

REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
Quezon City

December 21, 2012

REVENUE REGULATIONS NO. 17-2012

SUBJECT : Prescribing the Implementing Guidelines on the Revised Tax Rates on Alcohol and Tobacco Products Pursuant to the Provisions of Republic Act No. 10351 and to Clarify Certain Provisions of Existing Revenue Regulations.

TO : All Internal Revenue Officials and Others Concerned

SECTION 1. SCOPE. – Pursuant to the provisions of Section 244 in relation to Section 245 of the National Internal Revenue Code (NIRC) of 1997, as amended, these Regulations are hereby promulgated to implement the provisions of Republic Act No. 10351, “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”, as well as to clarify certain provisions of existing revenue regulations on alcohol and tobacco products.

SEC. 2. DEFINITION OF TERMS. – For purposes of these Regulations, the following words and phrases shall have the meaning indicated below:

- (a) **ACT** – shall refer to Republic Act (R.A.) No. 10351;
- (b) **CARBONATED WINE** – shall refer to an effervescent wine artificially charge with carbon dioxide and containing more than 0.392 of carbon dioxide per 100 milliliters of wine;
- (c) **CIGARETTES PACKED BY HAND** – shall refer to the manner of packaging of cigarette sticks using an individual person’s hands and not through any other means such as a mechanical device, machine or equipment;
- (d) **COMPOUNDED LIQUORS** – shall refer intoxicating beverages whatever concocted by or resulting from mixture of or addition to distilled spirits, either before or after rectification, of any coloring matter, flavoring extract or essence or other kind of wine, liquor or other ingredient;
- (e) **NET RETAIL PRICE** – shall refer to the price at which the alcohol and tobacco products are 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 alcohol and tobacco products which are marketed outside Metro Manila, the ‘net retail price’ shall mean the price at which the alcohol and tobacco products are 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;

- (f) **SPARKLING WINE OR CHAMPAGNE**– shall refer to an effervescent wine containing more than 0.392 grams of carbon dioxide per 100 milliliters of wine resulting solely from the secondary fermentation of the wine within a closed container;
- (g) **STILL WINE** – shall refer to wine containing not more than 0.392 of carbon dioxide per 100 milliliters of wine; and
- (h) **SUGGESTED NET RETAIL PRICE** – shall refer to the net retail price at which locally manufactured or imported alcohol or tobacco product is intended to be sold by the manufacturer or importer at retail in major supermarkets or retail outlets in the prescribed minimum number of Revenue Regions for brands with national or regional markets.

SEC. 3. REVISED RATES AND BASES OF THE SPECIFIC TAX. – There shall be levied, assessed and collected an excise tax on alcohol or tobacco products, in accordance with the following schedule:

PRODUCT	DATE OF EFFECTIVITY OF TAX RATES					
	January 1, 2013	January 1, 2014	January 1, 2015	January 1, 2016	January 1, 2017	2018 Onwards
A. ALCOHOL PRODUCTS						
(1) Distilled Spirits						
(a) Ad Valorem tax Rate						
Based on the net retail price per proof (excluding the excise and value-added taxes), and	15%	15%	20%	20%	20%	20%
(b) Specific Tax						
Per proof liter	Php20.00	Php20.00	Php20.00	Php20.80	Php21.63	Effective 1/1/2016, the specific tax rate shall be increased by 4% every year thereafter
(2) Wines	<u>Per liter</u>	<u>Per liter</u>	<u>Per liter</u>	<u>Per liter</u>	<u>Per liter</u>	
(a) Sparkling wines/champagnes, where the net retail price (excluding the excise and value-added taxes) per bottle of 750 ml., regardless of proof is:						

