

**[ REPUBLIC ACT NO. 10351, December 19, 2012 ]**

**AN ACT RESTRUCTURING THE EXCISE TAX ON ALCOHOL AND TOBACCO PRODUCTS BY AMENDING SECTIONS 141, 142, 143, 144, 145, 8, 131 AND 288 OF REPUBLIC ACT NO. 8424. OTHERWISE KNOWN AS THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED BY REPUBLIC ACT NO. 9334, AND FOR OTHER PURPOSES**

*Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:*

SECTION 1. Section 141 of the National Internal Revenue Code of 1997, as amended by Republic Act No. 9334, is hereby further amended to read as follows:

“SEC. 141. *Distilled Spirits.* – On distilled spirits, subject to the provisions of Section 133 of this Code, an excise tax shall be levied, assessed and collected based on the following schedules:

“(a) Effective on January 1, 2013

“(1) An *ad valorem* tax equivalent to fifteen percent (15%) of the net retail price (excluding the excise tax and the value-added tax) per proof; and

“(2) In addition to the *ad valorem* tax herein imposed, a specific tax of Twenty pesos (P20.00) per proof liter.

“(b) Effective on January 1, 2015

“(1) An *ad valorem* tax equivalent to twenty percent (20%) of the net retail price (excluding the excise tax and the value-added tax) per proof; and

“(2) In addition to the *ad valorem* tax herein imposed, a specific tax of Twenty pesos (P20.00) per proof liter.

“(c) In addition to the *ad valorem* tax herein imposed, the specific tax rate of Twenty pesos (P20.00) imposed under this Section shall be increased by four percent (4%) every year thereafter effective on January 1, 2016, through revenue regulations issued by the Secretary of Finance.

“Medicinal preparations, flavoring extracts, and all other preparations, except toilet preparations, of which, excluding water, distilled spirits form the chief ingredient, shall be subject to the same tax as such chief ingredient.

“This tax shall be proportionally increased for any strength of the spirits taxed over proof spirits, and the tax shall attach to this substance as soon as it is in existence as such, whether it be subsequently separated as pure or impure spirits, or transformed into any other substance either in the process of original production or by any subsequent process.

" 'Spirits or distilled spirits' is 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.

" 'Proof spirits' is 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.

" 'Net retail price' shall mean the price at which the distilled spirits is 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 distilled spirits which are marketed outside Metro Manila, the 'net retail price' shall mean the price at which the distilled spirits is 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.

"Major supermarkets, as contemplated under this Act, shall be those with the highest annual gross sales in Metro Manila or the region, as the case may be, as determined by the National Statistics Office, and shall exclude retail outlets or kiosks, convenience or sari-sari stores, and others of a similar nature: *Provided*, That no two (2) supermarkets in the list to be surveyed are affiliated and/or branches of each other: *Provided, finally*, That in case a particular distilled spirit is not sold in major supermarkets, the price survey can be conducted in retail outlets where said distilled spirit is sold in Metro Manila or the region, as the case may be, upon the determination of the Commissioner of Internal Revenue.

"The net retail price shall be determined by the Bureau of Internal Revenue (BIR) through a price survey under oath.

"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 created under Republic Act No. 8240.

"Understatement of the suggested net retail price by as much as fifteen percent (15%) of the actual net retail price shall render the manufacturer or importer liable for additional excise tax equivalent to the tax due and difference between the understated suggested net retail price and the actual net retail price.

"Distilled spirits introduced in the domestic market after the effectivity of this Act shall be initially taxed according to their suggested net retail prices.

" 'Suggested net retail price' shall mean the net retail price at which locally manufactured or imported distilled spirits 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. At the end of three (3) months from the product launch, the Bureau of Internal Revenue shall validate the suggested net retail price of the new brand against the net retail price as defined herein and initially determine the correct tax on a newly introduced distilled spirits. After the end of nine (9) months from such validation, , the Bureau of Internal Revenue 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.

"All distilled spirits existing in the market at the time of the effectivity of this Act shall be taxed according to the tax rates provided above based on the latest price survey of the distilled spirits conducted by the Bureau of Internal Revenue.

"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 created under Republic Act No. 8240.

"Manufacturers and importers of distilled spirits shall, within thirty (30) days from the effectivity of this Act, and within the first five (5) days of every third month thereafter, submit to the Commissioner a sworn statement of the volume of sales for each particular brand of distilled spirits sold at his establishment for the three-month period immediately preceding.

"Any manufacturer or importer who, in violation of this Section, 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 his or its permit to engage in business as manufacturer or importer of distilled spirits.

"Any corporation, association or partnership liable for any of the acts or omissions in violation of this Section shall be fined treble the amount of deficiency taxes, surcharges and interest which may be assessed pursuant to this Section.

"Any person liable for any of the acts or omissions prohibited under this Section shall be criminally liable and penalized under Section 254 of this Code. 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 shall be deported immediately after serving the sentence, without further proceedings for deportation."

