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Metro Manila

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

[REPUBLIC ACT NO. 10351]

AN ACT RESTRUCTURING THE EXCISE TAX ON ALCOHOL AND TOBACCO PRODUCTS BY AMENDING SECTIONS 141, 142, 143, 144, 145, 8, 131 AND 288 OF REPUBLIC ACT NO. 8424, OTHERWISE KNOWN AS THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED BY REPUBLIC ACT NO. 9334, AND FOR OTHER PURPOSES

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 by Republic Act No. 9334, is hereby further amended to read as follows:

"SEC. 141. *Distilled Spirits.* — On distilled spirits, subject to the provisions of Section 133 of this Code, an excise tax shall be levied, assessed and collected based on the following schedules:

"(a) Effective on January 1, 2013

"(1) An *ad valorem* tax equivalent to fifteen percent (15%) of the net retail price (excluding the excise tax and the value-added tax) per proof; and

"(2) In addition to the *ad valorem* tax herein imposed, a specific tax of Twenty pesos (P20.00) per proof liter.

"(b) Effective on January 1, 2015

"(1) An *ad valorem* tax equivalent to twenty percent (20%) of the net retail price (excluding the excise tax and the value-added tax) per proof; and

"(2) In addition to the *ad valorem* tax herein imposed, a specific tax of Twenty pesos (P20.00) per proof liter.

"(c) In addition to the *ad valorem* tax herein imposed, the specific tax rate of Twenty pesos (P20.00) imposed under this Section shall be increased by four percent (4%) every year thereafter effective on January 1, 2016, through revenue regulations issued by the Secretary of Finance.

"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' shall mean the price at which the distilled spirits is sold on retail in at least five (5) major supermarkets in Metro Manila, excluding the amount intended to cover the applicable excise tax and the value-added tax. For distilled spirits 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.

"Major supermarkets, as contemplated under this Act, shall be those with the highest annual gross sales in Metro Manila or the region, as the case may be, as determined by the National Statistics Office, and shall exclude retail outlets or kiosks, convenience or sari-sari stores, and others of a similar nature: *Provided*, That no two (2) supermarkets in the list to be surveyed are affiliated and/or branches of each other: *Provided, finally*, That in case a particular distilled spirit is not sold in major supermarkets, the price survey can be conducted in retail outlets where said distilled spirit is sold in Metro Manila or the region, as the case may be, upon the determination of the Commissioner of Internal Revenue.

"The net retail price shall be determined by the Bureau of Internal Revenue (BIR) through a price survey under oath.

"The methodology and all pertinent documents used in the conduct of the latest price survey shall be submitted to the Congressional Oversight Committee on the Comprehensive Tax Reform Program created under Republic Act No. 8240.

"Understatement of the suggested net retail price by as much as fifteen percent (15%) of the actual net retail price shall render the manufacturer or importer 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.

"Distilled spirits introduced in the domestic market after the effectivity of this Act shall be initially taxed according to their suggested net retail prices.

" 'Suggested net retail price' shall mean the net retail price at which 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 initially determine the correct tax on a newly introduced distilled spirits. After the end of nine (9) 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 on a newly introduced distilled spirits.

"All distilled spirits existing in the market at the time of the effectivity of this Act shall be taxed according to the tax rates provided above based on the latest price survey of the distilled spirits conducted by the Bureau of Internal Revenue.

"The methodology and all pertinent documents used in the conduct of the latest price survey shall be submitted to the Congressional Oversight Committee on the Comprehensive Tax Reform Program created under Republic Act No. 8240.

"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, 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 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 effective on January 1, 2013, the following excise taxes:

"(a) Sparkling wines/champagnes regardless of proof, if the net retail price per bottle of seven hundred fifty milliliter (750 ml.) volume capacity (excluding the excise tax and the value-added tax) is:

"(1) Five hundred pesos (P500.00) or less —
Two hundred fifty pesos (P250.00); and

"(2) More than Five hundred pesos (P500.00)
— Seven hundred pesos (P700.00).

"(b) Still wines and carbonated wines containing fourteen percent (14%) of alcohol by volume or less, Thirty pesos (P30.00); and

"(c) Still wines and carbonated wines containing more than fourteen percent (14%) but not more than twenty-five percent (25%) of alcohol by volume, Sixty pesos (P60.00).