(1) Five Hundred Pesos (P500.00) or less	Php250.00	Php260.00	Php270.40	Php281.22	Php292.47	Effective 1/1/2014, the specific tax rate shall be increased by 4% every year thereafter
(2) More than Five Hundred Pesos (P500.00)	Php700.00	Php728.00	Php757.12	Php787.40	Php818.90	
(b) Still wines and carbonated wines containing fourteen percent (14%) of alcohol by volume or less	Php30.00	Php31.20	Php32.45	Php33.75	Php35.10	
(c) Still wines and carbonated wines containing more than fourteen percent (14%) of alcohol by volume but not more than twenty-five percent (25%) of alcohol by volume	Php60.00	Php62.40	Php64.90	Php67.50	Php70.20	
(d) Fortified wines containing more than twenty-five (25%) percent of alcohol by volume shall be taxed as distilled spirits	Taxed as Distilled Spirits	Taxed as Distilled Spirits	Taxed as Distilled Spirits	Taxed as Distilled Spirits	Taxed as Distilled Spirits	
(3) Fermented liquors, where the net retail price (excluding excise and value-added taxes) per liter of volume capacity is:	<u>Per liter</u>	<u>Per liter</u>	<u>Per liter</u>	<u>Per liter</u>	<u>Per liter</u>	Effective 1/1/2018, the specific tax rate shall be increased by 4% every year thereafter
(a) Fifty Pesos and Sixty Centavos (P50.60) or less	Php15.00	Php17.00	Php19.00	Php21.00	Php23.50	
(b) More than Fifty Pesos and Sixty Centavos (P50.60)	Php20.00	Php21.00	Php22.00	Php23.00	Php23.50	
Fermented liquors brewed and sold at microbreweries or small establishments such as pubs and restaurants, regardless of the net retail price.	Php28.00	Php29.12	Php30.28	Php31.50	Php32.76	Effective 1/1/2014, the specific tax rate shall be increased by 4% every year thereafter
B. TOBACCO PRODUCTS						
(1) Tobacco Products	<u>Per kg.</u>	<u>Per kg.</u>	<u>Per kg.</u>	<u>Per kg.</u>	<u>Per kg.</u>	
(a) Tobacco twisted by hand or reduced into a condition to be consumed in any manner other than the ordinary mode of drying and						

curing;	Php1.75	Php1.82	Php1.89	Php1.97	Php2.05	Effective 1/1/2014, the specific tax rate shall be increased by 4% every year thereafter
(b) Tobacco prepared or partially prepared with or without the use of any machine or instrument or without being pressed or sweetened; and	Php1.75	Php1.82	Php1.89	Php1.97	Php2.05	
(c) Fine-cut shorts and refuse, scraps, clippings, cuttings, stems, midribs and sweepings of tobacco;	Php1.75	Php1.82	Php1.89	Php1.97	Php2.05	
(2) Chewing tobacco, unsuitable in any other manner	Php1.50	Php1.56	Php1.62	Php1.68	Php1.75	
(3) Cigars	<u>Per Piece</u>	<u>Per Piece</u>	<u>Per Piece</u>	<u>Per Piece</u>	<u>Per Piece</u>	<u>Per Piece</u>
(a) Based on the net retail price per cigar (excluding the excise and value-added taxes), and	20%	20%	20%	20%	20%	Effective 1/1/2014, the specific tax rate shall be increased by 4% every year thereafter
(b) Per cigar	Php5.00	Php5.20	Php5.41	Php5.62	Php5.85	
(4) Cigarettes packed by hand	<u>Per pack</u> Php12.00	<u>Per pack</u> Php15.00	<u>Per pack</u> Php18.00	<u>Per pack</u> Php21.00	<u>Per pack</u> Php30.00	Effective 1/1/2018, the specific tax rate shall be increased by 4% every year thereafter
(5) Cigarettes packed by machine, where the net retail price (excluding excise and value-added taxes) per pack is:						

(a) Eleven Pesos and Fifty Centavos (P 11.50) and below	Php12.00	Php17.00	Php21.00	Php25.00	Php30.00	
(a) More than Eleven Pesos and Fifty Centavos (P 11.50)	Php25.00	Php27.00	Php28.00	Php29.00	Php30.00	

ILLUSTRATION:

No. 1- Distilled Spirits

Facts: ABC Corp. removes from its factory Brand "XEY" Whisky with the following details:

- 2400 bottles @ 330 ml bottle
- 40% alcohol strength
- Net Retail Price (NRP) is Php 30.00 per bottle

Step 1. Compute the proof of Brand "XEY" by multiplying the alcohol strength by 2.

$$40\% \times 2 = 80 \text{ proof}$$

Step 2. Compute the excise tax due on the removals.

