

2018-04-006

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

MEMORANDUM

TO : ALL DISTRICT AND PORT COLLECTORS
COLLECTION SERVICE
ALL OTHERS CONCERNED

FROM : *[Signature]*
ISIDRO S. LAPENA, PhD, CESE
Commissioner *[Signature]*

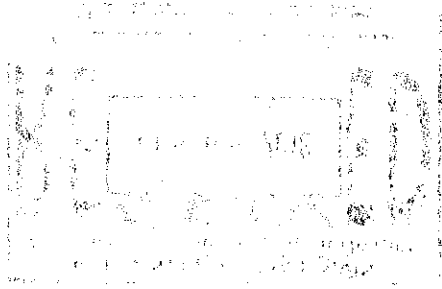
SUBJECT : TAX EXPENDITURE FUND (TEF) COLLECTION TO
REMAIN UNDER BOC COLLECTION SERVICE

DATE : March 15, 2018

[Stamp: Bureau of Customs, ISIDRO S. LAPENA, Comm. # 18-05024, APR 03 2018]

Be informed that pursuant to the provisions under the Department of Finance (DOF) Department of Budget and Management (DBM) Joint Circular No. 1, April 30, 2014 with subject: "Rules, Guidelines and Procedures in Implementing the Tax Expenditure Subsidy Section Under the General Provisions of the Annual General Appropriations Act", the function to collect TEF, which represents import duties and taxes of state-owned firms, shall remain with the BOC-Collection Service.

For your information.



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DEPARTMENT OF FINANCE



DEPARTMENT OF BUDGET AND MANAGEMENT



**DEPARTMENT OF FINANCE
DEPARTMENT OF BUDGET AND MANAGEMENT**

JOINT CIRCULAR NO. 1

April 30, 2014

FOR: THE CHIEF JUSTICE AND THE JUDICIARY; THE SENATE PRESIDENT; THE SPEAKER OF THE HOUSE; THE CHAIRMAN OF CONSTITUTIONAL COMMISSIONS; ALL HEADS OF DEPARTMENTS, BUREAUS, OFFICES AND OTHER COMMISSIONS; HEADS OF ALL OTHER NATIONAL GOVERNMENT AGENCIES, INCLUDING THEIR REGIONAL OFFICES; HEADS OF STATE UNIVERSITIES AND COLLEGES, SCHOOLS, HOSPITALS AND SANITARIA; HEADS OF GOVERNMENT OWNED AND/OR CONTROLLED CORPORATIONS INCLUDING GOVERNMENT FINANCIAL INSTITUTIONS; AND ALL OTHERS CONCERNED

SUBJECT: RULES, GUIDELINES AND PROCEDURES IN IMPLEMENTING THE TAX EXPENDITURE SUBSIDY SECTION UNDER THE GENERAL PROVISIONS OF THE ANNUAL GENERAL APPROPRIATIONS ACT

I. PURPOSE

This Circular is issued to prescribe the rules, guidelines and procedures relative to the implementation of the tax expenditure subsidy Section under the General Provisions of the annual General Appropriations Act (GAA), specifically Section 15 of Republic Act No. 10633 or the 2014 GAA, quoted as follows:

“SEC. 15. National Internal Revenue Taxes and Import Duties. The amounts pertaining to the following taxes and duties shall be considered as both revenue and expenditure of the government, and are deemed automatically appropriated:

(a) National internal revenue taxes and import duties payable or assumed by departments, bureaus and offices of the National Government, including Constitutional Offices enjoying fiscal autonomy and State Universities and Colleges to the Government arising from foreign donations, grants and loans;

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(b) Non-cash tax transactions of the following national government agencies: (i) the BTr for documentary stamp taxes on foreign and domestic securities issued; (ii) the DND and PNP on importations of military hardwares, software, munitions, arms and equipment; (iii) the Bureau of Fire Protection on importations of fire fighting equipment, rescue equipment, and personal protective gears; (iv) the DOTC for the Metro Rail Transit Line 3 System incurred starting FY 1997 in accordance with the provisions of the Build-Lease-Transfer Agreement executed thereon; and (v) other tax obligations assumed by the National Government pursuant to a valid build-operate and transfer agreement and any of its variants; and

(c) Tax expenditure subsidies granted by the Fiscal Incentives Review Board to GOCCs, the AFP Commissary and Exchange Service, the PNP Service Store System, and the Procurement Service Exchange Marts, in accordance with E.O. No. 93, s. 1986, as amended, including those for tax obligations assumed by GOCCs pursuant to a valid agreement.

