

REVISING THE RETAIL PRICES AND SPECIFIC TAXES ON LOCAL AND IMPORTED CIGARETTES

EXECUTIVE ORDER NO. 924, November 10, 1983

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WHEREAS, the increase in cost of production of local cigarettes has rendered the existing statutory maximum retail prices unrealistic, leaving the manufacturers insufficient leeway for any price adjustments;

WHEREAS, it becomes imperative to revise the present statutory maximum retail price and provide new specific tax rates to make such rates consistent with the adjusted maximum retail prices;

WHEREAS, in line with the thrust in the realignment of indirect taxes, it becomes necessary to unify the specific tax rates on imported and locally produced cigarettes falling under the highest bracket with the purpose of removing the protective effects of internal indirect taxes;

WHEREAS, in order to simplify tax administration, it is likewise imperative to restructure and reduce the number of tax brackets by way of converting, the fifty per cent additional tax on locally produced cigarettes of foreign brands, into an absolute amount of specific tax;

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. Section 149 (b) of the National Internal Revenue Code, as amended, be amended to read as follows:

“Sec. 149. Specific tax on cigars and cigarettes. – On cigars and cigarettes there shall be collected the following taxes:

“(b) Cigarettes-

“(1) On cigarettes packed in thirties, the retail price of which per pack does not exceed one peso and forty centavos, on each thousand three pesos;

“(2) On cigarettes packed in thirties, the retail price of which per pack does not exceed one peso and seventy-five centavos, on each thousand, five pesos;

“(3) On cigarettes packed in thirties, the retail price of which per pack exceeds one peso and seventy-five centavos, on each thousand, eight pesos;

“(4) On cigarettes packed in twenties, the retail price of which per pack does not exceed two pesos and sixty-five centavos, on each thousand, twenty pesos;

“(5) On cigarettes packed in twenties, the retail price of which exceeds two pesos and sixty-five centavos but does not exceed three pesos and twenty-five centavos on each thousand, twenty-eight pesos;

“(6) On cigarettes packed in twenties, the retail price of which exceeds three pesos and twenty-five centavos but does not exceed four pesos, on each thousand, thirty-two pesos;

“(7) On cigarettes packed in twenties, the retail price of which exceeds four pesos but does not exceed four pesos and fifty centavos, on each thousand, forty-six pesos;

“(8) On cigarettes packed in twenties, the retail price of which exceeds four pesos and fifty centavos, but does not exceed five pesos, on each thousand, sixty-four pesos;

“(9) On cigarettes packed in twenties, the retail price of which exceeds five pesos but does not exceed five pesos and sixty centavos, on each thousand, ninety-one pesos;

“(10) On cigarettes packed in twenties, the retail price of which exceeds five pesos and sixty centavos, on each thousand, one hundred twenty-one pesos;

“(11) If the cigarettes are of foreign manufacture regardless of the retail price or contents per pack, on each thousand, one hundred twenty-one pesos.

“Nothing under the foregoing subparagraph (b) shall be deemed to allow a downward reclassification for tax purposes of any existing brand of cigarettes whenever there is a change in the tax rates or retail price ceilings thereof.

“Cigarettes subject to tax at lower rates before the effectivity of the new rates herein prescribed shall automatically be subject to the corresponding higher rates and there is nothing under this subsection (b) which allows any downward reclassification of tax rates for existing brands of cigarettes duly registered at the time the herein rates become effective.

“In addition, in case a manufacturer introduces a new category of cigarettes using a foreign brand or trademark under a licensing agreement, for tax purposes, the maximum retail price of such cigarettes shall in no case be lower than the prevailing maximum retail price of an existing category of cigarettes using a foreign brand or trademark of comparable quality, blend, cost of production and other relevant factors to prevent underpayment of taxes.

“Duly registered and/or existing brands of cigarettes packed in twenties at the time of the new rates herein prescribed shall not be allowed to be packed in thirties.

“The maximum price at which the various classes of cigars are sold at wholesale in the factory or in the establishment of the importer to the public shall determine the rate of the tax applicable to such cigars; and if the manufacturer or importer also sells, or allows to be sold, his cigars at wholesale in another establishment of which he is the owner or in the profits of which he has an interest, the maximum sale price in such establishment shall determine the rate of the tax applicable to the cigars therein sold: Provided, however, That when such maximum wholesale price is less than the cost of manufacture or importation plus all expenses incurred until the cigars are finally sold by the manufacturer or importer, such cost plus expenses shall determine the amount of tax to be applied.

“Every manufacturer or importer of cigars shall file with the Commissioner on the date or dates designated by the latter, a sworn statement showing the maximum wholesale price of cigars, together with the cost of manufacture or importation plus expenses incurred or to be incurred to sell said cigars at wholesale at a price in excess of the one specified in the statement required by this Title without previous written notice to said Commissioner. In the case of imported cigars, the sworn statement required herein shall be accompanied by verified sales invoices of the manufacturers of the cigars as well as the consular invoice issued by a Philippine Consul, should one be available at the place of origin or shipment.

“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 brand or brands of cigarettes manufactured or imported; the approved maximum retail prices per pack of said cigarettes including the wholesale price thereof. In the case of imported cigarettes, the sworn statement required herein shall, in addition to the above information, be accompanied by a verified commercial invoice of the manufacturer of the cigarettes as well as the consular invoice issued by a Philippine Consul, if any, containing the information that Philippine Internal Revenue strip stamps have been affixed to each and every pack of cigarettes and that such pack bears the inscription "for export to the Philippines."

"Except those used as samples, all packs of locally manufactured cigarettes shall, upon the effectivity of the new rates of tax herein prescribed, bear thereon in print the maximum retail prices at which the said cigarettes are sold and the specific tax per pack. No cigarettes shall be allowed to be removed from any factory unless this requirement has been complied with.

"Any manufacturer who in violation of this section, knowingly misdeclares or misrepresents in his sworn statement herein required any pertinent data or information, including the approved maximum retail prices of his locally manufactured or imported cigarettes 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."

SEC. 2. All cigarette manufacturers concerned shall be allowed to use their cigarette labels imprinted with the old maximum retail price per pack of their products for a period of one hundred twenty (120) days from the date of the effectivity of this Order, after which they shall comply with the pertinent requirements of section 149 (b) of the National Internal Revenue Code, as amended, regarding the printing of the maximum retail price and specific tax on each pack of cigarette.

SEC. 3. The Minister of Finance, upon recommendation of the Commissioner of Internal Revenue, shall promulgate the necessary rules and regulations for the implementation of this Executive Order.

SEC. 4. All laws, decrees, executive orders, rules and regulations and other issuances or parts thereof which are inconsistent with this Order are hereby repealed, amended or modified accordingly.

SEC. 5. This Order shall take effect on November 16, 1983.

DONE in the City of Manila, this 10th day of November, in the Year of Our Lord, nineteen hundred and eighty-three.

(SGD.) FERDINAND E. MARCOS

President of the Philippines

By the President:

(SGD.) JUAN C. TUVERA

Presidential Executive Assistant

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