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S. No. 2233

Republic of the Philippines
Congress of the Philippines
Metro Manila
Seventeenth Congress
Third Regular Session

Begun and held in Metro Manila, on Monday, the twenty-third day of July, two thousand eighteen.

[REPUBLIC ACT NO. **11346**]

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, 288, 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 (₱10.00) 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 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.

"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 for 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 violation 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 product 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 ml to 30.00 ml	Thirty pesos (P30.00)
30.01 ml to 40.00 ml	Forty pesos (P40.00)
40.01 ml to 50.00 ml	Fifty pesos (P50.00)
More than 50.00 ml	Fifty pesos (P50.00) plus Ten pesos (P10.00) for every 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 of 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 Commissioner a sworn statement of the volume of sales for each 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 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 vapor 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 vapor product 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 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 acknowledges the need for further scientific evidence 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 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 machine shall only be packed in twenties and other packaging combinations of not more than twenty (20).

"Understatement of the suggested net retail price by as much as fifteen percent (15%) of the actual net retail price shall render the manufacturer or importer liable for additional excise tax equivalent to the tax due and difference between the understated suggested net retail price and the actual net retail price.

"No 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 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.

"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 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 month thereafter, submit to the Commissioner a sworn statement of the volume of sales and removals for cigars and/or cigarettes for the three-month period immediately preceding.

"Any manufacturer 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 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 aggregate amount of deficiency taxes, surcharges and interest which may be assessed pursuant to this Section.

"Selling of tobacco products at a price lower than the combined excise and value-added taxes imposed under the law shall be prohibited. The seller of such products shall be punished with a fine of not less than ten (10) times the amount of excise plus value-added taxes due but not less than Two hundred thousand pesos (P200,000.00) nor more than Five hundred thousand pesos (500,000.00), and imprisonment of not less than four (4) years but not more than six (6) years.

"The BIR is mandated to issue a revenue regulation prescribing the cigarette floor price or the minimum cigarette price taking into account the sum of the excise and value-added taxes as provided herein.

"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."

SEC. 4. Section 146 of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

"SEC. 146. *Inspection Fee.* – For inspection made in accordance with this Chapter, there shall be collected a fee of Fifty centavos (P0.50) for each

thousand cigars or fraction thereof; Ten centavos (P0.10) for each thousand cigarettes or fraction thereof; Ten centavos (P0.10) for each thousand unit of heated tobacco products; One centavo (P0.01) for each milliliter of liquid used in vapor products; Two centavos (P0.02) for each kilogram of leaf tobacco or fraction thereof; and Three centavos (P0.03) for each kilogram or fraction thereof, of scrap and other manufactured tobacco.

"x x x."

SEC. 5. Section 147 of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

"SEC. 147. *Definition of Terms.* – When used herein and in statements or official forms prescribed hereunder, the following terms shall have the meaning indicated:

"(a) 'Cigars' mean all rolls of tobacco or any substitute thereof, wrapped in leaf tobacco that are consumed via combustion of the tobacco.

"(b) 'Cigarettes' mean all rolls of finely-cut leaf tobacco, or any substitute therefor, wrapped in paper or in any other material that are consumed via combustion of the tobacco.

"(c) 'Wholesale price' shall mean the amount of money or price paid for cigars or cigarettes purchased for the purpose of resale, regardless of quantity.

"(d) 'Retail price' shall mean the amount of money or price which an ultimate consumer or end-user pays for cigars or cigarettes purchased.

"(e) 'Heated tobacco products' refer to tobacco products that may be consumed through heating tobacco, either electrically or through other means sufficiently to release an aerosol that can be inhaled,

without burning or any combustion of the tobacco. Heated tobacco products include liquid solutions and gels that are part of the product and are heated to generate an aerosol.

"(f) 'Vapor products' shall mean any liquid solution or gel which contains nicotine that transforms into an aerosol without combustion through the employment of a mechanical heating element, battery or circuit that can be used to heat such solution or gel, and includes but is not limited to, a cartridge, a tank, and the device without a cartridge or tank. It is commonly known as 'e-liquids' for 'e-cigarettes'. It also includes electronic nicotine and non-nicotine delivery systems (ENDS/ENNDS) which are combinations of non-tobacco containing e-liquids or refills which contain up to sixty-five milligrams per milliliter (65mg/ml) of nicotine in the e-liquid or refill and an electronic delivery device to produce an aerosol, mist or vapor that users inhale by mimicking the act of smoking."

