

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

Office of the Secretary

'17 OCT 23 A10:05

SENATE

SENATE BILL NO. 1605

RECEIVED



INTRODUCED BY SENATOR JOSEPH VICTOR G. EJERCITO

AN ACT

INCREASING THE EXCISE TAX ON TOBACCO PRODUCTS AND AMENDING FOR THE PURPOSE SECTION 145 OF REPUBLIC ACT NO. 8424, OTHERWISE KNOWN AS THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED BY REPUBLIC ACT NO. 9334 AND REPUBLIC ACT NO. 10351, AND FOR OTHER PURPOSES

EXPLANATORY NOTE

According to the National Nutrition Survey (NNS) conducted by the Food and Nutrition Research Institute (FNRI) of the Department of Science and Technology, Republic Act No. 10351 otherwise known as the Sin Tax Reform Act resulted to decreased smoking prevalence among Filipinos from 31% in 2008 to 23% in 2015. 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.

The goal of raising funds for health sector thru Sin Tax Reform Act has also been achieved. The health sector budget increased from PhP57 in 2012 prior to the enactment of the Sin Tax Law to PhP151 billion in 2017.

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.

While the excise tax rate on cigarettes will continue to increase by 4% every year beginning 2018, studies show that this will not be enough to deter the young and the poor from starting to smoke. Maintaining status quo will result in *one million more* smokers by the end of the administration of President Duterte, which is equivalent to 200,000 new smokers for every year of delay in further increasing the cigarette excise tax. Further despite the significant drop in smoking prevalence, the prevalence rate in the Philippines is still high compared to countries in the region.

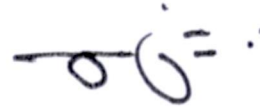
Moreover, additional resources will be needed to fully achieve Universal Health Care. For instance, providing an essential health package, including outpatient and primary care, for all Filipinos will require at least Php 70 billion every year. The country's 1:33,000 doctor-to-patient ratio is also still far from the ideal. Much has yet to be done in ensuring that every Filipino will have access to quality and affordable health care.

Thus, this bill aims to legislate a tobacco tax reform policy that will increase the unitary cigarette excise tax to Php90 by 2018 and stipulate a 9% annual increase in the excise tax, thereafter. This proposal is expected to reduce smoking prevalence to 16.6%, a level that is comparable to Singapore's, which is currently the lowest smoking prevalence rate in the ASEAN. At this excise tax rate, the number of smokers will be cut by two to three million and more lives will be saved from the harms of smoking. Cigarette excise tax collection will also increase to an amount that will significantly augment funds for health expenditures.

In summary, the proposed measure seeks to adjust 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. It also raises the excise tax to a level that will further reduce smoking prevalence to 16.6% at the same time will generate incremental revenue that will contribute to the national government's

higher tax effort target. Further, it implements a unitary tax to limit downshifting. The revenues shall be used to sustain funding for the realization of the Universal Health Coverage, and shall help maintain broader fiscal space and macroeconomic fundamentals for the Philippines.

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

A handwritten signature in black ink, appearing to read 'J. Ejercito', with a stylized flourish at the end.

JOSEPH VICTOR G. EJERCITO

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AN ACT

INCREASING THE EXCISE TAX ON TOBACCO PRODUCTS AND
AMENDING FOR THE PURPOSE SECTION 145 OF REPUBLIC ACT
NO. 8424, OTHERWISE KNOWN AS THE NATIONAL INTERNAL
REVENUE CODE OF 1997, AS AMENDED BY REPUBLIC ACT NO.
9334 AND REPUBLIC ACT NO. 10351, AND FOR OTHER PURPOSES

*Be it enacted by the Senate and the 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 hand an excise tax based on the
following schedule[s]:

(1) EFFECTIVE ON JANUARY 1, 2018, THE TAX SHALL BE
NINETY PESOS (P 90.00) PER PACK;

PROVIDED, THAT, ON JANUARY 1, 2019 AND EVERY YEAR
THEREAFTER, THE EXCISE TAX RATE PRESCRIBED HEREIN
SHALL BE ADJUSTED ANNUALLY BY NINE PERCENT (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.

