

Republic of the Philippines
Congress of the Philippines

Metro Manila

Thirteenth Congress

First Regular Session



Begun and held in Metro Manila, on Monday, the twenty-sixth day of July, two thousand four.

[REPUBLIC ACT NO. 9334]

AN ACT INCREASING THE EXCISE TAX RATES IMPOSED ON ALCOHOL AND TOBACCO PRODUCTS, AMENDING FOR THE PURPOSE SECTIONS 131, 141, 142, 143, 144, 145 AND 288 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 141 of the National Internal Revenue Code of 1997, as amended, 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 as follows:

"(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 until January 1, 2011.

"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."

SEC. 2. Section 142 of the National Internal Revenue Code of 1997, as amended, 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:

"(a) Sparkling wines/champagnes regardless of proof, if the net retail price per bottle (excluding the excise tax and the value-added tax) is:

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

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

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"(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).

"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."

SEC. 3. Section 143 of the National Internal Revenue Code of 1997, as amended, 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:

"(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.

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"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 (c) 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 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 fermented liquors shall be 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."

SEC. 4. Section 144 of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

"SEC. 144. *Tobacco Products.* - There shall be collected a tax of One peso (P1.00) 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, cigarette~~s~~, 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).

"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.

"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."

SEC. 5. Section 145 of the National Internal Revenue Code, as amended, 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 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).

"(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.

"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."

SEC. 6. Section 131 of the National Internal Revenue Code of 1997, as amended, 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 from the customhouse, or by the person who is found in possession of articles which are exempt from excise taxes other than those legally entitled to exemption.

"In the case of tax-free articles brought or imported into the Philippines by persons, entities, or agencies exempt from tax which are subsequently sold, transferred or exchanged in the Philippines to non-exempt persons or entities, the purchasers or recipients shall be considered the importers thereof, and shall be liable for the duty and internal revenue tax due on such importation.

"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, further,* That 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), shall be exempted from all applicable duties only: *Provided, still further*, That such articles directly imported by a government-owned and operated duty-free shop, like the Duty-Free Philippines, shall be labeled 'duty-free' and 'not for resale': *Provided, finally*, That the removal and transfer of tax and duty-free goods, products, machinery, equipment and other similar articles other than cigars and cigarettes, distilled spirits, fermented liquors and wines, from one freeport to another freeport, shall not be deemed an introduction into the Philippine customs territory."

"Cigars and cigarettes, distilled spirits and wines within the premises of all duty-free shops which are not labelled as hereinabove required, as well as tax and duty-free articles obtained from a duty-free shop and subsequently found in a non-duty-free shop to be offered for resale shall be confiscated, and the perpetrator of such non-labelling or re-selling shall be punishable under the applicable provisions of this Code.

"Articles confiscated shall be 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.

"The tax due on any such goods, products, machinery, equipment or other similar articles shall constitute a lien on the article itself, and such lien shall be superior to all other charges or liens, irrespective of the possessor thereof.

"(B) *Rate and Basis of the Excise Tax on Imported Articles.* – Unless otherwise specified, imported articles shall be subject to the same rates and basis of excise taxes applicable to locally manufactured articles."

SEC. 7. Section 288 of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

"SEC. 288. *Disposition of Incremental Revenues.* –

"(A) *Incremental Revenues from Republic Act No. 7660.* – The incremental revenues from the increase in the documentary stamp taxes under R.A. No. 7660 shall be set aside for the following purposes:

"(1) In 1994 and 1995, twenty-five percent (25%) thereof respectively, shall accrue to the Unified Home-Lending Program under Executive Order No. 90 particularly for mass-socialized housing program to be allocated as follows: fifty percent (50%) for mass-socialized housing; thirty percent (30%) for the community mortgage program; and twenty percent (20%) for land banking and development to be administered by the National Housing Authority: *Provided*, That not more than one percent (1%) of the respective allocations hereof shall be used for administrative expenses;

"(2) In 1996, twenty-five percent (25%) thereof to be utilized for the National Health Insurance Program that hereafter may be mandated by law;

"(3) In 1994 and every year thereafter, twenty-five percent (25%) thereof shall accrue to a Special Education Fund to be administered by the Department of Education, Culture and Sports for the construction and repair of school facilities, training of teachers, and procurement or production of instructional materials and teaching aids; and

"(4) In 1994 and every year thereafter, fifty percent (50%) thereof shall accrue to a Special Infrastructure Fund for the construction and repair of roads, bridges, dams and irrigation, seaports and hydroelectric and other indigenous power projects: *Provided, however*, That for the years 1994 and 1995, thirty percent (30%), and for the years 1996, 1997 and 1998, twenty percent (20%), of this fund shall be allocated for depressed provinces as declared by the President as of the time of the effectivity of R.A. No. 7660: *Provided, further*, That availments under this fund shall be determined by the President on the basis of equity.

"Provided, finally, That in paragraphs (2), (3) and (4) of this Section, not more than one percent (1%) of the allocated funds thereof shall be used for administrative expenses by the implementing agencies.

"(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:

"(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 Oversight Committee created under said R.A. No. 8240, shall issue the corresponding rules and regulations governing the allocation and disbursement of this fund.

"(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."

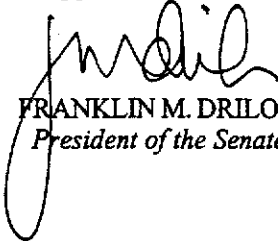
SEC. 8. *Implementing Rules and Regulations.* - The Secretary of Finance shall, upon the recommendation of the Commissioner of Internal Revenue, promulgate the necessary rules and regulations for the effective implementation of this Act.

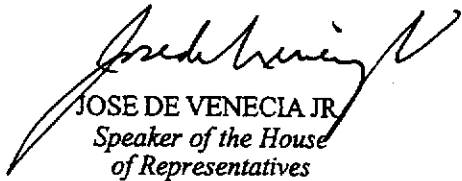
SEC. 9. *Separability Clause.* - If any of the provisions of this Act is declared invalid by a competent court, the remainder of this Act or any provision not affected by such declaration of invalidity shall remain in force and effect.

SEC. 10. *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.


SEC. 11. *Effectivity.* – This Act shall take effect on January 1, 2005.

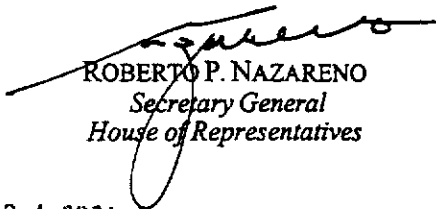
Approved,


FRANKLIN M. DRILON
President of the Senate

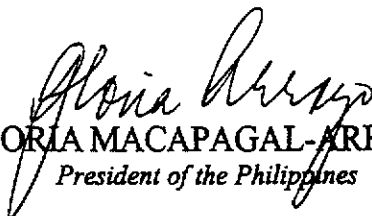

JOSE DE VENECIA JR.
*Speaker of the House
of Representatives*

This Act which is a consolidation of House Bill No. 3174 and Senate Bill No. 1854 was finally passed by the House of Representatives and the Senate on December 15, 2004 and December 16, 2004, respectively.


OSCAR G. YABES
Secretary of the Senate


ROBERTO P. NAZARENO
*Secretary General
House of Representatives*

Approved: DEC 21 2004


GLORIA MACAPAGAL-ARROYO
President of the Philippines

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