"The rates of tax imposed under this Section shall be increased by four percent (4%) every year thereafter effective on January 1, 2014, through

revenue regulations issued by the Secretary of Finance.

"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' shall mean the price at which sparkling wine/champagne is sold on retail in at least five (5) major supermarkets in Metro Manila, excluding the amount intended to cover the applicable excise tax and the value-added tax. For sparkling wines/champagnes 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.

"Major supermarkets, as contemplated under this Act, shall be those with the highest annual gross sales in Metro Manila or the region, as the case may be, as determined by the National Statistics Office, and shall exclude retail outlets or kiosks, convenience or sari-sari stores, and others of a similar nature: *Provided*, That no two (2) supermarkets in the list to be surveyed are affiliated and/or branches of each other: *Provided, finally*, That in case a particular sparkling wine/champagne is not sold in major supermarkets, the price survey can be conducted in retail outlets where said sparkling wine/champagne is sold in Metro Manila or the region, as the case may be, upon the determination of the Commissioner of Internal Revenue.

"The net retail price shall be determined by the Bureau of Internal Revenue through a price survey under oath.

"The methodology and all pertinent documents used in the conduct of the latest price survey shall be submitted to the Congressional Oversight Committee on the Comprehensive Tax Reform Program created under Republic Act No. 8240.

"Understatement of the suggested net retail price by as much as fifteen percent (15%) of the actual net retail price shall render the manufacturer or importer 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.

"Sparkling wines/champagnes introduced in the domestic market after the effectivity of this Act shall be initially tax classified according to their suggested net retail prices.

" 'Suggested net retail price' shall mean the net retail price at which locally manufactured or imported sparkling wines/champagnes 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 sparkling wine/champagne against the net retail price as defined herein and initially determine the correct tax bracket to which a newly introduced sparkling wine/champagne shall be classified. After the end of nine (9) 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 to which a newly introduced sparkling wine/champagne shall be classified.

"The proper tax classification of sparkling wines/champagnes, whether registered before or after the effectivity of this Act, shall be determined every two (2) years from the date of effectivity of this Act.

"All sparkling wines/champagnes existing in the market at the time of the effectivity of this Act shall be classified according to the net retail prices and the tax rates provided above based on the latest price survey of the sparkling wines/champagnes conducted by the Bureau of Internal Revenue.

"The methodology and all pertinent documents used in the conduct of the latest price survey shall be submitted to the Congressional Oversight Committee on the Comprehensive Tax Reform Program created under Republic Act No. 8240.

"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, 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 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 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:

"Effective on January 1, 2013

"(a) If the net retail price (excluding the excise tax and the value-added tax) per liter of volume capacity is Fifty pesos and sixty centavos (P50.60) or less, the tax shall be Fifteen pesos (P15.00) per liter; and

"(b) If the net retail price (excluding the excise tax and the value-added tax) per liter of volume capacity is more than Fifty pesos and sixty centavos (P50.60), the tax shall be Twenty pesos (P20.00) per liter.

"Effective on January 1, 2014

"(a) If the net retail price (excluding the excise tax and the value-added tax) per liter of volume

capacity is Fifty pesos and sixty centavos (P50.60) or less, the tax shall be Seventeen pesos (P17.00) per liter; and

"(b) If the net retail price (excluding the excise tax and the value-added tax) per liter of volume capacity is more than Fifty pesos and sixty centavos (P50.60), the tax shall be Twenty-one pesos (P21.00) per liter.

"Effective on January 1, 2015

"(a) If the net retail price (excluding the excise tax and the value-added tax) per liter of volume capacity is Fifty pesos and sixty centavos (P50.60) or less, the tax shall be Nineteen pesos (P19.00) per liter; and

"(b) If the net retail price (excluding the excise tax and the value-added tax) per liter of volume capacity is more than Fifty pesos and sixty centavos (P50.60), the tax shall be Twenty-two pesos (P22.00) per liter.

"Effective on January 1, 2016

"(a) If the net retail price (excluding the excise tax and the value-added tax) per liter of volume capacity is Fifty pesos and sixty centavos (P50.60) or less, the tax shall be Twenty-one pesos (P21.00) per liter; and

"(b) If the net retail price (excluding the excise tax and the value-added tax) per liter of volume capacity is more than Fifty pesos and sixty centavos (P50.60), the tax shall be Twenty-three pesos (P23.00) per liter.

