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SENATE
S. No. 2980

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Introduced by Senator Lacson

EXPLANATORY NOTE

In 2004, the government embarked on a major alcohol and tobacco excise tax reform to address the flaws of the previous system, which principally failed to generate desired amount of revenues and serve its sumptuary objective as well. Non-buoyant revenues due to structural defects such as the non-indexation of specific tax rates and non-reclassification of alcohol and tobacco products (more popularly known as "sin" products) to reflect current prices characterized the previous system.

The government does not employ tax policy for revenue generation alone but it is likewise being used as a powerful tool to affect the behavior of producers and consumers. Tax policy is employed to control social costs or regulate activities that are likely to cause negative externalities. Smoking, for instance is an activity that clearly exhibits harmful effects on both the smokers and non-smokers and the excise tax is viewed to be an effective intervention in reducing demand for sin products.

However, the same challenges are still being felt today even with the passage of a new excise tax law in 2004 under RA No. 9334. The new and current structure continues to have inherent weaknesses that continue to put revenues at risk and undermine the role of excise tax as a tool to curb consumption of tobacco and alcohol products.

More specifically the following problems continue to haunt the current tobacco and alcohol excise tax system:

1. Presence of multi-tiered structure requires complex rules on product classification and creates too much room for discretion;
2. Presence of multi-tiered structure is prone to downshifting of consumption from high-priced to low-priced brands that has negative consequence both in terms of revenues and in discouraging consumption;
3. Presence of old and new brands distinction has deprived government of revenues due to the artificially low tax rates applied to old brands;
4. Presence of old and new brands distinction makes the structure inequitable since products having the same price are taxed differently thus, leading to an unhealthy competition in the market;
5. More importantly, the absence of a provision that allows the specific tax to track inflation has rendered the tax ineffective in raising revenues and curbing consumption. While RA No. 9334 provides for step increases until

2011, the rates do not necessarily catch up with inflation. For instance, cumulative inflation from 2005 to 2007 is 17.2%. In 2007, the tax rates for cigarettes were increased by only 12% for the low-priced brands and by 6%, 5% and 4% for the medium-priced, high-priced and premium-priced brands, respectively.

In order for the excise tax to continue its dual role as a deterrent to the consumption of these so called "sin" products as well as a source of revenue, Department of Finance is again spearheading another excise tax reform.

This bill is designed to once and for all address the persistent problems in the country's taxation of alcohol and tobacco products. The general objective of this bill is to make the tax structure simple, effective and efficient. It specifically seeks to minimize, if not completely eliminate opportunities for discretion and keep the tax neutral so that competition will be based purely on price; it will enhance the revenue generation to augment the financial resources of government and effective tool in curbing the consumption of alcohol and tobacco.

This bill maintains the specific form of excise taxation because it is easier to administer, it does not provide incentive for manufacturers and importer to undervalue their products and it is useful in internalizing the negative externalities from drinking and smoking since the damage caused by alcohol and tobacco products is dependent more on the quantity consumed than on the price of these products.

This bill also addresses the issue of unfair competition between manufacturers of locally-produced and of imported alcohol products.

This bill seeks to move from the current multi-tiered and complex structure and adopt a unitary excise tax system for each category of alcohol (distilled spirits, fermented liquors, wine) and tobacco products (tobacco, cigar and cigarettes). But as a more pragmatic strategy, it is proposed that a two-step increase in the rates for cigarettes to avoid a negative impact on revenues is envisioned if a unitary structure will be immediately adopted.

Under the bill, for cigarettes, a two-rate structure of Php 8.00 and Php 14.00, per pack, for the initial year of implementation and a uniform rate of Php 14.00 per pack of cigarette for the second year.

For fermented liquor, the rates will be unified at Php 21.52 per liter. A three-year adjustment period in the tax rates for distilled spirits will be undertaken to unify the tax rate at Php 150.00 per proof liter on the third year.

