

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

Nineteenth Congress
Second Regular Session

House Bill No. **10328**



Introduced by **REP. JOEY SARTE SALCEDA**

AN ACT
AMENDING SECTIONS 134 AND 168 OF REPUBLIC ACT NO. 8424, OTHERWISE
KNOWN AS THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS
AMENDED, AND FOR OTHER PURPOSES

EXPLANATORY NOTE

RA 10351 or the Sin Tax Law of 2012 abandoned the use of raw materials as basis for taxation of alcohol and instead imposed the tax based on removal of finished liquor products for consumption in the local market, using a compound tax of ad valorem based on Net Retail Price (NRP) per proof liter and specific tax per proof liter.

Prior to the amendment, alcoholic products produced by domestic distilleries from locally grown materials (mostly sugar cane) were taxed much lower than imported alcohol. Now, both imported alcohol and local alcohol are taxed at the same rates.

However, certain existing provisions of the National Internal Revenue Code (NIRC) are still based on the old laws emanating from the Commonwealth era. Section 134 and Section 168 of the NIRC, as amended, were not synchronized by R.A. 10351 and later laws on the subject. These provisions are still anchored to the old system of taxing alcohol as an ingredient.

EXISTING PROVISIONS

The wordings of the existing provisions under Section 134 and Section 168 are as follows:

1. Section 134 of Title VI (*Excise Tax on Certain Goods*), Chapter II, (*Exemption or Conditional Tax-Free Removal of Certain Articles*) of the National Internal Revenue Code (NIRC) of 1997, as amended:

“SEC. 134. Domestic Denatured Alcohol.— Domestic alcohol of not less than one hundred eighty degrees (180°) proof (ninety percent (90%) absolute alcohol) shall, when suitably denatured and rendered unfit for oral intake, be exempt from the excise

tax prescribed in Section 141: Provided, however, That such denatured alcohol shall be subject to tax under Section 106(A) of this Code; Provided, further, That if such alcohol is to be used for motive power, it shall be taxed under Section 148(d) of this Code; Provided, finally, That any alcohol, previously rendered unfit for oral intake after denaturing but subsequently rendered fit for oral intake after undergoing fermentation, dilution, purification, mixture or any other similar process shall be taxed under Section 141 of this Code and such tax shall be paid by the person in possession of such reprocessed spirit.”

2. Section 168 of Title VI (*Excise Taxes on Certain Goods*), Chapter VIII (*Administrative Provisions Regulating Business of Persons Dealing in Articles Subject to Excise Tax*) of the National Internal Revenue Code (NIRC) of 1997, as amended:

“SEC. 168. Denaturing Within Premises. - For purposes of this Title, the process of denaturing alcohol shall be effected only within the distillery premises where the alcohol to be denatured is produced in accordance with formulas duly approved by the Bureau of Internal Revenue and only in the presence of duly designated representatives of said Bureau.”

The subject of the two provisions above is denatured alcohol. Denaturing is simply the process of making alcohol unfit for drinking by the addition of denaturants or toxic or foul-tasting substances. Once denatured, the alcohol becomes an undrinkable substance and shall no longer be taxed as potable alcohol under Section 141 of the NIRC. The denatured alcohol can then be used by the pharmaceutical industry as ingredient for its finished products. It can also be used as blending component for gasoline.

When local compounders of alcohol process or rectify the substance to produce finished alcoholic drinks, rejected batches of alcohol during rectification regularly occur. For quality control reasons, these rejects are no longer suitable to be used and should be denatured and disposed as such.

However, the above two (2) cited provisions of the NIRC limit the denaturing of alcohol only to domestic alcohol produced by local distilleries and only in the premises of such local distilleries. This is no longer applicable to the present milieu. For the longest time, locally produced alcohol is not enough to meet liquor production demand, hence importation of alcohol as ingredient is done regularly.

This creates an absurd situation in the compounding and rectification of alcohol – when the reject comes from locally produced alcohol, it can be denatured; if the rejected alcohol comes from imported source, it cannot be denatured. The source is not relevant at all since locally denatured alcohol is no longer an article subject to tax under Section 141 but is taxed under other pertinent provisions of the NIRC.

Thus, as presently worded, the two cited provisions create a great disadvantage for taxpayers doing business as compounders and rectifiers who use imported alcohol since they are prevented to dispose of its rejects. It means they are forced to use off-specs alcohol, and this prevents them from producing better quality products in their own market to compete with the high standards maintained by foreign producers of alcoholic drinks.

