Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Seventeenth Congress
First Regular Session

HOUSE BILL NO. 4575

Introduced by REP. JOEY SARTE SALCEDA

AN ACT RESTRUCTURING THE EXCISE TAX ON TOBACCO PRODUCTS AND AMENDING FOR THE PURPOSE PERTINENT SECTIONS OF THE NATIONAL INTERNAL REVENUE CODE, AS AMENDED.

EXPLANATORY NOTE

With the goals of (1) curbing smoking and alcohol drinking, and (2) raising much-needed funds for government programs, the Republic Act 10351 or the Sin Tax Reform Act of 2012 (Sin Tax Law) was passed in December 2012. It has been significantly reaping benefits for the Philippines since its passage. In just three years, the law has already performed beyond expectations and resulted in the following:

- Significant drop in smoking prevalence rate that persisted above 30% (or 31 percent in 2008) before the implementation of the 2012 sin tax law to 25% in 2013 and to 23% in 2015, especially among the price-sensitive populations – the poor, the rural folk, the very young, and the elderly.[1]

- Substantial additional revenues for the government, facilitating an unprecedented increase in the national budget for health. Excise tax revenues and the national budget for health grew from PhP57 billion in 2012 to PhP142 billion in 2015[2], and from PhP53 billion in 2013 to PhP123 billion in 2016[3], respectively.

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[1] 1998, 2003, 2008, 2013, and 2015 National Nutrition Surveys of the Food and Nutrition Research Institute of the Department of Science and Technology as presented by Dr. Antonio Miguel Dans.

[2] Department of Finance

[3] General Appropriations Act, Fiscal Years 2013, 2014, 2015, and 2016

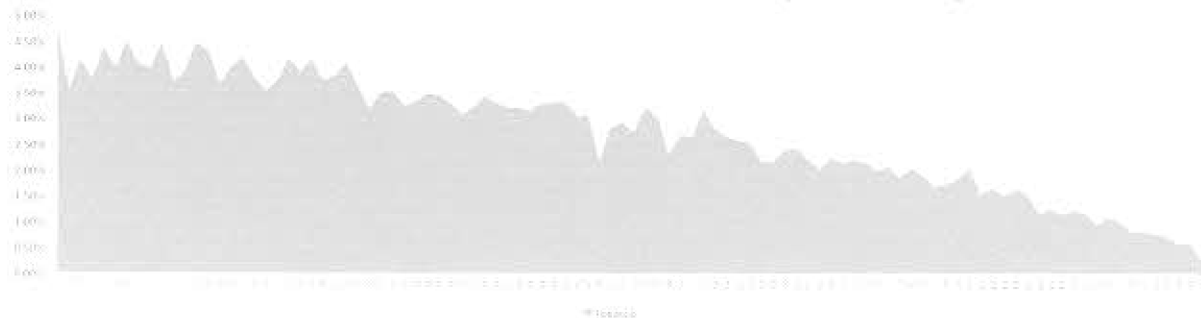
- Significant increase in the number of the most vulnerable Filipinos – the poor and the elderly, whose health insurance coverage is subsidized by the national government, from 21 million members and dependents in 2013 to 52 million members and dependents in 2015 (Philippine Health Insurance Corporation, 2013; Philippine Health Insurance Corporation, 2014; Philippine Health Insurance Corporation, 2015).

These gains have clearly proven that increasing excise taxes is both a health and a revenue measure. Indeed, the Sin Tax Law has significantly curbed consumption of tobacco and alcohol and, at the same time, generated much needed revenues to finance public services, particularly, health care.

In addition, the increase in total incremental revenue has led to an increase in the earmarking for tobacco farmers and tobacco-growing areas.

The results from the Sin Tax Law are very encouraging, and the lessons show that further gains for health and revenue by raising taxes can be obtained. The list below presents opportunities to strengthen the Philippine Sin Tax Law in order to maximize its positive impact on the health of Filipinos:

- *The stipulated 4% annual increase in the tax rate beginning in 2018 does not take into account changes in income.* The 4% annual adjustment, since it is equal to the average inflation rate for the past 10 years, will ensure that real prices of tobacco will not be eroded over time (BangkoSentral ng Pilipinas, 2016). However, tobacco products will become more affordable when per capita incomes increase, thereby dampening the effect on health.
- *Philippine smoking prevalence is still one of the highest in the ASEAN region.* Even with the significant decline in the Philippine smoking prevalence rate from 2008 to 2015, the Philippines still ranks third, next to Indonesia and Lao PDR, among the ASEAN countries with the highest proportion of smoking population.
- *Tobacco consumption is highly regressive. Based on 2012 FIES, tobacco consumption accounts for higher take of income of the lowest segments.* Thus, increasing taxes on cigarettes would discourage the price-sensitive from consuming more of sin products.



