

[REPUBLIC ACT NO. 11346, July 25, 2019]

AN ACT INCREASING THE EXCISE TAX ON TOBACCO PRODUCTS, IMPOSING EXCISE TAX ON HEATED TOBACCO PRODUCTS AND VAPOR PRODUCTS, INCREASING THE PENALTIES FOR VIOLATIONS OF PROVISIONS ON ARTICLES SUBJECT TO EXCISE TAX, AND EARMARKING A PORTION OF THE TOTAL EXCISE TAX COLLECTION FROM SUGAR-SWEETENED BEVERAGES, ALCOHOL, TOBACCO, HEATED TOBACCO AND VAPOR PRODUCTS FOR UNIVERSAL HEALTH CARE, AMENDING FOR THIS PURPOSE SECTIONS 144, 145, 146, 147, 152, 164, 260, 262, 263, 265, 388 AND 289, REPEALING SECTION 288 (B) AND 288 (C), AND CREATING NEW SECTIONS 263-A, 265-B, AND 288-A OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED BY REPUBLIC ACT NO. 10963, AND FOR OTHER PURPOSES

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

SECTION 1. The title of Chapter IV, Title VI of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

"CHAPTER IV - EXCISE TAX ON TOBACCO PRODUCTS, HEATED TOBACCO PRODUCTS, AND VAPOR PRODUCTS"

SEC. 2. Section 144 of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

"SEC. 144. (A) *tobacco Products*. - x x x

"x x x

"(B) *Heated Tobacco Products*. - There shall be levied, assessed and collected on heated tobacco products an excise tax at the rate prescribed below:

"(1) Ten pesos (P10,00) per pack of twenty (20) units or packaging combinations of not more than twenty (20) units effective on January 1, 2020.

"(2) The rate of tax imposed under the Subsection shall be increased by five percent (5%) every year effective on January 1, 2021, through revenue regulations issued by the Secretary of Finance.

"Heated tobacco products shall only be packed in twenties and other packaging combinations of not more than twenty (20) units.

"No heated 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 heated 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.

"Heated 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, distributors, and importers of heated 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 of each particular brand of heated tobacco products sold for the three-month period immediately preceding.

"Any manufacturer, distributor 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/her or its permit to engage in business as manufacturer, distributor, or importer of heated tobacco products.

"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/she shall be deported immediately after serving the sentence without further proceedings for deportation.

"The sale and distribution or transfer of heated tobacco products by any person to minors; purchasing or otherwise receiving heated tobacco products from a minor; and the sale, purchase, and use of heated tobacco products by minors, shall be prohibited. "Minor" refers to any person below eighteen (18) years old. Any violations of this provision shall be punishable with the same penalties provided for in Republic Act No. 9211, otherwise known as the "Tobacco Regulation Act of 2003."

"It shall not be a defense for the person selling or distributing that he/she did not know or was not aware of the real age of the minor. Neither shall it be a defense that he/she did not know nor had any reason to believe that the product was for the consumption of the minor to whom it was sold.

"Unit packets and any outside wrapping of heated tobacco products and other similar products shall carry a health warning compliant with Republic Act No. 10643, otherwise known as "The Graphic Health Warnings Law."

"Manufacturers and importers are given a period of one (1) year from the effectivity of this Act to comply therewith.

"Eighteen (18) months after the effectivity of this Act, no person or legal entity shall sell or commercially distribute or display any heated tobacco products without ensuring that the labels and packages, as well as any other container used in displaying the said products meet the requirements under this Act.

"Any violation of the foregoing provisions on health warnings shall be punishable with the same penalties provided for in Republic Act No. 10643, otherwise known as "The Graphic Health Warnings Law".

"(C) *Vapor Products*. - There shall be levied, assessed and collected on vapor products an excise tax at the rates prescribed below:

"(1) Effective on January 1, 2020, individual cartridge, refill, pod, or container of vapor products containing liquid solutions or gel sold in the following quantities:

QUANTITY	EXCISE TAX
0.00 ml to 10.00 ml	Ten pesos (P10.00)
10.01 ml to 20.00 ml	Twenty pesos (P20.00)
20.01 to 30.00 ml	Thirty pesos (P30.00)
30.01 to 40.00 ml	Forty pesos (P40.00)
40.01 to 50.00 ml	Fifty pesos (P50.00)
More than 50.00 ml	Fifty pesos (P50.00) plus Ten pesos (P10.00) for very additional 10.00 ml

"(2) The rates of tax imposed under this Subsection shall be increased by five percent (5%) every year effective on January 1, 2021, through revenue regulations issued by the Secretary of Finance.

