

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS

First Regular Session

House Bill No. **3666**

Introduced by **HON. PAOLO EVERARDO S. JAVIER**

EXPLANATORY NOTE

Tobacco is a product that has adverse health consequences. Hence, excise taxes are levied to curb consumption.

Nevertheless, tobacco remains a legitimate product and smoking continues to be a personal lifestyle choice. In Addition, government derives significant revenues from tobacco and its related industries, and the tobacco industry provides livelihood to 2.7 million Filipinos based on estimates of the National Tobacco Administration.

It therefore behooves government to adopt a balanced policy on excise taxation to achieve public health and fiscal objectives.

Under section 5 of Republic Act No. 9334, the last tax increase on cigarettes packed by machines is due on January 1, 2011. To preserve and increase the stable flow of revenues, government should retain the current excise tax system and hike the rates beginning January 1, 2012.

The foregoing bill proposes to increase the 2011 rates by adjusting these to inflation (4% est.) and by adding thereto an absolute amount to seventeen centavos (Php 0.17) per pack across all tax tiers. The proposed increases will be implemented on January 1, 2012, with subsequent increases taking effect on January 1, 2014 and January 1, 2016.

The increase in excise revenues from tobacco will give government more resources to provide the services that our people deserve.

From the foregoing, the passage of this bill is earnestly sought.


HON. PAOLO EVERARDO S. JAVIER
Representative
Lone District of Antique

**AN ACT INCREASING THE EXCISE TAX RATES IMPOSED ON TOBACCO PRODUCTS,
AMENDING FOR THE PURPOSE SECTIONS 145 OF THE NATIONAL INTERNAL
REVENUE CODE OF 1997, AS AMENDED**

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

SECTION 1. Section 145 of the National Internal Revenue Code, as amended **BY REPUBLIC ACT NO. 9334**, is further amended to read as follows:

"SEC. 145. Cigars and Cigarettes. –

X

x

x

["(B) Cigarettes Packed by Hand. - There shall be levied, assessed and collected on cigarettes packed by hand a tax at the rates prescribed below:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) CIGARETTES PACKED BY HAND. - THERE SHALL BE LEVIED, ASSESSED COLLECTED ON CIGARETTES PACKED BY HAND A TAX AT THE RATES PRESCRIBED BELOW:

EFFECTIVE JANUARY 1, 2012, THREE PESOS (P3.00) PER PACK;

EFFECTIVE JANUARY 1, 2014, THREE PESOS AND TWENTY-EIGHT (P3.28) PER PACK; AND

EFFECTIVE JANUARY 1, 2016, THREE PESOS AND FIFTY-EIGHT CENTAVOS (P3.58) PER PACK.

DULY REGISTERED OR EXISTING BRANDS OF CIGARETTES OR NEW BRANDS THEREOF PACKED BY HAND SHALL ONLY BE PACKED IN THIRTIES.

(C) CIGARETTES PACKED BY MACHINE. - THERE SHALL BE LEVIED, ASSESSED COLLECTED ON CIGARETTES PACKED BY MACHINE A TAX AT THE RATES PRESCRIBED BELOW:

(1) IF THE NET RETAIL PRICE (EXCLUDING EXCISE TAX AND VALUE-ADDED TAX) IS BELOW FIVE PESOS (P5.00) PER PACK, THE TAX SHALL BE:

EFFECTIVE JANUARY 1, 2012, THREE PESOS (P3.00) PER PACK;

EFFECTIVE JANUARY 1, 2014, THREE PESOS AND TWENTY-EIGHT (P3.28) PER PACK; AND

EFFECTIVE JANUARY 1, 2016, THREE PESOS AND FIFTY-EIGHT CENTAVOS (P3.58) PER PACK.

(2) IF THE NET RETAIL PRICE (EXCLUDING EXCISE TAX AND VALUE-ADDED TAX) IS FIVE PESOS (P5.00) BUT DOES NOT EXCEED SIX PESOS AND FIFTY CENTAVOS (P6.50) PER PACK, THE TAX SHALL BE:

EFFECTIVE JANUARY 1, 2012, EIGHT PESOS AND THREE CENTAVOS (P8.03) PER PACK;

EFFECTIVE JANUARY 1, 2014, EIGHT PESOS AND FIFTY-TWO CENTAVOS (P8.52) PER PACK; AND

EFFECTIVE JANUARY 1, 2016, NINE PESOS AND TWO CENTAVOS (P9.02) PER PACK.

(3) IF THE NET RETAIL PRICE (EXCLUDING EXCISE TAX AND VALUE-ADDED TAX) EXCEEDS SIX PESOS AND FIFTY CENTAVOS (P6.50) BUT DOES NOT EXCEED TEN PESOS (P10.00) PER PACK, THE TAX SHALL BE:

EFFECTIVE JANUARY 1, 2012, TWELVE PESOS AND SIXTY-FIVE CENTAVOS (P12.65) PER PACK;

EFFECTIVE JANUARY 1, 2014, THIRTEEN PESOS AND THIRTY-TWO CENTAVOS (P13.32) PER PACK; AND

EFFECTIVE JANUARY 1, 2016, FOURTEEN PESOS AND TWO CENTAVOS (P14.02) PER PACK.

(4) IF THE NET RETAIL PRICE (EXCLUDING EXCISE TAX AND VALUE-ADDED TAX) IS ABOVE TEN PESOS (P10.00) PER PACK, THE TAX SHALL BE:

EFFECTIVE JANUARY 1, 2012, TWENTY-NINE PESOS AND SIXTY CENTAVOS (P29.60) PER PACK;

EFFECTIVE JANUARY 1, 2014, THIRTY PESOS AND NINETY-FIVE CENTAVOS (P30.95) PER PACK; AND

EFFECTIVE JANUARY 1, 2016, THIRTY-TWO PESOS AND THIRTY-FIVE CENTAVOS (P32.35) PER PACK.

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

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

[Duly registered or existing brands of cigarettes or new brands thereof packed by machine shall only be packed in twenties.]

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

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

"New brand shall mean a brand registered after the date of effectivity of R.A. No. 8240.

"Suggested net retail price' shall mean the net retail price at which new brands, as defined above, of locally manufactured or imported cigarettes are intended by the manufacturer or importer to be sold on retail in major supermarkets or retail outlets in Metro Manila for those marketed nationwide, and in other regions, for those with regional markets. At the end of three (3) months from the product launch, the Bureau of Internal Revenue shall validate the suggested net retail price of the new brand against the net retail price as defined herein and determine the correct tax bracket under which a particular new brand of cigarette, as defined above, shall be classified. After the end of eighteen (18) months from such validation, the Bureau of Internal Revenue shall revalidate the initially validated net retail price against the net retail price as of the time of revalidation in order to finally determine the correct tax bracket under which a particular new brand of cigarettes shall be classified: *Provided, however,* That brands of cigarettes introduced in the domestic market between January 1,

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

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

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

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

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

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

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

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

SECTION 2. *Implementing Rules and Regulations.* - The Secretary of Finance shall, upon the recommendation of the Commissioner of Internal Revenue, promulgate the necessary rules and regulations for the effective implementation of this Act.

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

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

SECTION 4. *Effectivity.* - This Act shall take effect on January 1, 2013.

Approved,