

[ **BIR REVENUE REGULATION NO. 1-94, January 03, 1994** ]

**REGULATIONS IMPLEMENTING REPUBLIC ACT NO. 7654  
REVISING THE EXCISE TAX BASE ON CIGARS AND CIGARETTES  
AMENDING FOR THE PURPOSE SECTION 142 OF THE NATIONAL  
INTERNAL REVENUE CODE AND ALLOCATING A PORTION OF THE  
INCREMENTAL REVENUE COLLECTED FOR THE EMERGENCY  
EMPLOYMENT PROGRAM FOR CERTAIN WORKERS**

*SECTION 1. Scope.* — These Revenue Regulations are hereby promulgated pursuant to Sections 4 and 245 of the NIRC in relation to Section 5 of Republic Act No. 7654 to implement the provisions of said Act which amended Section 142 of the same Code revising the excise tax on cigars and cigarettes.

*SECTION 2. Words and Phrases Explained.*

**2.1 Constructive manufacturer's or importer's wholesale price.** — Means the price, including the amount of excise tax imposed under Section 142, and the amount of the value added tax imposed under Title IV, both of the NIRC, at which locally manufactured or imported cigars and cigarettes are offered for sale to the wholesalers or distributors as fixed by the manufacturer or importer and registered with the Bureau of Internal Revenue plus a mark up of twenty percent (20%) of such price.

The twenty percent (20%) mark up and the minimum taxes provided in this R.A. 7654 shall be automatically increased in 1996 by ten percent (10%).

**2.2 Actual manufacturer's or importer's wholesale price.** — Means the price at which the purchaser actually pays or is obligated to pay to the manufacturer or importer in consideration of the sale, barter, or exchange of cigars and cigarettes.

**2.3 Wholesaler/distributor of Purchaser.** — Means any person, natural or juridical, with whom and in which the manufacturer or importer has no proprietary interest, directly or indirectly, who purchases cigars/cigarettes from a manufacturer for purposes of resale or subsequent distribution.

**2.4 Brand of cigars/cigarettes.** — Means such brand which has been duly registered with the Bureau of Internal Revenue as required by these Regulations.

**2.5 New brand of cigars/cigarettes.** — Means such brand of cigars/cigarettes registered with the Bureau of Internal Revenue after May 31, 1993.

**2.6 Variant defined.** — A variant is a brand of cigars/cigarettes bearing the same name of an existing registered brand, with comparable quality, blend, and cost of production as the main brand. (Example, A regular "X" brand manufactured as "X" light, "X" menthol, "X" filter, etc.)

*SECTION 3. Excise Taxes. —*

a **Cigars.** — There shall be levied, assessed and collected on cigars a tax of ten percent (10%) of the constructive manufacturer's or importer's wholesale price or the actual manufacturer's or importer's wholesale price, whichever is higher.

b **Cigarettes packed by hand.** — There shall be levied, assessed and collected on cigarettes packed by hand a tax of fifteen percent (15%) of the constructive manufacturer's wholesale price or the actual manufacturer's wholesale price, whichever is higher.

c **Cigarettes packed by machine.** — There shall be levied, assessed and collected on cigarettes packed by machine a tax at the rates prescribed below based on the constructive manufacturer's wholesale price or the actual manufacturer's wholesale price, whichever is higher.

1. On locally manufactured cigarettes which are currently classified and taxes at fifty-five percent (55%) or the exportation of which is not authorized by contract or otherwise, fifty-five percent (55%) provided that the minimum tax shall not be less than Five pesos (P5.00) per pack.
2. On other locally manufactured cigarettes, forty-five percent (45%) provided that the minimum tax shall not be less than Three pesos (P3.00) per pack.

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

When the registered manufacturer's wholesale price or the actual manufacturer's wholesale price whichever is higher of existing brands of cigarettes, including the amounts intended to cover the taxes, of cigarettes packed in twenties does not exceed Four pesos and eighty centavos (P4.80) per pack, the rate shall be twenty percent (20%).

A variant of an existing brand of cigars or cigarettes that shall be manufactured after the effectivity of R.A. 7654 (3 July 1993) shall be taxed at the same level as the main brand regardless of its declared wholesale price.