(A) Specific Tax Due Per Bottle of 330 ml.:

Specific Tax per proof liter	P20.00
Multiplied by Proof of 330 ml bottle (.330 ml x .80)	.264
Specific Tax per bottle of 330 ml	P 5.28

(B) Ad Valorem Tax Due Per Bottle of 330 ml.:

NRP of 330 ml bottle	P30.00
Multiplied by Proof	.80
NRP per proof	P 24.00
Multiplied by Ad Valorem Tax rate	15%
Ad Valorem Tax Due per bottle of 330 ml.	P 3.60

Total Excise Tax Rate per bottle of 330 ml.	P 8.88
Multiplied by total number of bottles removed	2,400

Total Excise Tax Due	P21,312.00
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No. 2 - Cigars

FACTS: Total Retail Selling Price, net of VAT and excise tax, per box of cigar containing 25 pieces, P 3,000.00

Step 1: Compute the NRP per cigar.

$$P 3,000.00 \text{ divided by } 25 \text{ cigars} = P 120.00$$

Step 2: Compute the total excise tax due.

Ad Valorem Tax (AVT) Due per cigar: NRP-P120.00 x AVT rate 20%	P 24.00
Add: Specific Tax (ST) Due: Specific Tax Rate per cigar	P 5.00
Total Excise Tax Per Cigar	P 29.00
Multiplied by the number of cigars per box	25
Total Excise Tax Due and Payable	<u>P 725.00</u>

SEC. 4. TAX CLASSIFICATION OF ALCOHOL AND TOBACCO PRODUCTS. – Any alcohol or tobacco product that is introduced in the domestic market on or after the effectivity of this Act shall be initially tax classified according to their suggested net retail prices as declared in the prescribed manufacturer’s or importer’s sworn statement, subject to the initial validation and revalidation requirements prescribed under Revenue Regulations No. 3-2006, as amended by Section 6 of these Regulations.

In case of an alcohol and or tobacco product that was duly registered with the BIR before the effectivity of the Act but was not tax classified by the BIR according to the new tax rates provided under the Act, such product shall be treated as a newly introduced product upon re-introduction thereof in the domestic market after the effectivity of the Act. Accordingly, the tax classification thereof shall be based on the suggested net retail price declared in the aforesaid sworn statement, subject to the initial validation and revalidation requirements.

The proper tax classification of all fermented liquors and tobacco products, whether registered before or after the effectivity of the Act, shall be determined every two (2) years from the date of effectivity of the Act.

For purposes of tax classification, alcohol or tobacco products, whether imported or domestically manufactured, shall be taxed according to their individual brand name (whether or not with prefix or suffix), color and/or design of label (such as logo, font, picturegram, and the like), manner and/or form of packaging or size of container of the product. Accordingly, the following instances, but not limited to, shall be taxed differently:

- (a) Two products bearing exactly the same root name but with different suffixes or prefixes
- (b) Two products bearing exactly the same brand name but with different colors and/or design of labels
- (c) Two products bearing exactly the same brand name and label but with different forms of packaging (e.g., soft packs and hard packs for cigarettes, or in bottles, cans or kegs for alcohol products)
- (d) Two products bearing exactly the same brand name and label but with different sizes of container (e.g., one liter, 500 ml., 330 ml., etc., for alcohol products)

- (e) One product is sold in a regular basis while the other product is introduced in a limited basis such as a special edition, for specific occasion and other similar instances

SEC. 5. DOWNWARD RECLASSIFICATION OF FERMENTED LIQUORS.

- Any downward reclassification of any fermented liquor product that is duly registered with the BIR at the time of effectivity of the Act which will reduce the tax imposed herein, or the payment thereof, shall be prohibited. Starting January 1, 2014, the applicable tax rate shall be increase by four percent (4%) annually: *Provided, however*, it shall not be lower than the rates prescribed under Section 3 of these Regulations.

ILLUSTRATION:

No. 3 FACTS: MAA, Inc., a beer manufacturer, produces the following:
-LUV brand, NRP Php21.50 per liter and currently taxed at
Php15.49 under Republic Act (RA) No. 9334

-GIV brand, NRP of Php51.50 per liter and currently taxed at
Php20.57 under RA No. 9334

Question: What is the applicable excise tax rate on MAA, Inc.'s
LUV and GIV brands on January 1, 2013 and
January 1, 2014?

Answer: Due to the prohibition on downward reclassification
on fermented liquors, MAA, Inc. should apply the
following tax rates:

LUV Brand

Jan. 1, 2013: Applicable tax rate is P15.49 per liter
instead of the specific tax rate of Php15.00 per liter
(since NRP of Php 21.50 is less than Php50.60)
classified imposed under the Act.

Jan. 1, 2014: Applicable tax rate is P17.00 per liter
instead of the specific tax rate of Php16.10
(Php15.49 x 104%).

