

REPUBLIC ACT NO. 8240

An act amending Sections 138, 140, & 142 Of the National Internal Revenue Code, as amended, and for other purposes

(Passed at the Bicameral Conference Committee hearing held Thursday, November 21, and begun and held in Metro Manila, on Monday, July 22, 1996, during the Tenth Congress of the Second Regular Session.)

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

SECTION 1. Section 138 of the National Internal Revenue Code, as amended, is hereby further amended to read as follows:

"Section 138. Distilled Spirits – On distilled spirits, there shall be collected, subject to the provisions of Section 130 of this Code, specific 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, Eight pesos (P8.00): Provided, That if produced in a pot still or other similar primary distilling apparatus by a distiller producing not more than 100 liters a day, containing not more than fifty percent (50%) of alcohol by volume, per proof liter, Four pesos (P4.00):

"(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) – Seventy-five pesos (P75.00), per proof liter;

"(2) Two hundred and fifty pesos (P250.00) up to Six hundred and seventy-five pesos (P675.00) – One hundred and fifty pesos (P150.00), per proof liter; and

"(3) More than Six hundred and seventy-five peso (P675.00) – Three hundred pesos (P300.00), per proof liter.

"(c) Medical preparations, flavoring extracts, and all other preparations, except toilet preparations, of which, excluding water, distilled spirits from the 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 $\frac{1}{2}$ of its volume of alcohol of a specific gravity and seven thousand nine hundred and thirty-nine ten thousandths (0.7939) at fifteen degrees centigrade. A proof liter means a liter of proof spirits.

"The rates of tax imposed under this section shall be increased by twelve percent (12%) on January 1, 2000.

"New brands shall be classified according to their current net retail price.

"For the above purpose, net retail price shall mean the price at which the distilled spirit is sold on retail in 10 major supermarkets in Metro Manila, excluding the amount intended to cover the applicable excise tax and the value-added tax as of October 1, 1996.

"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", shall remain in force until revised by Congress."

SECTION 2. Section 139 of the National Internal Revenue Code, as amended, is hereby further amended to read as follows:

"Section 139. 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 pesos (P100.00) and

"(2) More than Five hundred pesos (P500.00) – Three hundred pesos (P300.00);

"(b) Still wines containing fourteen percent (14%) of alcohol by volume or less, Twelve pesos (P12.00); and

"(c) Still wines containing more than fourteen percent (14%) but not more than twenty-five percent (25%) of alcohol by volume, Twenty-four pesos (P24.00).

"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 alcoholic strength.

"The rates of tax imposed under this section shall be increased by twelve percent (12%) on January 2000.

"New brands shall be classified according to their current net retail price.

"For the above purpose, net retail price shall mean the price at which wine is sold on retail in 10 major supermarkets in Metro Manila, excluding the amount intended to cover the applicable excise tax and value-added tax as of October 1, 1996.

"The classification of each brand of wines based on its average net retail price as of October 1, 1969, as set forth in Annex "B", shall remain in force until revised by Congress."

SECTION 3. Section 140 of NIR Code as amended is hereby further amended to read as follows:

"Section 140. Fermented Liquor. – There shall be levied, assessed and collected a specific tax on beer, lager beer, ale, porter, and other fermented liquors except tuba, basi, tapuy and similar domestic fermented liquors in accordance with the following schedule:

- "(a) If the net retail price (excluding the specific tax and value-added tax) per liter of volume capacity is Fourteen pesos and fifty centavos (P14.50), the tax shall be Six pesos and fifteen centavos (P6.15) per liter;
- "(b) "If the net retail price (excluding the specific tax and 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 Nine pesos and fifteen centavos (P9.15) per liter;
- "(c) If the net retail price (excluding the specific tax and value-added tax) per liter of volume capacity is more than Twenty two pesos (P22.00), the tax shall be Twelve pesos and fifteen centavos (P12.15) per liter.

"Variants of existing brands which are introduced in the domestic market after the effectivity of this Act shall be taxed under the highest classification of any variant of that brand.

"Fermented liquor which are brewed and sold at microbreweries or small establishments such as pubs and restaurants shall be subject to the rate in paragraph (c) thereof.

"The specific tax from any brand of fermented liquor within the next three (3) years from the effectivity of this Act shall not be lower than the tax which was due from each brand on October 1, 1996.

