REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
Quezon City

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May 18, 2021

REVENUE REGULATIONS NO. 7-2021

SUBJECT : **Rules and Regulations Implementing the Provisions of Republic Act Nos. 11346 and 11467, Relative to the Excise Tax on Alcohol Products, Tobacco Products, Heated Tobacco Products, Vapor Products and Disposition of Excise Tax Collection**

TO : **All Internal Revenue Officials and Others Concerned**

SECTION 1. SCOPE.

Pursuant to the provisions of Section 244 of NIRC, as amended, the following Regulations are hereby promulgated to implement the amendment of excise tax on alcohol and tobacco products, and the imposition of excise tax on heated tobacco products and vapor products as provided under Republic Act (RA) No. 11346 otherwise known as "An Act Increasing the Excise Tax on Tobacco Products, Imposing Excise Tax on Heated Tobacco Products and Vapor Products, Increasing the Penalties for Violations of Provisions on Articles Subject to Excise Tax, and Earmarking a Portion of the Total Excise Tax Collection from Sugar-Sweetened Beverages, Alcohol, Tobacco, Heated Tobacco and Vapor Products for Universal Health Care, Amending for this Purpose Sections 144, 145, 146, 147, 152, 164, 260, 262, 263, 265, 288, and 289, Repealing Sections 288(B) and 288(C), and Creating New Sections 263-A, 265-B, and 288-A of the National Internal Revenue Code of 1997, as Amended by Republic Act No. 10963, and for other Purposes", as further amended by RA No. 11467 also known as "An Act Amending Sections 141, 142, 143, 144, 147, 152, 263, 263-A, 265, and 288-A, and Adding a New Section 290-A to Republic Act No. 8424, as Amended, Otherwise Known as the National Internal Revenue Code of 1997, and For Other Purposes", on Sections relevant to excise taxes.

SECTION 2. DEFINITION OF TERMS.

1. **ALCOHOL PRODUCTS** – shall refer to fermented liquors, proof spirits, wines, and/or spirits or distilled spirits, as defined in these Regulations.

2. **CIGARETTES** – shall mean all rolls of finely-cut leaf tobacco, or any substitute therefor, wrapped in paper or in any other material that are consumed via combustion of the tobacco.

3. **CIGARS** – shall mean all rolls of tobacco or any substitute thereof, wrapped in leaf tobacco that are consumed via combustion of the tobacco.

4. **CIGARETTES PACKED BY HAND** – shall refer to the manner of packaging of cigarette sticks using an individual person's hands and not through any other means such as a mechanical device or equipment.

5. **CONTAINER** – means any object used for or capable of holding one or more vapor products or heated tobacco products packaging or wrapping.

6. **DISTRIBUTOR** – refers to any person or entity that distributes or supplies vapor products or heated tobacco products to retailers and/or other persons and entities who are not end-users or consumers of vapor products or heated tobacco products.

7. **EXACT REPLICA** – refers to the sample printed visual depiction of vapor products or heated tobacco products packaging submitted by manufacturers and importers to the Bureau of Internal Revenue (BIR) pursuant to an application for registration of new brands or variants of existing brands or new brands in accordance with Revenue Regulations (RR) No. 3-2006 and its amendatory issuances, which contain the graphic and textual health warnings and other additional information as required under RA No. 10643.

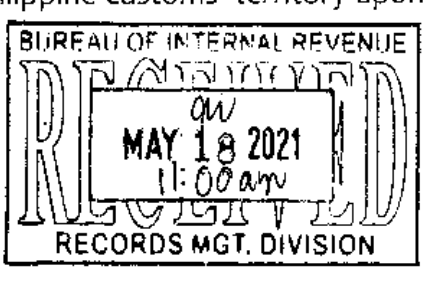
8. **FERMENTED LIQUORS** – such as beer, lager beer, ale, porter and other fermented liquors regardless if manufactured in factories or sold and brewed at micro-breweries or small establishments such as pubs and restaurants, except *tuba, basi, tapuy* and similar fermented liquors.

9. **GRAPHIC HEALTH WARNING** – refers to the photographic image printed on the packaging of vapor products or heated tobacco products, which accurately depicts the hazards of such use and is accompanied by a textual warning related to the picture as prescribed by the Department of Health ("DOH").

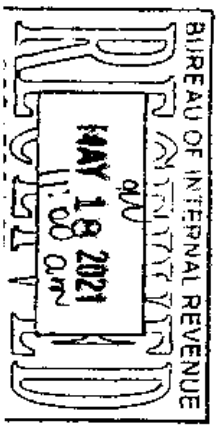
10. **GRAPHIC HEALTH WARNINGS LAW** – refers to RA No. 10643, otherwise known as "An Act to Effectively Instill Health Consciousness Through Graphic Health Warnings on Tobacco Products".

11. **HEATED TOBACCO PRODUCTS** – shall refer to tobacco products that may be consumed through heating tobacco, either electrically or through other means sufficiently to release an aerosol that can be inhaled, without burning or any combustion of the tobacco. Heated tobacco products include liquid solution and gels that are part of the product and are heated to generate an aerosol.