The proposed bill is estimated to generate additional revenues on the initial year of Php 16 billion.

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


PANFILO M. LACSON
Senator

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SENATE
S. No. 2980

Introduced by Senator Lacson

**AN ACT
RESTRUCTURING THE EXCISE TAX ON ALCOHOL AND TOBACCO
PRODUCTS**

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

1 **SECTION 1.** Section 141 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 141. *Distilled Spirits.* – On distilled spirits, there shall be
5 collected, subject to the provisions of Section 133 of this Code, excise
6 taxes **IN ACCORDANCE WITH ALCOHOL CONTENT** as follows:

- 7 (a) **45% ALCOHOL BY VOLUME AND LESS**
8 **YEAR 1 -- P30.00 PER PROOF LITER**
9 **YEAR 2 -- P80.00 PER PROOF LITER**
10 **YEAR 3 -- P150.00 PER PROOF LITER**

11 **PROVIDED, THAT, ON THE FOURTH YEAR**
12 **AND EVERY YEAR THEREAFTER, THE EXCISE**
13 **TAX RATES PRESCRIBED HEREIN SHALL BE**
14 **ADJUSTED TO ITS PRESENT VALUE USING AN**
15 **APPROPRIATE PRICE INDEX FOR ALCOHOLIC**
16 **DRINKS, AS PUBLISHED BY THE NATIONAL**
17 **STATISTICS OFFICE (NSO).”**

- 18 (b) **MORE THAN 45% ALCOHOL BY VOLUME --**
19 **P150.00 PER PROOF LITER**

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

9 ["a] If produced from the sap of nipa, coconut, cassava, camote, or
10 buri palm or from the juice, syrup or sugar of the cane, provided such
11 materials are produced commercially in the country where they are
12 processed into distilled spirits per proof liter, Eleven pesos and sixty-five
13 centavos (P11.65)]

14 ["b] If produced from raw materials other than those enumerated in
15 the preceding paragraph, the tax shall be in accordance with the net retail
16 price per bottle of seven hundred fifty milliliter (750 ml.) volume capacity
17 (excluding the excise tax and the value-added tax) as follows"]

18 ["(1) Less than two hundred and fifty pesos (P250.00) – One
19 hundred twenty six pesos (P126.00) per proof liter;]

20 ["(2) Two hundred and fifty pesos (P250.00) up to Six hundred and
21 seventy-five pesos (P675.00) – Two hundred fifty-two pesos (P252.00),
22 per proof liter; and]

23 ["(3) More than Six hundred and seventy-five pesos (P675.00) –
24 Five hundred four pesos (P504.00), per proof liter.]

25 (c) Medicinal preparations, flavoring extracts, and all other
26 preparations, except toilet preparations, of which, excluding
27 water, distilled spirits form the chief ingredient, shall be
28 subject to the same tax as such chief ingredient.

1 " This tax shall be proportionally increased for any strength of the
2 spirits taxed over proof spirits, and the tax shall attach to this substance as
3 soon as it is in existence as such, whether it be subsequently separated
4 as pure or impure spirits, or transformed into any other substances either
5 in the process of original production or by any subsequent process.

6 **"Spirits or distilled spirits'** is the substance known as ethyl
7 alcohol, ethanol or spirits of wine, including all dilutions, purifications and
8 mixtures thereof, from whatever source, by whatever process produced,
9 and shall include whisky, brandy, rum, gin and vodka, and other similar
10 products of mixtures.

11 **"Proof Spirits'** is liquor containing one-half (1/2) of its volume of
12 alcohol of a specific gravity of seven thousand nine hundred and thirty-
13 nine ten thousandths (0.7939) at fifteen degrees centigrade (15°C). A
14 'proof liter' means a liter of proof spirits.

