

REPUBLIC ACT NO. 7654

AN ACT REVISING THE EXCISE TAX BASE, ALLOCATING A PORTION OF THE INCREMENTAL REVENUE COLLECTED FOR THE EMERGENCY EMPLOYMENT PROGRAM FOR CERTAIN WORKERS AMENDING FOR THE PURPOSE SECTION 142 OF THE NATIONAL INTERNAL REVENUE CODE, AS AMENDED, AND FOR OTHER PURPOSES

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

SECTION 1. Section 142 of the National Internal Revenue Code, as amended, is hereby further amended to read as follows:

"SEC. 142. *Cigars and cigarettes.* -

"(a) *Cigars.* - There shall be levied, assessed and collected on cigars a tax of ten percent (10%) of the constructive manufacturer's or importer's wholesale price or the actual manufacturer's or importer's wholesale price, whichever is higher.

"(b) *Cigarettes packed by hand.* - There shall be levied, assessed and collected on cigarettes packed by hand a tax of fifteen percent (15%) of the constructive manufacturer's wholesale price or the actual manufacturer's wholesale price, whichever is higher.

"(c) *Cigarettes packed by machine.* - There shall be levied, assessed and collected on cigarettes packed by machine a tax at the rates prescribed below based on the constructive manufacturer's wholesale price or the actual manufacturer's wholesale price, whichever is higher:

"(1) On locally manufactured cigarettes which are currently classified and taxed at fifty-five percent (55%) or the

exportation of which is not authorized by contract or otherwise, fifty-five percent (55%) provided that the minimum tax shall not be less than Five pesos (P5.00) per pack.

"(2) On other locally manufactured cigarettes, forty-five percent (45%) provided that the minimum tax shall not be less than Three pesos (P3.00) per pack.

Duly registered or existing brands of cigarettes or new brands thereof packed by machine shall only be packed in twenties.

When the registered manufacturer's wholesale price or the actual manufacturer's wholesale price whichever is higher of existing brands of cigarettes, including the amounts intended to cover the taxes, of cigarettes packed in twenties does not exceed Four pesos and eighty centavos (P4.80) per pack, the rate shall be twenty percent (20%).

"(d) *Imported cigarettes.* - If the cigarettes are of foreign manufacture, regardless of the contents per pack, there shall be levied, assessed and collected a tax of fifty-five percent (55%) of the constructive importer's wholesale price or the actual importer's wholesale price, whichever is higher.

"For purposes of this section, the term 'constructive manufacturer's or importer's wholesale price' shall mean the price including the amount intended to cover the tax imposed in paragraphs (a), (b), (c) or (d) hereof and the amount intended to cover the value-added tax imposed under Title IV of this Code at which locally manufactured or imported cigars or cigarettes are offered for sale to the wholesalers or distributors as fixed by the manufacturer or importer and registered with the Bureau of Internal Revenue plus a mark up of twenty percent (20%) of such price. The term 'actual manufacturer's or importer's wholesale price' shall mean the price at which the purchaser actually pays or is obligated to pay to the manufacturer or importer in consideration of the sale, barter, or exchange of cigars and cigarettes.

"The twenty percent (20%) mark up and the minimum taxes provided in this section shall be automatically increased in 1996 by ten percent (10%).

"Manufacturers and importers of cigars and cigarettes shall, within thirty (30) days from the effectivity of this Act, submit to the Commissioner of Internal Revenue a sworn statement of the manufacturer's or importer's wholesale price of each particular brand of their products, and periodically thereafter, a sworn written notification of any change thereof.

"Any downward reclassification of present categories, for tax purposes, of existing brands of cigars or cigarettes duly registered with the Bureau of Internal Revenue at the time of the effectivity of this Act or any reduction or undervaluation of the manufacturer's or importer's registered wholesale price or any violation of this section which will reduce the tax imposed herein, or the payment thereof, shall be prohibited.

