

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS
Second Regular Session

House Bill No. 6188



Introduced by Reps. Eulogio "Amang" R. Magsaysay, Romeo M. Jalosjos Jr.
and Seth Frederick P. Jalosjos

EXPLANATORY NOTE

The Philippine Development Plan for 2011 – 2016 underscores the need for tax reforms in order to improve the revenue take of the tax system while promoting equity and a level playing field for all stakeholders. Specifically, it gives emphasis to adjustments in the excise tax on alcohol and tobacco products. With this in mind, all stakeholders must converge on how to meet these ends especially with the ever-growing socio-economic demands and budget deficit. According to the Department of Budget and Management (DBM), the emerging budget deficit last year was 191.6 billion pesos. DBM also reiterated the plan to increase revenue to 1.56 trillion pesos this year and boost spending to 1.84 trillion pesos. Based on latest National Economic Development Authority (NEDA) projections, the economy probably grew 3.6 percent to 4 percent in 2011. While it is true that the current ventures of the government through the public-private partnerships (PPP) is innovative and pro-active, other channels must also be explored to further increase resources, improve fiscal position and implement programs to attain inclusive growth.

The Department of Health (DOH) said 80,000 Filipinos die each year from tobacco-related diseases. With over 17 million smokers, the Philippines has one of the highest smoking prevalence in the world. Based on a study by Health Justice Philippines, around 35, 000 Filipinos die every year due to tobacco-related diseases. Secondhand smoke also causes adverse health effects. Non-communicable diseases are also on the rise. Local medical experts underscored the rise in the incidence of non-communicable diseases (NCDs) such as cancer and heart disease, with more than 200,000 deaths annually. Cigarette smoking and tobacco use were identified as the single largest factor contributing to NCDs.

Smoking has gained the attention of the younger generation, albeit adversely. Dubbed as the "silent" crisis, smoking among the youth has risen by an alarming 40% in the past three years, highlighted in 2009 when the lowest 30% of the population spent more than double the amount of the higher 70% on tobacco. Consequently, members of the Framework Convention on Tobacco Control Alliance Philippines have advocated the restructuring of the present sin tax laws, emphasizing that the most effective way to keep the young and the poor from smoking is through increasing the price of cigarettes. Moreover, regardless of the kind of cigarette, whether it is a cheap or an expensive brand, the smoker will suffer the same harmful effect of nicotine addiction.

A study of the Action for Economic Reforms (AER) reveals that in the Philippines cigarette excise tax as percentage of gross retail price (GRP) ranges from 14 percent to 42 percent based on 2010 cigarette prices, which is below the World Health Organization's recommended rate of at least 70 percent of the GRP. As such, the Philippines has one of the world's lowest cigarette prices. For example, a pack of 20 cigarette sticks retails for less than one U. S. dollar in Manila. Further, the AER study has noted three major weaknesses in the current tobacco excise tax system - the absence of indexation of taxes to inflation, the price classification freeze, and the multi-tiered tax structure. It has also pointed out that the combination of the price classification freeze and the absence of a yearly adjustment to inflation have diminished the real value of tobacco taxes over time, while emphasizing the need for automatic inflation adjustment to ensure the robustness of revenues from the specific tax for tobacco. In a multi-level tax structure, the government imposes different specific tax rates for each price classification. Lower priced cigarettes are taxed low while higher priced cigarettes are taxed

high, thus widening the price gap between higher and lower price classes of cigarettes.

This bill intends to promote the health of the people by discouraging tobacco use. Thus, it moves to a simple tax structure by adopting a unitary rate so that alcohol and tobacco products will have a fair tax treatment. This will also provide a mechanism to increase revenues as it averts the shifting of demand to the least-taxed brand of tobacco and alcohol products. Thus, while allowing the indexation of taxes to inflation, it also earmarks additional revenues for health-related concerns including universal health care program. Likewise, it earmarks incremental revenues to provide alternative livelihood programs for tobacco farmers.

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



EULOGIO "AMANG" R. MAGSAYSAY



ROMEO M. JALOSJOS, JR.