15 **["Net retail price'**, as determined by the Bureau of Internal
16 Revenue through a price survey to be conducted by the Bureau of Internal
17 Revenue itself, or by the National Statistics Office when deputized for the
18 purpose by the Bureau of Internal Revenue, shall mean the price at which
19 the distilled spirits is sold on retail in at least ten (10) major supermarkets
20 in Metro Manila, excluding the amount intended to cover the applicable
21 excise tax and the value-added tax. For brands which are marketed
22 outside Metro Manila, the '**net retail price'** shall mean the price at which
23 the distilled spirits is sold in at least five (5) major supermarkets in the
24 region excluding the amount intended to cover the applicable excise tax
25 and the value-added tax.]

26 **["** Variants of existing brands and variants of new brands which are
27 introduced in the domestic market after the effectively of this Act shall be
28 taxed under the proper classification thereof based on their suggested net

1 retail price: *Provided, however,* that such classification shall not, in any
2 case, be lower than the highest classification of any variant of that brand.]

3 [" A '**variant of a brand**' shall refer to a brand on which a modifier
4 is prefixed and/or suffixed to the root name of the brand.]

5 [" New brands, as defined in the immediately following paragraph,
6 shall initially be classified according to their suggested net retail price.
7 Willful understatement of the suggested net retail price by as much as
8 fifteen percent (15%) of the actual net retail price shall render the
9 manufacturer liable for additional excise tax equivalent to the tax due and
10 difference between the understated suggested net retail price and the
11 actual net retail price.]

12 [" '**New brand**' shall mean a brand registered after the date of
13 effectivity of R.A. No. 8240.]

14 [" '**Suggested net retail price**' shall mean the net retail price at
15 which new brands, as defined above, of locally manufactured or imported
16 distilled spirits are intended by the manufacturer or importer to be sold on
17 retail in major supermarkets or retail outlets in Metro Manila for those
18 marketed nationwide, and in other regions, for those with regional
19 markets. At the end of three (3) months from the product launch, the
20 Bureau of Internal Revenue shall validate the suggested net retail price as
21 defined herein and determine the correct tax bracket to which a particular
22 new brand of distilled spirits, as defined above, shall be classified. After
23 the end of eighteen (18) months from such validation, the Bureau of
24 Internal Revenue shall revalidate the initially validated net retail price
25 against the net retail price of the time of revalidation in order to finally
26 determine the correct tax bracket which a particular new brand of distilled
27 spirits shall be classified: *Provided, however,* That brands of distilled
28 spirits introduced in the domestic market between January 1, 1997 and
29 December 31, 2003 shall remain in the classification under which the

1 Bureau of Internal Revenue has determined them to belong as of
2 December 31, 2003. Such classification of new brands and brands
3 introduced between January 1, 1997 and December 31, 2003 shall not be
4 revised except by an act of Congress.]

5 [" The rates of tax imposed under this Section shall be increase by
6 eight percent (8%) every two years starting on January 1, 2007.]

7 [" Any downward reclassification of present categories, for tax
8 purposes, of existing brands of distilled spirits duly registered at the time
9 of effectivity of this Act which will reduce the tax imposed herein, or the
10 payment thereof, shall be prohibited.]

11 [" The classification of each brand of distilled spirits based on the
12 average net retail price as of October 1, 1996, as set forth in Annex 'A',
13 including the classification of brands for the same products which,
14 although not set forth in said Annex 'A', were registered and were being
15 commercially produced and marketed on or after October 1, 1996, and
16 which continue to be commercially produced and marketed after the
17 effectivity of this Act, shall remain in force until revised by Congress.]

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

24 "Any manufacturer or importer who, in violation of this Section,
25 knowingly misdeclares or misrepresents in his or its sworn statement
26 herein required any pertinent data or information shall, upon final findings
27 by the Commissioner that the violation was committed, be penalized by a
28 summary cancellation or withdrawal of his or its permit to engage in
29 business as manufacturer or importer of distilled spirits.

