

09 September 2019

SENATOR PIA S. CAYETANO
Chairperson
Committee on Ways and Means
Senate of the Philippines
Roxas Blvd., Pasay City

Dear **Senator Cayetano**:

We are pleased to submit the Department's position on the following bills, entitled:

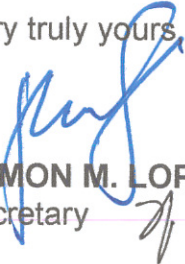
Senate Bill No. 383 **"An Act Amending Sections 141, 142 and 143 of Republic Act No. 8424, as Amended, Otherwise Known as the 'National Internal Revenue Code of 1997'"**

Senate Bill No. 987 **"An Act Increasing the Excise Tax on Heated Tobacco Products and Vapor Products, Amending for this Purpose Sections 144 (B), 144 (C), 147 and 150 of the National Internal Revenue Code of 1997, as Amended, and for Other Purposes"**

This is without prejudice to the Department's submission of additional inputs.

With my best regards.

Very truly yours,


RAMON M. LOPEZ
Secretary



OFFICE OF THE SECRETARY

DTI Position on

- Senate Bill No. 383** **“An Act Amending Sections 141, 142 and 143 of Republic Act No. 8424, as Amended, Otherwise Known as the ‘National Internal Revenue Code of 1997’”**
- Senate Bill No. 987** **“An Act Increasing the Excise Tax on Heated Tobacco Products and Vapor Products, Amending for this Purpose Sections 144 (B), 144 (C), 147 and 150 of the National Internal Revenue Code of 1997, as Amended, and for Other Purposes”**

The Department recognizes the intention of the proposed bills to promote healthcare and wellness by increasing excise taxes on alcohol products, heated tobacco products (HTPs), and vapor products, thereby increasing earmarked revenue for funding the implementation of Republic Act (RA) No. 11223, otherwise known as the Universal Health Care Act, plus simultaneously deterring consumption due to foreseeable price increases spurred by the proposed new excise taxes.

The current fiscal framework for “sin” items (alcohol and tobacco products) was established by a combination of various schedules taken from RA 10351, otherwise known as the Sin Tax Reform Law, RA 10963, otherwise known as the TRAIN Law¹, and RA 11346² (see Annex A for the table of current prescribed taxes). Excise tax collections on sin products from the effectivity of the Sin Tax Reform Law from 01 January 2013 to 31 December 2017 amounted to PHP662.04 billion, of which tobacco products contributed PHP416.53 billion (66.60%) whereas alcohol products only contributed PHP220.97 billion (33.40%).³

The Family and Income and Expenditure Survey (FIES) shows that PHP24.75 billion (0.6%) of the total family expenditure in 2012 was spent on alcohol products alone.⁴ In 2015, three years after the implementation of the Sin Tax Reform Law, the FIES shows that alcohol expenditure slightly dropped to 0.5% or PHP24.41 billion.⁵ The drop shows that increased excise taxes have an effect in dampening demand. On the other hand, expenditure on tobacco was at PHP37.13 billion (0.9%) in 2012 and PHP53.71 billion (1.1%) in 2015. In this case, the Sin Tax Reform Law was less effective as demand was sustained and Filipinos are still willing to pay the higher prices just to continue tobacco consumption. The difference between alcohol and tobacco expenditure is consistent with the data showing that tobacco products provided the majority of total excise tax collections vis-à-vis alcohol products – tobacco contributed more simply because Filipinos spent more on it relative to alcohol.

Proposed Excise Taxes on Alcohol

From 2013-2017, under the implementation of the Sin Tax Reform Law, the period saw a general increasing trend in the volume of removals of alcohol products with only intermittent periods of negative growth. This reflects on the inefficacy of the law to achieve its health goal of lowering alcohol consumption as the volume was either only sustained or experienced an increase. It also implies that there may still be some room for the government to impose additional excise taxes on alcohol products. However, this is not consistent with the implication from the FIES data that alcohol consumption subsided during the given periods as well as from reports of decreased sales from the private sector.⁶ Excise tax collections for alcohol products parallel increases in volume of removals although the growth is more pronounced with the former. This is positive for the other objective of the Sin Tax Reform Law which is to finance government healthcare programs. See *Annex C for the graphs reflecting volume of removals and excise tax collections on alcohol products, 2008-2017.*

The Department notes that the proposed bills reflect different tax rates across all particulars, e.g. distilled spirits, wines, and fermented liquors, between each other and with the previously filed House Bill No. 8618 from the 17th Congress which was adopted by the previous House of Representatives (see *Annex B for the table of proposed new taxes*). The DTI submitted its position on the latter bill expressing support for its passage in the view that it would enable a healthier population, fund universal health care, as well as produce a more streamlined taxation process.

