



26 August 2022

CUSTOMS MEMORANDUM CIRCULAR
NO. 135-2022

To: The Assistant Commissioner
All Deputy Commissioners
All Directors and Division Chiefs
All District/ Port Collectors
All Others Concerned

SUBJECT: JOINT MEMORANDUM CIRCULAR NO. 003, s. 2020 OTHERWISE KNOWN AS THE "IMPLEMENTING RULES AND REGULATION OF HEATED TOBACCO PRODUCTS AND VAPOR PRODUCTS AS PRESCRIBED BY R.A. NOS. 11346 AND 11467".

Attached herein is a letter dated June 06, 2022 from the then Secretary of Finance, transmitting to the Bureau a copy of the letter dated 24 May 2022 regarding the enforcement of the Food and Drug Administration (FDA), regulation on vapor products and heated tobacco products, in accordance with the effectivity date of the Joint Memorandum Circular No. 003, s. 2020 otherwise known as the "Implementing Rules and Regulation of Heated Tobacco Products and Vapor Products as Prescribed by R.A. Nos. 11346 and 11467".

In addition, the FDA also advised the following vital matter for the smooth implementation of the aforesaid circular:

- ***Mandatory Requirement of a License to Operate for Vapor Product and Heated Tobacco Product Establishments***

Starting 25 May 2022, an FDA License to Operate (LTO) shall be required for all establishments engaged in the manufacture, distribution, importation, and offer for sale, sale, including online sale/distribution of vapor products and heated tobacco products. Concerned establishments operating without an LTO shall be subject to penalties/sanctions provided under Book III, Article XI of the Rules and Regulations Implementing Republic Act No. (R.A) 9711, R.A. 11346, R.A. 11467, Executive Order No. (E.O.) 106 s. 2020 and other penalties.



- **Ban on Flavored Vapor Product E- Liquid Solutions, Refills, and Cartridges**

Pursuant to R.A 11467, the FDA reiterates that the manufacture, distribution, importation, and offer for sale, sale, including online sale distribution of flavored vapor product refills, other than plain tobacco and plain menthol, in the Philippines shall be prohibited.

Lastly, FDA also advised that the mandatory registration for the abovementioned products is not yet in force pending the issuance of its guidelines for the registration of vapor products and heated tobacco products. FDA however, shall continue to process and issue certifications for Product Batch Declaration (PBD) following FDA Circular No. 2021-010, to facilitate the implementation of taxation on vapor products and heated tobacco product refills with the Bureau of Internal Revenue (BIR).

For information and guidance.

For record purposes, please confirm the dissemination of this circular throughout your offices within fifteen (15) days from receipt thereof.


YOGI FILEMON L. RUIZ
Acting Commissioner
SEP 06 2022
 BOC-09-31150

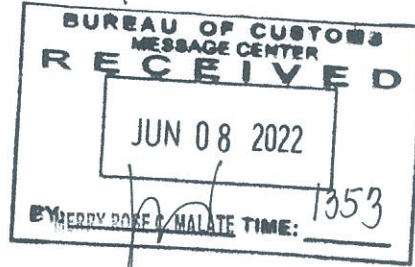


Republic of the Philippines
DEPARTMENT OF FINANCE

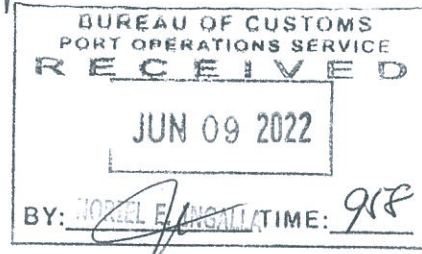
Roxas Boulevard Corner Pablo Ocampo, Sr. Street
Manila 1004

MASTER COPY

06 June 2022



COMMISSIONER REY LEONARDO B. GUERRERO
Bureau of Customs (BOC)
South Harbor, Gate 3
Port Area, Manila



Dear Commissioner Guerrero:

