

[REPUBLIC ACT NO. 9334, December 21, 2004]

**AN ACT INCREASING THE EXCISE TAX RATES IMPOSED ON
ALCOHOL AND TOBACCO PRODUCTS, AMENDING FOR THE
PURPOSE SECTIONS 131, 141, 142, 143, 144, 145 AND 288 OF
THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS
AMENDED**

*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, is hereby further amended to read as follows:

“SEC. 141. *Distilled Spirits.* - On distilled spirits, there shall be collected subject to the provisions of Section 133 of this Code, excise taxes as follows:

“(a) If produced from the sap of nipa, coconut, cassava, camote, or buri palm or from the juice, syrup or sugar of the cane, provided such materials are produced commercially in the country where they are processed into distilled spirits, per proof liter, Eleven pesos and sixty-five centavos (P11.65);

“(b) If produced from raw materials other than those enumerated in the preceding paragraph, the tax shall be in accordance with the net retail price per bottle of seven hundred fifty milliliter (750 ml.) volume capacity (excluding the excise tax and the value-added tax) as follows:

“(1) Less than Two hundred and fifty pesos (P250.00) - One hundred twenty-six pesos (P126.00), per proof liter;

“(2) Two hundred and fifty pesos (P250.00) up to Six hundred and seventy-five pesos (P675.00) - Two hundred fifty-two pesos (P252.00), per proof liter; and

“(3) More than Six hundred and seventy five pesos (P675.00) - Five hundred four pesos (P504.00), per proof liter.

“(c) 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 spirit its taxed over proof spirits, and the tax shall attached 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 mixture 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', as determined by the Bureau of Internal Revenue through a price survey to be conducted by the Bureau of Internal Revenue itself, or by the National Statistics Office when deputized for the purpose by the Bureau of Internal Revenue, shall mean the price at which the distilled spirits is sold on retail in at least ten (10) major supermarkets in Metro Manila, excluding the amount intended to cover the applicable excise tax and the value-added tax. For brands which are marketed outside Metro Manila, the 'net retail price' shall mean the price at which the distilled spirits in 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.

"Variants of existing brands and variants of new brands which are introduced in the domestic market after the effectivity of this Act shall be taxed under the proper classification thereof based on their suggested net retail price: *Provided, however,* That such classification shall not, in any case, be lower than the highest classification of any variant of that brand.

"A 'variant of a brand' shall refer to a brand on which a modifier is prefixed and/or suffixed to the root name of the brand.

"New brands, as defined in the immediately following paragraph, shall initially be classified according to their suggested net retail price.

"Willful understatement of the suggested net retail price by as much as fifteen percent (15%) of the actual net retail price shall render the manufacturer 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.

" 'New brand' shall mean a brand registered after the date of effectivity of R.A. No. 8240.

“ ‘Suggested net retail price’ shall mean the net retail price at which new brands, as defined above, of 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 as defined herein and determine the correct tax bracket to which a particular new brand of distilled spirits, as defined above, shall be classified. After the end of eighteen (18) 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 which a particular new brand of distilled spirits shall be classified: *Provided, however,* That brands of distilled spirits introduced in the domestic market between January 1, 1997 and December 31, 2003 shall remain in the classification under which the Bureau of Internal Revenue had determined them to be long as of December 31, 2003. Such classification of new brands and brands introduced between January 1, 1997 and December 31, 2003 shall not be revised except by an act of Congress.

“The rates of tax imposed under this Section shall be increased by eight (8%) every two years starting on January 1, 2007 until January 1, 2011.

“Any downward reclassification of present categories, for tax purposes, of existing brands of distilled spirits duly registered at the time of the effectivity of this Act which will reduce the tax imposed herein, or the payment thereof, shall be prohibited.

“The classification of each brand of distilled spirits based on the average net retail price as of October 1, 1996, as set forth in Annex ‘A’, including the classification of brands for the same products which, although not set forth in said Annex ‘A’, were registered and were being commercially produced and marketed on or after October 1, 1996, and which continue to be commercially produced and marketed after the effectivity of this Act, shall remain in force until revised by Congress.

“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, knowingly 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, is hereby further amended to read as follows:

"SEC 142. *Wines.* - On wines, there shall be collected per liter of volume capacity, the following taxes:

"(a) Sparkling wines/champagnes regardless of proof, if the net retail price per bottle (excluding the excise tax and the value-added tax) is:

"(1) Five hundred pesos (P500.00) or less-One hundred forty-five pesos and sixty centavos (P145.60); and

"(2) More than Five hundred pesos (P500.00) - Four hundred thirty-six pesos and eighty centavos (P436.80).

"(b) Still wines containing fourteen percent (14%) of alcohol by volume or less, Seventeen pesos and forty-seven centavos (P17.47); and

"(c) Still wines containing more than fourteen percent (14%) but not more than twenty-five percent (25%) of alcohol by volume, Thirty-four pesos and ninety-four centavos (P34.94).

"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', as determined by the Bureau of Internal Revenue through a price survey to be conducted by the Bureau of Internal Revenue itself, or by the National Statistics Office when deputized for the purpose by the Bureau of Internal Revenue, shall mean the price at which wine is sold on retail in at least ten (10) major supermarkets in Metro Manila, excluding the amount intended to cover the applicable excise tax and the value-added tax. For brands 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 super markets in the region excluding the amount intended to cover the applicable excise tax and the value-added tax.

"Variants of existing brands and variants of new brands which are introduced in the domestic market after the effectivity of this Act shall be taxed under the proper classification thereof based on their suggested net retail price: *Provided, however,* That such classification shall not, in any case, be lower than the highest classification of any variant of that brand.

"A 'variant of a brand' shall refer to a brand on which a modifier is prefixed and/or suffixed to the root name of the brand.

"New brands, as defined in the immediately following paragraph, shall initially be classified according to their suggested net retail price.

" 'New brand' shall mean a brand registered after the date of effectivity of R.A. No. 8240.

" 'Suggested net retail price' shall mean the net retail price at which new brands, as defined above, of locally manufactured or imported wines are intended by the manufacturer or importer to be sold on retail in major super markets 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 thee (3) months from the product launch, the Bureau of Internal Revenue shall validate the suggested net retail price of the new brand against the next retail price as defined herein and determine the correct tax bracket to which a particular new brand of wine, as defined above, shall be classified. After the end of eighteen (18) 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 which a particular new brand of , wines shall be classified: *Provided, however.* That brands of wines introduced in the domestic market between January 1,1997 and December 31, 2003 shall remain in the classification under which the Bureau of Internal Revenue has determined them to belong as of December 31, 2003. Such classification of new brands and brands introduced between January 1, 1997 and December 31, 2003 shall not be revised except by an act of Congress.

"The rates of tax imposed under this Section shall be increased by eight percent (8%) every two years starting on January 1, 2007 until January 1, 2011.

"Any downward classification of present categories, for tax purposes, of existing brands of wines duly registered at the time of the effectivity of this Act which will reduce the tax imposed herein, or the payment thereof, shall be prohibited.

"The classification of each brand of wines based on the average net retail price as of October 1, 1996, as set forth in Annex 'B', including the classification of brands for the same products which, although not set forth in said "Annex B", were registered and were being commercially