

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. **6648**



Introduced by: Hon. Angelina "Helen" D.L. Tan, M.D.

AN ACT INCREASING THE EXCISE TAX ON TOBACCO PRODUCTS, AMENDING FOR THE PURPOSE SECTION 145 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED BY REPUBLIC ACT NO. 10351 OR THE SIN TAX REFORM LAW

EXPLANATORY NOTE

As principal author of the universal health coverage (UHC) legislation in the House of Representatives, I am filing this bill as a counterpart measure to Senator Emmanuel "Manny" D. Pacquiao's Senate Bill 1599, which seeks to further increase the excise tax on tobacco products.

Primarily, the measure proposes to increase to P60 per pack the current cigarette tax rate of P30 per pack inasmuch as the implementation of the Sin Tax Reform Act or Republic Act 10351 has been proven effective in minimizing if not totally stopping the smoking habit and in raising funds for public health.

RA 10351 was legislated in December 2012, with the dual goals of curbing cigarette and alcohol consumption, and raising funds to finance the implementation of UHC programs to meet developmental goals and viable alternative livelihood for tobacco farmers.

After four years since the law took effect, the country continues to reap the benefits that the law has promised. Indicators show that Philippine cigarette excise taxes should be further raised to maximize its potentials in improving health, revenue and other development goals.

Smoking prevalence among Filipinos declined from 31% in 2008 to 23% in 2015, according to the National Nutrition Survey (NNS) conducted by the Food and Nutrition Research Institute (FNRI) of the Department of Science and Technology. This is consistent with the result of the 2015 Global Adult Tobacco Survey (GATS), which points to the 5.6 percentage point drop in smoking prevalence, from 28.3% in 2009 to 22.7% in 2015. The law has increased quit rates among price-sensitive populations such as the poor, the rural folk, and the elderly. Reducing the affordability of cigarettes has the biggest effect on deterring to-be smokers from starting the habit. This is equivalent to at least 70,000 deaths averted from 2013 to 2015.

The Sin Tax Reform Act has also resulted in the largest increase recorded in the history of the national budget for health. Its budget more than doubled, from P57 billion prior to the passage of the Sin Tax Law in 2012 to P123 billion in 2016 (GAA 2013-2016). This has financed the coverage of additional 10.1 million poor families as well as 2.8 million senior citizens under the National Health Insurance Program. It has also financed programs related to Millennium Development Goals (MGDs). For instance, TB detection rate and treatment success rate increased from 174,000 in 2010 to 300,000 in 2015. Facility-based deliveries of mothers increased from 43.2% in 2010 to 81% in 2015. Number of malaria-free provinces increased from 23 in 2010 to 32 provinces in 2016, thanks to the funding from the 2012 sin tax law.

Despite the tobacco tax reform, the market has stabilized, as manifested in the volume of cigarette removals recorded between 2012 and 2015. Between 2012 and 2014, the volume of cigarette removals drastically declined from 5.7 billion packs to 3.6 billion packs. However, in 2015, the volume of removals increased to 4.2 billion packs. Overall, the law reduced consumption by 26% between 2012 and 2015. But the increase in volume removal in 2015 suggests a new upward adjustment in the taxes for tobacco is needed. Despite the significant drop in smoking prevalence, the prevalence rate in the Philippines is still high, compared to countries in the region.

Thus, this bill seeks to legislate a tobacco tax reform policy that will increase the unitary cigarette excise tax to P60 by 2018 and stipulate a nine percent (9%) annual increase in the excise tax, thereafter.

The bill upholds the superiority of the structure found in the 2012 law by having a unitary tax that is most responsive to maximizing revenue; preventing downshifting of consumption from high-priced to low-priced cigarettes, thus encouraging price-sensitive smokers to quit, neutralizing anti-competitive behavior; and making tax administration simpler to combat tax evasion.

Moreover, the new taxes also address to reduce the economic burden arising from taxation, which in 2017 is estimated to be equivalent to at least P210 billion (Fajutrao and Dans, 2017). Reducing affordability for health reasons, taking into account changes in income, cigarettes can remain affordable when per capita income increases faster than the annual adjustment rate of 4% in RA 10351.

Raising cigarette excise taxes can help attain the Department of Health (DOH)'s target smoking prevalence of 19.8%. The DOH has in fact called for a more aggressive target of reducing smoking prevalence to 10 percent in 2022, which has become more important in light of the findings of the National Tuberculosis Prevalence Survey (NTPS) 2016 that shows smoking as one of the significant risk factors for pulmonary tuberculosis along with having past history of TB, older age group, being male, diabetes mellitus, indicators of poverty, and urban dwellers. It is important to note that for such goal, it is crucial that the cigarette excise tax structure remains unitary in order to prevent smokers from simply downshifting from expensive to cheap brands.

The 2016 NTPS reveals key programmatic gaps such as "missing TB cases" and accessibility issues of the poor and vulnerable population. It found out that TB burden in the country remains high and is higher than previously estimated where around one (1) million Filipinos are expected to have tuberculosis. It is gravely unfortunate that since 2007, there has been no evidence of a significant decline in TB prevalence. It also shows that the current TB program modes of screening by symptoms and diagnosing by sputum microscopy are not sufficient for early diagnosis and that there is a likelihood of under-reporting of TB cases to the national registry.