Implementation of this section shall be subject to the guidelines to be jointly issued by the DOF and DBM.

2. DEFINITION OF TERMS

For purposes of this Circular, the following terms used herein shall be construed to mean as follows:

- 2.1 NATIONAL GOVERNMENT AGENCIES (NGAs) - shall refer to the Judiciary, the Senate and the House of Representatives, Constitutional Commissions, departments, bureaus, offices, other commissions and all other agencies of the national government, including state universities and colleges, schools, hospitals (except specialty hospitals as defined in Section 2.2) and sanitararia.
- 2.2 GOVERNMENT -OWNED AND/OR -CONTROLLED CORPORATIONS (GOCCs) - shall refer to any government agency organized as a stock or non-stock corporation, vested with functions relating to public needs whether governmental or proprietary in nature, and owned by the government directly or through its instrumentalities either wholly, or, where applicable as in the case of stock corporations, to the extent of at least fifty-one (51) per cent of its capital stock: Provided, That GOCCs may be further categorized by the Department of Budget and Management (DBM), the Civil Service Commission, and the Commission on Audit (COA) for purposes of the exercise and discharge of their respective powers, functions and responsibilities with respect to such corporations. For purposes of this Circular, the term GOCCs shall also refer to any of the following specialty hospitals: the Philippine Heart Center; the National Kidney and Transplant

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Institute; the Philippine Children's Medical Center; and the Lung Center of the Philippines.

- 2.3 NATIONAL INTERNAL REVENUE TAXES - any form of imposition under the National Internal Revenue Code (NIRC) excluding interests, surcharges and penalties.
- 2.4 CUSTOMS DUTIES - any levy on imported goods under the Tariff and Customs Code of the Philippines (TCCP) excluding interests, surcharges and penalties.
- 2.5 IMPORTATIONS - the bringing into the Philippine territory of goods or commodities in any form acquired from any foreign country by a government entity out of its appropriation or financed by a grant, donation and/or loan. It is understood that the term does not include services performed relative to the grant, donation and/or loan.
- 2.6 GRANTS/DONATIONS - assistance, in cash or in kind, received from foreign governments, international and local agencies or organizations, private entities or individuals, covered by grant agreements, Memorandum of Understanding, Exchange of Notes/Deed of Donation between the donor-entity and the donee-government unit to finance specific projects or procurement of goods without any obligation on the part of the recipient to pay.
- 2.7 GRANTEE - refers to the concerned GOCC/AFPACES/PNPSSS/PX MARTS that has been granted tax subsidy by the Fiscal Incentives Review Board (FIRB) pursuant to Executive Order (E.O.) No. 93, s. 1986, as amended, in accordance with the annual GAA.
- 2.8 LOAN - funds whether in cash or in kind received from foreign governments, international and local agencies, private entities or individuals covered by a loan agreement to finance specific projects or procurement of goods and which must be repaid with interest over a prescribed period of time.
- 2.9 OTHER FEES AND CHARGES - all other forms of fees and charges other than those covered by the NIRC and the TCCP.
- 2.10 REVENUE COLLECTING AGENCY (RCA) - shall refer to either the Bureau of Internal Revenue (BIR) or the Bureau of Customs (BOC).
- 2.11 CERTIFICATE OF ENTITLEMENT TO SUBSIDY (CES) - refers to a document issued by the FIRB certifying to the amount of subsidy that is granted in favor of qualified GOCCs/AFPACES/PNPSSS/PX MARTS.
- 2.12 TAX COMPLIANCE CERTIFICATE (TCC)/TAX SUBSIDY AVAILMENT CERTIFICATE (TSAC) - refers to the document certifying to

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the amount of taxes and duties paid by the concerned grantees to the BIR and/or BOC.

- 2.13 STATEMENT OF ACCOUNT – refers to the document issued by the BIR and/or BOC certifying to the amount of customs duties and taxes due the concerned grantees.
- 2.14 TAX OBLIGATIONS ASSUMED BY GOCCs PURSUANT TO A VALID AGREEMENT – refer only to national internal revenue taxes and/or duties payable to the BIR and/or BOC.