The DTI believes that a combination of specific tax and *ad valorem* tax on the net retail price is a fairer standard than having only either one of them as it would assuage the conditions of a flat rate and be flexible to market forces. However, we recommend for the application of this standard to prescribe the specific tax at an even lower rate given that the *ad valorem* would more than compensate for the reduction, especially in the proposed new system for sparkling wines. As a promoting initiative for micro, small, and medium enterprises (MSMEs), the Department seeks for fermented liquors brewed and sold at micro-breweries or small establishments to be given a special category of relieved tax rates, if not retain the current form but with updated rates in keeping with the intentions of the proposed bill.

While the proposed new taxes would push general prices upwards, and therefore induce harm on the welfare of businesses and consumer alike, they limit themselves to venturing within the allowable scope wherein volume of removals would be sustained, at worst. The Department considers the proposed exemption for cooking wines with salt content of not less than 1.5g/100ml as justifiable given that it would be used for value-adding purposes and non-exemption of which may spur inflation in the restaurant/dining sector.

Proposed Excise Taxes on Heated Tobacco Products and Vapor Products

Under the regime of the Sin Tax Reform Law, increased excise taxes on tobacco products blunted volume of removals for both cigars and cigarettes but the government still recorded a growth in collections. This is consistent with the FIES data showing that expenditure on tobacco products increased between the 2012 and 2015 periods. It implies that Filipino household spending habits did not change – demand for tobacco products remained undisturbed by the Sin Tax Reform Law despite price inflations caused by new excise taxes. Given the increased collections, the Sin Tax Reform Law

⁶ "Alcohol sector drinks in impact of 'sin' tax law" by VG Cabuag for BusinessMirror. 11 September 2016. Retrieved from: <https://businessmirror.com.ph/2016/09/11/alcohol-sector-drinks-in-impact-of-sin-tax-law/>

then achieved its objective of providing funds for government healthcare programs but the law is less effective when it comes to discouraging tobacco consumption. From another perspective, the law is more effective in deterring the supply side of tobacco products as reflected by declining volume of removals. See *Annex D for the graphs reflecting volume of removals and excise tax collections on tobacco products, 2008-2017*.

Heated Tobacco Products (HTPs) are a combination of an electronic heating device that are fed with specialized cigarettes for the purpose. On the other hand, vapor products may pertain to the liquid/juice used as the active consumable item of electronic nicotine delivery systems (ENDS). Due to the similarity of their nature, the Department agrees that HTPs and vapor products must be included in the tax regime and deemed necessary to reflect relatively similar scheduled rates to that of conventional cigarettes and cigars. This is to prevent the rise of substitute items that would circumvent the objectives of these new excise taxes. Moreover, the Department also agrees to the classification of heating devices, relative to vapor products, as non-essential goods so as to include them as a taxable item separate from the liquid/juice which already has a dedicated excise tax schedule as vapor products.

However, the Department notes that RA 11346, the latest law amending the National Internal Revenue Code, already included provisions⁷ for tax rates particular to HTPs and vapor products as well as providing definitions for the same. This may then already satisfy the similar portions of the proposed bills although we acknowledge that the instituted rates are lower than the proposed bills' and, thus, may have minimal impact in deterring demand for smoking, preventing the rise of substitutes, and increasing collections for universal healthcare. Still, the Department reiterates its support to the already established tax schedule for HTPs and vapor products given its recency; the law being enacted on 25 July 2019. We opine that the tax framework must not change within a short timeframe so as to allow its impact to properly settle first. Rapid changes in matters of law, particularly in taxation, may imply a lack of stability and turn-off business confidence.