Any new brand of cigars or cigarettes as defined in Section 2.5 with comparable quality, blend, cost of production and other relevant facts as existing brands and with a registered wholesale price of Three pesos (P3.00) or more per pack, which shall be manufactured after the effectivity of R.A 7654 (3 July 1993) shall be taxed at the highest rate regardless of its declared wholesale price.

d **Imported cigarettes.** — If the cigarettes are of foreign manufacture, regardless of the contents per pack, there shall be levied, assessed and collected a tax of fifty-five percent (55%) of the constructive importer's wholesale price or the actual importer's wholesale price, whichever is higher.

*SECTION 4. Computation of Excise Tax.*

4.1 **On locally manufactured cigars and cigarettes. —**

**ILLUSTRATION:**

(a) Compute the amount of excise tax due on one (1) case of "XXX CIGARETTES" containing fifty (50) cartons often (10) packs each carton. These are locally manufactured cigarettes, packed by machine, and taxable under the ad valorem tax rate of fifty-five percent (55%). It is registered with the BIR for sale, at wholesale, at P10.00 per pack. The actual wholesale price at the time of removal from the place of production is, however, already at P11.00 per pack.

**COMPUTATIONS:**

- a. Compute the constructive wholesale price thereof per pack;
- b. Compare the same with the actual wholesale price thereof;
- c. Apply whichever is the higher amount;
- d. Compute the excise tax based on the said higher amount and;
- e. Compare the tax amount with the floor tax;
- f. Apply whichever is the higher tax amount as the tax due per pack.

**4.1.1. Computation of constructive wholesale price/pack:**

Wholesale price	
per BIR registration	P10.00/pack
Add: 20% mark-up	2.00
	-----
Constructive	
Wholesale Price	<u>P12.00/pack</u>
Tax due thereon (55%)	P 6.60
	=====
Actual wholesale price	<u>P11.00</u>
Tax due thereon (55%)	P 6.05
	=====
Floor tax per pack	P 5.00

In this case, since applying the tax rate on the manufacturer's constructive wholesale price of P=12.00 per pack results in a higher tax take, the determination of the ad valorem tax for one case of cigars/cigarettes to be removed from factory premises shall be based on the constructive wholesale price.

**4.1.2 Computation of the Ad valorem Tax:**

50 cartoons multiplied by 10 packs

500 packs

per carton	
500 packs multiplied by P12/pack	6,000.00
Tax due thereon (P6,000.00 multiplied by 55%)	P3,300.00
	=====

(b) Compute the amount of excise tax due on one (1) case of "YYY Cigarettes" containing fifty (50) cartons of ten (10) packs per carton. These are locally manufactured cigarettes packed by machine and taxable at the rate of 55%. The minimum tax shall not be less than P5.00 per pack. The registered wholesale price per pack is P7.50 but the actual manufacturer's wholesale price is P8.50 per pack.

**COMPUTATION**

Take the higher amount as tax base which is P9.00 (P7.50 + 20% thereof = constructive manufacturer's wholesale price).

**COMPUTATION OF EXCISE TAX DUE:**

Constructive Price per Pack	P9.00	
Times Tax Rate	55%	
Excise Tax Due Per Pack	P4.95	
Floor Tax Per Pack		P5.00

NOTE: Apply the higher tax in the computation of excise tax due.

Total number of packs in one case	500
Multiplied by applicable tax per pack	P5.00
	-----
Excise (Specific) Tax due thereon	P2,500.00
	=====

4.2 **On imported cigarettes.** — The *ad valorem* tax shall be computed based on the constructive importer's wholesale price or the actual importer's wholesale price, whichever is higher. No floor tax is considered in the computation of excise tax pertaining to imported cigarettes.

**ILLUSTRATION:**

"Y CORPORATION", a domestic corporation, is a duly BIR-registered importer of "ABC CIGARETTES". Its BIR-registered wholesale price for the said imported brand of cigarettes is at P25.00 per pack.

Compute the ad valorem tax due if Y CORPORATION imported 20 cases of "ABC CIGARETTES", each case containing fifty (50) cartons of ten (10) packs per carton. At the time of importation, Y CORPORATION'S actual wholesale price is P29.00 per