12. **IMPORTATION** – shall refer to the introduction of alcohol products, tobacco products, heated tobacco products, or vapor products from a foreign country into the Philippine territory, including duly chartered economic and freeport zones and duty-free shops, whether for sale or not. It commences when the carrying vessel or aircraft enters the Philippine jurisdiction with the intention to unload or keep for storage therein such product. It is deemed terminated upon payment of duties, taxes and other charges due upon the articles, or secured to be paid, at a port of entry and the legal permit for withdrawal shall have been granted, or in case said articles are free of duties, taxes and other charges, until they have legally left the jurisdiction of the Bureau of Customs. For purposes of these Regulations, any alcohol product, tobacco product, heated tobacco product and vapor product entering the Philippines through the freeport and special economic zones shall be deemed to have entered the Philippine customs' territory upon unloading thereof from the carrying vessel.



13. **IMPORTER** – refers to any person or entity that is engaged in the importation of alcohol products, tobacco products, heated tobacco products, and/or vapor products.



14. **MAJOR SUPERMARKETS** – shall be those with the highest annual gross sales in Metro Manila or the region, as the case may be, as determined by the BIR, and shall exclude retail outlets or kiosks, convenience or sari-sari stores, and others of a similar nature. No two (2) supermarkets in the list to be surveyed are affiliated and/or branches of each other. In case a particular alcohol product, tobacco product, heated tobacco product, or vapor product is not sold in major supermarkets, the price survey can be conducted in retail outlets where said alcohol product, tobacco product, heated tobacco product, or vapor product is sold in Metro Manila or region, as the case may be, upon the determination of the Commissioner of Internal Revenue.

15. **MANUFACTURER** – refers to any person or entity that is engaged in the business of manufacturing, assembling, or processing of alcohol products, tobacco products, heated products, or vapor products.

16. **MARKETING AUTHORIZATION / FDA CERTIFICATION** – refers to the product certification issued by the Food and Drug Administration (FDA).

17. **NET RETAIL PRICE (NRP)** – shall mean the price at which alcohol products and tobacco products are sold on retail in at least five (5) major supermarkets in Metro Manila, excluding the amount intended to cover the applicable excise tax and the value-added tax. For alcohol products and tobacco products which are marketed outside Metro Manila, the 'net retail price' shall mean the price at which the alcohol products, tobacco products, heated tobacco products, or vapor products are sold in at least five (5) major supermarkets in the region excluding the amount intended to cover the applicable excise tax and the value-added tax. This shall initially be provided by the manufacturer or importer through a sworn statement and shall be validated by the BIR through a biannual price survey under oath.

18. **NON-COMPLIANT PACKAGES** – refer to any vapor products or heated tobacco products packaging, labelling, including mastercases, inserts, onserts, or outside packaging and labelling, which fail to comply with packaging and/or labelling requirements and specifications under the Graphic Health Warnings Law, Joint Memorandum Circular (JMC) No. 3-2020, and other rules, regulations and guidelines issued to further implement the provisions of RA No. 10643.

19. **PROOF SPIRITS** – shall refer to liquor containing one-half (1/2) of its volume of alcohol of a specific gravity of seven thousand nine hundred and thirty-nine ten thousandths (0.7939) at fifteen degrees centigrade (15°C). A proof liter means a liter of proof spirits.

20. **RETAILER** – refers to any person or entity engaged in the direct sale or offer for sale of alcohol products, tobacco products, heated tobacco products, and/or vapor products to consumers or end-users.

21. **RETAIL PRICE** – shall mean the amount of money or price which an ultimate consumer or end-user pays for alcohol products, cigars, or cigarettes heated and

vapor products purchased.

22. **SPIRITS OR DISTILLED SPIRITS** – shall refer to the substance known as ethyl alcohol, ethanol or spirits of wine, including all dilutions, purifications and mixtures thereof, from whatever source, by whatever process produced, and shall include whisky, brandy, rum, gin and vodka, and other similar products or mixtures.

23. **SUGGESTED NET RETAIL PRICE** – shall mean the net retail price (excluding the excise tax and the value-added tax) at which locally manufactured or imported alcohol products, tobacco products, heated tobacco products, and/or vapor products 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 with regional markets.

24. **TOBACCO PRODUCTS** – shall mean products entirely or partly made of leaf tobacco as raw material that are manufactured to be used for smoking, sucking, chewing or snuffing, or by any other means of consumption.

25. **TRANSSHIPMENT** – shall refer to the transport or shipment of tobacco products, heated tobacco products, and/or vapor products from a foreign port into any port(s) of the Philippines strictly for subsequent shipment to a foreign port or destination where the shipping manifest pertaining thereto specifically states that the destination thereof is for a foreign port without introducing the same into the Philippine territory.

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26. **VAPOR PRODUCTS** - mean Electronic Nicotine and Non-Nicotine Delivery Systems (ENDS/ENNDS), which are combinations of (i) a liquid solution or gel, that transforms into an aerosol without combustion through the employment of a mechanical or electronic heating element, battery or circuit that can be used to heat such solution or gel, and includes, but is not limited to (ii) a cartridge, (iii) a tank, and (iv) the device without a cartridge or tank. It is commonly known as nicotine salt/salt nicotine, and conventional 'freebase' or 'classic' nicotine, and other similar products. All vapor products shall be covered regardless of its nicotine content.

27. **WHOLESALE PRICE** – shall mean the amount of money or price paid for cigars or cigarettes purchased for the purpose of resale, regardless of quantity.

SECTION 3. REVISED RATES AND BASES OF EXCISE TAX.

