the highest two classes in the first year of implementation. In succeeding years, the specific tax rate shall be a singular rate that will be indexed to the tobacco price index.

The proposed excise tax system under this bill will be simple, effective and efficient. It will reduce administrative complications associated with the current multi-rate structure, provide a market conducive to pure competition, raise revenues and discourage tobacco consumption.

Finally, the proposed measure would address uniformity and equity issues.

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


PANFILO M. LACSON
Senator

FOURTEENTH CONGRESS OF THE)
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OFFICE OF THE SECRETARY

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AN ACT
RESTRUCTURING THE EXCISE TAX ON TOBACCO PRODUCTS 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:

1 **SECTION 1.** Section 144 of the National Internal Revenue Code of 1997,
 2 as amended by Republic Act No. 9334, is hereby further amended to read as
 3 follows:

4 **"SEC. 144. Tobacco Products.** – There shall be collected a tax of
 5 [One peso (P1.00)] **TWO PESOS AND FIFTY CENTAVOS (P2.50)** on
 6 each kilogram of the following products of tobacco:

7 "(a) Tobacco twisted by hand or reduced into a condition to be
 8 consumed in any manner other than the ordinary mode of drying
 9 and curing;

10 "(b) Tobacco prepared or partially prepared with or without the use
 11 of any machine or instruments or without being pressed or
 12 sweetened except as otherwise provided hereunder; and

13 "(c) Fine-cut shorts and refuse, scraps, clippings, cuttings, stems
 14 and sweepings of tobacco except as otherwise provided hereunder.

15 "Stemmed leaf tobacco, tobacco prepared or partially prepared with
 16 or without the use of any machine or instrument or without being pressed
 17 or sweetened, fine-cut shorts and refuse, scraps, clippings, cuttings,
 18 stems, midribs, and sweepings of tobacco resulting from the handling or

1 stripping of whole leaf tobacco shall be transferred, disposed of, or
2 otherwise sold, without any prepayment of the excise tax herein provided
3 for, if the same are to be exported or to be used in the manufacture of
4 cigars, cigarettes, or other tobacco products on which the excise tax will
5 eventually be paid on the finished product, under such conditions as may
6 be prescribed in the rules and regulations promulgated by the Secretary of
7 Finance, upon recommendation of the Commissioner.

8 "On tobacco specially prepared for chewing so as to be unsuitable
9 for use in any other manner, on each kilogram, [~~Seventy-nine centavos~~
10 ~~(P0.79)] **ONE PESO AND EIGHTY-SEVEN CENTAVOS (P1.87)**.~~

11 ["The rates of tax imposed under this Section shall be increased by
12 six percent (6%) every two years starting on January 1, 2007 until January
13 1, 2011.]

14 ***"PROVIDED, THAT, A YEAR AFTER THE EFFECTIVITY OF***
15 ***THIS ACT AND EVERY YEAR THEREAFTER, THE EXCISE TAX***
16 ***RATES PRESCRIBED HEREIN SHALL BE ADJUSTED ANNUALLY TO***
17 ***ITS PRESENT VALUE USING AN APPROPRIATE PRICE INDEX FOR***
18 ***TOBACCO PRODUCTS, AS PUBLISHED BY THE NATIONAL***
19 ***STATISTICS OFFICE (NSO)."***

20 "Manufacturers and importers of tobacco products shall, within
21 thirty (30) days from the effectivity of this Act, and within the first five (5)
22 days of every month thereafter, submit to the Commissioner a sworn
23 statement of the volume of sales for each particular brand of tobacco
24 products sold at their establishment for the three-month period
25 immediately preceding.

26 "Any manufacturer or importer who, in violation of this Section,
27 knowingly misdeclares and misrepresents in his or its sworn statement
28 herein required any pertinent data or information, shall upon discovery, be

1 penalized by a summary cancellation or withdrawal of his or its permit to
2 engage in business as manufacturer or importer of cigars or cigarettes.

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

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

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

15 **SEC. 2.** Section 145 of the National Internal Revenue Code , as amended
16 by Republic Act No. 9334, is hereby further amended to read as follows:

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

18 **"(A) Cigars.** – There shall be levied, assessed and collected on
19 cigars [an *ad valorem* tax based on the retail price] **A TAX OF**
20 **P200.00** per cigar. [(excluding the excise tax and the value-added
21 tax) in accordance with the following schedule:

22 "(1) If the net retail price per cigar is Five hundred pesos,
23 (P500.00) or less , ten percent (10%); and

24 "(2) If the net retail price per cigar (excluding the excise tax
25 and the value-added tax) is more than Five hundred pesos
26 (P500.00), Fifty pesos (P50.00) plus fifteen percent (15%) of
27 the net retail price in excess of Five hundred pesos
28 (P500.00).]

