

IMPOSING AN AD VALOREM TAX ON CIGARETTES IN ADDITION TO THE SPECIFIC TAX LEVIED THEREON

EXECUTIVE ORDER NO. 960, June 11, 1984

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WHEREAS, the fixed nature of the specific tax on cigarettes does not provide for a built-in flexibility to price changes as the tax yield does not automatically increase with an increase in cigarettes prices thereby necessitating frequent rate and/or base adjustments such that for the period 1978 to 1983 alone there have been four amendatory laws affecting the specific tax on cigarettes;

WHEREAS, the weighted average tax burden (ratio of specific taxes to wholesale price or value, net of tax) of locally manufactured cigarettes packed in 30's and 20's of about 10.69 per cent and 29.29 per cent, respectively, are low considering that cigarettes are nonessential commodities and the marginal rate of sales tax levied on non-essential commodities under the National Internal Revenue Code of 1977, as amended, is 50 per cent, not to mention that the tax levied on cigarettes by some of our neighboring countries are quite high e.g., Republic of China 120% of taxable value; Thailand 40% or 45% of retail price; and Indonesia 30% or 50% of manufacturer's or importer's selling price of hand-made or machine-made cigarettes;

WHEREAS, in order to provide a built-in flexibility to price changes, which could relieve the policy makers from the tedious task of reviewing the specific tax on cigarettes and changing the rate and/or base, and to upgrade the tax on cigarettes to a more reasonable level, it is necessary to impose an ad valorem tax in addition to the specific tax presently levied thereon.

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, pursuant to the powers vested in me under Section 290-B of the National Internal Revenue Code, as amended, do hereby direct and order that:

SECTION 1. There is hereby added a new Chapter, to be known as Chapter IV, under Title IV of the National Internal Revenue Code of 1977, as amended, to read as follows:

CHAPTER IV. Ad Valorem Tax

"SEC. 186-A. Ad valorem tax. — In addition to the specific tax imposed under Section 149 (b) of this Code, there shall be levied, assessed and collected an ad valorem tax equivalent to/ten percent of the manufacturer's or importer's gross selling price, net of specific tax, of the cigarettes to be removed from the place of production or to be released from customs custody which shall be paid by the manufacturer or importer, as the case may be, at the same time as the specific tax.

"The price at which the different brands of cigarettes are sold at wholesale in the factory or in the establishment of the importer or through their sales agents to the public shall determine the amount of tax due thereon; and if the manufacturer or importer also sells, or allows to be sold, his cigarettes at wholesale in another establishment of which he is the owner or in the profits of which he has an interest, the wholesale price in such establishment shall determine the amount of tax applicable to the cigarettes therein sold: Provided, However, That when such price is less than the cost of manufacture or importation plus all expenses incurred until the cigarettes are finally sold by the manufacturer or importer, such cost plus expenses shall determine the amount of tax to be collected.

“Every manufacturer or importer of cigarettes shall file with the Commissioner on the date or dates designated by the latter, and as often as may be required, a sworn statement showing, among other information, the different brands of cigarettes manufactured or imported and their corresponding wholesale prices, together with the cost of manufacture or importation plus expenses incurred or to be incurred until the cigarettes are finally sold. It shall be unlawful to sell said cigarettes at wholesale at a price in excess of the one specified in the statement required herein without previous written notice to the Commissioner. In case of imported cigarettes, the sworn statement required herein shall be accompanied by verified sales invoices of the manufacturer of the cigarettes as well as the consular invoice issued by a Philippine Consul, should one be available at the place of origin or shipment, and that every pack of cigarettes shall bear the inscription “FOR EXPORT TO THE PHILIPPINES”.

“Any manufacturer or importer who, in violation of this Section, knowingly misdeclares or misrepresents in his sworn statement herein required or in his sales invoice any pertinent data or information shall, upon discovery, be penalized by a summary cancellation or withdrawal of his permit to engage in business as a manufacturer or importer of cigarettes. If the violator is an alien, he shall be liable for deportation.”

SECTION 2. The manufacturer’s or importer’s wholesale price of cigarettes subject to the herein ad valorem tax shall in no case be less than the prevailing wholesale price exclusive of the specific tax registered with the Bureau of Internal Revenue prior to the effectivity of this Order.

SECTION 3. The Minister of Finance, upon recommendation of the Commissioner of Internal Revenue, shall promulgate the necessary rules and regulations to effectively implement the provisions of this Order.

SECTION 4. This Order shall take effect on September 1, 1984

Done in the City of Manila, this 11th day of June in the Year of Our Lord, nineteen hundred and eighty-four.

(Sgd.) FERDINAND E. MARCOS
President of the Philippines

By the President:

(Sgd.) JUAN C. TUVERA
Presidential Executive Assistant

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