The DTI notes that RA 11346 does not contain provisions classifying heating devices as non-essential goods, meaning no taxes are currently imposed on the item. Therefore, we support the amendment effecting the inclusion of heating devices as non-essential goods for taxation purposes.

Conclusions

The Department is supportive of the proposed bills' provisions streamlining procedures of tax determination, collection, and verification. We note that an automatic indexing of tax rates is necessary to enable the law to keep up with adjustments in wages and to drive its objective of deterring consumption of sin products. However, we further recommend for the reckoning of new excise taxes to start on 01 January 2020 for simplicity of implementation.

The Department reiterates its favorable position to the objectives of the proposed bills with consideration of its specific recommendations. We hope for the proposed bills to be consolidated into one version and to reiterate similar operating clauses as that of HBN 8618, for alcohol products, and to defer to RA 11346, for HTPs and vapor products. The Department has previously expressed its support to the aforementioned initiatives.

⁷ Sections 2 and 3 of RA 11346

Furthermore, the DTI defers to the expertise of the Department of Finance (DOF) on the matter.



Bureau of Trade and Industrial Policy Research

06 September 2019

Ref: BTIPR-092019-80

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ANNEX A

Alcohol Product	Tax Rates as per Republic Act No. 10351					2018 Onwards
	2013	2014	2015	2016	2017	
Distilled Spirits, per proof of liter						
Ad valorem tax – based on Net Retail Price (NRP) per proof (excluding the excise and value-added taxes); and	15%	15%	20%	20%	20%	20%
Specific tax – per proof liter	PHP20	PHP20	PHP20	PHP20.80	PHP21.63	Effective 2016, specific tax rate shall increase by 4% every year thereafter
Wines, per liter of volume						
Sparkling wines/champagnes, where the NRP (excluding the excise and VAT) per bottle of 750ml volume capacity, regardless of proof is:						
PHP500.00 or less	PHP250	PHP260	PHP270.40	PHP281.22	PHP292.47	
More than PHP500.00	PHP700	PHP728	PHP757.12	PHP787.40	PHP818.90	
Still wines and carbonated wines containing 14% of alcohol by volume or less	PHP30	PHP31.20	PHP32.45	PHP33.75	PHP35.10	Effective 2014, tax rates shall increase by 4% every year thereafter
Still wines and carbonated wines containing more than 14% but not more than 25% of alcohol by volume	PHP60	PHP62.40	PHP64.90	PHP67.50	PHP70.20	
Fortified wines containing more than 25% of alcohol by volume						
						Taxes as distilled spirits
Fermented Liquors, per liter of volume						
If the NRP (excluding excise and VAT) per liter of volume capacity is:						Effective 2018, ad valorem tax rate shall increase by 4% every year thereafter
PHP 50.60 and below	PHP15	PHP17	PHP19	PHP21	PHP23.50	
More than PHP50.60	PHP20	PHP21	PHP22	PHP23	PHP23.50	
If brewed and sold at microbreweries or small establishments such as pubs and restaurants, regardless of the NRP	PHP28	PHP29.12	PHP30.28	PHP31.50	PHP32.76	Effective 2014, specific tax rate shall increase by 4% every year thereafter