1 *PROVIDED, THAT, A YEAR AFTER THE EFFECTIVITY OF*
2 *THIS ACT AND EVERY YEAR THEREAFTER, THE EXCISE TAX*
3 *RATES PRESCRIBED HEREIN SHALL BE ADJUSTED TO ITS*
4 *PRESENT VALUE USING AN APPROPRIATE PRICE INDEX*
5 *FOR TOBACCO PRODUCTS, AS PUBLISHED BY THE*
6 *NATIONAL STATISTICS OFFICE (NSO)."*

7 *"(B) Cigarettes Packed by Hand. – There shall be levied,*
8 *assessed and collected on cigarettes packed by the hand a tax at*
9 *the [rates prescribed below:] RATE OF TWO PESOS AND*
10 *FORTY-SEVEN CENTAVOS (P2.47) PER PACK.*

11 *PROVIDED, THAT, A YEAR AFTER THE EFFECTIVITY OF*
12 *THIS ACT AND EVERY YEAR THEREAFTER, THE EXCISE TAX*
13 *RATES PRESCRIBED HEREIN SHALL BE ADJUSTED TO ITS*
14 *PRESENT VALUE USING AN APPROPRIATE PRICE INDEX*
15 *FOR TOBACCO PRODUCTS, AS PUBLISHED BY THE*
16 *NATIONAL STATISTICS OFFICE (NSO)."*

17 *[“Effective on January 1, 2005, Two pesos (P2.00) per pack;*
18 *“Effective on January 1, 2007, Two pesos and twenty-three*
19 *centavos (P2.23) per pack;*
20 *“Effective on January 1, 2009, Two pesos and forty-seven centavos*
21 *(P2.47) per pack; and*
22 *“Effective on January 1, 2011, Two pesos and seventy-two*
23 *centavos (P2.72) per pack.]*

24 *“Duly registered or existing brands of cigarettes or new brands*
25 *thereof packed by hand shall be packed in thirties.”*

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

29 *“EFFECTIVE ON JANUARY 1, 2010 -*

1 “(1) IF THE NET RETAIL PRICE (EXCLUDING THE EXCISE TAX
2 AND THE VALUE-ADDED TAX) IS SIX PESOS AND FIFTY CENTAVOS
3 (P6.50) AND BELOW PER PACK, THE TAX SHALL BE EIGHT PESOS
4 (P8.00) PER PACK;

5 “(2) IF THE NET RETAIL PRICE (EXCLUDING THE EXCISE TAX
6 AND THE VALUE-ADDED TAX) IS MORE THAN SIX PESOS AND
7 FIFTY CENTAVOS (P6.50) PER PACK, THE TAX SHALL BE
8 FOURTEEN PESOS (P14.00) PER PACK;

9 “EFFECTIVE ON JANUARY 1, 2011, THE TAX SHALL BE
10 FOURTEEN PESOS (P14.00) PER PACK.

11 “PROVIDED, THAT, THEREAFTER, THE EXCISE TAX RATES
12 PRESCRIBED HEREIN SHALL BE ADJUSTED ANNUALLY TO ITS
13 PRESENT VALUE USING AN APPROPRIATE PRICE INDEX FOR
14 TOBACCO PRODUCTS, AS PUBLISHED BY THE NATIONAL
15 STATISTICS OFFICE (NSO).”

16 “ALL BRANDS OF CIGARETTES EXISTING IN THE MARKET
17 AT THE TIME OF THE EFFECTIVITY OF THIS ACT SHALL BE
18 CLASSIFIED ACCORDINGLY FOR THE PROPER DETERMINATION
19 OF THE TAX LIABILITY IN ACCORDANCE WITH THE SCHEDULE
20 PROVIDED ABOVE FOR THE YEAR COMMENCING JANUARY 1,
21 2010.”

22 [“(1) If the net retail price (excluding the excise tax and the value-
23 added tax) is below Five pesos (P5.00) per pack, the tax shall be:

24 “Effective on January 1, 2005, Two pesos (P2.00) per pack;

25 “Effective on January 1, 2007, Two pesos and twenty-three
26 centavos (P2.23) per pack;

27 “Effective on January 1, 2009, Two pesos and forty-seven centavos
28 (P2.47) per pack; and

1 “Effective on January 1, 2011, Two pesos and seventy-two
2 centavos (P2.72) per pack.

3 “(2) If the net retail price (excluding the excise tax and the value-
4 added tax) is Five pesos (P5.00) but does not exceed Six pesos and fifty
5 centavos (P6.50) per pack, the tax shall be:

6 “Effective on January 1, 2005, Six pesos and thirty-five centavos
7 (P6.35) per pack;

8 “Effective on January 1, 2007, Six pesos and seventy-four centavos
9 (P6.74) per pack;

10 “Effective on January 1, 2009, Seven pesos and fourteen centavos
11 (P7.14) per pack; and

12 “Effective on January 1, 2011, Seven pesos and fifty-six centavos
13 (P7.56) per pack.

