



26 May 2006

**CUSTOMS MEMORANDUM ORDER**

No. 20-2006

**To :** All Deputy Commissioners, Service Directors, Collectors of Customs, Division Chiefs, Customs Brokers/ Personnel, All Others Concerned

**Subject:** Implementing certain provisions of Republic Act No. 9334 "AN ACT INCREASING THE SPECIFIC TAX RATES IMPOSED ON ALCOHOL AND TOBACCO PRODUCTS, AMENDING FOR THE PURPOSE SECTION 141, 142, 143, 144, and 145 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED" and Revenue Regulation (RR) No. 3-2006 dated January 3, 2006 and Revenue Memorandum Circular (RMC) No. 26-2006 dated April 12, 2006 issued by the Bureau of Internal Revenue (BIR).

By authority of Sections 602 and 608 of the Tariff and Customs Code of 1978, as amended, the following rules and regulations are hereby promulgated:

**I. Objectives:**

A. To ensure the proper implementation of R.A. 9334, as implemented by BIR RR No. 3-2006 and RMC 26-2006.

B. To help facilitate trade but at the same time protect government revenue on the dutiable and taxable importation of tobacco and alcohol products mentioned in the foregoing statute.

**II. General Provisions:**

A. **Definition of Terms.** When used in this Order, particularly on the commercial importation and foreign transshipment of alcohol and tobacco products, the following terms or phrases shall have the meaning indicated:

1) **Importation** - shall refer to the commercial introduction of an alcohol or tobacco product from a foreign country into the Philippine customs' territory or into duly chartered economic and freeport zones and duty free shops, whether for sale or not. It commences when the carrying vessel or aircraft enters the Philippine jurisdiction with the intention to unlade or keep for storage therein such product. It is deemed terminated upon payment of duties, taxes and other charges due upon the articles or secured to be paid, at a port of entry and the legal permit for withdrawal shall have been granted, or in case said articles are free of duties, taxes and other charges, until they have legally left the jurisdiction of the Bureau of Customs. For purposes of this Order, any alcohol or tobacco product entering the Philippines through the freeport and special economic zones shall be deemed to have entered the Philippine customs' territory upon unloading thereof from the carrying vessel.

2) **Transshipment** – shall refer to the transport or shipment of alcohol or tobacco products from a foreign port into any port(s) of the Philippines strictly for subsequent shipment to a foreign port or destination where the shipping manifest pertaining thereto specifically states that the destination therefor is a foreign port without introducing the same into the Philippine customs territory.

**B. Importation of Alcohol or Tobacco Product by Duty-Free Shops, or into Economic Zones and Freeport Zones.** – For purposes of this Order, the importation of alcohol or tobacco products, even if destined for tax and duty-free shops, shall be subject to all applicable taxes, duties, charges, including excise taxes thereon. The duties and taxes shall be paid at the port of discharge. This shall apply to cigars and cigarettes, distilled spirits, fermented liquors and wines brought directly into the duly chartered or legislated freeports of the Subic Special Economic and Freeport Zone, R.A. No. 7227; the Cagayan Special Economic Zone and Freeport, R.A. No. 7922; and the Zamboanga City Special Economic Zone, R.A. No. 7903, and such other freeports as may hereafter be established or created by law; as well as those brought into the duty-free shops located in economic zones not considered as freeports such as the Clark Economic Zone: *Provided, further,* That importations of cigars and cigarettes, distilled spirits, fermented liquors and wines made directly by a government-owned and operated duty-free shop, like the Duty-Free Philippines (DFP) shall be exempted from all applicable duties only: *Provided still further,* That such articles directly imported by a government-owned and operated duty-free shop, like the Duty Free Philippines, shall be labeled 'duty-free' and 'not for resale': *Provided finally,* That the removal and transfer of tax and duty-free goods, products, machinery, equipment and other similar articles (other than cigars and cigarettes, distilled spirits, fermented liquors and wines) from one freeport to another freeport, shall not be deemed an introduction into the Philippine customs territory.

**C. Labels and Secondary Containers of Alcohol and Tobacco Products.** On the face of the label and all sides of secondary containers (e.g. reams, cartons, boxes, etc.) of alcohol or tobacco products, the following shall be conspicuously printed in easily recognizable manner:

1) Name and address of the foreign manufacturer, as well as the name, address, and assessment number of the importer, if applicable, shall be indicated on the label.