"The rates of specific tax on fermented liquor under paragraphs (a), (b) and (c) hereof shall be increased by twelve percent (12%) on January 1, 2000.

"New brands shall be classified according to their current net retail price.

"For the above purpose, net retail price shall mean the price at which the fermented liquor is sold on retail in 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 only outside Metro Manila, the net retail price shall mean the price at which the fermented liquor is sold in five 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", shall remain in force until revised by Congress.

"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 and/or a different brand which carries the same logo or design of the existing brand.

"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 of Internal Revenue 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 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."

SECTION 4. 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 One peso (1.00) per cigar.

"(b) Cigarettes packed by hand. There shall be levied, assessed and collected on cigarettes packed by hand a tax of Forty centavos (P0.40) per pack.

"(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 above ten pesos (P10.00) per pack, the tax shall be Twelve pesos (P12.00) per pack;

"(2) 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 Eight pesos (P8.00) per pack;

"(3) 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 Five pesos (P5.00) per pack;

"(4) 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 One peso (P1.00) per pack.

"Variants of existing brands of cigarettes which are introduced in the domestic market after the effectivity of this Act shall be taxed under the highest classification of any variant of that brand.

"The specific tax from any brands of cigarettes within the next three (3) years of effectivity of this Act shall not be lower than the tax which is due from each brand on October 1, 1996: Provided, however, That in cases where the specific tax rates imposed in paragraphs (1), (2), (3) and (4) here in above will result in an increase in excise tax of more than seventy percent (70%), for a brand of cigarettes, the increase shall take effect in two tranches; fifty percent (50%) of the increase shall be effective in 1997 and one hundred percent (100%) of the increase shall be effective in 1998.

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

"The rates of specific tax on cigars and cigarettes under paragraphs (1), (2), (3), and (4) hereof, shall be increased by twelve percent (12%) on January 1, 2000.

"New brands shall be classified according to their current net retail price.

"For the above purpose, net retail price shall mean the price at which the cigarettes is sold on retail in 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 cigarettes is sold in five major supermarkets in the region excluding the amount intended to cover the applicable excise tax and the value-added tax.

"The classification of each branch of cigarettes based on its average net retail price as of October 1, 1996, as set forth in Annex "D" of this Act, shall remain in force until revised by Congress.

"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 and/or a different brand which carries the same logo or design of the existing brand.

"Manufacturers and importer 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 of Internal Revenue 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 amount of deficiency taxes, surcharges, and interest which may be assessed pursuant to this section.

"Any person liable for any of this 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. 5. The tax rates prescribed under this Act shall take effect on January 1, 1997.

SEC. 6. Internal revenue stamps, whether of a bar code or fusion design, shall be firmly and conspicuously affixed on each pack of cigars and cigarettes subject to specific tax in the manner and form as prescribed by the Commissioner of Internal Revenue upon approval of the Secretary of Finance.

Excisable articles such as distilled spirits, fermented liquor, cigars and cigarettes which are sold and tax duty free in all authorized establishments shall be marked tax and duty free in a manner and form prescribed by the Secretary of Finance.

SEC. 7. The classifications set forth in Annex "A" for distilled spirits, Annex "B" for wines, Annex "C" for fermented liquor and Annex "D" for cigarettes are hereby adopted and made an integral part of this Act.

SEC. 8. Fifteen percent (15%) of the incremental revenue collected from the excise tax on tobacco products under this Act 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:

- "(a) Cooperative projects that will enhance better quality of agricultural products and increase income and productivity of farmers;
- "(b) Livelihood projects particularly the development of alternative farming system to enhance farmer's income;
- "(c) 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 hereunder shall issue the corresponding rules and regulations governing the allocation and disbursement of this fund.

SEC. 9. An Oversight Committee is hereby created which shall be composed of the Chairman of the Committees on Ways and Means of the Senate and the House of Representatives and four (4) additional members from each House to be designated by the Senate President and Speaker of the House of Representatives, respectively. The Oversight Committee shall monitor and ensure the proper implementation of this Act.

SEC. 10. 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. 11. 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. 12. 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. 13. This Act shall take effect on January 1, 1997.

APPROVED

(Sgd.) **ERNESTO M. MACEDA**
President of the Senate

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

This Act which originated in the House of Representatives and the Senate on November 21, 1996.

