



MALACAÑANG

Manila

EXECUTIVE ORDER NO. 36

FURTHER AMENDING CERTAIN SECTIONS OF THE NATIONAL INTERNAL REVENUE CODE, AS AMENDED

WHEREAS, there is a need to simplify the sales tax structure to effect better compliance and administration;

WHEREAS, to recoup the differential arising from the simplification of the sales tax structure with respect to automobiles, there is a need to impose an additional excise tax on certain automobiles;

NOW, THEREFORE, I, CORAZON C. AQUINO, President of the Philippines, do hereby order:

SECTION 1. Section 162, subparagraph (c), of the National Internal Revenue Code, as amended, is hereby further amended to read as follows:

"(c) Imported articles. - When the articles are imported, the percentage taxes established in Section 163 of this Code shall be paid in advance by the importer prior to the release of such articles from customs custody, based on the total value used by the Bureau of Customs in determining tariff and customs duties, including customs duties and other charges. On the original sale, barter, exchange or transfer of such imported articles by the importer himself, there shall be levied, assessed and collected a sales tax at the same rate on the gross value in money of the articles so sold, bartered, exchanged or transferred: Provided, That the tax paid in advance by the importer shall be credited against the sales tax due on the original sale. The tax required to be paid herein shall not apply to articles to be used by the importer himself in the manufacture or preparation of articles subject to excise tax (except automobiles) under Title

IV of this Code: Provided, further, That where the National Economic and Development Authority certifies to the availability of local raw materials of sufficient quantity, comparable quality and price to meet the needs of manufacturers subject to excise tax, the importation of such raw materials shall be subject to the tax herein imposed."

SECTION 2. Section 163 of the National Internal Revenue Code, as amended, is hereby further amended to read as follows:

"Section 163. Percentage tax on original sales of articles. - There shall be levied, assessed and collected, once only on every original sale, barter, exchange, or similar transaction for nominal or valuable consideration intended to transfer ownership of, or title to, the articles herein below enumerated a tax based on the gross selling price or gross value in money of the articles so sold, bartered, exchanged, or transferred, such tax to be paid by the manufacturer, producer or importer:

(1) Thirty per cent (30%), on the following non-essential articles:

(a) All articles commonly or commercially known as jewelry, whether real or imitation, pearls, precious and semi-precious stones and imitations thereof; articles made of, or ornamented, mounted or fitted with, precious metals or imitations thereof or ivory (not including surgical and dental instruments, silver-plated wares, frames or mountings for spectacles or eyeglasses, and dental gold or gold alloys and other precious metals used in filling, mounting or fitting of the teeth); opera glasses and lorgnettes. The term 'precious metals' shall include platinum, gold, silver, and other metals of similar or greater value. The term "imitations thereof" shall include platings and alloys of such metals.

(b) Perfumes, essences, extracts, toilet waters, cosmetics, hair dressings, hair dyes, hair restoratives, aromatic cachous, toilet powders, (except tooth and mouth washes, dentifrice, talcum and medicated toilet powders, hair oils and pomades).

Dice, mahjong sets and playing cards.

Jukeboxes.

- (e) Automobiles (except motor vehicles classified as trucks, jeeps and utility vehicles). A sale of an automobile shall, for purposes of this section, be considered as a sale of the chassis and of the body, together with parts and accessories with which the same is usually equipped, including the other parts and accessories permanently attached thereto at the time of the original sale.
- (f) Parts and accessories of automobiles which are primarily for ornamentation or embellishment.
- (g) Yachts and other vessels intended for pleasure or sports.
- (h) Harpsichords, accordions, pianos and electric or electronic musical organs.
- (i) Firearms and cartridges or other forms of ammunition.
- (j) Household-type electric vacuum cleaners or polishers.
- (k) Washing machines, clothes dryers and combination washing machine and clothes dryers of all types.
- (l) Textiles wholly or in chief value of silk, wool, or linen; nylon or other synthetic and/or chemical fabrics not intended for clothing; wool and silk hats; and furs and manufactures thereof.
- (m) Electricity and/or battery operated beauty equipment and accessories.
- (n) Electricity and/or battery operated toys.

(o) Television sets, phonographs or gramophones, combination radio-phonograph sets, tape recorders, video tape recorders, tape decks, car stereos, cassette radios, and similar articles for reproducing and/or recording music, sound and images and any combination thereof.

(p) Air-conditioning units

(q) Similar or analogous articles, substances or preparations to those enumerated above as determined by the Commissioner of Internal Revenue based on the essentiality of the articles.

Any material, part or accessory of the above-mentioned articles shall be taxed under this section.

(2) Ten per cent (10%), on the following essential articles:

(a) Processed meat, fruits, vegetables, fish and other sea foods and other processed food products for human consumption.

(b) Processed milk, creamers, dairy products, butter and its substitutes like margarine.