1 ["Effective on January 1, 2013, Twelve pesos (P12.00) per pack;
2 "Effective on January 1, 2014, Fifteen pesos (P15.00) per pack;
3 "Effective on January 1, 2015, Eighteen pesos (P18.00) per
4 pack;
5 "Effective on January 1, 2016, Twenty-one pesos (P21.00) per
6 pack; and
7 "Effective on January 1, 2017, Thirty pesos (P30.00) per pack.
8

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

13 [Duly registered cigarettes packed by hand shall only be packed
14 in twenties and other packaging combinations of not more than
15 twenty.]

16 "Cigarettes packed by hand' shall refer to the manner of
17 packaging of cigarette sticks using an individual person's hands
18 and not through any other means such as a mechanical device,
19 machine or equipment.
20

21 **"(C) Cigarettes Packed by Machine.** - There shall be levied, assessed
22 and collected on cigarettes packed by machine a tax at the rates
23 prescribed below:
24

25 (1) EFFECTIVE ON JANUARY 1, 2018, THE TAX SHALL BE
26 NINETY PESOS (P 90.00) PER PACK, REGARDLESS OF BRAND
27 OR NET RETAIL PRICE.
28

29 *PROVIDED, THAT, ON JANUARY 1, 2019 AND EVERY YEAR*
30 *THEREAFTER, THE EXCISE TAX RATE PRESCRIBED HEREIN*
31 *SHALL BE ADJUSTED ANNUALLY BY NINE PERCENT (9%).*
32 *THIS IS WITHOUT PREJUDICE TO THE PREROGATIVE OF*
33 *CONGRESS TO INCREASE THE INDEXED RATES IN ORDER*
34 *TO MEET THE SUMPTUARY GOALS OF THE TAX.*
35

36 ALL BRANDS OF CIGARETTES EXISTING IN THE MARKET
37 AT THE TIME OF THE EFFECTIVITY OF THIS ACT SHALL BE
38 CLASSIFIED ACCORDINGLY FOR THE PROPER
39 DETERMINATION OF THE TAX LIABILITY IN

1 ACCORDANCE WITH THE SCHEDULE PROVIDED ABOVE
2 FOR THE YEAR COMMENCING JANUARY 1, 2018.

3
4 ["Effective on January 1, 2013"

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

9
10 " (2) If the net retail price (excluding the excise tax and the
11 value-added tax) is more than Eleven pesos and fifty centavos
12 (P11.50) per pack, the tax shall be Twenty-five pesos (P25.00)
13 per pack.

14
15 "Effective on January 1, 2014

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

20
21 "(2) If the net retail price (excluding the excise tax and the
22 value-added tax) is more than Eleven pesos and fifty centavos
23 (P11.50) per pack, the tax shall be Twenty-seven pesos (P27.00)
24 per pack.

25
26 "Effective on January 1, 2015

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

31
32 "(2) If the net retail price (excluding the excise tax and the
33 value-added tax) is more than Eleven pesos and fifty centavos
34 (P11.50) per pack, the tax shall be Twenty-eight pesos (P28.00)
35 per pack.

36
37 "Effective on January 1, 2016

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

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

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

12 "Duly registered cigarettes packed by machine shall only be
13 packed in twenties and other packaging combinations of not
14 more than twenty.
15

16 "Understatement of the suggested net retail price by as much as
17 fifteen percent (15%) of the actual net retail price shall render the
18 manufacturer or importer liable for additional excise tax
19 equivalent to the tax due and difference between the understated
20 suggested net retail price and the actual net retail price.
21

22 "Cigarettes introduced in the domestic market after the
23 effectivity of this Act shall be initially tax classified according to
24 their suggested net retail prices.
25

26 " 'Suggested net retail price' shall mean the net retail price at
27 which locally manufactured or imported cigarettes are intended
28 by the manufacturer or importer to be sold on retail in major
29 supermarkets or retail outlets in Metro Manila for those
30 marketed nationwide, and in other regions, for those with
31 regional markets. At the end of three (3) months from the
32 product launch, the Bureau of Internal Revenue shall validate the
33 suggested net retail price of the newly introduced cigarette
34 against the net retail price as defined herein and initially
35 determine the correct tax bracket under which a newly
36 introduced cigarette shall be classified. After the end of nine (9)
37 months from such validation, the Bureau of Internal Revenue
38 shall revalidate the initially validated net retail price against the
39 net retail price as of the time of revalidation in order to finally
40 determine the correct tax bracket under which a newly
41 introduced cigarette shall be classified.