SEC. 2. Section 142 of the National Internal Revenue Code of 1997, as amended by Republic Act No. 9334, is hereby further amended to read as follows:

"SEC. 142. *Wines.* – On wines, there shall be collected per liter of volume capacity effective on January 1, 2013, the following excise taxes:

"(a) Sparkling wines/champagnes regardless of proof, if the net retail price per bottle of seven hundred fifty milliliter (750 ml.) volume capacity (excluding the excise tax and the value-added tax) is:

"(1) Five hundred pesos (P500.00) or less -Two hundred fifty pesos (P250.00); and

"(2) More than Five hundred pesos (P500.00) – Seven hundred pesos (P700.00).

"(b) Still wines and carbonated wines containing fourteen percent (14%) of alcohol by volume or less, Thirty pesos (P30.00); and

"(c) Still wines and carbonated wines containing more than fourteen percent (14%) but not more than twenty-five percent (25%) of alcohol by volume, Sixty pesos (P60.00).

"The rates of tax imposed under this Section shall be increased by four percent (4%) every year thereafter effective on January 1, 2014, through revenue regulations issued by the Secretary of Finance.

"Fortified wines containing more than twenty-five percent (25%) of alcohol by volume shall be taxed as distilled spirits. 'Fortified wines' shall mean natural wines to which distilled spirits are added to increase their alcohol strength.

" 'Net retail price' shall mean the price at which sparkling wine/champagne is 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 sparkling wines/champagnes which are marketed outside Metro Manila, the 'net retail price' shall mean the price at which the wine is 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.

"Major supermarkets, as contemplated under this Act, shall be those with the highest annual gross sales in Metro Manila or the region, as the case may be, as determined by the National Statistics Office, and shall exclude retail outlets or kiosks, convenience or sari-sari stores, and others of a similar nature: *Provided*, That no two (2) supermarkets in the list to be surveyed are affiliated and/or branches of each other: *Provided, finally*, That in case a particular sparkling wine/champagne is not sold in major supermarkets, the price survey can be conducted in retail outlets where said sparkling wine/champagne is sold in Metro Manila or the region, as the case may be, upon the determination of the Commissioner of Internal Revenue.

"The net retail price shall be determined by the Bureau of Internal Revenue through a price survey under oath.

"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 created under Republic Act No. 8240.

"Understatement of the suggested net retail price by as much as fifteen percent (15%) of the actual net retail price shall render the manufacturer or importer liable for additional excise tax equivalent to the tax due and difference between the understated suggested net retail price and the actual net retail price.

"Sparkling wines/champagnes introduced in the domestic market after the effectivity of this Act shall be initially tax classified according to their suggested net retail prices.

" 'Suggested net retail price' shall mean the net retail price at which locally manufactured or imported sparkling wines/champagnes 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. At the end of three (3) months from the product launch, the Bureau of Internal Revenue shall validate the suggested net retail price of the sparkling wine/champagne against the net retail price as defined herein and initially determine the correct tax bracket to which a newly introduced sparkling wine/champagne shall be classified. After the end of nine (9) months from such validation, the Bureau of Internal Revenue 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 bracket to which a newly introduced sparkling wine/champagne shall be classified.

"The proper tax classification of sparkling wines/champagnes, whether registered before or after the effectivity of this Act, shall be determined every two (2) years from the date of effectivity of this Act.

"All sparkling wines/champagnes existing in the market at the time of the effectivity of this Act shall be classified according to the net retail prices and the tax rates provided above based on the latest price survey of the sparkling wines/champagnes conducted by the Bureau of Internal Revenue.

"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 created under Republic Act No. 8240.

"Manufacturers and importers of wines shall, within thirty (30) days from the effectivity of this Act, and within the first five (5) days of every month thereafter, submit to the Commissioner a sworn statement of the volume of sales for each particular brand of wines sold at his establishment for the three-month period immediately preceding.

"Any manufacturer or importer who, in violation of this Section, 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 his or its permit to engage in business as manufacturer or importer of wines.

"Any corporation, association or partnership liable for any of the acts or omissions in violation of this Section shall be fined treble the amount of deficiency taxes, surcharges and interest which may be assessed pursuant to this Section.

"Any person liable for any of the acts or omissions prohibited under this Section shall be criminally liable and penalized under Section 254 of this Code. 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 shall be deported immediately after serving the sentence, without further proceedings for deportation."

SEC. 3. Section 143 of the National Internal Revenue Code of 1997, as amended by Republic Act No. 9334, is hereby further amended to read as follows:

"SEC. 143. *Fermented Liquors.* – There shall be levied, assessed and collected an excise tax on beer, lager beer, ale, porter and other fermented liquors except *tuba, basi, tapuy* and similar fermented liquors in accordance with the following schedule:

"Effective on January 1, 2013

"(a) If the net retail price (excluding the excise tax and the value-added tax) per liter of volume capacity is Fifty pesos and sixty centavos (P50.60) or less, the tax shall be Fifteen pesos (P15.00) per liter; and

"(b) If the net retail price (excluding the excise tax and the value-added tax) per liter of volume capacity is more than Fifty pesos and sixty centavos (P50.60), the tax shall be Twenty pesos (P20.00) per liter.

"Effective on January 1, 2014