A. ALCOHOL PRODUCTS

1. DISTILLED SPIRITS

Excise Tax Due = Ad valorem tax + Specific tax		
Date of effectivity (start date)	**Ad valorem tax [based on the net retail price per proof (excluding the excise and value-added taxes)]**	**Specific tax (per proof liter)**
January 1, 2020	20%	₱24.34

January 23, 2020	22%	₱42.00
January 1, 2021	22%	₱47.00
January 1, 2022	22%	₱52.00
January 1, 2023	22%	₱59.00
January 1, 2024	22%	₱66.00
2025 Onwards	22%	specific tax rate shall be increased by 6% and every year thereafter

2. **WINES**

Date of effectivity (start date)	Specific tax (per liter)
January 1, 2020	
Sparkling wines/champagnes where the NRP (excluding the excise and VAT) per bottle of 750 ml volume capacity, regardless of proof is:	
a. Php 500 or less	₱328.98
b. More than Php 500	₱921.15
Still wines and carbonated wines containing 14% of alcohol by volume or less	₱39.48
Still wines and carbonated wines containing more than 14% of alcohol by volume but not more than 25% of alcohol by volume	₱78.96
Fortified wines containing more than 25% of alcohol by volume	Taxed as distilled spirits
January 23, 2020*	₱50.00
January 1, 2021	₱53.00
January 1, 2022	₱56.18
January 1, 2023	₱59.55
January 1, 2024	₱63.12
2025 Onwards	specific tax rate shall be increased by 6% and every year thereafter

Note: *Beginning January 23, 2020, the classification of wines was removed pursuant to RA No. 11467. All types of wines are subject to specific excise tax rates per liter.

3. **FERMENTED LIQUORS**

Date of effectivity (start date)	Specific tax (per liter)
January 1, 2020	₱26.43
January 23, 2020	₱35.00
January 1, 2021	₱37.00
January 1, 2022	₱39.00
January 1, 2023	₱41.00
January 1, 2024	₱43.00
2025 Onwards	specific tax rate shall be increased by 6% and

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	every year thereafter

B. TOBACCO PRODUCTS, HEATED TOBACCO PRODUCTS, AND VAPOR PRODUCTS

1. Heated Tobacco Products

Date of Effectivity	Quantity	Excise Tax Rate
January 1, 2020	Per pack of 20 units or any packaging combinations of not more than twenty (20) units	₱10.00
January 23, 2020		₱25.00
January 1, 2021		₱27.50
January 1, 2022		₱30.00
January 1, 2023		₱32.50
2024 Onwards		specific tax rate shall be increased by 5% every year effective January 1, 2024

Illustration A:

On January 23, 2020, BSM Corp. removes from its tobacco plant 100 cases of Brand GTR heated tobacco. **Note:** 1 case contains 50 reams while 1 ream contains 10 packs

No. of Cases	100
Multiplied by the number of reams per case	50
Total Number of Reams	5,000
Multiplied by No. of Packs per ream	10
Total Number of Packs	50,000
Multiplied by Tax Rate	25.00
Total Excise Tax Due	P1,250,000.00

2. Vapor Products

Date of Effectivity	Quantity	Excise Tax
January 1, 2020 to January 22, 2020	0.00ml to 10.00ml	₱10.00
	10.01ml to 20.00ml	₱20.00
	20.01ml to 30.00ml	₱30.00
	30.01 ml to 40.00ml	₱40.00
	40.01ml to 50.00 ml	₱50.00
	More than 50.00ml	₱50.00 plus ₱10.00 for every additional 10.00 ml

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a. Nicotine Salt or Salt Nicotine

Date of Effectivity	Quantity	Excise Tax Rate
January 23, 2020	Per milliliter or a fraction thereof	₱37.00
January 1, 2021		₱42.00
January 1, 2022		₱47.00
January 1, 2023		₱52.00
2024 Onwards		rate shall be increased by 5% every year effective January 1, 2024

b. Conventional 'Freebase' or 'Classic' Nicotine

Date of Effectivity	Quantity	Excise Tax Rate
January 23, 2020	Per ten (10) milliliter or a fraction thereof	₱45.00
January 1, 2021		₱50.00
January 1, 2022		₱55.00
January 1, 2023		₱60.00
2024 Onwards		rate shall be increased by 5% every year effective January 1, 2024

The rates of tax imposed herein shall apply to any liquid substance, regardless of nicotine content, including nicotine-free liquid or any similar product.

Illustration B:

On January 4, 2021, BK Corp. removes from its finished goods facility Brand RI Vapor Products with the following details:

i. **Nicotine Salt or Salt Nicotine – containing less than 1 ml.**
Product Type: Nicotine Salt or Salt Nicotine with container size of 0.8ml 300 packs of vapor products with 2 pods per pack

	Per Container
Container Size	0.8 ml
No. of Packs	300
Multiplied by number of pods per pack	2
Total number of pods	600
Multiplied by Tax Rate	42.00
Total Excise Tax Due	₱25,200.00

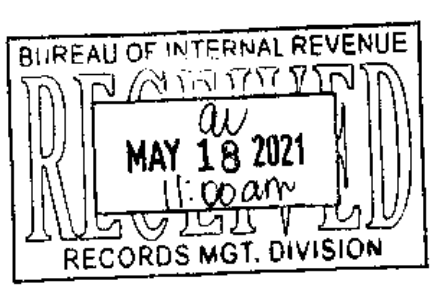
ii. **Conventional "Freebase" or "Classic" Nicotine – Release of Product on January 11, 2021 containing less than 10ml**
Product Type: Conventional "Freebase" or "Classic" Nicotine with container size of 7ml.