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

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

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

13 **SEC. 2.** Section 142 of the National Internal Revenue Code of (1997), as
14 amended by Republic Act No. 9334, is hereby further amended to read as
15 follows:

16 “SEC. 142. *Wines.* – On wines, there shall be collected per liter of
17 volume capacity, the following taxes:

18 “(a) Sparkling wines/champagnes regardless of proof [, if the net
19 retail price per bottle (excluding the excise tax and the value-added tax)
20 is:] – **THREE HUNDRED PESOS (P300.00);**

21 [“(1) Five hundred pesos (P500.00) or less – One hundred forty-five
22 pesos and sixty centavos (P145.60); and]

23 [“(2) More than Five hundred pesos (P500.00) – Four hundred
24 thirty-six pesos and eighty centavos (P436.80)]

25 [“(b) Still wines containing fourteen percent (14%) of alcohol by
26 volume or less, Seventeen pesos and forty-seven centavos (P17.47)]; and

27 “(c) Still Wines containing more than fourteen percent (14%) but not
28 more than twenty-five percent (25%) of alcohol by volume, [Thirty-four
29 pesos and ninety-four centavos (P34.94).]

1 **“(b) STILL WINES, REGARDLESS OF PROOF – FIFTY PESOS**

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

8 “Fortified wines containing more than twenty-five percent (25%) of
9 alcohol by volume shall be taxed as distilled spirits. ‘Fortified wines’ shall
10 mean natural wines to which distilled spirits are added to increase their
11 alcohol strength.

12 [“Net retail price’, as determined by the Bureau of Internal Revenue
13 through a price survey to be conducted by the Bureau of Internal Revenue
14 itself, or the National Statistics Office when deputized for the purpose by
15 the Bureau of Internal Revenue, shall mean the price at which wine is sold
16 on retail in at least ten (10) major supermarkets in Metro Manila, excluding
17 the amount intended to cover the applicable excise tax and the value-
18 added tax. For brands which are marketed outside Metro Manila, the ‘net
19 retail price’ shall mean the price at which the wine spirits is sold in at least
20 five (5) major supermarkets in the region excluding the amount intended to
21 cover the applicable excise tax and the value-added tax.]

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

27 [“A ‘variant of a brand’ shall refer to a brand on which a modifier is
28 prefixed and/or suffixed to the root name of the brand.]

1 ["New brands, as defined in the immediately following paragraph,
2 shall initially be classified according to their suggested retail price."]

3 [" 'New brand' shall mean a brand registered after the date of
4 effectivity of R.A. No. 8240."]

5 [" 'Suggested net retail price' shall mean the net retail price at
6 which new brands, as defined above, of locally manufactured or imported
7 wines are intended by the manufacture or importer to be sold on retail in
8 major supermarkets or retail outlets in Metro Manila for those marketed
9 nationwide, and in other regions, for those with regional markets. At the
10 end of three (3) months from the product launch, the Bureau of Internal
11 Revenue shall validate the suggested retail price of the new brand against
12 the net retail price as defined herein and determine the correct tax bracket
13 under which a particular new brand of wine, as defined above, shall be
14 classified. After the end of eighteen (18) months from such validation, the
15 Bureau of Internal Revenue shall validate the initially validated net retail
16 price against the net retail price as of the time of revalidation in order to
17 finally determine the correct tax bracket which a particular new brand of
18 wines shall be classified: *Provided, however,* That brands of wines
19 introduced in the domestic market between January 1, 1997 and
20 December 31, 2003 shall remain in the classification under which the
21 Bureau of Internal Revenue has determined them to belong as of
22 December 31, 2003. Such classification of new brands and brands
23 introduced between January 1, 1997 and December 31, 2003 shall not be
24 revised except by any act of Congress.]

25 [The rates of tax imposed under this Section shall be increased by
26 eight percent (8%) every two years starting on January 1, 2007 until
27 January 1, 2011.]