SEC. 6. Section 152 of the National Internal Revenue Code of 1997, as amended, is hereby amended to read as follows:

"SEC. 152. Extent of Supervision Over Establishments Producing Taxable Output. – The BIR has authority to supervise establishments where articles subject to excise tax are made or kept. The Secretary of Finance shall prescribe rules and regulations in which the process of production shall be conducted insofar as may be necessary to secure a sanitary output and to safeguard revenue, such rules and regulations to safeguard revenue may allow the appointment of third parties to monitor production and removal processes and volumes, and the exclusion of exciseable goods from duty-free barter transactions."

SEC. 7. Section 164 of the National Internal Revenue Code of 1997, as amended, is hereby amended to read as follows:

"SEC. 164. Information to be Given by Manufacturers, Importers, Indentors and Wholesalers of any Apparatus or Mechanical Contrivance Specially for the Manufacture of Articles Subject to Excise Tax and Importers, Indentors, Manufacturers or Sellers of Cigarette Paper in Bobbins, Cigarette Tipping Paper or Cigarette Filter Tips. – Manufacturers, indentors, wholesalers and importers of any apparatus or mechanical contrivance specially for the manufacture of articles subject to tax shall, before any such apparatus or mechanical contrivance is removed from the place of manufacture or from the customs house, give written information to the Commissioner as to the nature and capacity of the same, the time when it is to be removed, and the place for which it is destined, as well as the name of the person by whom it is to be used; and such apparatus or mechanical contrivance shall not be set up nor dismantled or transferred without a permit in writing from the Commissioner.

"A written permit from the Commissioner for importing, manufacturing or selling of apparatus or mechanical contrivance specially for the manufacture of articles subject to excise tax, cigarette paper in bobbins or rolls, cigarette tipping paper or cigarette filter tips is required before any person shall engage in the importation, manufacture or sale of the said articles. No permit to sell said articles shall be granted unless the name and address of the prospective buyer is first submitted to the Commissioner and approved by him/her. Records, showing the stock of the said articles and the disposal thereof by sale of persons with their respective addresses as approved by the Commissioner, shall be kept by the seller, and records, showing stock of said articles and consumption thereof, shall be kept by the buyer, subject to inspection by internal revenue officers."

SEC. 8. Section 260 of the National Internal Revenue Code of 1997, as amended, is hereby amended to read as follows:

"SEC. 260. Unlawful Possession of Cigarette Paper in Bobbins or Rolls, Etc. – It shall be unlawful for any person to have in his possession cigarette paper in bobbins or rolls, cigarette tipping paper or cigarette filter tips, without the corresponding authority therefor issued by the Commissioner. Any person, importer, manufacturer of cigar and cigarettes, who has been found guilty under this Section, shall, upon conviction for each act or omission, be punished by a fine of not less than One million five hundred thousand pesos (P1,500,000.00) but not more than Fifteen million pesos (P15,000,000.00) and imprisonment for a term of not less than six (6) years and one (1) day but not more than twelve (12) years."

SEC. 9. Section 262 of the National Internal Revenue Code of 1997, as amended, is hereby amended to read as follows:

"SEC. 262. Shipment or Removal of Liquor or Tobacco Products Under False Name or Brand or as an Imitation of any Existing or Otherwise Known Product Name or Brand. – Any person who ships, transports or removes spirituous, compounded or fermented liquors, wines or any manufactured products of tobacco under any other than the proper name or brand known to the trade as designating the kind and quality of the contents of the cask, bottle or package containing the same or as an imitation of any existing or otherwise known product name or brand or causes such act to be done, shall, upon conviction for each act or omission, be punished by a fine of not less than One million five hundred thousand pesos (P1,500,000.00) but not more than Fifteen million pesos (P15,000,000.00) and imprisonment of not less than six (6) years and one (1) day but not more than twelve (12) years."