GIV Brand

Jan. 1, 2013: Applicable tax rate is P20.57 per liter
instead of the specific tax rate of Php20.00 per liter
(since NRP of Php 51.50 is more than Php50.60)
classified imposed under the Act.

Jan. 1, 2014: Applicable tax rate is P21.39 (Php20.57
x104%) per liter instead of the specific tax rate of
Php21.00.

SEC. 6. REVISED REVALIDATION PERIOD FOR NEWLY INTRODUCED ALCOHOL OR TOBACCO PRODUCTS. – The revalidation of the suggested net retail price of a newly introduced alcohol or tobacco product shall be conducted after the end of nine (9) months from the initial validation. The initial validation and revalidation of the suggested net retail price of all newly introduced alcohol and tobacco products shall be conducted exclusively by the authorized representatives of the BIR

SEC. 7. SUBMISSION OF SWORN STATEMENT. – Every local manufacturer or importer of alcohol and tobacco products shall a duly notarized manufacturer's or importer's sworn statement for alcohol or tobacco product showing, among others, the following information:

- (a) Name, address, TIN and assessment number of the manufacturer or importer;
- (b) Complete root name of the brand as well as the complete brand name with modifiers, if any;
- (c) Complete specifications of the brand detailing the specific measurements, weights, manner of packaging, etc.;
- (d) Name(s) of the region(s) where the brand is/are to be marketed;
- (e) Wholesale price per case, gross and net of VAT and excise tax;
- (f) Suggested retail price, gross and net of VAT and excise tax, per pack or per bottle, as the case may be;
- (g) Detailed production/importation costs and all other expenses incurred or to be incurred until the product is finally sold (e.g. materials, labor, overhead, selling and administrative expenses) per case;
- (h) Applicable rate of excise tax per unit of measure or value, as the case may be; and
- (i) Corresponding excise and value-added taxes per case.

The manufacturer's or importer's sworn statement shall be submitted as a supporting document to the prescribed application for the initial registration of alcohol or tobacco product and thereafter submit an updated sworn statement on or before the end of the months of June and December of the year: *Provided*, however, That whenever there is a change in the cost to manufacture, produce and sell the brand or change in the actual selling price of the brand, the updated sworn statement shall be submitted at least five (5) days before the actual removal of the product from the place of production or release from the customs' custody, as the case may be: *Provided*, further, That if the manufacturer or importer sells or allows such goods to be sold at wholesale in another establishment of which he is the owner or the profits thereof of which he has an interest, the selling price in such establishment shall constitute the wholesale price. Should such price be less than the said costs and expenses, a proportionate margin of profit of not less than ten percent (10%) thereof shall be added to constitute the wholesale price. With respect to imported alcohol

or tobacco products, the cost of importation shall, in no case, be less than the value indicated in the reference books or any other reference materials used by the BOC in determining the proper valuation of the imported products, or the dutiable value as defined under the Tariff and Customs Code of the Philippines, as amended, whichever, is higher: *Provided, finally*, That, in case the newly introduced alcohol or tobacco product shall be subsequently marketed in another region/other regions before the proper tax classification is finally determined by the BIR, an updated sworn statement shall be submitted to the appropriate BIR Office before the same shall be removed from the place of production.

The sworn statement prescribed herein shall be subject to verification by the BIR to validate its contents with respect to its accuracy and completeness. In the event that the contents thereof are found to be inaccurate and/or incomplete, the taxpayer shall be required to submit a revised sworn statement, without prejudice to the imposition of corresponding sanctions and penalties.

SEC. 8. UNDERSTATEMENT OF SUGGESTED NET RETAIL PRICE. –

The 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.

ILLUSTRATION:

No. 4 – CPI Corp., a cigarette manufacturer, submitted a sworn statement of a cigarette product, “Mirage”, wherein the tax rate to be imposed is P12.00 per pack based on the Suggested Net Retail Price (SNRP), excluding VAT and excise, of P 9.50 per pack. After three months from the date of submission of the sworn statement, the BIR conducted a price survey and found out that the Actual Net Retail Price (ANRP), excluding VAT and excise tax is actually P 12.00 subject to the higher excise tax rate of P 25.00 per pack. The total volume removed by CPI Corp. on the product is 10,000 packs from the time of its removal up to the time of the price survey. Compute the total deficiency excise tax and penalties of CPI Corp., if there are any.