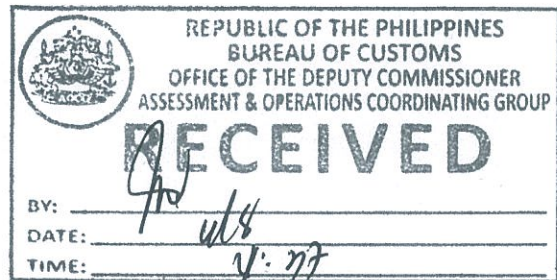
As instructed by the Secretary of Finance, we are transmitting herewith, for information and/or appropriate action, a copy of the 24 May 2022 letter addressed to the Secretary of Finance from Dr. Oscar G. Gutierrez, Jr., Officer-in-Charge, Director General, Food and Drug Administration (FDA), regarding the enforcement of the FDA's regulation on vapor products and heated tobacco products, in accordance with the effectivity date of the Joint Memorandum Circular No. 003, s. 2020 otherwise known as the "Implementing Rules and Regulation of Heated Tobacco Products and Vapor Products as Prescribed by Republic Act Nos. 11346 and 11467." Please note that an advance copy of this document was also sent to your office on 03 June 2022 through electronic mail.

Please address any responses to the Secretary of Finance.

For any clarifications, please contact Telephone Number 8522 3262 or send an email to secfin@dof.gov.ph with the reference number 053122DOF007061.

Thank you.

**OFFICE OF THE SECRETARY
DEPARTMENT OF FINANCE**





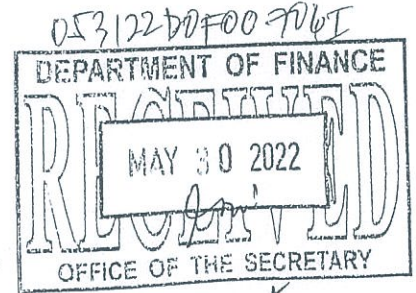
Republic of the Philippines
Department of Health
FOOD AND DRUG ADMINISTRATION



24 May 2022

Carlos G. Dominguez
Honorable Secretary
Department of Finance

*15/05/22
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Buly
21/05/22*



Dear Secretary Dominguez,

The Food and Drug Administration (FDA) formally communicates with your good office, the enforcement of the FDA's regulation on vapor products and heated tobacco products at the end of the eighteen (18) month transitory period on 25 May 2022, in accordance with the effectivity date of the Joint Memorandum Circular No. 003, s.2020 otherwise known as the "Implementing Rules and Regulation of Heated Tobacco Products and Vapor Products as Prescribed by Republic Act Nos. 11346 and 11467". Hence, the FDA advises the following vital matters for the smooth implementation of the afore-cited, specifically:

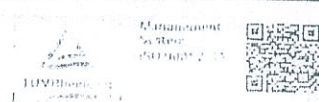
- *Mandatory Requirement of a License to Operate for Vapor Product and Heated Tobacco Product Establishments*

Starting 25 May 2022, an FDA License to Operate (LTO) shall be required for all establishments engaged in the manufacture, distribution, importation, and offer for sale, sale, including online sale/distribution of vapor products and heated tobacco products. Concerned establishments operating without an LTO shall be subject to the penalties/sanctions provided under Book III, Article XI of the Rules and Regulations Implementing Republic Act No. (R.A.) 9711, R.A. 11346, R.A. 11467, Executive Order No. (E.O.) 106 s. 2020, and other penalties.

- *Ban on Flavored Vapor Product E-Liquid Solutions, Refills, and Cartridges*

Pursuant to R.A. 11467, the FDA reiterates that the manufacture, distribution, importation, and offer for sale, sale, including online sale/distribution of flavored vapor product refills, other than plain tobacco and plain menthol, in the Philippines shall be prohibited.

Please be advised that the mandatory registration for these products is not yet in force, pending the issuance of FDA's guidelines for the registration of vapor products and heated tobacco products. However, the FDA shall continue to process and issue certifications for Product Batch Declaration (PBD), following FDA Circular No. 2021-010, to facilitate the implementation of taxation on vapor products and heated tobacco product refills with the Bureau of Internal Revenue (BIR).




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Thus, the FDA seeks the cooperation and assistance of the Bureau of Customs (BOC) and BIR, coursing through your good office, for the effective execution of the pertinent laws mentioned as a means to uphold the paramount principle of safeguarding public health. For concerns or clarifications, you may contact us at ntru@fda.gov.ph.

Thank you.

Very truly yours,


DR. OSCAR G. GUTIERREZ, JR.
Officer-in-Charge, Director General
Food and Drug Administration



Copy furnished:

Rey Leonardo B. Guerrero
Commissioner
Office of the Commissioner
Bureau of Customs

Caesar R. Dulay
Commissioner of Internal Revenue
Bureau of Internal Revenue