REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

RA Nos. 9334 and 10351
#471-2017

9/29/2017

Emperador Distillers, Inc.
7/F 1880 Eastwood Avenue
Eastwood CyberPark
E. Rodriguez Jr. Ave.
Bagumbayan, Quezon City

Attention: **Mr. Winston Co**
President

Gentlemen:

This refers to your letter dated April 18, 2017 seeking confirmation that alcohol losses sustained before removal of the product from place of production shall not be subjected to excise tax under the present system of excise taxation of alcohol products.

It is represented that your group of companies, through Emperador Distillers, Inc. is engaged as manufacturer, distiller, rectifier, distributor and exporter of locally produced liquor products under the well-established brand names of Emperador, Andy Player, and Zabana; that Emperador Brandy has now started to expand its brand footprint outside the Philippines and is now being distributed in 40 countries across Asia, North America, Africa, Middle East, and Europe; that you now plan to gain a foothold in the premium liquor segment for brandy, whisky and other liquor products for the export and local markets, both of which are largely dominated by well-known foreign brands; and that for this purpose, you intend to invest close to P3 billion in the local production of premium grade liquors; that to be classified as premium grade, a liquor product needs to be subjected to an aging process involving a period of five (5) to twenty (20) years; that aging is the process of storing distilled spirits in barrels for a long period of time resulting in the creation of a fine and select line of premium liquors.

It is also represented that it is your concern that your intended aging process over a lengthy period to produce premium liquors will necessarily entail severe losses on alcohol due to natural evaporation during the long-term aging stage; that if such losses were to be imposed excise taxes at that stage of production or before removal of the product from the place of production, then your venture will be rendered unviable from the very start for you will not be able to compete with foreign producers even in the domestic market because they are not subjected to the same treatment; and that certainly your foreign competitors are not taxed on alcohol losses in the production of premium liquors.

For the above reasons, you seek confirmation that alcohol losses sustained before removal of the product from place of production shall not be subjected to excise tax, under the present system of excise taxation of alcohol products; that Section 130(A)(2) of the Tax Code of 1997, as amended, mandates that the manufacturer or producer shall file the return and pay the excise tax before removal of domestic products from place of production; that under Section 22 of Revenue Regulations (RR) 3-2006, losses of distilled spirits or rectified alcohol incurred before removal thereof from the distillery premises shall be accounted for and recorded in the Official Registry Books (ORBs) as they occur on a daily basis; and that the same provision provides that losses may be allowed when such loss is not caused by fraud, negligence or carelessness of the distillers or owners of the rectifying establishment.

You now wish to confirm that the above treatments are applicable to your specific project such that the losses of alcohol during your long-term aging process involving a period of 5-20 years and/or prior to its conversion into some finished product, should not result in the imposition of the usual excise taxes during the aging stage.

In reply, please be advised that the time for filing of return and payment of excise tax on domestic products is governed by Section 130(A) (2) of the Tax Code of 1997, as implemented by Revenue Regulations No. 01-02, which provides that "(U)nless otherwise specifically allowed, the return shall be filed and the excise tax paid by the manufacturer or producer before removal of domestic products from place of production: xxx".

Consequently, we confirm the general rule that the ad valorem tax and specific tax on alcohol shall only attach on the finished liquor products removed from the place of production. There is, therefore, no more occasions to impose the tax on alcohol itself if the same is employed as the chief ingredient of finished liquor. Concerning losses on distilled spirits, Sec. 22 of RR No. 3-2006 provides for the general rule that no claim for losses can be allowed on distilled spirits lost or destroyed after removal thereof from the place of production. Conversely, the same provision states that losses of distilled spirits or rectified alcohol incurred before removal thereof from the distillery premises shall be accounted for and recorded in the Official Registry Books (ORBs) as they occur on a daily basis. For this purpose, loss of not more than one percent (1%) for distillation and four (4) percent of excise tax-paid distilled spirits for rectification may be allowed when such loss is not caused by fraud, negligence or carelessness of the distillers or owners of the rectifying establishment.

Hence, we confirm that the above treatments are applicable to the long-term aging process as envisioned in your planned investment in the local production of premium liquor. That being the case, all unintentional, casual, unavoidable and/or natural losses of alcohol during your long-term aging process involving a period of 5-20 years and/or prior to its conversion into some finished product, should not result in the imposition of the usual excise taxes during the aging stage provided that such losses were not caused by fraud, negligence or carelessness of the distillers or owners of the rectifying establishment.

Finally, we appreciate your effort to seek this agency's clearance in connection with your multi-billion venture in the local production of premium liquor, in line with your attempt to compete with established foreign brands. Rest assured that this Bureau adheres to the concept of tax neutrality which promotes the principle that the tax system should strive to be neutral so that decisions are made on their economic merits and not for tax reasons.

This ruling is being issued on the basis of the facts as represented. However, if upon investigation, it will be ascertained that the facts are different, then this ruling shall be considered null and void.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue

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