

**[ BIR MEMORANDUM ORDER NO. 6-2003, March 11, 2003 ]**

**PRESCRIBING THE GUIDELINES AND PROCEDURES IN THE ESTABLISHMENT OF CURRENT NET RETAIL PRICES OF NEW BRANDS OF CIGARETTES AND ALCOHOL PRODUCTS PURSUANT TO REVENUE REGULATIONS NO. 9-2003**

*I. Objectives*

This Order is issued to:

1. Provide uniform guidelines and procedures for establishing the current net retail prices of new brands of cigarettes, fermented liquors, wines and distilled spirits.
2. Delineate the duties and responsibilities of all concerned revenue officials and personnel who are responsible in the determination of the current net retail prices of the aforementioned excisable products.
3. Prescribe uniform reporting requirements for the effective determination of such current net retail prices as well as the creation of updated database containing relevant information on such excisable products.

*II. Policies and guidelines*

1. The conduct of survey covered by this Order, for purposes of determining the current retail prices of new brands of cigarettes and alcohol products introduced in the market on or after January 1, 1997, shall be undertaken in the following instances:
  - a. For validation of the suggested net retail price of brands registered and introduced in the market after the prescribed three-month period; and
  - b. For reclassification of new brands of said excisable products that were introduced in the market after January 1, 1997.

The new brands of excisable products shall include locally manufactured and imported cigarettes, fermented liquors, wines and distilled spirits, except the following:

- a. Those brands falling under the highest tax classification/bracket;
- b. Those brands that are currently taxed based exclusively on the volume of removals without any consideration on the selling prices thereof (e.g. cigars, compounded liquors, etc.);
- c. Those brands that are locally registered and manufactured exclusively for export. However, in case these brands are sold locally and found in

the supermarkets/retail outlets where the survey shall be conducted, the same shall, nevertheless, be included in the survey, subject to the issuance of an appropriate assessment and imposition of applicable penalties and sanctions;

2. A master list of all registered brands for locally manufactured and imported cigarettes, fermented liquors, wines and distilled spirits (Annexes "A-1", "A-2", "A-3", and "A-4")<sup>[\*]</sup> as prepared by the Large Taxpayers Assistance Division II (LTAD II), National Office shall be used as reference document for the conduct of the survey. A separate Survey Form (Annex "B") per establishment shall be accomplished by the members of the survey team. This Survey Form shall contain the business name, TIN and, address of the establishment, the different new brands of excisable products to be surveyed, the retail prices thereof, the date when the survey was conducted, the names and signatures of the members of the survey team, and the name and signature of the owner/manager or authorized representative, as well as the name and signature of the Assistant Commissioner, Large Taxpayers Service (ACIR, LTS)/Regional Director attesting to the accuracy of the information reflected in such form.

In case where there are brands that are being sold in the establishment but are not included in the Survey Form as well as in the master list of registered brands, such brands shall be included among the products to be surveyed.

3. The current net retail price of new brands of locally manufactured and imported cigarettes, fermented liquors, wines and distilled spirits shall be established by any or combination of the following survey methods:
  - a) Through actual price survey in major supermarkets/retail outlets to be conducted by the revenue officers of the Large Taxpayers Service and/or Regional Offices or any equivalent office of the Bureau of Internal Revenue having jurisdiction over excise taxpayers;
  - b) Through submission of a price list duly authenticated by the store owner or operator of the supermarkets/retail outlets carrying such items/products;
  - c) Through an information submitted by an informer and duly authenticated/validated by the store owner/operator of the supermarket/retail outlet that issued the source-document;
  - d) Through direct purchase of such items from the supermarket/retail outlet for which a valid receipt/invoice is issued detailing the product description and the retail price thereof; and,
  - e) Through duly authenticated photographs clearly showing the items and their corresponding selling prices being displayed on the shelves of the supermarket/retail outlet. The camera to be used for this purpose should have built-in day-date features to indicate the exact date and time when such pictures were taken.

In case a survey covering these new brands of cigarettes and alcohol products has been conducted by any other government office, the results

of the said survey may be used as reference in the determination of the current net retail prices of such new brands.

4. The determination of the current retail prices of new brands of the aforesaid excisable products shall be initiated as follows:

a. In case of newly registered brand where the taxpayer has submitted the suggested retail price thereof, the Chief, Large Taxpayers Assistance Division II (LTAD II), in charge of the registration of new brands nationwide, shall submit a list of brands of cigarettes and said alcohol products to the Commissioner, thru the Assistant Commissioner, Large Taxpayers Service (ACIR, LTS), within five (5) days immediately after the lapse of the third month following the introduction of the new brand and/or variants thereof in the market for purposes of determining the current retail prices thereof and validating the accuracy of the suggested retail price submitted by the taxpayers.

For Revenue Region Nos. 4, 5, 6, 7, 8 and 9, the ACIR, LTS shall be responsible for identifying the major supermarkets/retail outlets where the excisable products to be surveyed are being sold. However, for all other revenue regions, the ACIR, LTS may request assistance from any concerned Revenue Regional Director having jurisdiction over the establishments where the newly registered brands are being sold.

b. After the lapse of the prescribed two-year period or as the Commissioner may otherwise direct, the appropriate tax reclassification of these brands based on the current net retail prices thereof shall be determined by a survey to be conducted upon a written directive by the Commissioner.