"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 or reduces or undervalues or downgrades the classification of any existing brand of cigars and cigarettes duly registered with the Bureau of Internal Revenue at the time of the effectivity of this Act 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 interests 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 253 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. The wholesale price of cigars and cigarettes at which they are offered for sale to the wholesalers or distributors and registered with the Bureau of Internal Revenue as of December 31, 1992 shall be deemed the manufacturer's or importer's registered wholesale price until the submission by the manufacturer or importer of the sworn statement as required under Section 1 of this Act: *Provided*, That a variant of an existing brand of cigars or cigarettes that shall be manufactured after the effectivity of this Act shall be taxed at the same level as the main brand regardless of its declared wholesale price: *Provided, further*, That to prevent any underpayment of taxes, any new brand of cigars or cigarettes with comparable quality, blend, cost of production and other relevant facts as brands with a registered wholesale price of Three pesos (P3.00) or more per pack, and which shall be manufactured after the effectivity of this Act, shall be taxed at the highest rate regardless of its declared wholesale price. For the purpose of this section, cigars or cigarettes registered with the Bureau of Internal Revenue after May 31, 1993 shall be treated as new brands.

SEC. 3. Fifty percent (50%) of the increment in total revenue collected under this Act for a period of one (1) year from its effectivity shall be allocated and disbursed solely for purposes of providing emergency productive employment to workers displaced by the present electricity power crisis. For this purpose, the Secretary of Labor and Employment, in consultation with the Secretary of Finance, shall promulgate the necessary rules and regulations for the effective implementation of this section.

Provided, likewise, That twenty-five percent (25%) of the increment in total revenue collected under this Act in 1995 shall be collected and segregated as a trust fund to be disbursed solely for funding the national health insurance program as may be hereafter mandated by law.

SEC. 4. The incremental revenue collected under this Act shall be excluded from the revenue base as provided under Republic Act No. 7171.

SEC. 5. The Secretary of Finance shall, upon the recommendation of the Commissioner of Internal Revenue, promulgate the necessary rules and regulations within six (6) months from the effectivity of this Act.

SEC. 6. The Bureau of Internal Revenue shall adopt any or all of the following measures:

(1) Affixture of internal revenue fusion stamps. - Internal revenue fusion stamps without denomination or class, shall be firmly and conspicuously affixed on any part of the packages containing the cigarettes as the manufacturer may deem it fit before said packages are packed in cases for removal from the factory. The affixture must be done in such a manner that will prevent said fusion stamps from being removed and re-used by washing or any other means and from covering any warning that may be hereafter required by law to be printed on cigarette packages.

(2) Control of cigarette paper. -

(a) No person shall be permitted to import or manufacture cigarette paper without first securing the required permit therefor from the Commissioner of Internal Revenue;

(b) Only duly registered cigarette manufacturers are authorized to buy from a permittee for use in their factories, but before effecting a sale, it shall be obligatory upon the seller of the cigarette paper to secure a written authority from the Commissioner of Internal Revenue, accompanied by a written confirmation of the buyer;

(c) All cigarette manufacturers shall keep a manufacturer's cigarette paper registry book showing the following information:

(1) Debit Entries:

- (i) The date the cigarette paper is received;
 - (ii) The date of the authority issued by the Commissioner of Internal Revenue;
 - (iii) The name and address of the person from whom received; and
 - (iv) The number, brand, and color of bobbins or rolls received, showing also the length in meters of each.
- (2) Credit Entries:
- (i) The date of disposal or use; and
 - (ii) The number, brand, and color of bobbins or rolls disposed of or used, showing also the length in meters of each.
- (3) Keeping of subsidiary books. - Local manufacturers of cigars and cigarettes shall keep and maintain subsidiary books covering the following:
- (a) Inventories of imported leaf tobacco showing its volume and value;
 - (b) Inventories of local leaf tobacco showing its volume and value;
 - (c) Cost of manufacture for each brand of cigarette; and
 - (d) Inventories of cigarettes produced on a per brand basis showing their respective volumes and values.

The amount that may be needed to implement this provision relative to the monitoring of production and volume of removals of cigarette paper and the printing of fusion stamps shall be included in the General Appropriations Act.

SEC. 7. Separability Clause. – If any provision of this Act is subsequently declared unconstitutional, the validity of the remaining provisions hereof shall remain in full force and effect.

SEC. 8. Repealing Clause. – All laws, decrees, executive orders, rules and regulations, and other issuances inconsistent with this Act are hereby repealed or modified accordingly.

SEC. 9. *Effectivity Clause.* – This Act shall take effect after fifteen (15) days from its publication in the *Official Gazette* or in at least two (2) national newspapers of general circulation whichever comes earlier.

Approved, June 14, 1993.