Source: <https://www.bir.gov.ph/index.php/tax-information/excise-tax.html>

Tobacco Product	Tax Rates as per Republic Act No. 10351, 10963, and 11346						
	2013	2014	2015	2016	2017	2018 Onwards	
Tobacco Products, per kilogram							
Tobacco twisted by hand or reduced into a condition to be consumed in any manner other than the ordinary mode of drying and curing	PHP1.75	PHP1.82	PHP1.89	PHP1.97	PHP2.05	Effective 2014, specific tax rate shall increase by 4% every year thereafter	
Tobacco prepared or partially prepared with or without the use of any machine or instrument without being pressed or sweetened	PHP1.75	PHP1.82	PHP1.89	PHP1.97	PHP2.05		
Fine-cut shorts and refuse, scraps, clippings, cuttings, stems, midribs and sweepings of tobacco	PHP1.75	PHP1.82	PHP1.89	PHP1.97	PHP2.05		
Chewing tobacco unsuitable for use in any other manner	PHP1.50	PHP1.56	PHP1.62	PHP1.68	PHP1.75		
Cigars, per cigar							
Ad valorem tax – based on the NRP per cigar (excluding the excise and value-added taxes); and	20%	20%	20%	20%	20%	Effective 2014, specific tax rate shall increase by 4% every year thereafter	
Specific tax – per cigar	PHP5.00	PHP5.20	PHP5.41	PHP5.62	PHP5.85	Effective 2024, specific tax rate shall increase by 5% every year thereafter	
Cigarettes, per pack							
	01 January 2018 until 30 June 2018	01 July 2018 until 31 December 2019	2020	2021	2022	2023	01 January 2024 onwards
Packed by hand	PHP32.50	PHP35	PHP45	PHP50	PHP55	PHP60	Effective 2024, specific tax rate shall increase by 5% every year thereafter
Packed by machine	PHP32.50	PHP35	PHP45	PHP50	PHP55	PHP60	

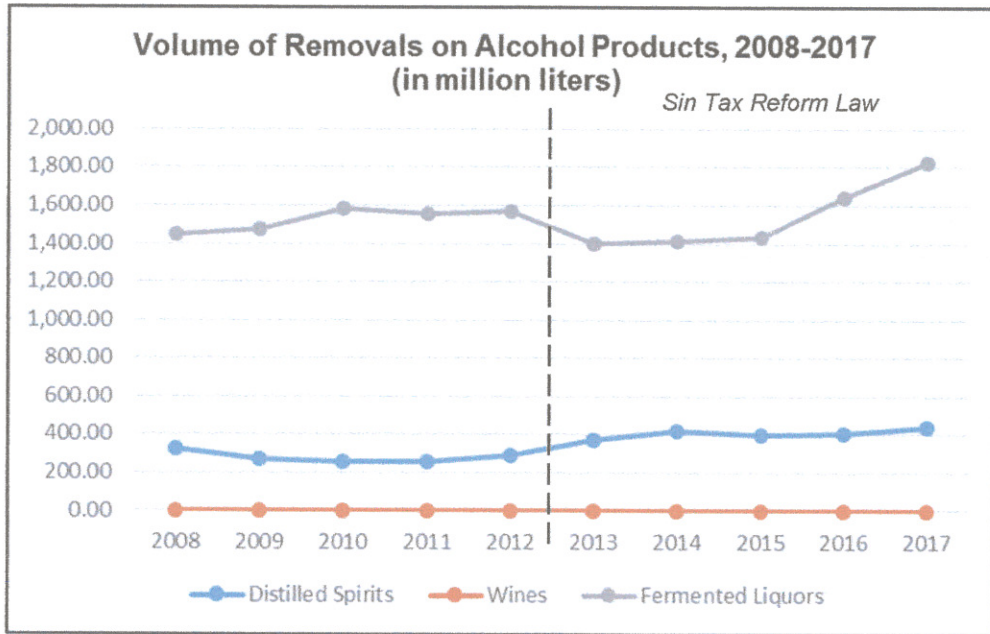
Heated Tobacco Products, per pack						
	2020	2021	2022	2023	2024	2021 onwards
Specific tax – per pack of twenty (20) units	PHP10	PHP10.5	PHP11.03	PHP11.58	PHP12.16	Effective 2021, specific tax rate shall increase by 5% every year thereafter
Vapor products, per ml						
	2020	2021	2022	2023	2024	2021 onwards
0.00 ml to 10.00 ml	PHP10	PHP10.50	PHP11.03	PHP11.58	PHP12.16	
10.01 ml to 20.00 ml	PHP20	PHP21	PHP22.05	PHP23.15	PHP24.31	
20.01 ml to 30.00 ml	PHP30	PHP31.50	PHP33.08	PHP34.73	PHP36.47	
30.01 ml to 40.00 ml	PHP40	PHP42	PHP44.10	PHP46.31	PHP48.62	Effective 2021, specific tax rate shall increase by 5% every year thereafter
40.01 ml to 50.00 ml	PHP50	PHP52.50	PHP55.13	PHP57.88	PHP60.78	
More than 50.00 ml	PHP50 + PHP10 for every additional 10.00 ml	PHP52.50 + PHP10.50 for every additional 10.00 ml	PHP55.13 + PHP11.03 for every additional 10.00 ml	PHP57.88 + PHP11.58 for every additional 10.00 ml	PHP60.78 + PHP12.19 for every additional 10.00 ml	