(Sgd.) **LORENZO E. LEYNES, JR.**
Secretary of the Senate

(Sgd.) **ROBERTO P. NAZARENO**
Secretary-General of the House of
Representative

(Sgd.) **FIDEL V. RAMOS**
President of the Philippines

ANNEX "D"

**1997
YEAR 1**

Cigarette Manufacturer	Brands	Current AVT /Pack (株)	Net Retail of VAT & EXT /Pack (株)
GRAND TOTAL	50		1.00
	55%		
Fortune Tobacco	Camel KS	5.34	4.71
Fortune Tobacco	Salem M 100	6.96	4.67
Fortune Tobacco	Salem M King	5.34	4.82
Fortune Tobacco	Winston Lts. KS	5.85	5.44
Fortune Tobacco	Winston Red KS	5.85	5.55
La Suerte	Marlboro Lts. KS	6.51	6.82
La Suerte	Marlboro Lts. M KS	6.51	6.84
La Suerte	Marlboro Red KS	6.51	6.78
La Suerte	Phillip Morris KS	6.26	7.39
La Suerte	Phillip Morris M 100's	7.45	7.48
No. of Brands	10		
	Sub-Total	6.24	6.05
	45%		
Fortune Tobacco	Champion Int'l.	3.49	5.51
Fortune Tobacco	Champion M 100	3.25	4.56
Fortune Tobacco	Hope Lux. M 100's	4.85	7.37
Fortune Tobacco	Hope Lux. M KS	3.69	5.86
Fortune Tobacco	Mark M 100's	3.49	5.66
Fortune Tobacco	Mark M King	3.21	6.33
Fortune Tobacco	More Premium Int'l.	3.25	5.37

Fortune Tobacco	More Premium M 100's	3.25	5.29
Fortune Tobacco	Montreal F King	3.25	6.29
Sterling Tobacco	Bowling Green M 100's	2.54	7.00
No. of Brands	10		
	Sub-Total	3.40	5.92
	20%		
Fortune Tobacco	Boss KS	0.90	4.10
Fortune Tobacco	Champion Lts. KS	0.90	4.45
Fortune Tobacco	Champion MK	0.95	4.77
Fortune Tobacco	Evergreen M 100's	0.84	3.93
Fortune Tobacco	Fortune Int'l. M KS	0.76	4.46
Fortune Tobacco	Jackpot M 100's	0.78	3.99
Fortune Tobacco	Liberty M 100's	0.78	4.47
Fortune Tobacco	Peak M 100's	0.90	4.03
Fortune Tobacco	Plaza M 100's	0.84	4.89
Fortune Tobacco	Westpoint KS	0.84	4.89
Fortune Tobacco	Winter M 100's	0.78	3.99
La Suerte	Cannon M 100's	0.93	6.15
La Suerte	Cannon M KS	0.90	5.01
La Suerte	Forbes KS	0.90	5.14
La Suerte	Miller Int'l. M 100's	0.64	4.58
Sterling Tobacco	Morgan Int'l. M 100's	0.89	7.43
Sterling Tobacco	Stork Int'l. M 100's	0.72	4.28
Sterling Tobacco	Stork Special Lts. M 100's	0.64	4.61
Sterling Tobacco	Union American Blend	1.09	4.64
Sterling Tobacco	Union KS	0.92	4.80
Anglo American	Asia Boston KS	0.41	3.80
Anglo American	Canadian Club M 100's	0.41	3.91
Anglo American	Navy Club KS	0.41	4.25
Anglo American	Rambo M 100's	0.63	3.46
Anglo American	Spotlight M 100's	0.46	2.89
Anglo American	Triple A Freedom M 100's	0.51	3.28
Mighty Corp.	Blue Seal M 100's	0.46	3.41
Mighty Corp.	Gallo KS	0.44	2.60
Mighty Corp.	L.A. Special M 100's	0.45	2.61
Mighty Corp.	Marvel M 100's	0.46	3.02
Mighty Corp.	Marvel Red KS	0.50	3.11
Mighty Corp.	Right M 100's	0.47	3.39
Mighty Corp.	Right M 100's	0.47	3.39

No. of Brands	32		
	Sub-Total	0.69	4.20