14 “(3) If the net retail price (excluding the excise tax and the value-
15 added tax) exceeds Six pesos and fifty centavos (P6.50) but does not
16 exceed Ten pesos (P10.00) per pack, the tax shall be:

17 “Effective on January 1, 2005, Ten pesos and thirty-five centavos
18 (P10.35) per pack;

19 “Effective on January 1, 2007, Ten pesos and eighty-eight centavos
20 (P10.88) per pack;

21 “Effective on January 1, 2009, Eleven pesos and forty-three
22 centavos (P11.43) per pack; and

23 “Effective on January 1, 2011, Twelve pesos (P12.00) per pack.

24 “(4) If the net retail price (excluding the excise tax and the value-
25 added tax) is above Ten pesos (P10.00) per pack, the tax shall be:

26 “Effective on January 1, 2005, Twenty-five pesos (P25.00) per
27 pack;

28 “Effective on January 1, 2007, Twenty-six pesos and six centavos
29 (P26.06) per pack;

1 “Effective on January 1, 2009, Twenty-seven pesos and sixteen
2 centavos (P27.16) per pack; and

3 “Effective on January 1, 2011, Twenty-eight pesos and thirty
4 centavos (P28.30) per pack.]

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

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

13 “Duly registered or existing brands of cigarettes or new brands
14 thereof packed by machine shall only be packed in twenties.

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

19 “New brands, as defined in the immediately following paragraph,
20 shall initially be classified according to their suggested net retail price.

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

23 “**‘Suggested net retail price’** shall mean the net retail price at
24 which new brands, as defined above, of locally manufactured or imported
25 cigarettes are intended by the manufacturer or importer to be sold on retail
26 in major supermarkets or retail outlets in Metro Manila for those marketed
27 nationwide, and in other regions, for those with regional markets. At the
28 end of three (3) months from the product launch, the Bureau of Internal
29 Revenue shall validate the suggested net retail price of the new brand

1 against the net retail prices as defined herein and determine the correct
2 tax bracket under which a particular new brand of cigarette, as defined
3 above, shall be classified. After the end of eighteen (18) months from
4 such validation, the Bureau of Internal Revenue shall revalidate the initially
5 validated net retail price against the net retail price as of the time of
6 revalidation in order to finally determine the correct tax bracket under
7 which a particular new brand of cigarettes shall be classified [*Provided,*
8 *however,* That brands of cigarettes introduced in the domestic market
9 between January 1, 1997 and December 31, 2003 shall remain in the
10 classification under which the Bureau of Internal Revenue has determined
11 them to belong as of December 31,2003. Such classification of new
12 brands and brands introduced between January 1, 1997 and December
13 31, 2003 shall not be revised except by an act of Congress].

14 “ **‘Net retail price’**, as determined by the Bureau of Internal
15 Revenue through a price survey to be conducted by the Bureau of Internal
16 Revenue itself, or the National Statistics Office when deputized for the
17 purpose by the Bureau of Internal Revenue, shall mean the price at which
18 the cigarette is sold on retail in at least twenty (20) major supermarkets in
19 Metro Manila (for brands of cigarettes marketed nationally), excluding the
20 amount intended to cover the applicable excise tax and value-added tax.
21 For brands which are marketed only outside Metro Manila , the **‘net retail**
22 **price’**, shall mean the price at which the cigarette is sold in at least five (5)
23 major supermarkets in the region excluding the amount intended to cover
24 the applicable excise tax and the value-added tax.

25 [“The classification of each brand of cigarettes based in its average
26 net retail price as of October 1, 1996, as set forth in the Annex ‘D’,
27 including the classification of brands for the same products which,
28 although not set forth in said Annex ‘D’, were registered and were being
29 commercially produced and marketed on or after October 1, 1996, and

1 which continue to be commercially produced and marketed after the
2 effectively of this Act, shall remain in force until revised by Congress.]

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

9 "Any manufacturer or importer who, in violation of this Section,
10 knowingly misdeclares or misinterprets in his or its sworn statement herein
11 required any pertinent data or information shall be penalized by summary
12 cancellation or withdrawal of his or its permit to engage in business as
13 manufacturer or importer of cigars or cigarettes.

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

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

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

26 **SEC. 3. *Implementing Rules and Regulations.*** – The Secretary of
27 Finance shall, upon the recommendation of the Commissioner of Internal
28 Revenue, promulgate the necessary rules and regulations for the effective
29 implementation of this Act.

1 **SEC. 4. *Repealing Clause.*** – All laws, decrees, executive orders, rules
2 and regulations or parts thereof which are contrary to or inconsistent with this Act
3 are hereby repealed, amended or modified accordingly.

4 **SEC. 5. *Effectivity.*** - This Act shall take effect fifteen (15) days after its
5 publication in the Official Gazette or in any two newspapers of general
6 circulation, whichever comes earlier.

7 Approved,