Applicable tax rate of P50, a fraction of 10ml.
300 packs of vapor products
1 small bottle/pack

No. of Packs	300
Multiplied by Tax Rate	50.00
Total Excise Tax Due	₱15,000.00

iii. **Conventional "Freebase" or "Classic" Nicotine w/ container size of 15ml**
Product Type: Conventional "Freebase" or "Classic" Nicotine with container size of 15ml was released on January 8, 2021.

Applicable tax rate of P100.00, [10 ml.(P50.00) plus a fraction of 10ml.(P50.00)] 300 packs of vapor products
1 small bottle/pack



No. of Packs	300
Multiplied by Tax Rate	100
Total Excise Tax Due	₱30,000.00

3. **Cigars and Cigarettes**

   a. **Cigars [Excise tax = ad valorem tax plus (+) specific tax]**

Date of Effectivity	**Ad Valorem Tax** Rate is based on the net retail price per cigar (excluding the excise and value-added taxes)	Add: **Specific Tax**
January 1, 2020	20%	₱6.57
January 1, 2021	20%	₱6.83
January 1, 2022	20%	₱7.10
January 1, 2023	20%	₱7.38
2024 Onwards	20%	rate shall be increased by 5% every year effective January 1, 2024

   b. **Cigarettes packed by hand**

Date of Effectivity	**Quantity**	**Excise Tax Rate**
January 1, 2020	Per pack of 20s or any packaging combinations of not more than 20 packed by hands	₱45.00
January 1, 2021		₱50.00
January 1, 2022		₱55.00
January 1, 2023		₱60.00
2024 Onwards		rate shall be increased by 5% every year effective January 1, 2024

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   c. **Cigarettes packed by machine**

Date of Effectivity	**Quantity**	**Excise Tax Rate**
January 1, 2020	Per pack of 20s or any packaging combinations of not more than 20 packed by machine	₱45.00
January 1, 2021		₱50.00
January 1, 2022		₱55.00
January 1, 2023		₱60.00
2024 Onwards		rate shall be increased by 5% every year effective January 1, 2024

SECTION 4. PROVISIONS ON TOBACCO PRODUCTS, HEATED TOBACCO PRODUCTS AND VAPOR PRODUCTS.

A. LABELS AND PACKAGES

The labels and/or packages of products shall comply with the following:

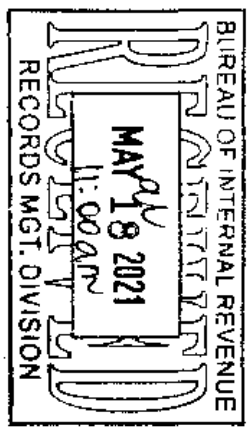
1. Duly registered cigarettes packed by hand, cigarettes packed by machine and heated tobacco products shall only be packed in twenties and other packaging combinations of not more than twenty (20) units.

2. No person or legal entity shall sell or commercially distribute or display any vapor products or heated tobacco products without ensuring that the labels and packages, as well as any other container used in displaying the said products, meet the requirements under RA Nos. 11346 and 11467, the Graphic Health Warnings Law, and relevant rules and regulations.

3. Manufacturers, distributors, and importers of vapor products shall be required to indicate on the package the actual volume in milliliters of the liquid solutions and gels.

4. Manufacturers, distributors, and importers of vapor products and heated tobacco products shall submit to the BIR exact replicas of the packaging and other container or wrapping of the vapor products or heated tobacco products, duly compliant with the Graphic Health Warning Template and the relevant rules and regulations, as a requirement in applying for registration in accordance with Section 156 of the National Internal Revenue Code (NIRC), as amended, and RR Nos. 03-2006 and 17-2012, as amended, and other relevant revenue issuances.

5. No stamp taxes shall be affixed on non-compliant packages and the taxpayer shall certify under oath that the products withdrawn are compliant with the Graphic Health Warnings Law and the templates approved and issued by the DOH, as well as under existing revenue issuances.



For standard affixing of stamps and appropriate payment of excise tax, vapor products shall be packed as follows:

a. Nicotine salt – 1 ml or less, 2 ml or less, 3 ml or less, 4 ml or less, 5 ml or less, 7 ml or less and maximum of 10 ml per pod.

b. Freebase – 10 ml or less, 20 ml or less, 30 ml or less, 40 ml or less, 50 ml or less, 70 ml or less and maximum of 100 ml per pack.

Higher product packaging or packaging with no corresponding equivalent will use a combination of two stamps.

B. EXPORT AND TRANSFER BOND

No tobacco products, heated tobacco products, or vapor products manufactured in the Philippines and produced for export shall be removed from their place of manufacture or exported without posting of an export bond equivalent to the amount of the excise tax due thereof if sold domestically. However, tobacco products, heated tobacco products, or vapor products for export may be transferred from the place of manufacture to a bonded facility, upon posting of a transfer bond, prior to export.

C. TRANSSHIPMENT

Tobacco products, heated tobacco products, or vapor products imported into the Philippines and destined for foreign countries shall not be allowed entry without posting a bond equivalent to the amount of customs duty, excise and value-added taxes due thereon if sold domestically.