To remove the absurd and discriminatory practice, the above two provisions must be adjusted consistent with the new taxing policy.

PROPOSED AMENDMENTS

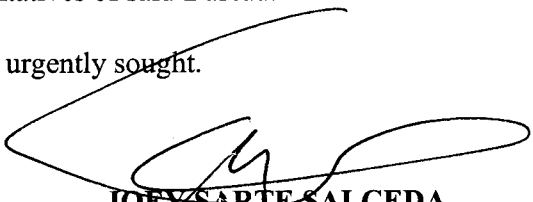
Thus, Section 134 must be amended (*as marked by [] to indicate deletion and as marked by underlined words in capital letters in bold type to indicate insertion*) to read as follows:

“SEC. 134. [Domestic] Denatured Alcohol. – Alcohol of not less than one hundred eighty degrees (180°) proof (ninety percent (90%) absolute alcohol) **FROM WHATEVER SOURCE INTENDED AS INGREDIENT IN THE MANUFACTURE OF DISTILLED SPIRITS,** shall when suitably denatured **LOCALLY** and rendered unfit for oral intake, be exempt from the excise tax, prescribed in Section 141: Provided, however, That such denatured alcohol shall be subject to tax under Section 106(A) of this Code; Provided, further, That if such alcohol is to be used for motive power, it shall be taxed under Section 148(d) of this Code; Provided, finally, That any alcohol, previously rendered unfit for oral intake after denaturing but subsequently rendered fit for oral intake after undergoing fermentation, dilution, purification, mixture or any other similar process shall be taxed under Section 141 of this Code and such tax shall be paid by the person in possession of such reprocessed spirit.

Section 168 must now be amended (*as marked by [] to indicate deletion and as marked by underlined words in capital letters in bold type to indicate insertion*) to read as follows:

“SEC. 168. *Denaturing Within Premises* - For purposes of this Title, the process of denaturing alcohol shall be effected only within the [distillery] premises **OF THE DOMESTIC DISTILLER AND COMPOUNDER OF DISTILLED SPIRITS WITH RECTIFYING FACILITIES** in accordance with formulas duly approved by the Bureau of Internal Revenue and only in the presence of duly designated representatives of said Bureau.”

In view of the foregoing, the approval of this bill is urgently sought.



JOEY SARTE SALCEDA

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

SECTION 1. – Section 134 of the National Internal Revenue Code, as amended, is hereby further amended as follows:

“SEC. 134. [Domestic] Denatured Alcohol. – Alcohol of not less than one hundred eighty degrees (180°) proof (ninety percent (90%) absolute alcohol) **FROM WHATEVER SOURCE INTENDED AS INGREDIENT IN THE MANUFACTURE OF DISTILLED SPIRITS**, shall when suitably denatured **LOCALLY** and rendered unfit for oral intake, be exempt from the excise tax, prescribed in Section 141: Provided, however, That such denatured alcohol shall be subject to tax under Section 106(A) of this Code; Provided, further, That if such alcohol is to be used for motive power, it shall be taxed under Section 148(d) of this Code; Provided, finally, That any alcohol, previously rendered unfit for oral intake after denaturing but subsequently rendered fit for oral intake after undergoing fermentation, dilution, purification, mixture or any other similar process shall be taxed under Section 141 of this Code and such tax shall be paid by the person in possession of such reprocessed spirit.

SEC. 2. – Section 168 of the National Internal Revenue Code, as amended, is hereby further amended as follows:

“SEC. 168. *Denaturing Within Premises* - For purposes of this Title, the process of denaturing alcohol shall be effected only within

the [distillery] premises **OF THE DOMESTIC DISTILLER AND COMPOUNDER OF DISTILLED SPIRITS WITH RECTIFYING FACILITIES** in accordance with formulas duly approved by the Bureau of Internal Revenue and only in the presence of duly designated representatives of said Bureau.”

SEC. 3. *Implementing Rules and Regulations.* – Within ninety (90) days from the effectivity of this Act, the Secretary of Finance, shall promulgate the necessary guidelines for the effective implementation of this Act.

SEC.4. *Separability Clause.* – If any provision of this Act is declared unconstitutional or invalid, the validity of other provisions shall not be affected thereby.

SEC. 5. *Repealing Clause.* – All laws, decrees, orders, rules and regulations, other issuances, or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

Approved,