

[BIR REVENUE REGULATIONS NO. 1-97, January 01, 1997]

REVENUE REGULATIONS GOVERNING THE EXCISE TAXATION OF CIGARS AND CIGARETTES.

SECTION 1. Scope. — Pursuant to Sections 4 and 245 of the National Internal Revenue Code, as amended, these Revenue Regulations are hereby promulgated to prescribe the guidelines and procedures to implement Republic Act No. 8240, amending Section 142 of the same Code, as amended, prescribing the specific tax method of computing the excise tax on cigars and cigarettes.

SECTION 2. Definition of Terms. — For purposes of these Regulations, the following words and phrases shall have the meaning indicated below:

1. **Act** — Republic Act No. 8240.
2. **Bar Code** — a symbol consisting of article numbers represented by a machine readable print to define its specifications. The bar code consist of a series of light and dark vertical parallel "bars".
3. **Duly registered or existing brand of cigarettes** — shall include duly registered, existing or active brands of cigarettes, prior to January 1, 1997.
4. **Fuson Stamp** — is a custom-printed, multi-colored decal, heat-fused to the receiving surface, such as cellophane or polypropylene of each cigar and cigarette package.
5. **Metro Manila and Regions** — shall mean the political sub-divisions of Metro Manila and other Regions as provided for by the Local Government Code.
6. **New Brands** — shall mean brands duly registered after January 1, 1997 and shall include duly registered, inactive brands of cigarette not sold in commercial quantity before January 1, 1997.
7. **Net Retail Price** — shall mean the price, excluding the amount of specific tax and the value-added tax at which the cigarettes are sold on retail.
 - a. **Current Net Retail Price** — shall mean the net retail price at which the cigarettes are sold in twenty (20) major supermarkets or retail outlets in Metro Manila marketed nationally and for brands which are marketed only outside Metro Manila the price at which is sold in five (5) major supermarkets or retail outlets in the region.
 - b. **Suggested Net Retail Price** — shall mean the net retail price at which new brands 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 in other regions, for those which regional markets.

8. **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.

a. Modifier is prefixed — Example. A registered existing "ABC" brand manufactured as "Kings ABC", "Large ABC" etc.

b. Modifier is suffixed — Example. A registered existing "ABC" brand manufactured as "ABC Kings", "ABC Large", "ABC Lights", "ABC Menthol", "ABC Filter", etc.

c. A different brand which carries the same logo or design of the existing brand — Example. A registered existing "ABC" brand carrying the logo, badge, emblem or mark in the shape of a horseshoe is manufactured as a new "DEF" brand carrying the same horseshoe logo, badge, emblem or mark; or a registered existing "ABC" brand carrying two (2) horizontal stripes with red and white colors is manufactured as a new "DEF" brand carrying the same stripes and colors.

9. Volume of Sales — shall refer to the volume of removals of cigars and cigarettes from the place of production or released from customs custody by the manufacturer or importer, respectively.

SECTION 3. Rates and bases of Tax. — There shall be revised, assessed and collected on cigars and cigarettes excise tax as follows:

- a) Cigars : Per Cigar — P1.00
- b) Cigarettes Packed by Hand : Per Pack P0.40
- c) Cigarettes Packed by Machine:

(1) Per Pack — P 12.00 if the net retail price per pack (exclusive of VAT and excise tax) is over P10.00;

(2) Per Pack — P8.00 if the net retail price per pack (exclusive of VAT and excise tax) is over P6.50 but not over P10.00;

(3) Per Pack — P5.00 if the net retail price per pack (exclusive of VAT and excise tax) is P 5.00 but not over P6.50;

(4) Per Pack — P 1.00 if the net retail price per pack (exclusive of VAT and excise tax) is below P5.00.

The specific tax from any brand 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 paragraph (C) sub-paragraphs (1), (2), (3) and (4) herein above will result in an increase in excise tax of more than seventy percent (70%), for a brand of cigarette, the increase shall take effect in two tranches: (a) fifty percent (50%) of the increase shall be effective in 1997; and (b) one hundred percent (100%) of the

increase shall be effective in 1998.

d) Beginning January 1, 2000, the rates of specific tax on cigars and cigarettes under paragraphs (A) and (C) sub-paragraphs (1) (2), (3) and (4) hereof, shall be increased by twelve percent (12%).

SECTION 4. Classification and Manner of Taxation of Existing Brands, New Brands and Variant of Existing Brands.

A. Existing Brand

The classification of existing brands of cigarettes, as well as their respective specific tax per pack based on its net retail price as of October 1, 1996*

B. New Brand

New brands shall be classified according to their current net retail price. In the meantime that the current net retail price has not yet been established, the suggested net retail price shall be used to determine the specific tax classification. Thereafter, a survey shall be conducted in 20 major supermarkets or retail outlets in Metro Manila (for brands of cigarette marketed nationally) or in five (5) major supermarkets or retail outlets in the region (for brands which are marketed only outside Metro Manila) at which the cigarette is sold on retail in reams/cartons, three (3) months after the initial removal of the new brand to determine the actual net retail price excluding the excise tax and value added tax which shall then be the basis in determining the specific tax classification. In case the current net retail price is higher than the suggested net retail price, the former shall prevail. Otherwise, the suggested net retail price shall prevail. Any difference in specific tax due shall be assessed and collected inclusive of increments as provided for by the National Internal Revenue Code, as amended.