D. INSPECTION FEE

For inspection/s made in accordance with this Chapter, there shall be collected a fee detailed as follows: (11346)

PRODUCT	INSPECTION FEE	UNIT OF MEASURE		
		Pieces/Sticks/ Units	Milliliter	Kilo
Cigars	₱0.50	1,000 or fraction thereof		
Cigarettes	₱0.10	1,000 or fraction thereof		
Heated tobacco	₱0.10	1,000		
Vapor Products	₱0.01		1.00	
Whole Leaf Tobacco	₱0.02			1.00 or fraction thereof
Scrap and Other Mfd. Tobacco	₱0.03			1.00 or fraction thereof

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E. INFORMATION TO BE GIVEN BY MANUFACTURERS, IMPORTERS, INDENTORS AND WHOLESALERS OF ANY APPARATUS OR MECHANICAL CONTRIVANCE SPECIALLY FOR THE MANUFACTURE OF ARTICLES SUBJECT TO EXCISE TAX AND IMPORTERS, INDENTORS, MANUFACTURERS OR SELLERS OF CIGARETTE PAPER IN BOBBINS, CIGARETTE TIPPING PAPER OR CIGARETTE FILTER TIPS.

Manufacturers, indentors, wholesalers and importers of any apparatus or mechanical contrivance specially for the manufacture of articles subject to tax shall, before any such apparatus or mechanical contrivance is removed from the place of manufacture or from the customs house, give written information to the Commissioner as to the nature and capacity of the same, the time when it is to be removed, and the place for which it is destined, as well as the name of the person by whom it is to be used; and such apparatus or mechanical contrivance shall not be set up nor dismantled or transferred without a permit in writing from the Commissioner and/or Authorized Representative.

A written permit from the Commissioner/Authorized Representative for importing, manufacturing or selling of apparatus or mechanical contrivance specially for the manufacture of articles subject to excise tax, cigarette paper in bobbins or rolls, cigarette tipping paper or cigarette filter tips is required before any person shall engage in the importation, manufacture or sale of the said articles. No permit to sell said articles shall be granted unless the name and address of the prospective buyer is first submitted to the Commissioner and approved by him/her. Records, showing the stock of the said articles and the disposal thereof by sale of persons with their respective addresses as approved by the Commissioner/Authorized Representative, shall be kept by the seller, and records, showing stock of said articles and

consumption thereof, shall be kept by the buyer, subject to inspection by internal revenue officers.

F. FLOOR PRICE OR MINIMUM PRICE

The minimum floor price of cigarette, heated and vapor tobacco products shall be the total production cost/expenses of the cheapest brand per tobacco product including the sum of excise tax and VAT. The ELTRD shall established a monthly data profile based on the required periodic manufacturer's or importer's sworn declaration for all brands per tobacco product category. Provided below are illustrations for reference.

1. **Cigarettes**

Production Cost per Sworn Declaration	P20.00
Excise Tax (2021)	50.00
VAT	8.40
TOTAL/FLOOR PRICE	**P78.40**

2. **Heated Tobacco Products**

Production Cost per Sworn Declaration	P20.00
Excise Tax (2021)	42.00
VAT	7.44
TOTAL/FLOOR PRICE	**P69.44**

3. **Vapor Products:**

3.a Nicotine Salts

i. Production cost of Php 10.00 per 0.1 milliliter of e-liquid content
   - Volume per pod is 0.7 ml

ii. Production Cost of P10.00 per 0.1 ml per pod is 2.5 ml

iii. Production cost is Php 10.00 per 0.1 milliliter.
   - Volume per pod pack 2.8 ml
   - 4 packs

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3.b Freebase Nicotine

i. Production cost of Php 5.00 per 1 milliliter of e-liquid content
   - Volume per tank 10

ii. Production cost – Php 5.00 per ml
   - Volume - 25

FLOOR PRICE SAMPLE

Nicotine Formulation	Unit	Pack/ Fill	Volume Content (ml)	PRODUCTION COST		EXCISE TAX	VAT	FLOOR PRICE
				PER UNIT	AMOUNT			2021
Nicotine Salts	pod	0.7 ml	0.7	P10/ 0.1 ml	70	42	13.44	125.44
Nicotine Salts	pod	2.5 ml	2.5	P10/ 0.1 ml	250	126	45.12	421.12
Nicotine Salts	pod pack	4 pod 4 pack	2.8 X 4	P10/ 0.1 ml	1120	840	235.20	2,195.20
Freebase Nicotine	tank	10 ml	10	P5/ 1 ml	50	50	12.00	112.00
Freebase Nicotine	tank	25 ml	25	P5/ 1 ml	125	150	33.00	308.00

The above floor price shall only be used as reference for taxation purposes in the absence of other documents/proof as to the actual price of the product that is

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higher than the identified floor price.

SECTION 5. COMMON PROVISIONS FOR ALCOHOL PRODUCTS, TOBACCO, HEATED TOBACCO, AND VAPOR PRODUCTS

I. **TAX CLASSIFICATION OF ALCOHOL PRODUCTS, TOBACCO PRODUCTS, HEATED TOBACCO PRODUCTS AND VAPOR PRODUCTS.** - Any alcohol products, tobacco products, heated tobacco products and vapor products that are introduced in the domestic market on or after the effectivity of any law imposing new tax rates shall be initially classified for tax purposes according to their suggested net retail prices as declared in the prescribed updated manufacturer's or importer's sworn statement, subject to the initial validation and revalidation requirements prescribed under Revenue Regulations (RR) No. 3-2006, as amended.