Bread and bakery products

Lard, shortening and cooking oil.

(e) Beverages and concentrates thereof, whether in liquid, powder or granulated form, intended for consumption as a drink, including but not limited to, processed coffee, cocoa, tea or ginger.

Wheat flour

Clothes and textiles intended for clothing.

(h) Medicines and articles primarily intended for the administration thereof.

(i) Soaps, detergents, toothbrushes and tooth-pastes.

(j) Writing pads, notebooks, ordinary lead pencils and disposable ballpens.

(k) Cement, hollow blocks, logs, lumber, plywood, plyboard, fiberboard, glass, roofing materials, steel bars, nails, sand and gravel, woven bamboo splits (sawali), nipa shingles, bamboo, basic sanitary and plumbing fixtures and fittings.

(l) Fish, poultry, swine and cattle feeds.

(m) Fertilizers, pesticides and technical materials for use in the formulation of pesticides.

(n) Spare parts and accessories of motor vehicles, except tires.

For purposes of sub-paragraphs (a) and (b) above, the term "processed" as applied to the food products mentioned therein means that such products have undergone the process of curing, canning, bottling or other manufacturing process. It does not include those which have merely undergone the simple process of preservation such as freezing, refrigeration, drying, salting or smoking.

Any article subject to the original sales tax, when used as a raw material in the manufacture or preparation of the above essential articles, shall be taxed at the same rate as the finished product, except when such material is taxed under sub-section (3) hereof or under Title IV of this Code: Provided, (1) the purchaser of such material inputs shall certify to the domestic supplier-importer or manufacturer, in the case of local purchase, or to the Bureau, in the case of direct importation, that the articles shall be used exclusively in the manufacture or preparation of any of the essential articles above enumerated, for resale in the case of a manufacturer, or direct use in the case of an agricultural producer; and (2) the supplier-manufacturer/importer shall maintain accounting records in a manner prescribed in the regulations to be issued by the Bureau whereby the sales can be classified according to different rates of tax.

(3) Zero per cent (0%), on the following agricultural products:

- (a) Agricultural food products, including ordinary salt and all kinds of fish and its by-products in their original state.
- (b) Agricultural non-food products in their original state.

Agricultural products shall still be considered in their original state even if they have undergone the simple processes of preservation such as freezing, drying, salting, smoking or stripping. Rice and corn shall be considered in their original state even when milled.

(4) Twenty per cent (20%), on other articles not covered by subsections (1), (2) and (3) of this section."

SECTION 3. The provisions of Section 164 of the National Internal Revenue Code, as amended, are hereby superseded by new provisions to read as follows:

"Section 164. Percentage tax on every subsequent sale of articles. - Except as provided in Section 167 of this Code, there shall be levied, assessed and collected on every subsequent sale, barter, exchange or similar transaction for nominal or valuable consideration intended to transfer ownership of, or title to, any article a tax equivalent to one and one-half per cent (1.5%) of the gross selling price or gross value in money of the article so sold, bartered, exchanged or transferred, such tax to be paid by the seller or the transferor thereof: Provided, however, That the subsequent sale of agricultural products in their original state shall be subject to zero per cent (0%) rate.

Unless the tax under this section is billed to the purchaser as a separate item in the invoice, the amount intended to cover the sales tax shall be considered as part of the gross selling price of the article."

SECTION 4. Section 165 of the National Internal Revenue Code, as amended, is hereby repealed.

SECTION 5. Section 166 of the National Internal Revenue Code, as amended, is hereby further amended to read as follows

"Section 166. Tax Credit. - (a) Creditable Taxes. - Any excise, sales or miller's tax paid under this Title and Title IV of this Code on domestically manufactured, processed, produced or imported raw materials, part, accessory or other article locally purchased or imported by the manufacturer for conversion into or intended to form part of any finished product for sale shall be credited against the sales tax on the original sale of the finished product, except agricultural products: Provided, however, That the amount of sales tax on domestically purchased raw material, part or accessory, is separately indicated in the sales invoice.

In the case of purchase of raw materials, parts and accessories by a manufacturer from a duly registered and accredited dealer, the amount of tax passed on to the dealer as well as the sales tax on subsequent sale, if indicated as separate items in the dealer's sales invoice shall be allowed as credits against the sales tax due on the finished product. Any advance sales tax paid on imported articles shall be allowed as credits against the sales tax due on the original sale of such imported articles.