Source: <https://www.bir.gov.ph/index.php/tax-information/excise-tax.html>

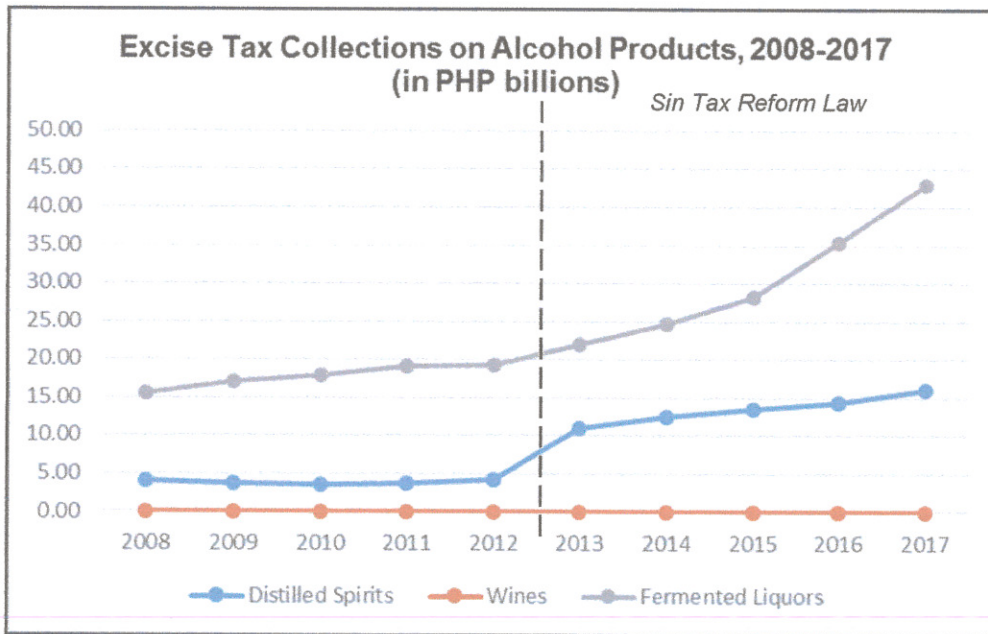
ANNEX B

Alcohol Product	Proposed Tax Rates as per 17 th Congress HBN 8618				2023 Onwards
	2019	2020	2021	2022	
Distilled Spirits, per proof of liter					
Ad valorem tax rate – based on Net Retail Price (NRP) per proof (excluding the excise and value-added taxes)	22%	22%	22%	22%	22%
Specific tax – per proof liter	PHP30	PHP35	PHP40	PHP45	PHP48.15
Wines, per liter of volume					
Sparkling wines/champagnes, where the NRP (excluding the excise and VAT) per bottle of 750ml volume capacity, regardless of proof is:					
Ad valorem tax rate – per liter	15%	15%	15%	15%	15%
Specific tax – per liter	PHP650	PHP715	PHP786.50	PHP865.15	PHP951.67
Still wines and carbonated wines containing 14% of alcohol by volume or less	PHP40	PHP44	PHP48.40	PHP53.24	PHP58.56
Still wines and carbonated wines containing more than 14% but not more than 25% of alcohol by volume	PHP80	PHP85.60	PHP91.59	PHP98	PHP104
Fortified wines containing more than 25% of alcohol by volume	Taxes as distilled spirits				
Fermented Liquors, per liter of volume					
Specific tax rate – per liter (all fermented liquors)	PHP28	PHP32	PHP34	PHP36	PHP38.52
	Effective 2014, specific tax rate shall increase by 7% every year thereafter				