In case of alcohol products, heated tobacco products and vapor products that were duly registered with the BIR before the effectivity of any law imposing new tax rates but were no longer classified under the new law shall be deemed as newly introduced products in the domestic market. The tax classification thereof shall be based on the suggested net retail price declared in the aforesaid sworn statement, subject to the initial validation and revalidation requirements.

II. **WILLFUL UNDERSTATEMENT OF SUGGESTED NET RETAIL PRICE.** – The understatement of the suggested net retail price by as much as fifteen percent (15%) of the actual net retail price as determined using the survey price net of excise and value added taxes declared per manufacturer/importer's sworn statement, shall render the manufacturer or importer of covered products per RA No. 11346 and 11467 liable for additional excise and value added taxes equivalent to the difference between the recomputed (excise and value added) taxes based on the annual net retail price and the declared excise and value added taxes per submitted sworn statement.

III. **SUBMISSION OF SWORN STATEMENT OF THE VOLUME OF SALES AND REMOVALS.** – Within 30 days from the effectivity of RA No. 11467, and within the first five (5) days of every month thereafter, manufacturers, brewers, distillers, distributors, and importers of alcohol products, and tobacco products, heated tobacco products and vapor products shall submit to the Commissioner a sworn statement of the volume of sales and removals for each particular brand sold for the three-month period immediately preceding.

Any manufacturer, brewer, distiller, distributor, or importer who misdeclares or misrepresents in his or its sworn statement herein required any pertinent data or information shall, upon final findings by the Commissioner that the violation was committed, be penalized by a summary cancellation or withdrawal of permit to engage in business as manufacturer, brewer, distiller, distributor, or importer of alcohol products, and/or tobacco, heated tobacco products and vapor products.

IV. **EXTENT OF SUPERVISION OVER ESTABLISHMENTS PRODUCING TAXABLE OUTPUT.** The BIR shall supervise establishments where articles subject to excise tax are made or kept. The Secretary of Finance shall prescribe rules and regulations in which the process of production shall be conducted insofar as may be necessary to secure a sanitary output and to safeguard revenue, such rules and regulations to safeguard

revenue may allow the appointment of third parties to monitor production and removal processes and volumes, and the exclusion of excisable goods from duty-free barter transactions.

V. **COMMON PENALTY PROVISIONS.** – Any corporation, association or partnership liable for any of the acts or omissions in violation of Sections 141, 142, 143, 144 or 145 of the NIRC, as amended, shall be fined treble the aggregate amount of deficiency taxes, surcharges and interest which may be assessed.

Any person liable for any of the acts or omissions prohibited under Sections 141, 142, 143, 144 or 145 of the NIRC, as amended, shall be criminally liable and penalized under

Section 254 of the NIRC, as amended. Any person who willfully aids or abets in the commission of any such act or omission shall be criminally liable in the same manner as the principal.

If the offender is not a citizen of the Philippines, he/she shall be deported immediately after serving the sentence, without further proceedings for deportation.

VI. **STATUTORY OFFENSES AND PENALTIES**

A. **UNLAWFUL POSSESSION OF CIGARETTE PAPER IN BOBBINS OR ROLLS, ETC.** – It shall be unlawful for any person to have in his possession cigarette paper in bobbins or rolls, cigarette tipping paper or cigarette filter tips, without the corresponding authority therefor issued by the Commissioner. Any person, importer, manufacturer of cigar and cigarettes, who has been found guilty, shall, upon conviction for each act or omission, be punished by a fine of not less than One Million Five Hundred Thousand pesos (P1,500,000.00) but not more than Fifteen Million pesos (P15,000,000.00) and imprisonment for a term of not less than six (6) years and one (1) day but not more than twelve (12) years.

B. **VIOLATIONS COMMITTED BY MANUFACTURERS, IMPORTERS, INDENTORS, AND WHOLESALERS OF ANY APPARATUS OR MECHANICAL CONTRIVANCE SPECIALLY FOR THE MANUFACTURE OF ARTICLES SUBJECT TO EXCISE TAX AND IMPORTERS, INDENTORS, MANUFACTURERS OR SELLERS OF CIGARETTE PAPER IN BOBBINS, CIGARETTE TIPPING PAPER OR CIGARETTE FILTER TIPS.** – Any violation of Section 164 of the NIRC, as amended, including mere possession of any apparatus or mechanical contrivance for the manufacture of cigarettes, cigarette paper, or cigarette tipping paper, for which no permit was obtained from the Commissioner shall be punishable with a fine of not less than Fifteen Million pesos (P15,000,000.00) but not more than Fifty Million pesos (P50,000,000.00) and imprisonment of not less than twelve (12) years but not more than twenty (20) years.

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C. **SELLING OF TOBACCO PRODUCTS AT A PRICE LOWER THAN THE COMBINED EXCISE AND VALUE-ADDED TAXES.** – Any person who sells tobacco products including heated tobacco products and vapor products at a price lower than the combined excise and value-added taxes shall be punished with a fine of not less than ten (10) times the amount of excise tax plus value-added tax due but not less than Two hundred thousand pesos (P200,000.00) nor more than Five hundred thousand pesos (P500,000.00), and imprisonment of not less than four (4) years

but not more than six (6) years.