2) The phrase "FOR DOMESTIC SALE ONLY", in case the brand shall be sold in the domestic market or the phrase "FOR EXPORT ONLY" in case the brand shall be exported; *Provided,* That no exportation of alcohol or tobacco products by any person shall be allowed unless the required export markings are prominently printed on the said containers, notwithstanding the presentation of an Export Commodity Clearance (ECC) issued by the National Tobacco Administration (NTA); *Provided, further,* That the exportation of alcohol and tobacco products bearing the phrase "FOR DOMESTIC SALE ONLY" shall not be allowed in any case.

3) The phrase "DUTY-FREE AND NOT FOR RESALE", in case of importation by the Duty-Free Philippines or other duty-free shops owned and operated by the government.

4) The phrase "FOR EXPORT TO THE PHILIPPINES; TAX AND DUTY PAID" in case the brand shall be imported for domestic market.

In any case, the marking requirements for tobacco product packaging shall be more specifically governed by the matrix provided for in Annexes "A" and "A-1" of RMC No. 26-2000, copies of which are hereto attached and made an integral part of this Order as Annexes "A" and "A-1", respectively. In paragraphs Q3 and A3 of the same RMC,

compliance for the marking requirements for tobacco products has been deferred until October 31, 2006.

The marking requirements for alcohol product packaging shall likewise be specifically governed by RMC 26-2006, particularly the matrix configured in Annexes "B" and "B-1" thereof, copies of which are hereto attached and made an integral part hereof as Annexes "B" and "B-1", respectively, but without the benefit of deferment as in the case of tobacco products.

Cigars and cigarettes, distilled spirits and wines within the premises of all duty-free shops or sold in the domestic market which are not labeled as hereinabove required, tax and duty-free articles obtained from a duty-free shop and subsequently found in a non-duty free shop to be offered for resale, as well as the export of cigars and cigarettes, distilled spirits and wines without the required export markings shall be subject to confiscation in accordance with existing regulations on seizure and forfeiture of imported goods and to the ultimate destruction thereof, in appropriate cases, and the perpetrator of such non-labelling or unauthorized reselling shall be penalized under the applicable provisions of the Internal Revenue Code.

The tax due on any such goods, products, machinery, equipment or other similar articles shall constitute a lien on the article itself, and such lien shall be superior to all other charges or liens, irrespective of the possessor thereof.

**D. Transshipment of Alcohol or Tobacco Products.** - All alcohol or tobacco products intended for transshipment to a foreign port shall not be subject to the imposition and payment of duty, excise and value-added taxes provided all the following conditions are satisfied:

1) The foreign port of destination shall be clearly indicated in the cargo manifest accompanying the shipment;

2) The alcohol and tobacco shipment must remain at all times in the port of arrival and shall not be transferred/transported to any other Philippine port of entry prior to the transport thereof to the foreign port of destination as indicated in the cargo manifest; When the shipment is unloaded in or transferred from the port of arrival to any other port of entry before transporting the same to the foreign port of destination, it shall be considered as having been introduced into the Philippine customs territory and shall be subject to the payment of duties and taxes and other charges due, and compliance with existing laws rules and regulations on imported articles.

3) The alcohol or tobacco products intended for transshipment shall be transported abroad within fifteen (15) days from the date of arrival thereof in the Philippine territory;

4) When alcohol and tobacco products are to be unloaded in the port of arrival prior to transport to the foreign port of destination, a guarantee in the form of a bond, letter of credit, bank guaranty, or cash as may be determined by the Collector of Customs shall be posted before unloading thereof in an amount equivalent to the duties and internal revenue taxes otherwise due on the shipment, conditioned on the transport of the goods within the 15-day prescribed period and arrival and unloading of the shipment in the foreign port of destination. The transfer of the shipment to the foreign port of destination shall be completed within the life span of the guaranty which is hereby set at a non-extendible maximum period of six months from date of arrival of the goods. For purposes of computing the amount of guaranty, the trans-shipper or his agent shall indicate to customs the specific brand of alcohol and tobacco

products to be transhipped if such information is not available in the cargo manifest or other shipping documents. Trans-shippers of alcohol and tobacco products shall endeavor to provide the shipping lines with the correct brand description of alcohol or tobacco products to facilitate the foreign transshipment process.