- *Unitary taxation promotes the principle of competitive neutraility of government policy regime especially in taxation or conversely the grant of incentives.* It is not the job of the government to choose winners or losers in any market segment except when it promotes the national interest or the welfare of the disadvantaged. In the case of the tobacco industry, the unit of analysis should be every cigarette regardless of brand or source as each unit results in higher risks to health. Moreso, any pricing differentiation should be the decision of the firm not the result of government fiscal policy, Article 12 Sec. 19 clearly states that "no unfair competition shall be allowed",

- *More revenues generated by this proposal are needed to fully achieve Universal Health Care.* While there has been a historical expansion of health insurance coverage in the recent years, many Filipinos, especially those belonging to the informal sector and who are not yet members of PhilHealth, remain vulnerable to health shocks. Moreover, even those who are already covered by PhilHealth still experience huge health-related out-of-pocket expense due to the non-coverage of essential health care services, particularly primary care and outpatient care services[4]. While great strides have already been achieved in financing hospitalization and catastrophic care, resources are still lacking for the sufficient provision of basic health services such as consultations, medicines, and diagnostics.
- *Structural adjustment fund for tobacco industry. The share of tobacco producing areas earmarked from the incremental tobacco tax revenues is increased to 20% to enable the orderly transition of farmers and their communities to non-tobacco economic activities.*

In light of the above, the schedule of cigarette excise tax provided in this bill (unitary tax of P40.00 in 2017, P45.00 in 2018, P50.00 in 2019, P55.00 in 2020, and P60.00 in 2021) is expected to help the Philippine bring smoking prevalence rate down to lower than 20%, which is the goal of the Department of Health, and to sufficiently generate additional revenues to finance an essential health package for all Filipinos.

The approval of this bill is earnestly sought.

JOEY SARTE SALCEDA

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[4] Higher investments in the provision of primary care are associated with better health outcomes, higher patient satisfaction, decreased healthcare spending, and more equitable and accessible healthcare (Atun, 2004).

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AN ACT RESTRUCTURING THE EXCISE TAX ON TOBACCO PRODUCTS AND AMENDING FOR THE PURPOSE PERTINENT SECTIONS OF THE NATIONAL INTERNAL REVENUE CODE, AS AMENDED.

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

Section 1. Section144 of the National Internal Revenue Code of 1997, as amended by republic Act. No. 10351, is hereby further amended to read as follows:

Section 2. "(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. EFFECTIVE ON JANUARY 1, 2018, THE TAX SHALL BE FORTY PESOS (P 40.00) PER PACK, REGARDLESS OF BRAND OR NET RETAIL PRICE.

2. EFFECTIVE ON JANUARY 1, 2019, THE TAX SHALL BE FORTY-FIVE PESOS (P 45.00) PER PACK, REGARDLESS OF BRAND OR NET RETAIL PRICE.

3. EFFECTIVE ON JANUARY 1, 2020, THE TAX SHALL BE FIFTY PESOS (P 50.00) PER PACK, REGARDLESS OF BRAND OR NET RETAIL PRICE.

4. EFFECTIVE ON JANUARY 1, 2021, THE TAX SHALL BE FIFTY-FIVE PESOS (P 55.00) PER PACK, REGARDLESS OF BRAND OR NET RETAIL PRICE.

5. EFFECTIVE ON JANUARY 1, 2022, THE TAX SHALL BE SIXTY PESOS (P 60.00) PER PACK, REGARDLESS OF BRAND OR NET RETAIL PRICE.

PROVIDED, *THAT*, ON JANUARY 1, 2022 AND EVERY YEAR THEREAFTER, THE EXCISE TAX RATE PRESCRIBED HEREIN SHALL BE ADJUSTED ANNUALLY BY 5%. THIS IS WITHOUT PREJUDICE TO THE PREROGATIVE OF CONGRESS TO INCREASE THE INDEXED RATES IN ORDER TO MEET THE SUMPTUARY GOALS OF THE TAX. ALL BRANDS OF CIGARETTES EXISTING IN THE MARKET AT THE TIME OF THE EFFECTIVITY OF THIS ACT SHALL BE CLASSIFIED ACCORDINGLY FOR THE PROPER DETERMINATION OF THE TAX LIABILITY IN ACCORDANCE WITH THE SCHEDULE PROVIDED ABOVE FOR THE YEAR COMMENCING JANUARY 1, 2017.

"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."

"Variants of existing brands and variants of new brands of cigarettes which are introduced in the domestic market after the effectivity of this Act shall be taxed under the proper classification thereof based on their suggested net retail price: *Provided, however*, That such classification shall not, in any case, be lower than the highest classification of any variant of that brand.

"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.

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

"Any downward reclassification of present categories, for tax purposes, of existing brands of cigars and cigarettes 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.

"*'Newbrand'* shall mean a brand registered after the date if the effectivity of[R.A. No. 8240] THIS ACT.

" *Suggested net retail price'* shall mean the net retail price ay which new brands, as defined above, of 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 other regions, for those with regional markets. At the of three (3) months from the product launch, the Bureau of Internal Revenue shall validate the suggested retail price as defined herein and determine the correct tax bracket to which a particular new brand of cigarette, as defined above shall be classified. After the end of eighteen (18) 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 particular new brand of cigarettes shall be classified.

Provided, however, That brands of cigarettes introduced in the domestic market between January 1, 1997 and December 31, 2003 shall remain in the classification under which the Bureau of Internal Revenue has determined them to belong as of December 31, 2003. Such classification of new brands and brands introduced between January 1, 1997 and December 31, 2003 shall not be revised except by an act of Congress.

'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. "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 third month thereafter, submit to the Commissioner a sworn statement of the volume of sales for each particular brand of cigars and/or cigarettes sold 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 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."

Section 3. Structural Adjustment Fund for Tobacco Farmers. Sec. 8 of RA 10351 amending RA 8240 shall read as "20% of the incremental revenue collected from the excise tax on tobacco products under RA 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 farmworkers 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)."

Section 4.. ***Implementing Rules and Regulations*** - 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.

Section 5.*.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.

Section 6.*.Repealing Clause.* - 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.

Section 7. *Effectivity.* - This Act shall take effect on January 1, 2017.

Approved,