28 [Any downward reclassification of present categories, for tax
29 purposes, of existing brands of wines duly registered at the time of the

1 effectivity of this Act which will reduce the tax imposed herein, or the
2 payment hereof, shall be prohibited.]

3 [The classification of each brand of wines based on the average net
4 retail price as of October 1, 1996, as set forth in Annex 'B', including the
5 classification of brands for the same products which, although not set forth
6 in said "Annex B" were registered and were being commercially
7 produced and marketed after the effectivity of this Act, shall remain in
8 force until revised by Congress.]

9 "Manufacturers and importers of wines shall, within thirty (30) days
10 from the effectivity of this Act, and within the first five (5) days of every
11 month thereafter, submit to the Commissioner a sworn statement of the
12 volume of sales for each particular brand of wines sold at his
13 establishment for the three month period immediately preceding.

14 "Any manufacturer or importer who, in violation of this Section,
15 knowingly misdeclares or misrepresents in his or its sworn statement
16 herein required any pertinent data or information shall, upon discovery, be
17 penalized by a summary cancellation or withdrawal of his or its permit to
18 engage in business as manufacturer or importer of wines.

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

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

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

4 **SEC. 3.** Section 143 of the National Internal Revenue Code of (1997), as
5 amended by Republic Act No. 9334, is hereby further amended to read as
6 follows:

7 **"SEC. 143. Fermented Liquor.** – There shall be levied, assessed and
8 collected an excise tax on beer, lager beer, ale, porter and other fermented
9 liquors except *tuba, basi, tapuy* and similar fermented liquors [in accordance with
10 the following schedule:] **AN EXCISE TAX EQUIVALENT TO TWENTY-ONE**
11 **PESOS AND FIFTY-TWO CENTAVOS (P21.52) PER LITER: PROVIDED,**
12 **THAT, A YEAR AFTER THE EFFECTIVITY OF THIS ACT AND EVERY YEAR**
13 **THEREAFTER, THE EXCISE TAX RATE PRESCRIBED HEREIN SHALL BE**
14 **ADJUSTED TO ITS PRESENT VALUE USING AN APPROPRIATE PRICE**
15 **INDEX FOR ALCOHOLIC DRINKS, AS PUBLISHED BY THE NATIONAL**
16 **STATISTICS OFFICE (NSO)."**

17 ["(a) If the net retail price (excluding the excise tax and the value-
18 added tax) per liter of volume capacity is less than Fourteen pesos and
19 fifty centavos (P14.50), the tax shall be Eight pesos and twenty-seven
20 centavos (P8.27) per liter;]

21 ["(b) If the net retail price (excluding the excise tax and value-
22 added tax) per liter of volume capacity is Fourteen pesos and fifty
23 centavos (P14.50) up to Twenty-two pesos (P22.00), the tax shall be
24 Twelve pesos and thirty centavos (P12.30) per liter;]

25 ["(c) If the net retail price (excluding the excise tax and the value-
26 added tax) per liter of volume capacity is more than Twenty-two pesos
27 (P22.00), the tax shall be Sixteen pesos and thirty-three centavos
28 (P16.33) per liter.]

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

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

8 [“Fermented liquors which are brewed and sold at microbreweries
9 or small establishments such as pubs and restaurants shall be subject to
10 the rate in paragraph (c) hereof.]

11 [“New brands, as defined in the immediately following paragraph,
12 shall initially be classified according to their suggested net retail price.]

13 [“‘**New brand**’ shall mean a brand registered after the date of
14 effectivity of R.A. No. 8240.]