SETH FREDERICK P. JALOSJOS

FIFTEENTH CONGRESS OF THE)
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**Introduced by Reps. Eulogio "Amang" R. Magsaysay, Romeo M. Jalosjos Jr.
and Seth Frederick P. Jalosjos**

**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:

SECTION 1. Section 141 of the National Internal Revenue Code of 1997, as amended by Republic Act No. 9334 is hereby further amended to read as follows:

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

(a) 45 % ALCOHOL BY VOLUME AND LESS

January 1, 2012 – P42.00 PER PROOF

LITER January 1, 2013 – P80.00 PER

PROOF LITER January 1, 2014 – P150.00

PER PROOF LITER

PROVIDED, THAT, ON THE FOURTH YEAR AND EVERY YEAR THEREAFTER, THE EXCISE TAX RATES PRESCRIBED HEREIN SHALL BE ADJUSTED TO ITS PRESENT VALUE USING AN APPROPRIATE PRICE INDEX FOR ALCOHOLIC DRINKS, AS PUBLISHED BY THE NATIONAL STATISTICS OFFICE (NSO)"

(b) MORE THAN 45 % ALCOHOL BY VOLUME --

January 1, 2012 – P317.45 PER PROOF LITER

January 1, 2013 – P233.73 PER PROOF LITER

January 1, 2014 – P150.00 PER PROOF LITER

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

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

["(b) If produced from raw materials other than those enumerated in the preceding

paragraph, the tax shall be in accordance with the net retail price per bottle of seven hundred fifty milliliter (750 ml.) volume capacity (excluding the excise tax and the value-added tax) as follows"]

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

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

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

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

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

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

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

['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 by the National Statistics Office when deputized for the purpose by the Bureau of Internal Revenue, shall mean the price at which the distilled spirits is sold on retail in at least ten (10) major supermarkets in Metro Manila, excluding the amount intended to cover the applicable excise tax and the value-added tax. For brands which are marketed outside Metro Manila, the 'net retail price' shall mean the price at which the distilled spirits 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.]

['Variants of existing brands and variants of new brands 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.]

['New brands, as defined in the immediately following paragraph, shall initially be classified according to their suggested net retail price. 'Willful understatement of the suggested net retail price by as much as fifteen percent (15%) of the actual net retail price shall render the manufacturer liable for additional excise tax equivalent to the tax due and difference between the understated suggested net retail price and the actual 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 distilled spirits 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 to which a particular new brand of distilled spirits, 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 which a particular new brand of distilled spirits shall be classified: *Provided, however,* That brands of distilled spirits 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.]

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

["Any downward reclassification of present categories, for tax purposes, of existing brands of distilled spirits 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.]

["The classification of each brand of distilled spirits based on the average net retail price as of October 1, 1996, as set forth in Annex 'A', including the classification of brands for the same products which, although not set forth in said Annex 'A', 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 distilled spirits shall, within thirty (30) days from the effectivity of this Act, and within the first five (5) days of every third month thereafter, submit to the Commissioner a sworn statement of the volume of sales for each particular brand of distilled spirits 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 final findings by the Commissioner that the violation was committed, be penalized by a summary cancellation or withdrawal of his or its permit to engage in business as manufacturer or importer of distilled spirits.

"Any corporation, association or partnership liable for any of the acts or omissions in violation of this Section shall be fined treble the 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. Section 142 of the National Internal Revenue Code of 1997, as amended by Republic Act No. 9334, is hereby further amended to read as follows:

"SEC 142. *Wines.* - On wines, there shall be collected per liter of volume capacity, the following taxes effective January 1, 2012:

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

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

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

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

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

(b) STILL WINES, REGARDLESS OF PROOF – FIFTY PESOS (P50.00)

PROVIDED, THAT, EVERY YEAR THEREAFTER, THE EXCISE TAX RATES PRESCRIBED HEREIN SHALL BE ADJUSTED TO ITS PRESENT VALUE USING AN APPROPRIATE PRICE INDEX FOR ALCOHOLIC DRINKS, AS PUBLISHED BY THE NATIONAL STATISTICS OFFICE (NSO)

"Fortified wines containing more than twenty-five percent (25%) of alcohol by volume shall be taxed as distilled spirits. 'Fortified wines' shall mean natural wines to which distilled spirits are added to increase their alcohol strength.