ANNEX C

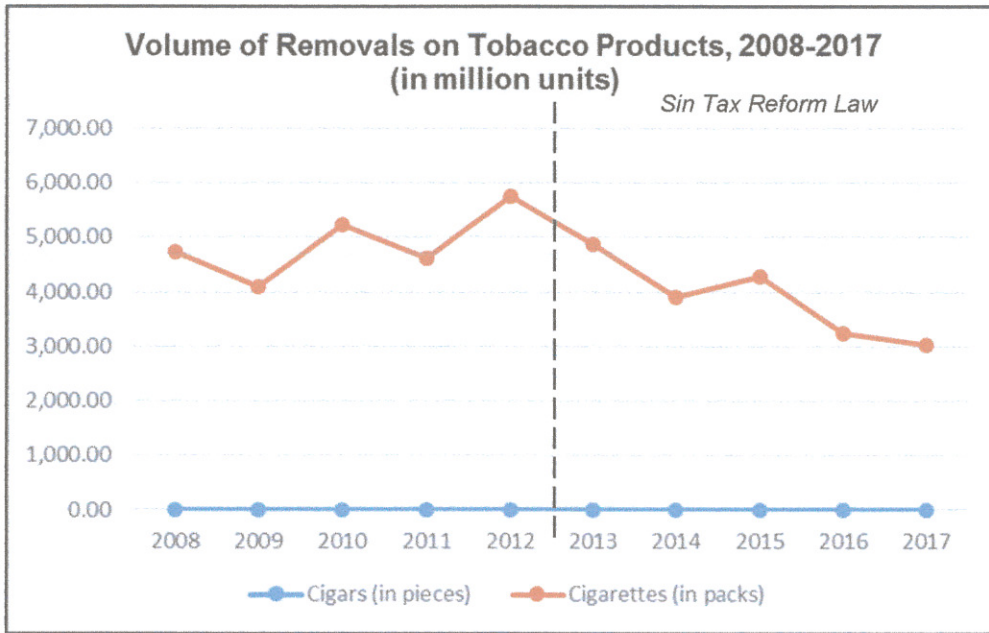


Source: A Review of Excise Taxation of Sin Products by the National Tax Research Center

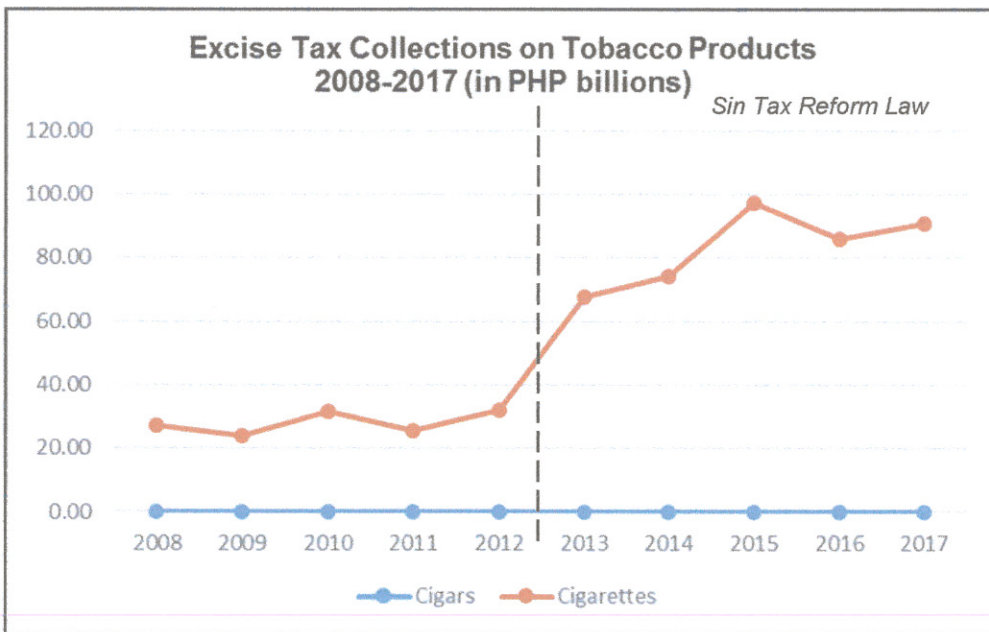


Source: A Review of Excise Taxation of Sin Products by the National Tax Research Center

ANNEX D



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