5) Submission within the prescribed period of six months by the consignee or owner of the shipment or his local agent to BOC of any document satisfactorily showing that the transhipped products have actually arrived and have been unloaded in the foreign port of destination (e.g. certificate of discharge, import entry declaration duly received by the foreign port of entry, etc.).

The cancellation/release of such guarantee shall be effected only upon submission of complete documents showing proof of actual shipment of the alcohol or tobacco products to, and receipt thereof by, the intended foreign port of destination. The guaranty shall be forfeited (a) when there is failure to transport the goods to the foreign port of destination within 15 days from date of arrival; or (b) when there is failure to submit the liquidation documents within the effective shell life of the covering guaranty. The forfeiture of the bond shall be without prejudice to any other sanctions imposed by law for violation of the Tariff and Customs Code of the Philippines, as amended, and existing regulations, if any has been committed.

**E. Application for Authority to Release Imported Goods (ATRIG) on Importation of Alcohol and Tobacco Products.** - Prior to the initial importation of any alcohol or tobacco products, the importer shall submit an application for registration with the BIR Office where the importer is registered or required to be registered as an excise taxpayer as provided in Section 23, BIR RR 3-2006.

All importers of alcohol or tobacco products shall file an application for Authority to Release Imported Goods (ATRIG) with the BIR Office where they are registered or required to be registered as an excise taxpayer prior to the release of such products from the customs' custody, in accordance with existing revenue rules, regulations, policies and procedures.

**F. Revised Rates and Bases of the Specific Tax.** The applicable basis and rate of specific taxes shall be as provided for in Section 3 of the BIR RR 6-2006 the table of which is hereto attached as Annex "C".

**III. Operational Provisions**

A. The transshipment of alcohol and tobacco products shall be monitored by the Office of the Deputy Collector for Operations in coordination with the Container Control Division/Piers and Inspection Division of each port of entry. For this purpose, he shall maintain a logbook of all transhipped alcohol and tobacco products within his area of jurisdiction which shall contain a list and brief description of the transhipped cargoes, name of consignee and carrying vessels, country of origin and final destination, the nature and amount of guaranty posted, date of arrival and date of loading for export to final destination abroad, and status of transshipment requirement compliance.

B. Prior to unloading of alcohol and tobacco products for transshipment, the Deputy Collector for operations must require proof of guaranty posted as determined by the District Collector of Customs of the port of entry concerned. When the guaranty required is cash, the same shall be deposited with the Collection Division for recording, safekeeping and disposing in accordance with existing rules on the handling of cash bonds. For surety bonds and other forms of guaranty, the same shall be handled and

managed by the Bonds Division of the port concerned. To avoid any delay in the transshipment process, the owner of the transshipped cargoes or his authorized agent shall immediately secure a guaranty to be determined by the District Collector of Customs conditioned on the exportation to and arrival of the goods in the country of final destination as represented.

C. To release the guaranty, the owner of the transshipped alcohol or tobacco products or his authorized agent shall submit proof of landing of the goods in the country of destination in such form and within such period as prescribed in this Order, with the office of the Deputy Collector for Operations who, after positive evaluation, shall endorse the same to the District Collector of Customs for approval, after which the same shall be forwarded to the appropriate office (Bonds Division or Cash Division--depending on the nature of the guaranty) for implementation of the action taken by the District Collector. Upon implementation of the District Collector's decision or action, the Chief, Cash Division or Bonds Division, as the case may be, shall officially inform the Deputy Collector for Operations in writing of the final action taken on the guaranty.

D. The Deputy Collector for Operations shall continuously monitor the status of transshipped cargoes of alcohol and tobacco products and act on those that remain unexported within the 15-day grace period within which to export the transshipped cargoes as well as those that stay unliquidated within the shelf life of the covering guaranty.

E. A monthly report of the status of transshipped cargoes of alcohol and tobacco products shall be submitted to the Office of the Commissioner of Customs. A copy of the monthly report shall likewise be posted in the official Bulletin Board of the Office of the Commissioner and that of the reporting port of entry.

F. The Chief, Export Division shall ensure that no alcohol and tobacco products manufactured for domestic sale are allowed for export and those produced for export comply with the export markings before acting on the Export Declaration.

**IV. Repealing Clause**

All Orders, Memoranda, and other rules and regulations inconsistent herewith are deemed repealed and/or modified accordingly.

**V. Effectivity**

This Order shall take effect immediately.

Encl: a/s



**NAPOLEON L. MORALES**  
Commissioner