3. COVERAGE

- 3.1 This Circular covers the application for approval and processing of tax expenditure subsidies on: (a) national internal revenue taxes and import duties payable or assumed by departments, bureaus and offices of the National Government, including Constitutional Offices enjoying fiscal autonomy and State Universities and Colleges to the Government arising from foreign donations, grants and loans; (b) documentary stamp taxes incurred on foreign and domestic securities issued by the Bureau of the Treasury (BTr); (c) national internal revenue taxes and import duties payable by Department of National Defense (DND) and Philippine National Police (PNP) on importations of military hardware, software, munitions, arms and equipment; (d) national internal revenue taxes and import duties payable by the Bureau of Fire Protection (BFP) on the importation of fire fighting equipment, rescue equipment and personal protective gears; (e) national internal revenue taxes and import duties payable by the Department of Transportation and Communication (DOTC) for the Metro Rail Transit Line 3 System, incurred starting FY 1997 in accordance with the provisions of the Build-Lease-Transfer Agreement executed thereon; and (f) other tax obligations assumed by the National Government pursuant to a valid build-operate and transfer agreement and any of its variants.

This Circular also covers tax expenditure subsidies granted by the Fiscal Incentives Review Board to GOCCs, the AFP Commissary and Exchange Service, the PNP Service Store System, and the Procurement Service Exchange Marts, in accordance with E.O. No. 93, s. 1986, as amended, including those for tax obligations assumed by GOCCs pursuant to a valid agreement.

- 3.2 For importations explicitly enumerated in Sections 3.1, only those which are made in pursuance of functions and programs of concerned government entities, and in the case of regulated importations, only those which are duly authorized by the Bangko Sentral ng Pilipinas, the Department of Trade and Industry and/or other government entities empowered to regulate said importations are covered by this Circular.

4. GENERAL GUIDELINES

- 4.1 All NGAs shall be liable for all forms of national internal revenue taxes and customs duties arising out of transactions subject to assessment by the BIR and/or BOC, pursuant to the provisions of Department of Budget and Management - Department of Finance Joint Circular No. 7-2012.
- 4.2 NGAs, including GOCCs that are entitled to tax expenditure subsidy, shall not be required to pay in cash or in kind their obligations for internal revenue taxes and customs duties covered by this Circular. All other National Government Agencies, including GOCCs that are not entitled to tax expenditure subsidy shall pay the amount due in cash to the RCA chargeable against their own funds. The imported goods subject to tax shall not be released unless the taxes and customs duties due thereon have been paid.
- 4.3 The BIR and the BOC shall include in their monthly reports of actual income, the internal revenue taxes and customs duties paid out of tax subsidy based on the Special Allotment Release Orders (SARO) issued by the DBM, pursuant to the pertinent provisions of the annual GAA. The Cash Operations Report (COR) of the BTr shall henceforth reflect the taxes and duties paid out of the SARO of the DBM under revenues with an equivalent amount recorded under disbursements.
- 4.4 All importations done through grants or donations shall be supported by a Deed of Donation from the donor entity to be coursed through and authenticated by the Philippine Embassy/Consulate at the donor's country, and a Deed of Acceptance from the recipient agency.
- 4.5 The deadline of submission of agency requests for tax subsidies shall be in accordance with the deadline set in the fund release system guidelines for a calendar year.

5. SPECIFIC PROCEDURAL GUIDELINES

5.1^a Application for, Approval, and Processing of Tax Expenditure Subsidy for National Government Agencies

5.1.1 For importations of NGAs arising from foreign donations, grants and loans

- 5.1.1.1 At least ten (10) working days prior to the arrival of the non-commercially imported goods, the importing agency (IA) shall submit to the BOC – Collection Service the original copy of the Certification of Official Importation (**Form 1**). This shall be supported by the authenticated copy of the Bill of Lading (B/L) or Airway Bill (AWB), Parcel Notice, Other Shipping Documents; Packing List, Commercial Invoice, Inventory List; Memorandum of Undertaking; Statement of Account; Notarized

Deed of Donation and Acceptance (in case of donations); Memorandum of Agreement (in case of loans or grants); Indorsement from the DOF, if applicable; Clearance from the Presidential Management Staff (PMS) under the Office of the President (OP) pursuant to PMO 36 [in case of donations to the Department of Social Welfare and Development (DSWD)]; Certification of the Department of Trade and Industry (DTI) that the imported articles are not locally available; Clearance from other Government Agencies that may be applicable; and other documentations that may be required by the BOC establishing the authority for and the authenticity of the importation.