1 " 'Net retail price' shall mean the price at which the cigarette is
2 sold on retail in at least five (5) major supermarkets in Metro
3 Manila (for brands of cigarettes marketed nationally), excluding
4 the amount intended to cover the applicable excise tax and the
5 value-added tax. For cigarettes which are marketed only outside
6 Metro Manila, the 'net retail price' shall mean the price at which
7 the cigarette is sold in at least five (5) major supermarkets in the
8 region excluding the amount intended to cover the applicable
9 excise tax and the value-added tax.

10
11 "Major supermarkets, as contemplated under this Act, shall be
12 those with the highest annual gross sales in Metro Manila or the
13 region, as the case may be, as determined by the National
14 Statistics Office, and shall exclude retail outlets or kiosks,
15 convenience or sari-sari stores, and others of a similar nature:
16 Provided, That no two (2) supermarkets in the list to be surveyed
17 are affiliated and/or branches of each other: Provided, finally,
18 That in case a particular cigarette is not sold in major
19 supermarkets, the price survey can be conducted in retail outlets
20 where said cigarette is sold in Metro Manila or the region, as the
21 case may be, upon the determination of the Commissioner of
22 Internal Revenue.

23
24 "The net retail price shall be determined by the Bureau of
25 Internal Revenue through a price survey under oath.

26
27 "The methodology and all pertinent documents used in the
28 conduct of the latest price survey shall be submitted to the
29 Congressional Oversight Committee on the Comprehensive Tax
30 Reform Program created under Republic Act No. 8240.

31
32 "The proper tax classification of cigarettes, whether registered
33 before or after the effectivity of this Act, shall be determined
34 every two (2) years from the date of effectivity of this Act.

35
36 "All cigarettes existing in the market at the time of the effectivity
37 of this Act shall be classified according to the net retail prices and
38 the tax rates provided above based on the latest price survey of
39 cigarettes conducted by the Bureau of Internal Revenue.

40
41 "The methodology and all pertinent documents used in the
42 conduct of the latest price survey shall be submitted to the

1 Congressional Oversight Committee on the Comprehensive Tax
2 Reform Program created under Republic Act No. 8240.

3
4 "No tobacco products manufactured in the Philippines and
5 produced for export shall be removed from their place of
6 manufacture or exported without posting of an export bond
7 equivalent to the amount of the excise tax due thereon if sold
8 domestically: Provided, however, That tobacco products for
9 export may be transferred from the place of manufacture to a
10 bonded facility, upon posting of a transfer bond, prior to export.

11
12 "Tobacco products imported into the Philippines and destined
13 for foreign countries shall not be allowed entry without posting a
14 bond equivalent to the amount of customs duty, excise and
15 value-added taxes due thereon if sold domestically.

16
17 „Of the total volume of cigarettes sold in the country, any
18 manufacturer and/or seller of tobacco products must procure at
19 least fifteen percent (15%) of its tobacco leaf raw material
20 requirements from locally grown sources, subject to adjustments
21 based on international treaty commitments."

22
23 "Manufacturers and importers of cigars and cigarettes shall,
24 within thirty (30) days from the effectivity of this Act and within
25 the first five (5) days of every month thereafter, submit to the
26 Commissioner a sworn statement of the volume of sales for
27 cigars and/or cigarettes sold for the three-month period
28 immediately preceding.

29
30 "Any manufacturer or importer who, in violation of this Section,
31 misdeclares or misrepresents in his or its sworn statement herein
32 required any pertinent data or information shall, upon final
33 findings by the Commissioner that the violation was committed,
34 be penalized by a summary cancellation or withdrawal of his or
35 its permit to engage in business as manufacturer or importer of
36 cigars or cigarettes.