D. **SHIPMENT OR REMOVAL OF LIQUOR OR TOBACCO PRODUCTS UNDER FALSE NAME OR BRAND OR AS AN IMITATION OF ANY EXISTING OR OTHERWISE KNOWN PRODUCT NAME OR BRAND RELATIVE TO RA NO. 11346** – Any person who ships, transports or removes spirituous, compounded or fermented liquors, wines or any manufactured products of tobacco under any other than the proper name or brand known to the trade as designating the kind and quality of the contents of the package containing the same or as an imitation of any existing or otherwise known product name or brand or causes such act to be done, shall upon conviction for each act or omission, be punished by a fine of not less than One Million Five Hundred Thousand pesos (P1,500,000.00) but not more than Fifteen Million pesos (P15,000,000.00) and imprisonment of not less than six (6) years and one (1) day but not more than twelve (12) years.

E. **UNLAWFUL POSSESSION OR REMOVAL OF ARTICLES SUBJECT TO EXCISE TAX WITHOUT PAYMENT OF THE TAX** – Any person who owns and/or is found in possession of imported articles subject to excise tax, the tax on which has not been paid in accordance with law, or any person who owns and/or is found in possession of imported tax-exempt articles other than those to whom they are legally issued shall be punished by:

1. A fine of not less than One Hundred Thousand pesos (P100,000.00) but not more than Two Hundred Thousand pesos (P200,0000.00) and imprisonment of not less than sixty (60) days but not more than one hundred (100) days if the appraised value, to be determined in the manner prescribed in Republic Act No. 10863, otherwise known as the 'Customs Modernization and Tariff Act (CMTA)', including duties and taxes, of the articles does not exceed Two Hundred Fifty Thousand pesos (P250,000.00);

2. A fine of not less than One Million pesos (P1,000,000.00) but not more than Two Million pesos (P2,000,000.00) and imprisonment of not less than two (2) years but not more than four (4) years if the appraised value, to be determined in the manner prescribed in Republic Act No. 10863, otherwise known as the 'Customs Modernization and Tariff Act (CMTA)', including duties and taxes, of the articles exceeds Two Hundred Fifty Thousand pesos (P250,000.00) but does not exceed Five Hundred Thousand pesos (P500,000.00);

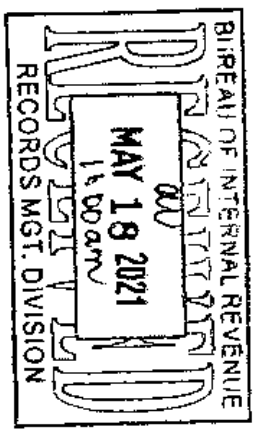
3. A fine of not less than Three Million pesos (P3,000,000.00) but not more than Four Million pesos (P4,000,000.00) and imprisonment of not less than four (4) years but not more than six (6) years, if the appraised value, to be determined in the manner prescribed in Republic Act No. 10863, otherwise known as the 'Customs Modernization and Tariff Act (CMTA)', including duties and taxes of the articles is more than Five Hundred Thousand pesos (P500,000.00) but does not exceed One Million pesos (P1,000,000.00);

   A fine of not less than Ten Million pesos (P10,000,000.00) but not more than Twenty Million pesos (P20,000,000.00) and imprisonment of not less than ten (10) years but not more than twelve (12) years, if the appraised value, to be determined in the manner prescribed in Republic Act No. 10863, otherwise

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known as the 'Customs Modernization and Tariff Act (CMTA), including duties and taxes, of the articles exceeds One Million pesos (P1,000,000.00);

Any person who is found in possession of locally manufactured articles subject to excise tax, the tax on which has not been paid in accordance with law, or any person who is found in possession of such articles which are exempt from excise tax other than those to whom the same is lawfully issued shall be punished with a fine of not less than ten (10) times the amount of excise tax due on the articles found but not less than One Million pesos (P1,000,000.00) and imprisonment of not less than five (5) years but not more than eight (8) years.



Any manufacturer, importer, owner or person in charge of any articles subject to excise tax who removes or allows or causes the unlawful removal of any such articles from the place of production or bonded warehouse, upon which the excise tax has not been paid at the time and in the manner required, and any person who knowingly aids or abets in the removal of such articles as aforesaid, or conceals the same after illegal removal shall, for the first offense, be punished with a fine of not less than ten (10) times the amount of excise tax due on the articles but not less than Fifty Million pesos (P50,000,000.00) and imprisonment of not less than five (5) years but not more than eight (8) years.

The mere unexplained possession of articles subject to excise tax, the tax on which has not been paid in accordance with law, shall be punishable under this Section.

SECTION 6. OFFENSES RELATING TO STAMPS, LABELS, TAGS, AND OTHERS. – Any person who commits any of the acts enumerated hereunder shall, upon conviction thereof, be punished by a fine of not less than Ten Million pesos (P10,000,000.00) but not more than Five Hundred Million pesos (P500,000,000.00) and imprisonment of not less than five (5) years but not more than eight (8) years:

I. Making, importing, selling, using or possessing without express authority from the Commissioner, any dye for printing or making stamps, labels, tags or playing cards;

II. Reusing previously affixed stamps, erasing the cancellation marks of any stamp previously used, or altering the written figures or letters or cancellation marks on internal revenue stamps;

III. Possessing false, counterfeit, restored or altered stamps, labels or tags or causing the commission of any such offense by another;

IV. Selling or offering for sale any box or package containing articles subject to excise tax with false, spurious or counterfeit stamps or labels or selling from any such fraudulent box, package or container as aforementioned; or

V. Giving away or accepting from another, or selling, buying or using containers on which the stamps are not completely destroyed.