["'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 by the National Statistics Office when

deputized for the purpose by the Bureau of Internal Revenue, shall mean the price at which wine is sold on retail in at least ten (10) major supermarkets in Metro Manila, excluding the amount intended to cover the applicable excise tax and the value-added tax. For brands which are marketed outside Metro Manila, the 'net retail price' shall mean the price at which the wine 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.]

["Variants of existing brands and variants of new brands 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.]

["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 wines 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 to which a particular new brand of wine, 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 which a particular new brand of wines shall be classified: *Provided, however,* That brands of wines 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.]

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

["Any downward reclassification of present categories, for tax purposes, of existing brands of wines 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.]

["The classification of each brand of wines based on the average net retail price as of October 1, 1996, as set forth in Annex 'B', including the classification of brands for the same products which, although not set forth in said "Annex B", 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 wines 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 wines 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 wines.

"Any corporation, association or partnership liable for any of the acts or omissions in violation of this Section shall be fined treble the 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. 3. Section 143 of the National Internal Revenue Code of 1997, as amended by Republic Act No. 9334, is hereby further amended to read as follows:

"SEC. 143. *Fermented Liquors.* - There shall be levied, assessed and collected an excise tax on beer, lager beer, ale, porter and other fermented liquors except *tuba, basi, tapuy* and similar fermented liquors [in accordance with the following schedule:] **AN EXCISE TAX EQUIVALENT TO TWENTY-FIVE PESOS (P25.00) PER LITER EFFECTIVE JANUARY 1, 2012:**

PROVIDED, THAT, EVERY YEAR THEREAFTER, THE EXCISE TAX RATES PRESCRIBED HEREIN SHALL BE ADJUSTED TO ITS PRESENT VALUE USING AN APPROPRIATE PRICE INDEX FOR ALCOHOLIC DRINKS, AS PUBLISHED BY THE NATIONAL STATISTICS OFFICE (NSO)

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

["(b) If the net retail price (excluding the excise tax and the value-added tax) per liter of volume capacity is Fourteen pesos and fifty centavos (p14.50) up to Twenty-two pesos (P22.00), the tax shall be Twelve pesos and thirty centavos (P12.30) per liter;]

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

["Variants of existing brands and variants of new brands 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.]

["Fermented liquors which are brewed and sold at micro-breweries or small establishments such as pubs and restaurants shall be subject to the rate in paragraph (e) hereof.]

["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 fermented liquor 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 to which a particular new brand of fermented liquor, as defined above, shall be classified. After the end of eighteen (18) months from such validation, the Bureau of Interns 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 which a particular new brand of fermented liquors shall he classified: *Provided, however,* That brands of fermented liquors 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 fermented liquor is sold on retail in at least twenty (20) major supermarkets in Metro Manila (for brands of fermented liquor marketed nationally), excluding the amount intended to cover the applicable excise tax and the value-added tax. For brands which are marketed outside Metro Manila, the 'net retail price' shall mean the price at which the fermented liquor 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 fermented liquor based on its average net retail price as of October 1, 1996, as set forth in Annex 'C', including the classification of brands for the same products which, although not set forth in said Annex 'C', 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.]

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

[Any downward reclassification of present categories, for tax purposes, of existing brands of fermented liquor 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.]

"Every brewer or importer of fermented liquor 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 fermented liquor sold at his establishment for the three-month period immediately preceding.

"Any brewer 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 be penalized by a summary cancellation or withdrawal of his or its permit to engage in business as brewer or importer of fermented liquor.

"Any corporation, association or partnership liable for any of the acts or omissions in violation of this Section shall be fined treble the 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. 4. Section 144 of the National Internal Revenue Code of 1997, as amended by Republic Act No. 9334, is hereby further amended to read as follows:

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

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

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

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

"Stemmed leaf tobacco, tobacco prepared or partially prepared with or without the use of any machine or instrument or without being pressed or sweetened, fine-cut shorts and refuse, scraps, clippings, cuttings, stems, midribs, and sweepings of tobacco resulting from the handling or stripping of whole leaf tobacco shall be transferred, disposed of, or otherwise sold, without any prepayment of the excise tax herein provided for, if the same are to be exported or to be used in the manufacture of cigars, cigarettes, or other tobacco products on which the excise tax will eventually be paid on the finished product, under such conditions as may be prescribed in the rules and regulations promulgated by the Secretary of Finance, upon recommendation of the Commissioner.