37
38 "Any corporation, association or partnership liable for any of the
39 acts or omissions in violation of this Section shall be fined treble
40 the aggregate amount of deficiency taxes, surcharges and interest
41 which may be assessed pursuant to this Section.

1 "Any person liable for any of the acts or omissions prohibited
2 under this Section shall be criminally liable and penalized under
3 Section 254 of this Code. Any person who willfully aids or abets
4 in the commission of any such act or omission shall be criminally
5 liable in the same manner as the principal.
6

7 "If the offender is not a citizen of the Philippines, he shall be
8 deported immediately after serving the sentence, without further
9 proceedings for deportation."]
10

11
12 "(D) The following provisions shall be applicable for this Section:
13

14 a. Duly registered or existing brands of cigarettes or new brands
15 thereof shall only be packed in twenties and other packaging
16 combinations of not more than twenty.
17

18 b. Variants of existing brands and variants of new brands of
19 cigarettes which are introduced in the domestic market after the
20 effectivity of this Act shall be taxed under the proper
21 classification thereof based on their suggested net retail price:
22 *Provided, however,* That such classification shall not, in any case, be
23 lower than the highest classification of any variant of that brand.
24

25 'Variant of a brand' shall refer to a brand on which a modifier is
26 prefixed and/or suffixed to the root name of the brand.
27

28 'New brand' shall mean a brand registered after the date of the
29 effectivity of this Act.
30

31 c. Any downward reclassification of present categories, for tax
32 purposes, of existing brands of cigars and cigarettes duly
33 registered at the time of the effectivity of this Act which will
34 reduce the tax imposed herein, or the payment thereof, shall be
35 prohibited.
36

37 d. Understatement of the suggested net retail price by as much as
38 fifteen percent (15%) of the actual net retail price shall render the
39 manufacturer or importer liable for additional excise tax
40 equivalent to the tax due and difference between the understated
41 suggested net retail price and the actual net retail price.

1 Cigarettes introduced in the domestic market after the effectivity
2 of this Act shall be initially tax classified according to their
3 suggested net retail prices.
4

5 'Suggested net retail price' shall mean the net retail price at which
6 new brands, as defined above, of locally manufactured or
7 imported cigarettes are intended by the manufacturer or importer
8 to be sold on retail in major supermarkets or retail outlets in
9 Metro Manila for those marketed nationwide, and other regions,
10 for those with regional markets. At the of three (3) months from
11 the product launch, the Bureau of Internal Revenue shall validate
12 the suggested retail price as defined herein and determine the
13 correct tax bracket to which a particular new brand of cigarette,
14 as defined above shall be classified. After the end of eighteen (18)
15 months from such validation, the Bureau of Internal Revenue
16 shall revalidate the initially validated net retail price against the
17 net retail price as of the time of revalidation in order to finally
18 determine the correct tax bracket under which a particular new
19 brand of cigarettes shall be classified.
20

21 'Net retail price' shall mean the price at which the cigarette is sold
22 on retail in at least five (5) major supermarkets in Metro Manila
23 (for brands of cigarettes marketed nationally), excluding the
24 amount intended to cover the applicable excise tax and the value-
25 added tax. For cigarettes which are marketed only outside Metro
26 Manila, the 'net retail price' shall mean the price at which the
27 cigarette is sold in at least five (5) major supermarkets in the
28 region excluding the amount intended to cover the applicable
29 excise tax and the value-added tax.
30

31 "Major supermarkets, as contemplated under this Act, shall be
32 those with the highest annual gross sales in Metro Manila or the
33 region, as the case may be, as determined by the National
34 Statistics Office, and shall exclude retail outlets or kiosks,
35 convenience or sari-sari stores, and others of a similar nature:
36 Provided, That no two (2) supermarkets in the list to be surveyed
37 are affiliated and/or branches of each other: Provided, finally,
38 That in case a particular cigarette is not sold in major
39 supermarkets, the price survey can be conducted in retail outlets
40 where said cigarette is sold in Metro Manila or the region, as the
41 case may be, upon the determination of the Commissioner of
42 Internal Revenue.