SEC. 10. Section 263 of the National Internal Revenue Code of 1997, as amended, is hereby amended to read as follows:

"SEC. 263. Unlawful Possession or Removal of Articles Subject to Excise Tax Without Payment of the Tax. — Any person who owns and/or is found in possession of imported articles subject to excise tax, the tax on which has not been paid in accordance with law, or any person who owns and/or is found in possession of imported tax-exempt articles other than those to whom they are legally issued shall be punished by:

"(a) A fine of not less than One hundred thousand pesos (P100,000.00) but not more than Two hundred thousand pesos (P200,000.00) and imprisonment of not less than sixty (60) days but not more than one hundred (100) days if the appraised value, to be determined in the manner prescribed in Republic Act No. 10863, otherwise known as the 'Customs Modernization and Tariff Act (CMTA)', including duties and taxes, of the articles does not exceed Two hundred fifty thousand pesos (P250,000.00); *Provided*, That if the appraised value, including duties and taxes, does not exceed Ten thousand pesos (P10,000.00), the penalty shall only be a fine in the amount of Twelve thousand pesos (P12,000.00);

"(b) A fine of not less than One million pesos (P1,000,000.00) but not more than Two million pesos (P2,000,000.00) and imprisonment of not less than two (2) years but not more than four (4) years if the appraised value, to be determined in the manner prescribed in Republic Act No. 10863, otherwise known as the 'Customs Modernization and Tariff Act (CMTA)', including duties and taxes, of the articles exceeds Two hundred fifty thousand pesos (P250,000.00) but does not exceed Five hundred thousand pesos (P500,000.00);

"(c) A fine of not less than Three million pesos (P3,000,000.00) but not more than Four million pesos (P4,000,000.00) and imprisonment of not less than four (4) years but not more than six (6) years, if the appraised value, to be determined in the manner prescribed in Republic Act No. 10863, otherwise known as the 'Customs Modernization and Tariff Act (CMTA)', including duties and taxes of the articles is more than Five hundred thousand pesos (P500,000.00) but does not exceed One million pesos (P1,000,000.00);

"(d) A fine of not less than Ten million pesos (P10,000,000.00) but not more than Twenty million pesos (P20,000,000.00) and imprisonment of not less than ten (10) years but not more than twelve (12) years, if the appraised value, to be determined in the manner prescribed in Republic Act No. 10863, otherwise known as the 'Customs Modernization and Tariff Act (CMTA)', including duties and taxes, of the articles exceeds One million pesos (P1,000,000.00);

"Any person who is found in possession of locally manufactured articles subject to excise tax, the tax on which has not been paid in accordance with law, or any person who is found in possession of such articles which are exempt from excise tax other than those to whom the same is lawfully issued shall be punished with a fine of not less than (10) times the amount of excise tax due on the articles found but not less than One million pesos (P1,000,000.00) and imprisonment of not less than five (5) years but not more than eight (8) years.

"Any manufacturer, importer, owner or person in charge of any article subject to excise tax who removes or allows or causes the unlawful removal of any such articles from the place of production or bonded warehouse, upon which the excise tax has not been paid at the time and in the manner required,

and any person who knowingly aids or abets in the removal of such articles as aforesaid, or conceals the same after illegal removal shall, for the first offense, be punished with a fine of not less than ten (10) times the amount of excise tax due on the articles but not less than Fifty million pesos (P50,000,000.00) and imprisonment of not less than five (5) years but not more than eight (8) years.

"The mere unexplained possession of articles subject to excise tax, the tax on which has not been paid in accordance with law, shall be punishable under this Section."

SEC. 11. A new section designated as Section 263-A under Chapter II, Title X of the National Internal Revenue Code of 1997, as amended, is hereby inserted and shall be read as follows:

"SEC. 263-A. Selling of Heated Tobacco Products and Vapor Products at a Price Lower Than the Combined Excise and Value-Added Taxes. – Any person who sells heated tobacco products and vapor products at a price lower than the combined excise and value-added taxes shall be punished with a fine of ten (10) times the amount of excise tax plus value-added tax but not less than One hundred thousand pesos (P100,000.00), and imprisonment of not less than two (2) years but not more than four (4) years.