Critical to the success of anti-TB efforts is the huge funding requirement, specifically in terms of funding priority areas like expanded diagnosis and effective treatment for susceptible TB, multi-drug resistant TB or MDR-TB treatment, rapid diagnostics and associated laboratory strengthening, TB-HIV collaborative activities, and research and development.

Addressing the 2016 NTPS concerns on top of the continuous need to provide additional and sustainable financing for hospitalization and catastrophic care of poor and vulnerable sectors, more revenues are needed particularly to help DOH fund a primary care system that can provide Filipinos basic consultations, medicines, and diagnostics.

President Rodrigo Roa Duterte seeks to make the country a high-middle income country by 2020. The Department of Finance (DOF) states that in order to do this, investments in human capital and infrastructure must be made, and this will require additional funds of about one trillion pesos per year in 2016 prices. The higher tobacco tax rates will be an important part of the tax package to raise said huge amount.

It must be emphasized that a tobacco tax has the distinct attribute of being price inelastic, which means a higher tax leads to a significant revenue increase at the same time it reduces smoking consumption. The evidence from the 2012 Sin Tax law says so.

In summary, the schedule (1) adjusts prices not only to inflation which the current law provides, but also to per capita income increase towards preventing revenue erosion and reducing affordability for health reasons; (2) raises the excise tax to a level that will further reduce smoking prevalence to 19.8% by 2020 and at the same time generate incremental revenue that will contribute to the national government's higher tax effort target; and (3) implements a unitary tax to limit downshifting. The revenues shall be used to sustain funding for primary care system and/or UHC and shall help maintain broader fiscal space and macroeconomic fundamentals for the country.

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

ANGELINA "HELEN" D.L. TAN, M.D.
4th District, Quezon

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

SECTION 1. Section 145 of the National Internal Revenue Code of 1997, as amended by Republic Act No. 10351, is hereby further amended to read as follows:

"SEC. 145. Cigars and Cigarettes. –

"(B) Cigarettes Packed by Hand. – There shall be levied, assessed and collected on cigarettes packed by hand an excise tax based on the following schedules:

EFFECTIVE ON JANUARY 1, 2018, THE TAX SHALL BE SIXTY PESOS (P60.00) PER PACK.

PROVIDED, THAT, ON JANUARY 1, 2019 AND EVERY YEAR THEREAFTER, THE EXCISE TAX RATE PRESCRIBED HEREIN SHALL BE ADJUSTED BY 9%.

["Effective on January 1, 2013, Twelve pesos (P12.00) per pack;

"Effective on January 1, 2014, Fifteen pesos (P15.00) per pack;

"Effective on January 1, 2015, Eighteen pesos (P18.00) per pack;

"Effective on January 1, 2016, Twenty-one pesos (P21.00) per pack; and

"Effective on January 1, 2017, Thirty pesos (P30.00) per pack.

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

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"(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, 2018, THE TAX SHALL BE SIXTY PESOS (P 60.00) PER PACK, REGARDLESS OF BRAND OR NET RETAIL PRICE.

PROVIDED, THAT, ON JANUARY 1, 2019 AND EVERY YEAR THEREAFTER, THE EXCISE TAX RATE PRESCRIBED HEREIN SHALL BE ADJUSTED BY 9%.

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 FOR THE YEAR COMMENCING JANUARY 1, 2017.

["Effective on January 1, 2013

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

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

"Effective on January 1, 2014

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

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

"Effective on January 1, 2015

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

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

"Effective on January 1, 2016

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

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

"Effective on January 1, 2017, the tax on all cigarettes packed by machine shall be Thirty pesos (P30.00) per pack.

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

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 BRAND SHALL MEAN A BRAND REGISTERED AFTER THE DATE OF THE EFFECTIVITY OF THIS ACT.

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 MARKETING NATIONWIDE, AND 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 RETAIL PRICE AS DEFINED HEREIN AND DETERMINE THE CORRECT TAX BRACKET TO 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.

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 THIRD MONTH THEREAFTER, SUBMIT TO THE COMMISSIONER A SWORN STATEMENT OF THE VOLUME OF SALES FOR EACH PARTICULAR BRAND OF CIGARS AND/OR CIGARETTES SOLD 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 CIGARS AND 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 WILFULLY 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.

SEC. 2. *Incremental Revenues from Additional Excise Tax on Alcohol and Tobacco Products.* – Incremental revenues derived from this Act shall be used for the universal health coverage under the National Health Insurance Program, the attainment of the sustainable development goals and health awareness programs as provided under Section 288 subsection (C) of the National Internal Revenue Code of 1997, as amended by Republic Act No. 10351. *Provided, however,* that twenty-five percent (25%) shall be set aside for the following purposes:

(a) Ten percent (10%) for the implementation of the program of the national government for the elimination of tuberculosis;

(b) Ten percent (10%) for the prevention and control of HIV/AIDS; and

(c) Five percent (5%) for the health promotion

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

SEC. 4. ***Separability Clause.*** – If any part or provision of this Act is held invalid or unconstitutional, the remaining parts or provisions not affected shall remain in full force and effect.

SEC. 5. ***Repealing Clause.*** – All laws, presidential decrees or issuances, executive orders, letters of instruction, administrative orders, administrative memoranda, rules and regulations inconsistent with the provisions of this Act are hereby amended, modified or repealed accordingly.

SEC. 6. ***Effectivity.*** – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in any newspaper of general circulation.

Approved,