15 [“‘**Suggested net retail price**’ shall mean the net retail price at
16 which new brands, as defined above, of locally manufactured or imported
17 fermented liquor are intended by the manufacturer or importer to be sold
18 on retail in major supermarkets or retail outlets in Metro Manila for those
19 marketed nationwide, and in other regions, for those with regional
20 markets. *At the end of three (3) months from the product launch,* the
21 Bureau of Internal Revenue shall validate the suggested net retail price of
22 the new brand against the net retail price as defined herein and determine
23 the correct tax bracket to which a particular new brand of fermented liquor,
24 as defined above, shall be classified. After the end of the eighteen (18)
25 months from such validation, the Bureau of Internal Revenue shall
26 revalidate the initially validated net retail price against the net retail price
27 as of the time of revalidation in order to finally determine the correct tax
28 bracket which a particular new brand of fermented liquors shall be
29 classified: *Provided, however,* That brands of fermented liquors introduced

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

7 **["Net retail price'**, as determined by the Bureau of Internal
8 Revenue through a price survey to be conducted by the Bureau of
9 Internal Revenue itself, or the National Statistics Office when deputized for
10 the purpose of Bureau of Internal Revenue, shall mean the price at which
11 the fermented liquor is sold on retail in at least twenty (20) major
12 supermarkets in Metro Manila(for brands of fermented liquor marketed
13 nationally), excluding the amount intended to cover the applicable excise
14 tax and the value-added tax. For brands which are marketed outside
15 Metro Manila, the **'net retail price'** shall mean the price at which the
16 fermented liquor is sold in at least five (5) major supermarkets in the
17 region excluding the amount intended to cover the applicable excise tax
18 and the value-added tax.]

19 **["The classification of each brand of fermented liquor based on its**
20 **average net retail price as of October 1, 1996, as set forth in Annex 'C',**
21 **including the classification of brands for the same products which,**
22 **although not set forth in said Annex 'C', were registered and were being**
23 **commercially produced and marketed on or after October 1, 1996, and**
24 **which continue to be commercially produced and marketed after the**
25 **effectivity of this Act, shall remain in force until revised by Congress.]**

26 **["The rates of tax imposed under this Section shall be increased by**
27 **eight percent (8%) every two years starting on January 1, 2007 until**
28 **January 1, 2011.]**

1 [“Any downward reclassification of present categories, for tax
2 purposes, of existing brands of fermented liquor duly registered at the time
3 of the effectivity of this Act which will reduce the tax imposed herein, or the
4 payment thereof, shall be prohibited.]

5 “Every brewer or importer of fermented liquor shall, within thirty
6 (30) days from the effectivity of this Act, and within the first five (5) days of
7 every month thereafter, submit to the Commissioner a sworn statement of
8 the volume of sales for each particular brand of fermented liquor sold at
9 his establishment for the three-month period immediately preceding.

10 “Any brewer or importer who, in violation of this Section, knowingly
11 misdeclares or misrepresents in his or its sworn statement herein required
12 any pertinent data or information shall be penalized by a summary
13 cancellation or withdrawal of his or its permit to engage in business as
14 brewer or importer of fermented liquor.

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

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

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

27 **Sec. 4.** Section 144 of the National Internal Revenue Code of (1997), as
28 amended by Republic Act No. 9334, is hereby further amended to read as
29 follows:

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

4 a) Tobacco twisted by hand or reduced into a condition to be
5 consumed in any manner other than the ordinary mode of drying and
6 curing;

7 b) Tobacco prepared or partially prepared with or without the
8 use of any machine or instruments or without being pressed or sweetened
9 except as otherwise provided hereunder; and

10 c) *Fine-cut shorts and refuse, scraps clippings, cuttings, stems*
11 *and sweepings of tobacco except as otherwise provided hereunder.*

12 “Stemmed leaf tobacco, tobacco prepared or partially prepared with
13 or without the use of any machine or instrument or without being pressed
14 or sweetened, fine-cut shorts and refuse, scraps, clippings, cuttings,
15 stems, midribs; and sweepings of tobacco resulting from the handling or
16 stripping of whole leaf tobacco shall be transferred, disposed of, or to be
17 used in the manufacture of cigars, cigarettes, or other tobacco products on
18 which the excise tax will eventually be paid on the finished product, under
19 such conditions as may be prescribed in the rules and regulations
20 promulgated by the Secretary of Finance, upon recommendation of the
21 Commissioner.