"If there is a question on whether a nicotine product is a heated tobacco product or vapor product for purposes of taxation under this Section, the proper tax classification thereof shall be resolved through revenue regulations issued by the Secretary of Finance."

SEC. 12. Section 265 of the National Internal Revenue Code of 1997, as amended by Republic Act No. 10963, is hereby further amended to read as follows:

"SEC. 265. Offenses Relating to Stamps. – Any person who commits any of the acts enumerated

hereunder shall, upon conviction thereof, be punished by a fine of not less than Ten million pesos (P10,000,000.00) but not more than Five hundred million pesos (P500,000,000.00) and imprisonment of not less than five (5) years but not more than eight (8) years:

“(a) Making, importing, selling, using or possessing without express authority from the Commissioner, any die for printing or making stamps, labels, tags or playing cards;

“(b) Reusing previously affixed stamps, erasing the cancellation marks of any stamp previously used, or altering the written figures or letters or cancellation marks on internal revenue stamps;

“(c) Possessing false, counterfeit, restored or altered stamps, labels or tags or causing the commission of any such offense by another;

“(d) Selling or offering for sale any box or package containing articles subject to excise tax with false, spurious or counterfeit stamps or labels or selling from any such fraudulent box, package or container as aforementioned; or

“(e) Giving away or accepting from another, or selling, buying or using containers on which the stamps are not completely destroyed.

“Provided, That the cumulative possession of false/counterfeit/recycled tax stamps in excess of the amount of Fifty million pesos (P50,000,000.00) shall be punishable by a fine of Five hundred million pesos (P500,000,000.00) or up to ten (10) times the value of the illegal stamps seized, whichever is higher, and imprisonment of not less than ten (10) years but not more than fifteen (15) years:

"Provided, finally, That if the cumulative value of false/counterfeit/recycled tax stamps does not exceed Ten thousand pesos (P10,000.00), the penalty shall only be a fine in the amount of Twelve thousand pesos (P12,000.00)."

SEC. 13. A new section designated as Section 265-B under Chapter II, Title X of the National Internal Revenue Code of 1997, as amended, is hereby inserted and shall be read as follows:

"SEC. 265-B. Violations Committed by Manufacturers, Importers, Indentors, and Wholesalers of Any Apparatus or Mechanical Contrivance Specially for the Manufacture of Articles Subject to Excise Tax and Importers, Indentors, Manufacturers or Sellers of Cigarette Paper in Bobbins, Cigarette Tipping Paper or Cigarette Filter Tips. – Any violation of Section 164 of this Code, including mere possession of any apparatus or mechanical contrivance for the manufacture of cigarettes, cigarette paper, or cigarette tipping paper, for which no permit was obtained from the Commissioner shall be punishable with a fine of not less than Fifteen million pesos (P15,0000,000.00) but not more than Fifty million pesos (P50,000,000.00) and imprisonment of not less than twelve (12) years but not more than twenty (20) years."

SEC. 14. A new section designated as Section 288-A under Chapter II, Title XI of the National Internal Revenue Code of 1997, as amended, is hereby inserted and shall be read as follows:

"SEC. 288-A. Disposition of Revenues from Excise Tax on Sugar-Sweetened Beverages, Alcohol, Tobacco Products, Heated Tobacco Products, and Vapor Products. –

"(A) Revenues from Excise Tax on Sugar-Sweetened Beverages from Republic Act No. 10963. – The provisions of existing laws to the contrary notwithstanding, fifty percent (50%) of the total revenues collected from the excise tax on sugar-

sweetened beverages shall be allocated and used exclusively in the following manner:

“(1) Eighty percent (80%) to the Philippine Health Insurance Corporation (PhilHealth) for the implementation of Republic Act No. 11223, otherwise known as the ‘Universal Health Care Act’ of 2019; and

“(2) Twenty percent (20%) shall be allocated nationwide, based on political and district subdivisions, for medical assistance, the Health Facilities Enhancement Program (HFEP), the annual requirements of which shall be determined by the Department of Health (DOH).