Step 1. Determine whether or not the understatement of the SNRP is equal to or more than 15% of the ANRP

SNRP per Sworn Statement	P 9.50
ANRP per Validation	<u>12.00</u>
Difference	P 2.50
Percentage of understatement [(P2.50/ P9.50) x 100%]	<u><u>26.32%</u></u>

Since the understatement of 26.32% is more than 15%, CPI Corp is, therefore, liable to the additional penalty for understatement of suggested net retail price.

Step 2. Compute the deficiency excise and interest

the place of manufacture to a bonded facility, upon posting of a transfer bond, prior to export.

Tobacco products imported into the Philippines and destined for foreign countries shall not be allowed entry without posting a bond equivalent to the amount of customs duty, excise and value-added taxes due thereon if sold domestically.

SEC. 11. REVISED PROVISIONS FOR THE MANNER OF PACKAGING OF CIGARETTES. – All Cigarettes whether packed by hand or packed by machine shall only be packed in twenties (20s), and through other packaging combinations which shall result to not more than twenty sticks of cigarettes: *Provided*, That, in case of cigarettes packed in not more than twenty sticks, whether in 5 sticks, 10 sticks and other packaging combinations below 20 sticks, the net retail price of each individual package of 5s, 10s, etc. shall be the basis of imposing the tax rate prescribed under the Act.

SEC. 12. TRANSITORY PROVISIONS. – Upon the effectivity of the Act, the following transitory provisions shall be strictly observed by all concerned:

- (a) All alcohol and tobacco products existing in the market at the time of the effectivity of this Act shall be initially classified according to the tax rates prescribed by the Act based on the 2010 price survey of these products conducted by the Bureau of Internal Revenue (BIR), subject to the prohibition against downward reclassification on fermented liquors: *Provided, however*, That in case of alcohol and or tobacco products that were introduced after the 2010 price survey but before the effectivity of the Act, their respective tax classification or rate shall be based on the suggested net retail price declared in latest sworn statement filed by the local manufacturer or importer, as the case maybe. The Commissioner of Internal Revenue shall issue a Revenue Memorandum Circular containing the tax classifications/rates applicable to all alcohol and tobacco products existing in the market at the time of the effectivity of the Act.
- (b) For purposes of determining the actual volume of locally manufactured alcohol and tobacco products that shall be imposed with the new tax rates upon the removal thereof from the place of production, an actual stocktaking shall be conducted by the BIR on all stocks of locally manufactured alcohol and tobacco products held in possession by the manufacturer as of the effectivity of the Act.
- (c) The specific tax that was paid on the physical inventory of ethyl alcohol held in possession by manufacturers of compounded liquors as of the effectivity of the Act subsequently used as raw materials in the production of compounded liquors shall not be entitled to tax credit/refund or shall not be deducted from the total excise tax due on compounded liquors.

SEC. 13. PENALTIES. – Violations of these Regulations shall be subject to the corresponding penalties under Title X of the NIRC of 1997, as amended.

Further, the following penalty provisions are hereby prescribed pursuant to the provisions of the Act, as follows:

- (a) Any manufacturer or importer who misdeclares or misrepresents in his or its sworn statement herein required any pertinent data or information shall, upon discovery, be penalized by a summary cancellation or withdrawal of his or its permit to engage in business as a manufacturer or importer of alcohol or tobacco products;
- (b) Any corporation, association or partnership liable for any of the acts or omissions in violation of the Act and implemented by these Regulations shall be fined treble the aggregate amount of deficiency taxes, surcharges and interest which may be assessed pursuant to the provisions of the Act;
- (c) Any person liable for any of the acts or omission prohibited under the Act and implemented by these Regulations shall be criminally liable and penalized under Section 254 of the NIRC of 1997, as amended; and
- (d) 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. 14. SEPARABILITY CLAUSE - If any of the provisions of these Regulations is declared invalid by a competent court, the remainder of these Regulations or any provision not affected by such declaration of invalidity shall remain in force and effect.

SEC. 15. REPEALING CLAUSE. – All regulations, rulings, orders, or portions thereof which are inconsistent with the provisions of these Regulations are hereby revoked, repealed or amended, accordingly.

SEC. 16. EFFECTIVITY. – These Regulations shall take effect upon its publication in leading newspapers of general circulation.

(Original Signed)
CESAR V. PURISIMA
Secretary of Finance

Recommending Approval:

(Original Signed)
KIM S. JACINTO-HENARES
Commissioner of Internal Revenue