



March 14, 2017

Statement of support for President Duterte and Secretary Dominguez to fight smuggling and tax evasion

The American Chamber of Commerce in the Philippines (AmCham) commends and applauds recent decisive actions taken by the Duterte Administration to raid stocks of manufactured products with counterfeit internal revenue stamps and thereby promote corporate tax compliance and ensure a level playing field for business in the country. Since late last year, the media has published reports of tobacco products with fake tax stamps being found in country.

These stamps could be applied to various brands of products abroad and smuggled into the Philippines without paying correct import duties and excise taxes. Alternatively, they could be applied by domestic manufacturers in disregard of Philippine internal revenue regulations. The country has a history of such tax avoidance schemes.

In early March, the press reported that government agents raided warehouses and discovered large quantities of cigarettes with fake tax stamps. Some details of these raids have emerged according to a March 3 statement on the Department of Finance (DOF) website which stated that Bureau of Customs (BOC) Commissioner Nicanor Faeldon reported to Finance Secretary Carlos G. Dominguez that BOC agents had seized over Php 2 billion (US\$ \$40 million) worth of smuggled and counterfeit tobacco products in raids, primarily in San Simon, Pampanga, but also in General Santos and Zamboanga. When inspected with Mobile Verification Devices of the BOC, the internal revenue stamps on these seized cigarettes were found to be fake. Additional raids reportedly seized three containers in Cebu and Tacloban containing cigarettes with fake tax stamps.

In the March 3 DOF document Secretary Dominguez stated that "If the evidence warrants, I urge the BIR and the BOC to file the appropriate charges in court as soon as possible." Following this, President Duterte raised the possibility of a settlement. However, Secretary Dominguez clarified on March 10 that a case will be filed against the local producer of the tobacco products that carried the counterfeit tax stamps. He reportedly said "As soon as we get all the evidence, of course we will file a case...it's our duty to do so." He added "How can we settle? We don't know the total amount due yet." (Manila Bulletin, March 11, 2017)

(RA 8424) mandates severe penalties for excise tax evasion, as follows;

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 (10) times the amount of excise tax due on the articles found but not less than Five hundred pesos (P500) and suffer imprisonment of not less than two (2) years but not more than four (4) years.

Any manufacturer, owner or person in charge of any article 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 One thousand pesos (P1,000) and suffer imprisonment of not less than one (1) year but not more than two (2) 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.

With these developments, AmCham encourages the Philippine Government to proceed vigorously to investigate the case against the said manufacturer, as the recent seizures may be the tip of an iceberg of tax evasion going back several years. Based on the investigation, we call upon the government to prosecute the case for tax evasion and attempted bribery. Action should also be taken against government officials who may be involved in facilitating the tax evasion. Smuggling of imported goods also occurs for petroleum and other products, many of which are fake goods illegally manufactured abroad and sold in this country.

We also strongly question the reported action on March 6 of the Manila Regional Trial Court Branch 1 in issuing a Temporary Restraining Order for 20 days against the BOC conducting further raids against the said local manufacturer of cigarettes.

Finally, we fully agree with the March 13 editorial in the Philippine Daily Inquirer, which stated “[This] is about sending the signal to the business community that crime is to be punished.” The business community thrives on the rule of law, and, at a time when the government is asking for new taxes, it is especially important to strongly enforce existing revenue laws and to expand the tax base. Effective enforcement will encourage potential investors looking to do business in the Philippines and is an essential stepping stone in making the Philippines the next Asian powerhouse economy.