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

25 [“The rates of tax imposed under this Section shall be increased by
26 six percent (6%) every two years starting on January 1, 2007 until January
27 1, 2011.]

28 **“PROVIDED, THAT, A YEAR AFTER THE EFFECTIVITY OF**
29 **THIS ACT AND EVERY YEAR THEREAFTER, THE EXCISE TAX**

1 **RATES PRESCRIBED HEREIN SHALL BE ADJUSTED ANNUALLY TO**
2 **ITS PRESENT VALUE USING AN APPROPRIATE PRICE INDEX FOR**
3 **TOBACCO PRODUCTS, AS PUBLISHED BY THE NATIONAL**
4 **STATISTICS OFFICE (NSO)."**

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

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

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

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

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

1 **Sec. 5.** Section 145 of the National Internal Revenue Code of (1997), as
2 amended by Republic Act No. 9334, is hereby further amended to read as
3 follows:

4 **“SEC. 145. Cigars and Cigarettes.**

5 **“A) Cigars.** – There shall be levied, assessed and collected on
6 cigars [an *ad valorem* tax based on the retail price] **A TAX OF 200**
7 per cigar. [(excluding the excise tax and the value-added tax) in
8 accordance with the following schedule:

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

11 “2) If the net retail price per cigar (excluding the excise tax
12 and the value-added tax) is more than Five hundred pesos
13 (P500.00), Fifty pesos (P50.00) plus fifteen percent (15%) of
14 the net retail price in excess of Five hundred pesos
15 (P500.00).]

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

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

26 ***PROVIDED, THAT, A YEAR AFTER THE EFFECTIVITY***
27 **OF THIS ACT AND EVERY YEAR THEREAFTER, THE EXCISE**
28 **TAX RATES PRESCRIBED HEREIN SHALL BE ADJUSTED TO**
29 **ITS PRESENT VALUE USING AN APPROPRIATE PRICE INDEX**

1 **FOR TOBACCO PRODUCTS, AS PUBLISHED BY THE**
2 **NATIONAL STATISTICS OFFICE (NSO)."**

3 ["Effective on January 1, 2005, Two pesos (P2.00) per pack;

4 "Effective on January 1, 2007, Two pesos and twenty-three
5 centavos (P2.23) per pack;

6 "Effective on January 1, 2009, Two pesos and forty-seven centavos
7 (P2.47) per pack; and

8 "Effective on January 1, 2011, Two pesos and seventy-two
9 centavos (P2.72) per pack.]

10 "Duly registered or existing brands of cigarettes or new brands
11 thereof packed by hand shall be packed in thirties."

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

15 **"EFFECTIVE ON JANUARY 1, 2009 -**

16 **"(1) IF THE NET RETAIL PRICE (EXCLUDING THE EXCISE TAX**
17 **AND THE VALUE-ADDED TAX) IS SIX PESOS AND FIFTY CENTAVOS**
18 **(P6.50) AND BELOW PER PACK, THE TAX SHALL BE EIGHT PESOS**
19 **(P8.00) PER PACK;**

20 **"(2) IF THE NET RETAIL PRICE (EXCLUDING THE EXCISE TAX**
21 **AND THE VALUE-ADDED TAX) IS MORE THAN SIX PESOS AND**
22 **FIFTY CENTAVOS (P6.50) PER PACK, THE TAX SHALL BE**
23 **FOURTEEN PESOS (P14.00) PER PACK;**

24 **"EFFECTIVE ON JANUARY 1, 2010, THE TAX SHALL BE**
25 **FOURTEEN PESOS (P14.00) PER PACK.**

26 **"PROVIDED, THAT, THEREAFTER, THE EXCISE TAX RATES**
27 **PRESCRIBED HEREIN SHALL BE ADJUSTED ANNUALLY TO ITS**
28 **PRESENT VALUE USING AN APPROPRIATE PRICE INDEX FOR**