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

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

PROVIDED, THAT, ON JANUARY 1, 2013 AND EVERY YEAR THEREAFTER, THE EXCISE TAX RATES PRESCRIBED HEREIN SHALL BE ADJUSTED TO ITS PRESENT VALUE USING AN APPROPRIATE PRICE INDEX FOR TOBACCO PRODUCTS, AS PUBLISHED BY THE NATIONAL STATISTICS OFFICE (NSO)

"Manufacturers and importers of tobacco products 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 tobacco products sold at their 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 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. 5. Section 145 of the National Internal Revenue Code, as amended by Republic Act No. 9334, is hereby further amended to read as follows:

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

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

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

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

PROVIDED, THAT ON JANUARY 1, 2013 AND EVERY YEAR THEREAFTER, THE EXCISE TAX RATE PRESCRIBED HEREIN SHALL BE ADJUSTED ANNUALLY TO ITS PRESENT VALUE USING AN APPROPRIATE PRICE INDEX FOR TOBACCO PRODUCTS, AS PUBLISHED BY THE NATIONAL STATISTICS OFFICE (NSO)

"(B) *Cigarettes Packed by Hand.* - There shall be levied, assessed and collected on cigarettes packed by hand a tax at the [rates prescribed below:] **RATE OF FOURTEEN PESOS (P14.00) PER PACK.**"

[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 (P2.47) centavos per pack;]

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

PROVIDED, THAT ON JANUARY 1, 2013 AND EVERY THEREAFTER, THE EXCISE TAX RATE PRESCRIBED HEREIN SHALL BE ADJUSTED ANNUALLY TO ITS PRESENT VALUE USING AN APPROPRIATE CONSUMER PRICE INDEX, AS PUBLISHED BY THE NATIONAL STATISTICS OFFICE (NSO).

"Duly registered or existing brands of cigarettes or new brands thereof packed by hand shall only be packed in thirties. **ANY BRAND PACKED BY LESS THAN THIRTIES SHALL BE TREATED AS IF IT IS PACKED AND SUBJECTED TO THE TAX PROVIDED HEREIN, WITHOUT PREJUDICE TO OTHER ADMINISTRATIVE OR CRIMINAL PENALTIES THAT MAY BE IMPOSED ON THE MANUFACTURER, IMPORTER AND DISTRIBUTOR OF THE SAID BRAND.**

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

EFFECTIVE ON JANUARY 1, 2012 -

(1) IF THE NET RETAIL PRICE (EXCLUDING THE EXCISE TAX AND THE VALUE-ADDED TAX) IS TEN PESOS (P10.00) AND BELOW PER PACK, THE

TAX SHALL BE FOURTEEN PESOS (P14.00) PER PACK;

(2) IF THE NET RETAIL PRICE (EXCLUDING THE EXCISE TAX AND THE VALUE-ADDED TAX) IS MORE THAN TEN PESOS (P10.00) PER PACK, THE TAX SHALL BE TWENTY EIGHT PESOS AND THIRTY CENTAVOS (P28.30) PER PACK;

EFFECTIVE ON JANUARY 1, 2013 --

(1) IF THE NET RETAIL PRICE (EXCLUDING THE EXCISE TAX AND THE VALUE-ADDED TAX) IS TEN PESOS (P10.00) AND BELOW PER PACK, THE TAX SHALL BE TWENTY-TWO PESOS (P22.00) PER PACK;

(2) IF THE NET RETAIL PRICE (EXCLUDING THE EXCISE TAX AND THE VALUE-ADDED TAX) IS MORE THAN TEN PESOS (P10.00) PER PACK, THE TAX SHALL BE THIRTY PESOS (P30.00) PER PACK;

EFFECTIVE ON JANUARY 1, 2014, THE TAX SHALL BE THIRTY PESOS (P30.00) PER PACK REGARDLESS OF THEIR RETAIL PRICE:

PROVIDED, THAT ON JANUARY 1, 2015 AND EVERY YEAR THEREAFTER, THE EXCISE TAX RATE PRESCRIBED HEREIN SHALL BE ADJUSTED ANNUALLY TO ITS PRESENT VALUE USING AN APPROPRIATE PRICE INDEX FOR TOBACCO PRODUCTS, AS PUBLISHED BY THE NATIONAL STATISTICS OFFICE (NSO)

ALL BRANDS OF CIGARETTES EXISTING IN THE MARKET AT THE TIME OF THE EFFECTIVITY OF THIS ACT SHALL BE CLASSIFIED ACCORDINGLY FOR THE PROPER DETERMINATION OF THE TAX LIABILITY IN ACCORDANCE WITH THE SCHEDULE PROVIDED ABOVE.