(b) Tax credit on articles exported. - Any excise, sales, miller's or advance sales tax paid under this Title or Title IV of this Code on domestically manufactured or imported raw materials used in the manufacture and forming part of the finished products subject to tax under Section 163 (1), (2) and (4) hereof shall be allowed as a tax credit against any internal revenue tax liability directly due from the manufacturer exporting said products: Provided, That the amount of the tax on locally purchased raw material, part, accessory, or other article is indicated as a separate item in the sales invoice of the supplier from whom it was last purchased; and Provided, further, That the direct

exporter shall file an application for tax credit within one year from the close of the taxable year in which the export was effected. In case finished products are exported by an export trader other than the manufacturer or producer, the entire amount of sales and excise taxes separately indicated in the sales invoice of the immediate seller of the finished products exported shall be allowed to be credited against other tax liabilities of the export trader subject to the filing of an application as prescribed by the Bureau.

(c) Excess tax credit. - If at the end of a taxable year, the total tax paid on the raw material, part, accessory or other article exceeds the amount of the sales tax due on the finished product, the manufacturer or producer may elect to:

1. Carry over such excess or a portion thereof to be credited against his sales tax liability in the succeeding taxable quarter or quarters; and/or
2. File an application for the issuance of a tax credit certificate for such excess or a portion thereof which can be used in payment of any advance sales tax; and/or
3. Deduct such excess or a portion thereof from gross income for income tax purposes: Provided, That the amount of the tax on raw material, part, accessory, or other article shall be indicated as a separate item in the sales invoice; Provided, further, That the amount of tax credits opted for and any tax credit corresponding to the raw materials which are subsequently sold, transferred, disposed of, or for any other reason, can no longer be used in the manufacture of the finished product for sale, shall either be deducted from any unused tax credit or paid as a part of the tax due in the quarter following the disposal; and Provided, finally, That in the case of an importer, if the advance sales tax paid on imported articles exceeds the sales tax due on the original

sale of the imported articles in any quarter the excess shall be credited against the sales tax liability of the importer in the succeeding taxable quarter or quarters."

SECTION 6. Section 167 of the National Internal Revenue Code, as amended, is hereby further amended to read as follows:

"Section 167. Articles and transactions not subject to sales tax. - The following shall be exempt from the sales tax imposed in Section 163 hereof:

(a) Original sale by a manufacturer, producer or importer of articles subject to excise tax (except automobiles) imposed under Title IV and to miller's tax under Section 168 of this Code.

(b) Subsequent sale of manufactured oils and other fuels, except lubricating oil, processed gas, grease, wax and petrolatum.

(c) Subsequent sale of any newspaper, magazine, review or bulletin which appears at regular intervals with fixed prices for subscription and sale and which is not devoted principally to publication of advertisements.

(d) Articles shipped or exported by the manufacturer, producer, or trader, irrespective of any shipping arrangement that may be agreed upon which may influence or determine the transfer of ownership of the articles so exported.

(e) Sales by a registered export producer to another export producer or to a registered export trader."

SECTION 7. Section 169, paragraph (a) and sub-paragraphs (1) and (2) of paragraph (b) of the National Internal Revenue Code, as amended, is hereby further amended to read as follows:

"(a) Taxable articles. - There shall be imposed upon the importer of commodities,

goods, wares, or merchandise brought into the Philippines, a compensating tax equivalent to the rates prescribed in Section 163 based on the total value used by the Bureau of Customs in determining tariff and customs duties, including customs duty and all other charges, such tax to be paid before the withdrawal of the said commodities, goods, wares or merchandise from the customs-house or the post office."

"(1) Articles subject to tax under Section 163 of this Code;

(2) Articles subject to the excise tax under Title IV of this Code (except automobiles) and articles to be used by the importer himself in the manufacture or preparation of articles subject to excise tax (except automobiles)."

SECTION 8. A new section, to be known as Section 135-A, is hereby added to Chapter VI of Title IV of the National Internal Revenue Code, as amended, to read as follows:

"Section 135-A. Automobiles. - There shall be levied, assessed and collected an ad valorem tax on automobiles based on the manufacturer's or importer's selling price, net of excise and sales taxes, in accordance with the following schedule:

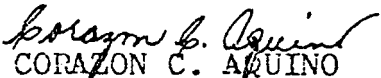
<u>Tax Rate</u>	<u>Engine Displacement</u>	
	<u>Gasoline</u>	<u>Diesel</u>
5%	1201 to 1600cc	1851 to 2050cc
10%	1601 to 1800cc	2051 to 2250cc
20%	1801cc or over	2251cc or over

Provided, That in the case of imported automobiles not for resale, the tax imposed herein shall be based on the total value used by the Bureau of Customs in determining tariff and customs duties, including customs duty and all other charges, plus ten per cent (10%) of the total thereof."

SECTION 9. All laws, orders, issuances, rules and regulations or parts thereof, inconsistent with this Executive Order are hereby repealed or modified accordingly.


SECTION 10. This Executive Order shall take effect on August 1, 1986.

DONE in the City of Manila, this 30th day of July in the year of Our Lord, nineteen hundred and eighty-six.


CORAZON C. AQUINO
President of the Philippines

By the President:

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JOKER P. ARROYO
Executive Secretary