1 TOBACCO PRODUCTS, AS PUBLISHED BY THE NATIONAL
2 STATISTICS OFFICE (NSO).”

3 “ALL BRANDS OF CIGARETTES EXISTING IN THE MARKET
4 AT THE TIME OF THE EFFECTIVITY OF THIS ACT SHALL BE
5 CLASSIFIED ACCORDINGLY FOR THE PROPER DETERMINATION
6 OF THE TAX LIABILITY IN ACCORDANCE WITH THE SCHEDULE
7 PROVIDED ABOVE FOR THE YEAR COMMENCING JANUARY 1,
8 2009.”

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 “(2) If the net retail price (excluding the excise tax and the value-
12 added tax) exceeds Six pesos and fifty centavos (P6.50) but does exceed
13 Ten pesos (P10.00) per pack, the tax shall be:

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

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

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

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

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

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

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

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

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

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

11 “**Suggested net retail price**’ shall mean the net retail price at
12 which new brands, as defined above, of locally manufactured or imported
13 cigarettes are intended by the manufacturer or importer to be sold on retail
14 in major supermarkets or retail outlets in Metro Manila for those marketed
15 nationwide, and in other regions, for those with regional markets. At the
16 end of three (3) months from the product launch, the Bureau of Internal
17 Revenue shall validate the suggested net retail price of the new brand
18 against the net retail prices as defined herein and determine the correct
19 tax bracket under which a particular new brand of cigarette, as defined
20 above, shall be classified. After the end of eighteen (18) months from
21 such validation, the Bureau of Internal Revenue shall revalidate the initially
22 validated net retail price against the net retail price as of the time of
23 revalidation in order to finally determine the correct tax bracket under
24 which a particular new brand of cigarettes shall be classified: [*Provided,*
25 *however,* That brands of cigarettes introduced in the domestic market
26 between January 1, 1997 and December 31, 2003 shall remain in the
27 classification of new brands and brands introduced between January 1,
28 1997 and December 31, 2003 shall not be revised except by an act of
29 Congress].

1 **'Net retail price'**, as determined by the Bureau of Internal Revenue
2 through a price survey to be conducted by the Bureau of Internal Revenue
3 itself, or the National Statistics Office when deputized for the purpose by
4 the Bureau of Internal Revenue, shall mean the price at which the
5 cigarette is sold on retail in at least twenty (20) major supermarkets in
6 Metro Manila (for brands of cigarettes marketed nationally), excluding the
7 amount intended to cover the applicable excise tax and value-added tax.
8 For brands which are marketed only outside Metro Manila, the **'net retail**
9 **price'**, shall mean the price at which the cigarette is sold in at least five (5)
10 major supermarkets in the region excluding the amount intended to cover
11 the applicable excise tax and the value-added tax.

12 [The classification of each brand of cigarettes based in its average
13 net retail price as of October 1, 1996, as set forth in the Annex 'D',
14 including the classification of brands for the same products which,
15 *although not set forth in said Annex 'D', were registered and were being*
16 *commercially produced and marketed on or after October 1, 1996, and*
17 *which continue to be commercially produced and marketed after the*
18 *effectively of this Act, shall remain in force until revised by Congress.]*

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

25 Any manufacturer or importer who, in violation of this Section,
26 knowingly misdeclares or misinterprets in his or its sworn statement herein
27 required any pertinent data or information shall be penalized by summary
28 cancellation or withdrawal of his or its permit to engage in business as
29 manufacturer or importer of cigars and cigarettes.

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

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

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

13 **SEC. 2. *Implementing Rules and Regulations.*** – The Secretary of
14 Finance shall, upon the recommendation of the Commissioner of Internal
15 Revenue, promulgate the necessary rules and regulations for the effective
16 implementation of this Act.

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

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

23 Approved,