"Effective on January 1, 2017, the tax on all fermented liquors shall be Twenty-three pesos and fifty centavos (P23.50) per liter.

"The rates of tax imposed under this Section shall be increased by four percent (4%) every year thereafter effective on January 1, 2018, through revenue regulations issued by the Secretary of Finance. However, in case of fermented liquors affected by the 'no downward reclassification' provision prescribed under this Section, the four percent (4%) increase shall apply to their respective applicable tax rates.

"Fermented liquors which are brewed and sold at micro-breweries or small establishments such as pubs and restaurants shall be subject to the rate of Twenty-eight pesos (P28.00) per liter effective on January 1, 2013: *Provided*, That this rate shall be increased by four percent (4%) every year thereafter effective on January 1, 2014, through revenue regulations issued by the Secretary of Finance.

"Fermented liquors introduced in the domestic market after the effectivity of this Act shall be initially tax classified according to their suggested net retail prices.

" 'Suggested net retail price' shall mean the net retail price at which 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 newly introduced fermented liquor against the net retail price as defined herein and initially determine the correct tax bracket to which a newly introduced fermented liquor, as defined above, shall be classified. After the end of nine (9) 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 newly introduced fermented liquor shall be classified.

" 'Net retail price' shall mean the price at which the fermented liquor is sold on retail in at least five (5) 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.

"Major supermarkets, as contemplated under this Act, shall be those with the highest annual gross sales in Metro Manila or the region, as the case may be, as determined by the National Statistics Office, and shall exclude retail outlets or kiosks, convenience or sari-sari stores, and others of a similar nature: *Provided*, That no two (2) supermarkets in the list to be surveyed are affiliated and/or branches of each other: *Provided, finally*, That in case a particular fermented liquor is not sold in major supermarkets, the price survey can be conducted in retail outlets where said fermented liquor is sold in Metro Manila or the region, as the case may be, upon the determination of the Commissioner of Internal Revenue.

"The net retail price shall be determined by the Bureau of Internal Revenue (BIR) through a price survey under oath.

"The methodology and all pertinent documents used in the conduct of the latest price survey shall be submitted to the Congressional Oversight Committee on the Comprehensive Tax Reform Program created under Republic Act No. 8240.

"Understatement of the suggested net retail price by as much as fifteen percent (15%) of the actual net retail price shall render the manufacturer or importer 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.

"Any downward reclassification of present categories, for tax purposes, of fermented liquors 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 proper tax classification of fermented liquors, whether registered before or after the effectivity of this Act, shall be determined every two (2) years from the date of effectivity of this Act.

"All fermented liquors existing in the market at the time of the effectivity of this Act shall be classified according to the net retail prices and the tax rates provided above based on the latest price survey of the fermented liquors conducted by the Bureau of Internal Revenue.

"The methodology and all pertinent documents used in the conduct of the latest price survey shall be submitted to the Congressional Oversight Committee on the Comprehensive Tax Reform Program created under Republic Act No. 8240.

"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, 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 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 by Republic Act No. 9334, is hereby further amended to read as follows:

"SEC. 144. *Tobacco Products.* – There shall be collected an excise tax of One peso and seventy-five centavos (P1.75) effective on January 1, 2013 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, One peso and fifty centavos (P1.50) effective on January 1, 2013.

"The rates of tax imposed under this Section shall be increased by four percent (4%) every year thereafter effective on January 1, 2014, through revenue regulations issued by the Secretary of Finance.

"No tobacco products manufactured in the Philippines and produced for export shall be removed from their place of manufacture or exported without posting of an export bond equivalent to the amount of

the excise tax due thereon if sold domestically: *Provided, however,* That tobacco products for export may be transferred from the place of manufacture to a bonded facility, upon posting of a transfer bond, prior to export.

"Tobacco products imported into the Philippines and destined for foreign countries shall not be allowed entry without posting a bond equivalent to the amount of customs duty, excise and value-added taxes due thereon if sold domestically.

"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 for the three-month period immediately preceding.

"Any manufacturer or importer who, in violation of this Section, 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 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 of 1997, 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 excise tax in accordance with the following schedule:

"(1) Effective on January 1, 2013

"(a) An *ad valorem* tax equivalent to twenty percent (20%) of the net retail price (excluding the excise tax and the value-added tax) per cigar; and

"(b) In addition to the *ad valorem* tax herein imposed, a specific tax of Five pesos (P5.00) per cigar.