1 "The net retail price shall be determined by the Bureau of Internal
2 Revenue through a price survey under oath.

3
4 "The methodology and all pertinent documents used in the
5 conduct of the latest price survey shall be submitted to the
6 Congressional Oversight Committee on the Comprehensive Tax
7 Reform Program created under Republic Act No. 8240.
8

9 "The proper tax classification of cigarettes, whether registered
10 before or after the effectivity of this Act, shall be determined
11 every two (2) years from the date of effectivity of this Act.
12

13 "All cigarettes existing in the market at the time of the effectivity
14 of this Act shall be classified according to the net retail prices and
15 the tax rates provided above based on the latest price survey of
16 cigarettes conducted by the Bureau of Internal Revenue.
17

18 "The methodology and all pertinent documents used in the
19 conduct of the latest price survey shall be submitted to the
20 Congressional Oversight Committee on the Comprehensive Tax
21 Reform Program created under Republic Act No. 8240.
22

- 23 a. No tobacco products manufactured in the Philippines and
24 produced for export shall be removed from their place of
25 manufacture or exported without posting of an export bond
26 equivalent to the amount of the excise tax due thereon if sold
27 domestically: Provided, however, That tobacco products for
28 export may be transferred from the place of manufacture to a
29 bonded facility, upon posting of a transfer bond, prior to export.
30
- 31 b. Tobacco products imported into the Philippines and destined for
32 foreign countries shall not be allowed entry without posting a
33 bond equivalent to the amount of customs duty, excise and value-
34 added taxes due thereon if sold domestically.
35
- 36 c. Of the total volume of cigarettes sold in the country, any
37 manufacturer and/or seller of tobacco products must procure at
38 least fifteen percent (15%) of its tobacco leaf raw material
39 requirements from locally grown sources, subject to adjustments
40 based on international treaty commitments.
41

- 1 d. Manufacturers and importers of cigars and cigarettes shall,
2 within thirty (30) days from the effectivity of this Act, and within
3 the first five (5) days of every third month thereafter, submit to
4 the Commissioner a sworn statement of the volume of sales for
5 each particular brand of cigars and/or cigarettes sold for the
6 three-month period immediately preceding.
7
8 e. Any manufacturer or importer who, in violation of this Section,
9 knowingly misdeclares or misrepresents in his or its sworn
10 statement herein required any pertinent data or information shall,
11 upon final findings by the Commissioner that the violation was
12 committed, be penalized by a summary cancellation or
13 withdrawal of his or its permit to engage in business as
14 manufacturer or importer of cigars or cigarettes.
15
16 f. Any corporation, association or partnership liable for any of the
17 acts or omissions in violation of this Section shall be fined treble
18 the amount of deficiency taxes, surcharges and interest which
19 may be assessed pursuant to this Section.
20
21 g. Any person liable for any of the acts or omissions prohibited
22 under this Section shall be criminally liable and penalized under
23 Section 254 of this Code. Any person who willfully aids or abets
24 in the commission of any such act or omission shall be criminally
25 liable in the same manner as the principal.
26
27 h. If the offender is not a citizen of the Philippines, he shall be
28 deported immediately after serving the sentence, without further
29 proceedings for deportation."
30

31 **Section 2: *Implementing Rules and Regulations*** - The Secretary of Finance
32 shall, upon the recommendation of the Commissioner of Internal Revenue,
33 promulgate the necessary rules and regulations for the effective
34 implementation of this Act not later than sixty (60) days upon the
35 effectivity of this Act.
36

37 **Section 3: *Separability Clause***. - If any of the provisions of this Act is
38 declared invalid by a competent court, the remainder of this Act or any
39 provision not affected by such declaration of invalidity shall remain in
40 force and effect.
41

1 **Section 4: *Repealing Clause.*** - All laws, decrees, ordinances, rules and
2 regulations, executive or administrative orders, and such other presidential
3 issuances as are inconsistent with any of the provisions of this Act are
4 hereby repealed, amended or otherwise modified accordingly.

5

6 **Section 5: *Effectivity.*** - This Act shall take effect upon its publication in a
7 newspaper of general circulation.

Approved,