5.1.1.2 Upon arrival of shipment, the IA shall secure an Authority to Release Imported Goods (ATRIG) for VAT and excise tax purposes from the BIR, if applicable, and upon completion of other documentary requirements by the IA [e.g., Commercial Invoice; Consular Invoice; Bill of Lading or Airway Bill; Packing List; Import Entry & Internal Revenue Declaration; Copies of Certificates for Registration in the appropriate RDO, if the importer/broker is applying for ATRIG for the first time; Duly notarized Certificate of Undertaking (for automobiles, feed ingredients, petroleum additives, etc.); and other documents that may be required to substantiate the application for ATRIG, (e.g. Certification from Bureau of Animal Industry, Fertilizer and Pesticides Authority, Food and Drug Authority, etc.)], the BOC – Collection Service shall cause the release of the imported goods.

5.1.1.3 The RCA shall issue the Statement of Account/Assessment Notice to the IA, upon release of the goods in four (4) copies to be distributed as follows:

- Original and Quadruplicate - IA
- Duplicate - RCA (Collection Service)
- Triplicate - RCA, file copy with entry

5.1.1.4 Within ten (10) working days after the end of each quarter, the IA shall prepare a Quarterly Report of Taxes and Duties Availments (QRTDA) (Form 2), based on the Statements of Accounts/Assessment Notices issued by RCAs, in three (3) copies to be distributed as follows:

- Original and Triplicate - DBM Budget Operations Bureau
- Duplicate - RCA

5.1.1.5 Upon completion of the QRTDA, the IA shall submit to the DBM within fifteen (15) days the request for the issuance of SARO supported by the original and triplicate copies of the QRTDA and the compilation of original copies of TSAC/

Statement of Accounts (SOA)/Assessment Notices issued by the BOC/BIR (Forms 3-4).

- 5.1.1.6 The SARO which the DBM will issue shall serve as the basis for recording both the obligation and liquidation of the tax expenditure. The amount of the SARO shall correspond to the verified amount indicated in the QRTDA. The DBM shall accomplish the appropriate portion of the QRTDA indicating the SARO number and date thereof. The IA, upon receipt of the SARO, shall forward a copy of the same to the BOC or BIR.
- 5.1.1.7 The IA, based on the DBM SARO, shall prepare the Journal Voucher (JV) to liquidate the obligation within ten (10) working days, copy furnished the BTr-National Cash Accounting Division (NCAD).
- 5.1.1.8 Within ten (10) working days upon receipt of a copy of the agency JV, the BTr-NCAD shall issue a JV debiting the account of the IA and crediting the account of the RCA.
- 5.1.1.9 Upon receipt of the NCAD JV, the RCA Chief Accountant shall record the income in the RCA's books.
- 5.1.2 For certain importations by the DND, PNP and the BFP
- 5.1.2.1 In case of importations of military hardwares, softwares, munitions, arms and equipment by the DND and PNP, and in case of importations of fire fighting equipment, rescue equipment and personal protective gears by the BFP, the procedures set forth in Section 5.1.1 of this Circular shall apply.
- 5.1.3 For issuance of foreign and domestic securities by the BTr
- 5.1.3.1 On the liability of the BTr for documentary stamp taxes on foreign and domestic securities issued by it, the following procedures shall be observed, subject to the submission by the BTr of pertinent documents relative thereto as may be required:
- 5.1.3.1.1 At the end of every month, the BTr shall submit to the DBM its request for the issuance of SARO pertaining to its documentary stamp taxes on foreign and domestic securities issued by it and supported by the monthly summary of government securities issued.
- 5.1.3.1.2 The SARO which the DBM will issue shall serve as the basis for recording both the obligation and liquidation of the expenditure. The amount of the SARO shall correspond to the verified amount of documentary stamp taxes indicated in the government securities issuance

report. The BTr, upon receipt of the SARO, shall forward a copy of the same to the BIR.

5.1.3.1.3 The BTr, based on the DBM SARO, shall prepare the JV to liquidate the obligation within ten (10) working days, copy furnished its National Government Debt Accounting Division (NGDAD).

