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REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF CUSTOMS
MANILA 1099

CUSTOMS ADMINISTRATIVE ORDER (CAO)
NO. 07-2020

SUBJECT: TAX AND DUTY-EXEMPT IMPORTATIONS UNDER SECTION 4(O) OF "BAYANIHAN TO HEAL AS ONE ACT"

Introduction. This CAO implements Section 4, paragraph (o) of Republic Act No. 11469, otherwise known as "Bayanihan to Heal as One Act."

Section 1. Scope. This CAO shall cover importations of supplies and equipment provided in Section 4, paragraph (o) of Republic Act No. 11469, otherwise known as "Bayanihan to Heal as One Act."

Section 2. Objectives.

2.1. To establish an informed compliance regime for importers and/or manufacturers entitled to exemption from import taxes, duties and fees under RA 11469; and

2.2. To facilitate speedy customs clearance of such tax and/or duty-exempt importations, without sacrificing the Bureau's other core functions of revenue collection and border security through application of risk management techniques and Information and Communication Technology (ICT) enabled monitoring and control systems.

Section 3. Definition of Terms. For purposes of this CAO, the following terms are defined as follows:

3.1. **Act** — shall refer to Republic Act No. 11469, otherwise known as "*Bayanihan to Heal as One Act.*"

3.2. **Bureau** — shall refer to the Bureau of Customs.[1]

3.3. **Customs Duties** — shall refer to duties imposed on the importation of goods pursuant to the CMTA.

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[1] cf. CMTA, Title I, Chapter 2, Section 102 (i).

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3.4. Tax Exemption Indorsement (TEI) — shall refer to an indorsement from the Revenue Office (RO) of the Department of Finance (DOF) evidencing exemption of a particular importer from payment of duties and/or taxes on his importations.

3.5. Taxes — shall refer to all taxes, fees and charges imposed under the Customs Modernization and Tariff Act and the National Internal Revenue Code (NIRC) of 1997, as amended, and collected by the Bureau.[2]

3.6. Value Added Tax (VAT) — shall refer to a form of sales tax, levied on the sale, barter, exchange or lease of goods or properties and services in the Philippines and on the importation of goods into the Philippines as imposed pursuant to National Internal Revenue Code (NIRC).[3]

Section 4. General Provisions. Pursuant to Section 4(o) of the Act, the importation of health equipment and supplies deemed as critical or needed to carry out the objective of the Act and address the COVID-19 public health emergency shall be exempt from duties, taxes, and fees, including:

a. Personal Protective equipment such as gloves, gowns, masks, goggles, face shields, surgical equipment and supplies;
b. Laboratory equipment and its re-agents;
c. Medical equipment and devices;
d. Support and maintenance for laboratory and medical equipment;
e. Surgical equipment and supplies;
f. Medical supplies, tools, and consumables such as alcohol, sanitizers, tissue, thermometers, hand soap, detergent, sodium hydrochloride, cleaning materials, povidone iodine, common medicines (e.g. paracetamol tablets and suspension, mefenamic acid, vitamins tablet and suspension, hyoscine tablet and suspension, oral rehydration solution, and cetirizine tablet and suspension);
g. COVID-19 testing kits;[4] and
h. Others as may be identified by the Department of Health.

Section 5. Importation by Manufacturers with Incentives. Manufacturers included in the Master List of the Department of Trade and Industry and other incentive granting bodies of the National Government may avail of the tax and duty exemption provided under Section 4(o) of the Act for their importation of materials necessary for the production of health equipment and supplies deemed as critical or needed to carry out the objective of the Act.

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[2] cf. CMTA, Title I, Chapter 2, Subsection 102 (oo).
[3] cf. Republic Act No. 8424 "National Internal Revenue Code of 1997", as amended.
[4] cf. Republic Act No. 11469, Section 4, par. K.

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Section 6. Regulatory Clearance. The following policy shall be applied to the importation covered by this CAO:

6.1. Importers of medical equipment and supplies for commercial purposes are exempt from the presentation of Certificate of Product Notification (CPN) or Certificate of Product Registration (CPR) issued by the Food and Drugs Administration (FDA) prior to release from the Bureau provided, that they are able to provide a copy of License to Operate (LTO) and proof of application for product notification with the FDA.[5] Provided further, that for ventilators, respirators and their respective accessories imported for commercial purposes, importers only need to present a copy of their LTO.[6]

6.2. Foreign donations of PPEs (face masks including N95 Masks, Shoe Covers, Gloves, Head Covers, and Gowns), imported not for commercial purposes,[7] and foreign donations of ventilators, respirators, and their respective accessories to be used in the treatment of COVID-19 patients,[8] shall not be required clearance from FDA prior to release.

