

[BIR REVENUE MEMORANDUM CIRCULAR NO. 41-2011, September 08, 2011]

**CLARIFYING CERTAIN ISSUES RAISED ON THE TAXABILITY OF
LOCALLY PRODUCED WINES**

This Circular is hereby issued in order to clarify issues on the proper treatment of locally produced wines such as, but not limited, to mango wine, strawberry wine, bugnay wine, etc., for purposes of imposition of excise tax.

The confusion on their taxability arose mainly on the correct Section of Chapter III-Alcohol Products, Title VI-Excise Taxes on Certain Goods of the National Internal Revenue Code (NIRC) of 1997, as amended, that should be applied on these excisable products. Under Section 142 of the NIRC, wine, as an alcohol product, is subject to excise tax. However, pursuant to the provisions of Section 143 under the same Chapter, which impose excise tax on fermented liquors, *tuba*, *basi*, *tapuy* and similar fermented liquors which are also considered as wines, are expressly exempted in the imposition of excise tax under the said Section of the Tax Code. Accordingly, there is need to reconcile both Sections of the same Code for purposes of determining the proper excise tax treatment of the aforesaid locally produced wines.

In its general meaning, the term "wines" referred to under Section 142 of the NIRC is different from the term "fermented liquors" referred to under Section 143 of the same Code, although the two alcohol products are both the results of fermentation process. Fermented liquor refers to beer, a generic term for all alcoholic beverages that are brewed from malted cereal grains, such as malted barley, flavored with hops and fermented by yeast. Beer includes lager beer, ale, porter and other types of beer. On the other hand, wines, as defined under Section 2(17) of Revenue Regulations (RR) No. 2-97, include all alcoholic beverages produced by fermentation without distillation, from the juice of any kind of fruit. However, there are other commonly accepted wines which are derived from other basic raw materials other than fruits such as rice wine, ginger wine, etc., under which classification *tuba*, *basi* and *tapuy* apparently falls.

For the aforementioned class of wine using non-fruits as basic raw materials, the provisions of Section 143 of the NIRC that prescribes for the exemption thereof from excise tax applies. This excise tax exemption became more evident when the word "domestic" has been deleted from the said Section by Republic Act No. 9334, the law increasing the tax rates on alcohol and tobacco products that took effect last January 1, 2005. The deletion cleared the misconception that the exemption is applicable only to domestically produced fermented liquors. Based on this premise, the term "wines" referred to under Section 142 of the NIRC that are subject to excise tax, therefore, pertain specifically to wines that are derived from fruits. Hence, the locally produced mango wines, strawberry wines and bugnay wines, among others, being derived from fruits and/or berries, are subject to excise tax.