“(B) Revenues from Excise Tax on Alcohol Products. – The provisions of existing laws to the contrary notwithstanding, fifty percent (50%) of the total revenues collected from the excise tax on alcohol products shall be allocated and used exclusively in the following manner:

“(1) Eighty percent (80%) to PhilHealth for the implementation of Republic Act No. 11223, otherwise known as the ‘Universal Health Care Act’ of 2019; and

“(2) Twenty percent (20%) shall be allocated nationwide, based on political and district subdivisions, for medical assistance, the Health Facilities Enhancement Program (HFEP), the annual requirements of which shall be determined by the DOH;

“(C) Revenues from Excise Tax on Tobacco Products. – The provisions of existing laws to the contrary notwithstanding, the total revenues collected from the excise tax on tobacco products shall be distributed in the following manner:

“(1) An annual amount equivalent to five percent (5%) of the revenue collection from excise tax on tobacco products, but not exceeding Four billion

pesos (P4,000,000,000.00) shall be allocated and divided among the provinces producing burley and native tobacco in accordance with the volume of tobacco leaf production.

"The respective shares of the local government units of a beneficiary province under this Section shall be distributed as follows:

"(i) Fifty percent (50%) shall be allocated to the provincial government of the beneficiary province; and

"(ii) Fifty percent (50%) shall be proportionately allocated to the municipalities and cities of the beneficiary province on the basis of the volume of their respective tobacco production.

"The fund shall be exclusively utilized for programs to promote economically viable alternatives for tobacco farmers and workers such as:

"(a) 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;

"(b) Programs that will provide financial support for tobacco farmers who are displaced or who cease to produce tobacco;

"(c) Cooperative programs to assist tobacco farmers in planting alternative crops or implementing other livelihood projects;

"(d) Livelihood programs and projects that will promote, enhance, and develop the tourism potential of tobacco-growing provinces;

"(e) Infrastructure projects such as farm-to-market roads, bridges, schools, hospitals, rural health facilities and irrigation systems; and

"(f) 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.

"(2) Fifty percent (50%) of the total excise tax collection from tobacco products shall be allocated and used exclusively in the following manner:

"(a) Eighty percent (80%) to PhilHealth for the implementation of Republic Act No. 11223, otherwise known as the 'Universal Health Care Act' of 2019; and

"(b) Twenty percent (20%) shall be allocated nationwide, based on political and district subdivisions, for medical assistance, the Health Facilities Enhancement Program (HFEP), the annual requirements of which shall be determined by the DOH; and

"(D) *Revenues from Excise Tax on Heated Tobacco Products and Vapor Products.* – The provisions of existing laws to the contrary notwithstanding, the total revenues collected from the excise tax on heated tobacco products and vapor products shall be allocated and used exclusively in the following manner:

"(1) Eighty percent (80%) to PhilHealth for the implementation of Republic Act No. 11223, otherwise known as the 'Universal Health Care Act' of 2019; and;

"(2) Twenty percent (20%) shall be allocated nationwide, based on political and district subdivisions, for medical assistance and the Health Facilities Enhancement Program (HFEP), the annual requirements of which shall be determined by the DOH;

"Provided, That the Department of Budget and Management (DBM), in consultation with the Department of Agriculture and National Tobacco Administration, shall issue rules and regulations governing the allocation and disbursement of the fund allocated to tobacco-producing provinces, not later than one hundred eighty (180) days from the effectivity of this Act.

"Provided, further, That the allocation for Universal Health Care shall be based on the collection of the second fiscal year preceding the current fiscal year."

SEC. 15. Section 288, Subsections B and C of the National Internal Revenue Code of 1997, as amended, are hereby repealed.

SEC. 16. Section 289 of the National Internal Revenue Code of 1997, as amended, is hereby amended to read as follows:

"SEC. 289. Special Financial Support to Beneficiary Provinces Producing Virginia Tobacco. – The financial support given by the National Government for the beneficiary provinces shall be constituted and collected from the proceeds of fifteen percent (15%) of the excise taxes on locally manufactured Virginia-type of cigarettes, but not exceeding Seventeen billion pesos (P17,000,000,000.00) notwithstanding the provision of Section 3 of Republic Act No. 7171.

"The funds allotted shall be divided among the beneficiary provinces pro-rata according to the volume of Virginia tobacco production.