"(2) In addition to the *ad valorem* tax herein imposed, the specific tax rate of Five pesos (P5.00) imposed under this subsection shall be increased by four percent (4%) effective on January 1, 2014 through revenue regulations issued by the Secretary of Finance.

"(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, 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.

"Duly registered cigarettes packed by hand shall only be packed in twenties and other packaging combinations of not more than twenty.

"'Cigarettes packed by hand' shall refer to the manner of packaging of cigarette sticks using an individual person's hands and not through any other means such as a mechanical device, machine or equipment.

"(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, 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.

"Duly registered cigarettes packed by machine shall only be packed in twenties and other packaging combinations of not more than twenty.

"Understatement of the suggested net retail price by as much as fifteen percent (15%) of the actual net retail price shall render the manufacturer or importer 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.

"Cigarettes introduced in the domestic market after the effectivity of this Act shall be initially tax classified according to their suggested net retail prices.

" 'Suggested net retail price' shall mean the net retail price at which 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 newly introduced cigarette against the net retail price as defined herein and initially determine the correct tax bracket under which a newly introduced cigarette shall be classified. After the end of nine (9) 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 newly introduced cigarette shall be classified.

"Net retail price' shall mean the price at which the cigarette is sold on retail in at least five (5) 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 cigarettes 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.

"Major supermarkets, as contemplated under this Act, shall be those with the highest annual gross sales in Metro Manila or the region, as the case may be, as determined by the National Statistics Office, and shall exclude retail outlets or kiosks, convenience or sari-sari stores, and others of a similar nature: *Provided*, That no two (2) supermarkets in the list to be surveyed are affiliated and/or branches of each other: *Provided, finally*, That in case a particular cigarette is not sold in major supermarkets, the price survey can be conducted in retail outlets where said cigarette is sold in Metro Manila or the region, as the case may be, upon the determination of the Commissioner of Internal Revenue.

"The net retail price shall be determined by the Bureau of Internal Revenue through a price survey under oath.

"The methodology and all pertinent documents used in the conduct of the latest price survey shall be submitted to the Congressional Oversight Committee on the Comprehensive Tax Reform Program created under Republic Act No. 8240.

"The proper tax classification of cigarettes, whether registered before or after the effectivity of this Act, shall be determined every two (2) years from the date of effectivity of this Act.

"All cigarettes existing in the market at the time of the effectivity of this Act shall be classified according to the net retail prices and the tax rates provided above based on the latest price survey of cigarettes conducted by the Bureau of Internal Revenue.

"The methodology and all pertinent documents used in the conduct of the latest price survey shall be submitted to the Congressional Oversight Committee on the Comprehensive Tax Reform Program created under Republic Act No. 8240.

"No tobacco products manufactured in the Philippines and produced for export shall be removed from their place of manufacture or exported without posting of an export bond equivalent to the amount of the excise tax due thereon if sold domestically: *Provided, however*, That tobacco products for export may be transferred from the place of manufacture to a bonded facility, upon posting of a transfer bond, prior to export.

"Tobacco products imported into the Philippines and destined for foreign countries shall not be allowed entry without posting a bond equivalent to the amount of customs duty, excise and value-added taxes due thereon if sold domestically.

"Of the total volume of cigarettes sold in the country, any manufacturer and/or seller of tobacco

products must procure at least fifteen percent (15%) of its tobacco leaf raw material requirements from locally grown sources, subject to adjustments based on international treaty commitments.

"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 cigars and/or cigarettes sold for the three-month period immediately preceding.

"Any manufacturer or importer who, in violation of this Section, 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 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 8 of Republic Act No. 8424 or the National Internal Revenue Code, as amended, is hereby further amended to read as follows:

"SEC. 8. Duty of the Commissioner to Ensure the Provision and Distribution of Forms, Receipts, Certificates, and Appliances, and the Acknowledgment of Payment of Taxes. –

"(A) Provision and Distribution to Proper Officials. – Any law to the contrary notwithstanding, it shall be the duty of the Commissioner, among other things, to prescribe, provide, and distribute to the proper officials the requisite licenses; internal revenue stamps; unique, secure and nonremovable identification markings (hereafter called unique identification markings), such as codes or stamps, be affixed to or form part of all unit packets and packages and any outside packaging of cigarettes and bottles of distilled spirits; labels and other forms; certificates; bonds; records; invoices; books; receipts; instruments; appliances and apparatus used in administering the laws falling within the jurisdiction of the Bureau. For this purpose, internal revenue stamps, or other markings and labels shall be caused by the Commissioner to be printed with adequate security features.