For this purpose, a memorandum order to the Assistant Commissioner, Large Taxpayers Service, Heads, Excise Tax Areas, and Regional Directors of all Revenue Regions, except Revenue Region Nos. 4, 5, 6, 7, 8 and 9, shall be issued by the Commissioner for the submission of the list of major supermarkets/retail outlets where the above excisable products are being sold, as well as the list of selected revenue officers who shall be designated to conduct the said activity(ies).

5. The implementation of selected activity(ies) in order to determine the current retail prices of new brands of the said excisable products shall be made through the issuance by the Commissioner of Mission Orders (Annex "C"[\*]) and letters to the owners/operators of supermarkets (Annex "D"). For this purpose, the conduct of the selected activity(ies) shall be undertaken by the following:

5.1 Authorized revenue officers from the Large Taxpayers Service for Revenue Region Nos. 4 (Pampanga) up to 9 (San Pablo); and

5.2 Authorized revenue officers representing both the Excise Tax Areas (EXTAs) and the concerned Revenue District Offices having jurisdiction over the physical location of the major supermarkets/retail outlets for all Revenue Regions outside Revenue Region Nos. 4 to 9.

6. The results of the survey conducted in Revenue Region Nos. 4 to 9 shall be submitted directly to the Chief, LT Assistance Division II (LTAD II), National Office for consolidation. On the other hand, the results of the survey conducted in Revenue Regions other than Revenue Region Nos. 4 to 9, shall be submitted to the Office of the Regional Director for regional consolidation. The consolidated regional survey, together with the accomplished survey forms shall be transmitted to the Chief, LTAD II for national consolidation within three (3) days from date of actual receipt from the survey teams. The LTAD II shall be responsible for the evaluation and analysis of the submitted survey forms and the preparation of the recommendation for the updating/revision of the tax classification of each brand of cigarettes and alcohol products. The said recommendation, duly validated by the ACIR, LTS, shall be submitted to the Commissioner for final review within ten (10) days from the date of actual receipt of complete reports from all the surveying Offices.
7. Upon final review by the Commissioner of the revised tax classification of the different new brands of cigarettes and alcohol products, the appropriate revenue regulations shall be prepared and submitted for approval by the Secretary of Finance.
8. A brand registration database shall be maintained by the LTAD II and the same shall be periodically updated for all the information gathered affecting each and every registered brand of alcohol and tobacco products. The results of the survey undertaken pursuant to this Order shall always be incorporated in the said database.

### *III. Procedures*

#### Revenue Officer(s) of Surveying Office

1. Serve the Mission Order (Annex "A") to the store manager or any authorized officer of the supermarket or retail outlet authorizing the concerned revenue officers to conduct the survey. The Mission Order shall be distributed as follows:

Original - to the surveyed establishment

Duplicate - receiving copy of the surveying Office

The receiving copy of the Mission Order must bear the full name, signature and designation of the authorized representative of the establishment together with the date and time of receipt thereof.

2. Perform the following activities to determine the real current net retail prices of the different new brands of cigarettes and alcohol products:

#### *2.1 By Actual Price Survey*

- i. Refer to the list brands of such excisable products introduced in the preceding three-month period or to the master list of locally manufactured and imported brands of cigarettes and alcohol products, as the case maybe, to serve as guide in locating the items in the supermarket or retail outlet.

ii. Fill up all applicable information required in the Survey Form. Indicate the corresponding retail price of the brands, as shown on the tag price or price label of the products under survey, on the column provided in the Survey Form. In case the product(s) listed under the said Survey Form is/are not being sold in such supermarket/retail outlet, mark "x" in the corresponding column for retail price. On the other hand, in case there are products that are being sold in such supermarket but are not listed under the said Survey Form, the complete brand description of such product, together with the retail prices thereof, shall be included in the Survey Form. In the event that the brand description on the displayed item differs with that listed in the Survey Form, make the necessary correction or indicate the complete brand description of the product in the Survey Form.

iii. Request the manager or any authorized officer of the supermarket/retail outlet to validate the Survey Form by having him/her affix his/her signature after all of the products have been surveyed,

## *2.2 By Submission Of A Price List*

a. Secure authenticated copy of the price list of all the different brands of cigarettes and alcohol products being sold in such supermarket/retail outlet.

In case the store manager fails to present the desired authenticated copy of the price list on the date of service of the Mission Order, require the submission thereof not later two days after date of service of the said Mission Order. In the event that the store manager/authorized representative refused to cooperate in the submission of the said price list, submit a written report thereon to the ACIR, LTS/Regional Director, as the case maybe, within twenty four (24) hours, for their appropriate action.

b. Compare the complete of the description of the brands of cigarettes and alcohol products appearing in the price list with that reflected in the Survey Form. In case of discrepancy, verify the full description of the brand in question from the item actually displayed in the establishment and indicate the correct and full description of such brand in the Survey Form.

c. Require the store manager or authorized representative to validate the authenticity of the corrected description of such brand.

d. Fill up all applicable information required in the Survey Form. Indicate the corresponding retail price of the brands, as shown on the tag price or price label of the products under survey, on the column provided in the Survey Form. In case the product(s) listed under the said Survey Form is/are not being sold in such supermarket/retail outlet, mark "x" in the corresponding column for retail price. On the other hand, in case there are products that are being sold in such supermarket but are not listed under the said Survey Form, the complete brand description of such product, together with the retail prices thereof, shall be included in the Survey Form. In the event that the brand description on the displayed item differs with that listed in the Survey Form, make the necessary