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**TAX LAW FOR BUSINESS**

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## **Sweet tax for health**

THE Comprehensive Tax Reform Program (CTRP) under this current administration is one of the major amendments in the Philippine Tax Code since the 1997 Tax Reform. One of the amendments brought by the CTRP is the enactment of Republic Act (RA) 109631, or the Tax Reform for Acceleration and Inclusion (TRAIN), which finally became effective on January 1, 2018, creating eight new sections in the Tax Code. One of the newest source of revenue for the government this 2018 is the new Section 150-B of the Tax Code, or the imposition of excise taxes or the so-called sweet tax upon the manufacturers or owners or importers of sweetened beverages.

By virtue of RA 109631, the government shall now collect excise taxes of P6 per liter or P12 per liter from sweetened beverages, depending on the type of sweetener used in said beverage, to wit:

Because of the said imposition of sweet tax, manufacturers, owners or importers of sweetened beverages will have the burden of paying the corresponding sweet tax. This additional burden shall correspondingly result to certain increases on the retail prices of sweetened beverages intended for consumption of the public.

| <b>PRODUCT</b>                                                                                                   | <b>TAX RATE<br/>(per liter of volume capacity)</b> |
|------------------------------------------------------------------------------------------------------------------|----------------------------------------------------|
| Using purely caloric sweeteners, and purely noncaloric sweeteners, or a mix of caloric and noncaloric sweeteners | P6                                                 |
| Using purely high-fructose corn syrup or in combination with any caloric or noncaloric sweetener                 | P12                                                |
| Using purely coconut sap sugar and purely steviol glycosides                                                     | Exempt                                             |

By the definition of sweetened beverages under RA 109631, it includes soft drinks, soda, fruit drinks, punches, sports drinks or energy drinks, which are being consumed by the average Filipino, 80 percent of which are low-income earners, basing it on the data from market research firm AC Nielsen.

Further, according to the AC Nielsen Establishment Survey, it shows that there were over 1.3 million micro entrepreneurs operating *sari-sari* stores in the country, representing 91 percent of the retail stores in the Philippines. These *sari-sari* stores contribute 36 percent of the sales of fast-moving consumer goods, which include sweetened beverages. Based on the forgoing data, it would be the low-income earners who will be most affected by the price hikes brought by the sweet tax.

Under the TRAIN, individuals who earn P250,000 annually shall now be exempted from income tax. In comparison, before the TRAIN, only those minimum-wage earners, or those annually earning P120,000 (based on the 2017 highest minimum-wage rate, issued by the Philippine Wage and Productivity Commission) and below are exempted from income tax. So now, those who were originally earning annual income of above P120,000 to P250,000 shall now be exempt from income tax.

However, we should clarify that only the minimum-wage earners who were originally exempt from income tax will be affected; since they will not benefit from the new income taxation, yet they will be spending more.

To illustrate, prior to the TRAIN, worker “A” earns P168,000 a year and has an annual net income of P142,208.52, after taxes and necessary deductions. He consumes two liters of Coca-Cola in a week, costing him P2,976 (at P31 per liter) in a year. After the TRAIN, his new net-income tax is P158,385.60, having increased to P16,177.08; and then he will be paying P4,032 (at P42 per liter) for his annual Coca-Cola consumption. The increase in his annual net income is actually way more than the increase in the payment of his yearly consumption of Coca-Cola. Thus, the price increase of the sweetened beverages by virtue of the sweet tax was compensated by the new income taxation.

On the other hand, prior to the current tax reform, worker “B,” a minimum-wage earner, earns a yearly income of P120,720. After the necessary deductions, his net annual income is P113,500.56. He also consumes two liters of Coca-Cola in a week, costing him P2,976 in a year. After the tax reform, his annual net income is still P113,500.56; yet he still consumed the same amount of Coca-Cola costing him P4,032.

It is at this point that we now consider one of the visions of the government in passing the law, which is for health and wellness, reducing the victims of obesity and diabetes, by imposing the sweet tax on carbonated drinks and beverages with high sugar contents, which are not part of the basic food component of the average Filipino. It is noteworthy, though, that the sweet tax was not imposed on healthy sweetened beverages, which are the very part of the basic food component of an ordinary income earner and/or minimum-wage earner, such as coffee and milk.

Under the TRAIN, the exclusions in the impositions of sweet tax include all milk products, 100-percent natural fruit juices, 100-percent fruit juices, meal replacement and medically indicated beverages and ground coffee and prepackaged powdered coffee products. By virtue of these exclusions, even the 3-in-1 coffee products, which is highly demanded by the consuming public, will still be within the reach of the low income earners who were not benefited by the new income taxation.

At any rate, we have yet to experience the real effects of the sweet tax since the old stocks of manufacturers, owners and importers of sweetened beverages are not covered by the sweet tax, and need to be disposed first. Upon effectivity of the TRAIN, the manufacturers, owners and importers of sweetened beverages are required to submit inventories of their old stock and new stocks of the sweetened beverages for purposes of the imposition of sweet tax. On a final note, due to the new income taxation brought by the TRAIN and the exclusions to the imposition of

sweet tax; the effects of the imposition of sweet tax, as far as the public and the business owners are concerned, would be minimal since the sweet tax is only imposed on sweetened beverages, which are not part of the basic food consumption of the average Filipino.

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