"Internal revenue stamps, whether of a bar code or fuson design, or other markings shall be firmly and conspicuously affixed or printed on each pack of cigars and cigarettes and bottles of distilled spirits subject to excise tax in the manner and form as prescribed by the Commissioner, upon approval of the Secretary of Finance.

"To further improve tax administration, cigarette and alcohol manufacturers shall be required to install automated volume-counters of packs and bottles to deter over-removals and misdeclaration of removals."

SEC. 7. Section 131, Subsection A of the National Internal Revenue Code of 1997, as amended by Republic Act No. 9334, is hereby further amended as follows:

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

"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, further,* That notwithstanding the provisions of Republic Act Nos. 9400 and 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), shall be exempted from all applicable duties only: x x x

"x x x

"Articles confiscated shall be destroyed using the most environmentally friendly method available 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.

"x x x."

SEC. 8. 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 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 including, but not limited to, high-value crops, spices, rice, corn, sugarcane, coconut, livestock and fisheries;

"(2) Programs that will provide financial support for tobacco farmers who are displaced or who cease to produce tobacco;

"(3) Cooperative programs to assist tobacco farmers in planting alternative crops or implementing other livelihood projects;

"(4) Livelihood programs and projects that will promote, enhance, and develop the tourism potential of tobacco-growing provinces;

"(5) Infrastructure projects such as farm to market roads, schools, hospitals, and rural health facilities; and

"(6) 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, shall issue 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.* –

"After deducting the allocations under Republic Act Nos. 7171 and 8240, eighty percent (80%) of the remaining balance of the incremental revenue derived from this Act shall be allocated for the universal health care under the National Health Insurance Program, the attainment of the millennium development goals and health awareness programs; and twenty percent (20%) shall be allocated nationwide, based on political and district subdivisions, for medical assistance and health enhancement facilities program, the annual requirements of which shall be determined by the Department of Health (DOH)."

SEC. 9. *Transitory Provision.* – A special financial support for displaced workers in the alcohol and tobacco industries shall be allocated and included in the appropriations under the Department of Labor and Employment (DOLE) to finance unemployment alleviation program; and to the Technical Education and Skills Development Authority (TESDA) to finance the training and retooling programs of displaced workers, to be included in the General Appropriations Acts for the Fiscal Years 2014 to 2017.

SEC. 10. *Annual Report.* – The Department of Budget and Management (DBM), the Department of Agriculture (DA), the Department of Health (DOH) and the Philippine Health Insurance Corporation (PhilHealth) shall each submit to the Oversight Committee, created under Republic Act No. 8240, a detailed report on the expenditure of the amounts earmarked in this Section on the first week of August of every year. The reports shall be simultaneously published in the *Official Gazette* and in the agencies' websites.

SEC. 11. *Congressional Oversight Committee.* – The composition of the Congressional Oversight Committee, created under Republic Act No. 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 annual reports from the DBM, DA, DOH, DOLE, PhilHealth and TESDA, the Committee shall review and ensure the proper implementation of this Act as regards the expenditures of the earmarked funds.

Starting the third quarter of Calendar Year 2016, the Committee is mandated to review the impact of the tax rates provided under this Act.

SEC. 12. *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 not later than one hundred eighty (180) days upon the effectivity of this Act.

SEC. 13. *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. 14. *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.


SEC. 15. *Effectivity.* – This Act shall take effect upon its publication in a newspaper of general circulation.


Approved,

 **JUAN PONCE ENRILE**
President of the Senate

 **FELICIANO BELMONTE JR.**
Speaker of the House
of Representatives

This Act which is a consolidation of House Bill No. 5727 and Senate Bill No. 3299 was finally passed by the House of Representatives and the Senate on December 11, 2012.

 **EMMA LIRIO-REYES**
Secretary of the Senate

 **MARILYN E. BARZA-YAP**
Secretary General
House of Representatives

Approved: DEC 19 2012

 **BENIGNO S. AQUINO III**
President of the Philippines



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CERTIFIED COPY:


MARIANITO M. DIMAANDAL
DIRECTOR IV
MALACANANG RECORDS OFFICE

By 12-27-2012