["(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.]

"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 BRAND NOT PACKED IN TWENTIES SHALL BE PROHIBITED AND SUBJECTED TO PENALTIES PROVIDED UNDER THIS ACT, WITHOUT PREJUDICE TO OTHER ADMINISTRATIVE OR CRIMINAL PENALTIES THAT MAY BE IMPOSED ON THE MANUFACTURER, IMPORTER AND DISTRIBUTOR OF THE SAID BRAND.**

"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 MAJOR SUPERMARKETS SHALL BE THOSE WITH THE HIGHEST TOTAL GROSS SALES IN METRO MANILA OR THE REGION, AS THE CASE MAY BE, AS DETERMINED BY THE NATIONAL STATISTICS OFFICE.**

"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. 6. Section 131 of the National Internal Revenue Code of 1997, as amended by Republic Act No. 9334, is hereby amended to read as follows:

"SEC. 131. *Payment of Excise Taxes on Imported Articles.* -

"(A) **Persons Liable.** - Excise taxes on imported articles shall be paid by the owner or importer to the Customs Officers, conformably with the regulations of the Department of Finance and before the release of such articles X x x

X x x

"The provision of any special or general law to the contrary notwithstanding, the importation of cigars and cigarettes, distilled spirits, fermented liquors and wines into the Philippines, even if destined for tax and duty-free shops, shall be subject to all applicable taxes, duties, charges, including excise taxes due thereon. This shall apply to cigars and cigarettes, distilled spirits, fermented liquors and wines brought directly into the duly chartered or legislated freeports of the Subic Special Economic and Freeport Zone, created under Republic Act No. 7227; the Cagayan Special Economic Zone and Freeport, created under Republic Act No. 7922; and the Zamboanga City Special Economic Zone, created under Republic Act No. 7903, and such other freeports as may hereafter be established or created by law: *Provided, that,* **NOTWITHSTANDING THE PROVISIONS OF REPUBLIC ACT 9593**, importations of cigars and cigarettes, distilled spirits, fermented liquors and wines made directly by a government-owned and operated duty-free shop, like the Duty-Free Philippines (DFP), **CORPORATION** shall **NOT** be exempted from **EXCISE TAXES** [all applicable duties only]: X x x

"Articles confiscated shall be **DESTROYED USING THE MOST ENVIRONMENTALLY FRIENDLY METHOD AVAILABLE** [disposed of in accordance with the rules and regulations to be promulgated by the Secretary of Finance, upon recommendation of the Commissioners of Customs and Internal Revenue, upon consultation with the Secretary of Tourism and the General Manager of the Philippine Tourism Authority.]

X x x

SECTION. 7. Section 288, subsections b and c of the National Internal Revenue Code of 1997, as amended by Republic Act No. 9334, is hereby further amended to read as follows:

"(B) *Incremental Revenues from Republic Act No. 8240.* - Fifteen percent (15%) of the incremental revenue collected from the excise tax on tobacco products under R.A. No. 8240 shall be allocated and divided among the provinces producing burley and native tobacco in accordance with the volume of tobacco leaf production. The fund shall be exclusively utilized for programs [in pursuit of the following objectives:] **TO PROMOTE ECONOMICALLY VIABLE ALTERNATIVES FOR TOBACCO FARMERS AND WORKERS SUCH AS:**

(1) **PROGRAMS THAT WILL PROVIDE INPUTS, TRAINING, AND OTHER SUPPORT FOR TOBACCO FARMERS WHO SHIFT TO PRODUCTION OF AGRICULTURAL PRODUCTS OTHER THAN TOBACCO.**

(2) **PROGRAMS THAT WILL PROVIDE FINANCIAL SUPPORT FOR TOBACCO**

FARMERS WHO ARE DISPLACED OR WHO CEASE TO PRODUCE TOBACCO VOLUNTARILY.