"Manufacturers, distributors, and importers of vapor products shall be required to indicate on the package the actual volume in milliliters of the liquid solutions and gels.

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

"Vapor 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, distributors, and importers of vapor 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 Commissioners a sworn statement of the volume of sales for particular brand of vapor products sold for the three-month period immediately preceding.

"Any manufacturer, distributor, or importer who, in violation of this Section, misdeclares or misrepresents in his/her 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/her or its permit to engage in business as manufacturer, distributor, or importer of vapor products.

"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/she shall be deported immediately after serving the sentence, without further proceedings for deportation.

"The sale and distribution, or transfer of vapor products by any person to minors, purchasing, or otherwise receiving vapor products from a minor; and the sale, purchase, and use of vapor products by minors, shall be prohibited. 'Minor' refers to any person below eighteen (18) years old. Any violation of this provision shall be punishable with the same penalties provided for in Republic Act 9211, otherwise known as the "Tobacco Regulation Act of 2003."

"It shall not be a defense for the person selling or distributing that he/she did not know or was not aware of the real age of the minor. Neither shall it be a defense that he/she did not know nor had any reason to believe that the product was the consumption of the minor to whom it was sold.

"Unit packets and any outside wrapping of vapor products and other similar products shall carry a health warning compliant with Republic Act No. 10643, otherwise known as "The Graphic Health Warning Law.

"Manufacturers and importers are given a period of one (1) year from the effectivity of this Act to comply therewith.

"Eighteen (18) months after the effectivity of this Act, no person or legal entity shall sell or commercially distribute or display any vapor product within ensuring that the labels and packages, as well as any other container used in displaying the said products meet the requirements under this Act.

"Any violation of the foregoing provisions on health warning shall be punishable with the same penalties provided for in Republic Act No. 10643, otherwise known as :The Graphic Health Warnings Law."

"Notwithstanding the provisions of this Act on heated tobacco products and vapor products, this Act acknowledge the need for further scientific evidences on the health impact of these products."

SEC. 3. Section 145 of the National Internal Revenue Code of 1997, as amended by Republic Act No. 10963, 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 five percent (5%) effective on January 1, 2024 through revenue regulations issued by the Secretary of Finance.

"'Net retail price' shall mean the price at which the cigar is sold on retail in at least five (5) major supermarkets in Metro Manila (for brands of cigar marketed nationally), excluding the amount intended to cover the applicable excise tax and the value-added tax. For cigars which are marketed only outside Metro Manila, the 'net retail price' shall mean the price at which the cigar 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. This shall be provided by the manufacturer or importer through a sworn statement and shall be validated by the Bureau of Internal Revenue (BIR) through a price survey.

"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 BIR, 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 cigar is not sold in major supermarkets, the price survey can be conducted in retail outlets where said cigar is sold in Metro Manila or the region, as the case may be, upon determination of the Commissioner of Internal Revenue.

"The net retail price shall be validated by the BIR through a biannual 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.

"(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, 2020, Forty-five pesos (P45.00) per pack;

"Effective on January 1, 2021, Fifty pesos (P50.00) per pack;

"Effective on January 1, 2022, Fifty-five pesos (P55.00) per pack;

"Effective on January 1, 2023, Sixty pesos (P60.00) per pack;

"The rates of tax imposed under this Subsection shall be increased by five percent (5%) every year effective on January 1, 2024, 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 (20).

"'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, 2020, Forty-five (P45.00) per pack;

"Effective on January 1, 2021, Fifty pesos (P50.00) per pack;

"Effective on January 1, 2022, Fifty-five pesos (P55.00) per pack;

"Effective on January 1, 2023, Sixty pesos (P60.00) per pack;

"The rates of tax imposed under this Subsection shall be increased by five percent (5%) every year effective on January 1, 2024, through revenue regulations issued by the Secretary of Finance.