6.3. Importers or companies, other than medical device establishments, who use facemasks in the performance of their jobs and are strictly for company use can directly import without any certification from the FDA.[9]

6.4. Imported health products for donation, duly certified by the regulatory agency or their accredited third party in the originating countries with established regulation, shall automatically be cleared. The certification shall not be required for health products which is not subject to clearance from FDA.[10]

6.5. Other regulations issued by FDA including Circular No. 2020-009 dated 19 March 2020 shall also be complied with, unless inconsistent with the provision of the Act.

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[5] cf. FDA Letter dated 16 March 2020 to Comm. Leonardo B. Guerrero, Subject: FDA Procedure for FDA Clearance for Customs Release of Imported Medical Health Devices

[6] cf. FDA Letter dated 23 March 2020 to Comm. Leonardo B. Guerrero, Subject: FDA Clearance of Ventilators, Respirators and Accessories

[7] cf. FDA Letter dated 19 March 2020 to Comm. Leonardo B. Guerrero, Subject: FDA Procedure for FDA Clearance for Customs Release of Foreign Donations for the COVID-19 Public Health Emergency.

[8] cf. FDA Letter dated 23 March 2020 to Comm. Leonardo B. Guerrero, Subject: FDA Clearance of Ventilators, Respirators and Accessories

[9] cf. FDA Letter dated 16 March 2020 to Comm. Leonardo B. Guerrero, Subject: FDA Procedure for FDA Clearance for Customs Release of Imported Medical Health Devices

[10] cf. FDA Letter dated 16 March 2020 to Comm. Leonardo B. Guerrero, Subject: FDA Procedure for FDA Clearance for Customs Release of Imported Medical Health Devices

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Section 7. Operational Provisions.

7.1. Customs clearance procedure for importations of medical equipment and supplies for commercial purposes shall be in accordance with existing rules and regulations issued by the Bureau. Provided, that the actual value of the imported goods shall determine whether the clearance procedure is under formal or informal entry process.

7.2. The Bureau of Customs shall not unnecessarily delay the release of donated medical equipment and supplies deemed as critical or needed to carry out the objective of the Act.[11] Clearance procedure for donated medical equipment and supplies shall be under informal entry process.

7.3. The Joint Administrative Order on Relief Consignment and BOC Commissioner Memorandum dated 17 March 2020 on Provisional Goods Declaration shall apply in suppletory capacity for the speedy release of the medical equipment and supplies deemed as critical or needed to carry out the objective of the Act.

7.4. The shipments entitled to exemption under Section 4(o) of the Act may be released under Provisional Goods Declaration subject to the submission of Tax Exemption Indorsement (TEI) from the Department of Finance-Revenue Office (DOF-RO) after 12 April 2020 or upon lifting of the Declaration of ECQ, whichever comes earlier.

Section 8. Reportorial System. The Bureau of Customs shall submit a daily report of all importations covered by this CAO to the Secretary of Finance for statistical and monitoring purposes.

Section 9. Penal Provision. Any person, whether natural or juridical, who makes or attempts to make any entry of imported goods by means of any false or fraudulent statement in order to avail of the privilege shall be subject to sanctions and penalties provided under Section 1401, Chapter 1, Title XIV of the CMTA.

Section 10. Covered Period. The grant of exemption shall only cover importations which arrived and were cleared by the Bureau for three (3) months from effectivity of the Act, unless extended by Congress.[12] This is without prejudice, however, to the privilege granted to importers under Section 121 or 800 (m) of the CMTA.

[11] cf. Republic Act No. 11469, Section 4(j).
[12] cf. Republic Act No. 11469, Section 9.

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Section 11. Separability Clause. If any part of this CAO is declared unconstitutional or contrary to existing laws, the other parts not so declared shall remain in full force and effect.

Section 12. Effectivity. This CAO shall take effect immediately after publication in the Official Gazette or a newspaper of national circulation.

The Office of National Administrative Register (ONAR) of the UP Law center shall be provided three (3) certified copies of this CAO.

REY LEONARDO B. GUERRERO
Commissioner of Customs

APPROVED:

CARLOS G DOMINGUEZ
Secretary of Finance
MAR 30 2020