(3) COOPERATIVE PROGRAMS TO ASSIST TOBACCO FARMERS IN PLANTING ALTERNATIVE CROPS OR IMPLEMENTING OTHER LIVELIHOOD PROJECTS.

"(1) Cooperative projects that will enhance better quality of agricultural products and increase income and productivity of farmers;

"(2) Livelihood projects, particularly the development of alternative farming system to enhance farmer's income; and

"(3) Agro-industrial projects that will enable tobacco farmers to be involved in the management and subsequent ownership of projects, such as post-harvest and secondary processing like cigarette manufacturing and by-product utilization.

"The Department of Budget and Management, in consultation with the **DEPARTMENT OF AGRICULTURE** [Oversight Committee created under said R.A. No. 8240,] shall issue [the corresponding] rules and regulations governing the allocation and disbursement of this fund, **NOT LATER THAN ONE HUNDRED EIGHTY (180) DAYS FROM THE EFFECTIVITY OF THIS ACT.**

"(C) *Incremental Revenues from the Excise Tax on Alcohol and Tobacco Products.* -

"(1) Two and a half percent (2.5%) of the incremental revenue from the excise tax on alcohol and tobacco products starting January 2005 shall be remitted directly to the Philippine Health Insurance Corporation for the purpose of meeting and sustaining the goal of universal coverage of the National Health Insurance Program; and

"(2) Two and a half percent (2.5%) of the incremental revenue from the excise tax on alcohol and tobacco products starting January 2005 shall be credited to the account of the Department of Health and constituted as a trust fund for its disease prevention program.

"The earmarking provided under this provision shall be observed for five (5) years starting from January 2005."

"A PORTION OF THE INCREMENTAL REVENUES FROM THIS ACT SHALL BE ALLOCATED TO FINANCE THE UNIVERSAL HEALTH CARE PROGRAM, THE AMOUNT OF WHICH SHALL BE COMPUTED ON THE BASIS OF THE ANNUAL REQUIREMENT OF THE SAID PROGRAM AS DETERMINED BY THE DEPARTMENT OF HEALTH."

SECTION 8. ANNUAL REPORT – THE DEPARTMENT OF BUDGET AND MANAGEMENT, THE DEPARTMENT OF AGRICULTURE, THE PHILIPPINE HEALTH INSURANCE CORPORATION, AND THE DEPARTMENT OF HEALTH SHALL EACH SUBMIT TO THE OVERSIGHT COMMITTEE CREATED UNDER R.A. 8240 A DETAILED REPORT ON THE EXPENDITURE OF THE AMOUNTS EARMARKED THIS SECTION, ON THE FIRST WEEK OF AUGUST OF EVERY YEAR, THE REPORTS SHALL BE SIMULTANEOUSLY PUBLISHED IN THE OFFICIAL GAZETTE AND THE AGENCIES' WEBSITES.

SECTION 9. OVERSIGHT COMMITTEE – THE COMPOSITION OF THE OVERSIGHT COMMITTEE CREATED UNDER R.A. 8240 SHALL INCLUDE THE AGRICULTURE AND HEALTH COMMITTEE CHAIRPERSONS OF THE SENATE AND THE HOUSE OF REPRESENTATIVES, AS PART OF THE FOUR (4) MEMBERS TO BE APPOINTED FROM EACH HOUSE.

UPON RECEIPT OF THE AGENCIES' ANNUAL REPORTS, THE COMMITTEE SHALL REVIEW THEM AND ENSURE THE PROPER IMPLEMENTATION OF THIS ACT AS REGARDS THE EXPENDITURES OF THE EARMARKED FUNDS.

SECTION 10. *Implementing Rules and Regulations.* - The Secretary of Finance shall, upon the recommendation of the Commissioner of Internal Revenue, [and in consultation with the Department of Health] promulgate the necessary rules and regulations for the effective implementation of this Act. The said rules and regulations shall be promulgated at least 30 days before January 1, 2012.

SECTION 11. *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 12. *Repealing Clause* – All laws, decrees, ordinances, rules and regulations, executive or administrative orders, and such other presidential issuances that are inconsistent with any of the

provisions of this Act are hereby repealed, amended or otherwise modified accordingly.

SECTION. 13. *Effectivity.* - This Act shall take effect fifteen (15) days after its publication in a newspaper of general circulation..

Approved,