The cumulative possession of false/counterfeit/recycled tax stamps in excess of the amount of Fifty Million pesos (P50,000,000.00) shall be punishable by a fine of Five

Hundred Million pesos (P500,000,000.00) or up to ten (10) times the value of the illegal stamps seized, whichever is higher, and imprisonment of not less than ten (10) years but not more than fifteen (15) years.

SECTION 7. TRANSITORY PROVISIONS. – Upon the effectivity of RA No. 11467, the following transitory provisions shall be strictly observed by all concerned:

I. Distilled spirits introduced in the domestic market after the effectivity of RA No. 11467 shall be initially taxed according to their suggested net retail prices.

II. At the end of three (3) months from the product launch, the BIR, through the ELTRD, shall validate the suggested net retail price of the new brand against the net retail price as defined herein. After the end of nine (9) months from such validation, the ELTRD shall revalidate the initially validated net retail price against the net retail price as of the time of revalidation in order to finally determine the correct tax on a newly introduced distilled spirits.

III. Manufacturers and importers of distilled spirits and wines, and every brewer, manufacturer or importer of fermented liquor shall, within thirty (30) days from the effectivity of RA No. 11467, and within the first five (5) days of every third month thereafter, submit to the Commissioner, through the Large Taxpayers Performance Monitoring & Programs Division, a sworn statement of the volume of sales and removals for each particular brand of distilled spirits, wines and fermented liquor sold at his establishment for the three-month period immediately preceding.

IV. A. Manufacturers and importers of cigars and cigarettes shall within thirty (30) days from the effectivity of RA No. 11346 which is January 1, 2020 and within five (5) days of every month thereafter, submit to the Commissioner through Excise LT Field Operations Division (ELTFOD) copy furnished LT Performance Monitoring and Programs Division (LTPMPD) a sworn statement of the volume of sales and removals for cigars and/or cigarettes for the three-month period immediately preceding.

B. Manufacturers, distributors and importers of heated tobacco and vapor products shall register with the BIR through Excise LT Regulatory Division (ELTRD), within thirty (30) days from effectivity of RA No. 11346/11467 and/or from the issuance of the FDA Marketing Authorization and within five (5) days of every month thereafter, submit to the Commissioner through ELTFOD and LTPMPD a sworn statement of the volume of sales for each particular brand of heated/vapor products sold for the three-month period immediately preceding.

C. During the eighteen (18) months period from effectivity of the IRR of RA No. 11346 and 11467, taxpayers shall first secure a certification from the FDA reflecting details/descriptions of the product before registration of taxpayer and product variant by the BIR through ELTRD. The BIR shall register the taxpayer based on the receipt of FDA Certification and necessary registration requirements.

V. Manufacturers, distributors, importers and sellers of heated tobacco products and

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vapor products are given a period of eighteen (18) months from the effectivity of the Implementing Rules and Regulations (IRR) of RA Nos. 11346 and 11467 to comply with the requirements of the Graphic Health Warnings Law, its Implementing Rules and Regulations, and all other relevant rules and regulations in relation to the implementation of the Graphic Health Warnings Law.

VI. Eighteen (18) months after the effectivity of the IRR of RA Nos. 11346 and 11467, no person or legal entity shall sell or commercially distribute or display any heated tobacco products and vapor products which are not compliant with the labelling, packaging, as well as any other container used in displaying the said products, under appropriate revenue issuances by the Bureau.

SECTION 8. DISPOSITION OF REVENUES FROM EXCISE TAX ON SUGAR-SWEETENED BEVERAGES, ALCOHOL, TOBACCO PRODUCTS, HEATED TOBACCO PRODUCTS AND VAPOR PRODUCTS. – Revenues from sugar sweetened beverages, alcohol, tobacco, heated tobacco and vapor products shall be allocated in accordance with RA No. 11346 for revenues collected from January 1 to 22, 2020 and RA No. 11467 from January 23, 2020 onwards.

SECTION 9. CONGRESSIONAL OVERSIGHT COMMITTEE. - The methodology and all pertinent documents used in the conduct of the latest price survey shall be submitted to the Congressional Oversight Committee on the Comprehensive Tax Reform Program (COCCTRP) created under RA No. 8240.

SECTION 10. REPEALING CLAUSE. – This Revenue Regulations specifically repeals Section 4 and 6 of RR No. 17-2012 and Revenue Memorandum Circular (RMC) No. 90-2012. Any other laws, decrees, executive orders, rules and regulations or parts thereof which are contrary to or inconsistent with these Regulations are hereby repealed, amended, or modified accordingly.

SECTION 11. SEPARABILITY CLAUSE. – If any provisions of these Regulations shall be held unconstitutional or invalid, the other provisions not otherwise affected shall remain in full force and effect.

SECTION 12. EFFECTIVITY. – These Regulations shall take effect immediately fifteen (15) days after publication thereof in a leading newspaper of general circulation.

CARLOS G. DOMINGUEZ III
Secretary of Finance

MAY 10 2021

Recommending Approval:

CAESAR R. DULAY
Commissioner of Internal Revenue

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