The survey contemplated herein to establish the current net retail price on locally manufactured or imported cigarettes shall be conducted by the duly authorized representatives of the Commissioner of Internal Revenue together with a representative of the Regional Director from each Regional Office having jurisdiction over the retail outlet within the Region being surveyed, and who shall submit, without delay, their consolidated written report to the Commissioner of Internal Revenue.

C. Variants of Existing Brand

Variants of existing brands of cigarettes which are introduced in the domestic market after January 1, 1997 shall be taxed under the highest classification of any variant of that brand and shall remain in this classification until revised by Congress.

SECTION 5. Computation of Excise Tax.

1. Manner of Computing the Specific Tax. —

(a) For cigars, multiply the number of cigars by P1.00 to arrive at the specific tax due.

(b) For cigarettes packed by hand, multiply the number of packs by P0.40 to arrive at the specific tax due.

(c) For cigarettes packed by machine —

i) Existing Brands:

1) If an existing brand with a net retail price of over P10.00 per pack (excluding VAT and excise tax), multiply the number of packs by P12.00 to arrive at the specific tax due. However, if the amount of specific tax due from one pack of cigarettes is lower than the ad valorem tax due from such brand as shown in the above list, the latter amount is the specific tax per pack for such brand;

2) If an existing brand with a net retail price of over P6.50 but not over P10.00 per pack (excluding VAT and excise tax) multiply the number of packs by P8.00 to arrive at the specific tax due. However, if the amount of specific tax due from one pack of cigarettes is lower than the ad valorem tax due from such brand as shown in the above list, the latter amount is the specific tax per pack for such brand.

3) If an existing brand with a net retail price of P5.00 but not over P6.50 per pack (excluding VAT and excise tax), multiply the number of packs by P5.00 to arrive at the specific tax due. However, if the amount of specific tax due from one pack of cigarettes is lower than the ad valorem tax due from such brands as shown in the above list, the latter amount is the specific tax per pack for such brand.

4) If an existing brand with a net retail price of below P5.00 per pack (excluding VAT and excise tax), multiply the number of packs by P1.00 to arrive at the specific tax due. However, if the amount of specific tax due from one pack is lower than the ad valorem tax due from such brand as shown. in the above list, the latter amount is the specific tax per pack for such brand.

ii) New Brands

1) If marketed nationwide, determine the current net retail price of such brands in 20 major supermarkets or retail outlets in Metro Manila and applying the tax classification and rates indicated in Section 3 of these regulations, multiply the appropriate tax rates depending on the net retail price per pack (exclusive of VAT and excise tax) by the number of packs to arrive at the specific tax due;

2) If marketed only in the region, determine the current net retail price per pack of such brands in five (5) major supermarkets located in that region and applying the tax classification indicated in Section 4 of these regulations, multiply the appropriate tax rates depending on the price per pack (exclusive of VAT and excise tax) by the number of packs to arrive at the specific tax due.

In the meantime that the current net retail price has not yet been established, the suggested net retail price shall be used within the three (3) months survey period.

2. Illustrations

5.2.1 ON DULY REGISTERED EXISTING BRAND OF CIGARS AND CIGARETTES.

ILLUSTRATION NO. 1 — Specific tax due per pack is lower than the ad valorem tax due per pack as of October 1, 1996.

A manufacturer will remove 100 cases of "AAA Cigarettes" from his place of production. Each case contains 500 packs of cigarettes. These are locally manufactured cigarettes packed by machine. As of October 1, 1996, the ad valorem tax due per pack is P5.85 and the net retail price set forth herein is P5.55. The excise tax due shall be computed as follows:

Step 1. Determine the tax classification of the subject brand of cigarettes.

The tax classification falls under the P5.00 specific tax category, since the net retail price of P 5.55 is higher than P5.00 but lower than P6.50.

Step 2. Compare the ad valorem tax due per pack as of October 1, 1996 to the specific tax due, prescribed under R.A. 8240 whichever is higher and apply the higher tax in the computation of excise tax due. Then determine the percentage (70%) of excise tax due per pack and if the result is more than seventy percent (70%) of the increase, then the increase shall take effect in two tranches.

Ad valorem tax due per pack as of	
October 1, 1996	P5.85
Specific tax due per pack prescribed under R.A. 8240	<u>5.00</u>
Increase	none
Percent of increase	none

Step 3. Compute the excise tax due.

In as much as the prescribed specific tax due per pack is lower than the existing ad valorem tax due per pack, the latter shall apply.

Volume of Removals (100 cases x 500 packs)	P50,000
Multiplied by applicable new specific tax rate per pack	<u>x P5.85</u>
EXCISE TAX DUE	P292,500

ILLUSTRATION NO. 2 — Specific tax due per pack is higher than the ad valorem tax due per pack as of October 1, 1996.

A manufacturer will remove 100 cases of "BBB Cigarettes" from his place of production. Each case contains 500 packs of cigarettes. These are locally manufactured cigarettes packed by machine. As of October 1, 1996, the ad valorem