"Provinces producing Virginia tobacco shall be the beneficiary provinces under Republic Act No. 7171: *Provided, however,* That to qualify as beneficiary under R.A. No. 7171, a province must have an average annual production of Virginia leaf tobacco in an amount not less than one million kilos:

Provided, further, That the Department of Budget and Management (DBM) shall each year determine the beneficiary provinces and their computed share of the funds under R. A. No. 7171, referring to the National Tobacco Administration (NTA) records of tobacco acceptances, at the tobacco trading centers for the immediate past year.

"The Secretary of Budget and Management is hereby directed to retain annually the said funds equivalent to fifteen percent (15%) of excise taxes on locally manufactured Virginia-type cigarettes, but not exceeding Seventeen billion pesos (P17,000,000,000.00) notwithstanding the provision of Section 3 of R. A. No. 7171, to be remitted to the beneficiary provinces qualified under R. A. No. 7171.

"The provisions of existing laws to the contrary notwithstanding, the fifteen percent (15%) share from government revenues mentioned in R.A. No. 7171, but not exceeding Seventeen billion pesos (P17,000,000,000.00) notwithstanding the provision of Section 3 of R.A. No. 7171, and due to the Virginia tobacco-producing provinces shall be directly remitted to the provinces concerned.

Provided, That this Section shall be implemented in accordance with the guidelines of Memorandum Circular No. 61-A dated November 28, 1993, which amended Memorandum Circular No. 61, entitled 'Prescribing Guidelines for Implementing Republic Act No. 7171', dated January 1, 1992 and that the funds be utilized to further advance self-reliance and expand viable alternatives for Virginia-tobacco farmers and workers through:

"(1) Cooperative projects that will enhance better quality of products, increase productivity, guarantee the market and as a whole increase farmers' income;

"(2) Livelihood projects particularly the development of alternative farming systems to enhance farmers' income;

"(3) Agro-industrial projects that will enable tobacco farmers in the Virginia tobacco-producing provinces to be involved in the management and subsequent ownership of these projects such as post-harvest and secondary processing like cigarette manufacturing and by-product utilization;

"(4) Infrastructure projects such as farm-to-market roads, bridges, schools, hospitals, rural health facilities, and irrigation systems;

"(5) Programs and projects that will promote, enhance, and develop the tourism potential of Virginia tobacco-growing provinces; and

"(6) Programs that will provide financial assistance for tobacco farmers that were displaced or who cease to produce tobacco.

"Provided, further, That in addition to the local government units mentioned in the above circular, the concerned officials in the province shall be consulted as regards the identification of projects to be financed."

SEC. 17. *Implementing Rules and Regulations.* – Within thirty (30) days from the effectivity of this Act, the Department of Finance (DOF), Department of Health (DOH), Department of Budget and Management (DBM), and the Philippine Health Insurance Corporation (PhilHealth), shall promulgate the necessary implementing rules and regulations for its effective implementation.

SEC. 18. *Repealing Clause.* –

(a) Section 8 of Republic Act No. 8240 or An Act Amending Sections 138, 140, And 142 Of The National Internal Revenue Code, As Amended, And For Other Purposes, is hereby repealed.

(b) All laws, decrees, ordinances, rules and regulations, executive or administrative orders, and such other presidential issuances that are inconsistent with any of the provisions of this Act are hereby repealed, amended, or otherwise modified accordingly.

SEC. 19. *Separability Clause.* – If any provision of this Act is subsequently declared invalid or unconstitutional, the other provisions hereof which are not affected thereby shall remain in full force and effect.

SEC. 20. *Effectivity.* – This Act shall take effect on January 1, 2020 following its complete publication in the *Official Gazette* or in at least one (1) newspaper of general circulation.

Approved,

VICENTE C. SOTTO III
President of the Senate

GLORIA MACAPAGAL ARROYO
Speaker of the House
of Representatives

This Act was passed by the Senate of the Philippines as Senate Bill No. 2233 on June 4, 2019 and adopted by the House of Representatives as an amendment to House Bill No. 8677 on June 4, 2019.

MYRA MARIE D. VILLARICA
Secretary of the Senate

DANTE ROBERTO P. MALING
Acting Secretary General
House of Representatives

Approved: JUL 25 2019

RODRIGO ROA DUTERTE
President of the Philippines