5.1.3.1.4 The NGDAD in turn, shall issue a JV debiting the account of the BTr and crediting the account of the RCA.

5.1.3.1.5 Upon receipt of the NGDAD JV, the RCA Chief Accountant shall record the income in the RCA's books.

5.1.4 For certain transactions of the DOTC

5.1.4.1 On customs duties and taxes payable by the DOTC for the Metro Rail Transit Line 3 System, incurred starting FY 1997 in accordance with the provisions of the Build-Lease-Transfer Agreement executed thereon, the procedures set forth in Section 5.1.1 of this Circular as may be deemed applicable shall be observed.

5.1.5 For Certain Transactions of the National Government

5.1.5.1 On customs duties and taxes assumed by the National Government pursuant to a valid Build-Operate and Transfer Agreement and any of its variants, the procedures set forth in Section 5.1.1 of this Circular as may be deemed applicable shall be observed.

5.2 Processing of Tax Subsidies for GOCCs, AFPCES, PNPSSS AND PX MARTS

5.2.1 Application for tax subsidies by GOCCs, AFPCES, PNPSSS and PX MARTS shall be filed with the FIRB together with the following documents: (a) letter-request signed by the head of office or any authorized official; (b) endorsement from the department/office to which the applicant is attached; (c) details of tax subsidy requirements, including billings from the concerned revenue agency; (d) certification that items for which tax subsidy is sought shall be used exclusively in the pursuit of mandated functions or a specified project; (e) financial evaluation from the Corporate Affairs Group of the DOF with regard to GOCCs only; and (f) such other documents as may be warranted. (Refer to **Annex A** for the flow chart). The evaluation of the application for tax subsidy shall be made within ten (10) working days from receipt of the complete documentation requirements.

5.2.2 In case of an importation, at least ten (10) working days prior to its arrival, the applicant shall submit to the BOC-Collection Service the

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original copy of the Certification of Importation (**Form 1**). This shall be supported by the authenticated copy of the Bill of Lading (B/L) or Airway Bill (AWB), Parcel Notice, Other Shipping Documents; Packing List, Commercial Invoice, Inventory List; Memorandum of Undertaking; Statement of Account; Notarized Deed of Donation and Acceptance (in case of donations); Memorandum of Agreement (in case of loans or grants); Indorsement from the DOF, if applicable; Certification of the Department of Trade and Industry (DTI) that the imported articles are not locally available; Clearance from other Government Agencies and other documentations that may be required by the BOC establishing the authority for and the authenticity of the importation, including an undertaking that the applicant has a pending tax subsidy application with the FIRB and in case of non-approval of its application, that it will be the one to assume payment of taxes and duties due on the importation. Upon arrival of shipment, the GOCC/AFPCEs/PNPSSS/PX MARTS shall secure an Authority to Release Imported Goods (ATRIG) for VAT and excise tax purposes from the BIR, if applicable, and upon completion of other documentary requirements by the GOCC/AFPCEs/PNPSSS/PX MARTS, the BOC-Collection Service shall cause the release of the imported goods.

5.2.3 If the application is approved, the applicant receives a FIRB resolution and CES (**Form 5**) within ten (10) working days. The CES issued by the FIRB shall be valid and effective until December 15 of the current year and in some special cases as warranted, the validity may be extended to December 31 of the current year. If the application is not approved, the applicant will be correspondingly notified in writing by the FIRB.

5.2.4 After a CES is issued by the FIRB, and copies thereof have been distributed, the RCA Collection Unit, on the basis of the CES, shall prepare within five working (5) days the TSAC/Statement of Accounts for customs duties and taxes payable in four (4) copies to be distributed as follows:

- Original and Quadruplicate - Grantee
- Duplicate - RCA (Collection Service)
- Triplicate - RCA, for transmittal to
DOF when completely utilized

5.2.5 Within ten (10) working days after the end of each quarter, the Grantee shall prepare the QRTDA to be distributed as follows:

- Original and Triplicate - DBM Budget Operations Bureau
- Duplicate - Grantee

5.2.6 Upon completion of the QRTDA, the Grantee shall submit to the DBM within fifteen (15) days prior to the lapse of the effectivity date of the CES, the request for the issuance of SARO, supported by the original

and triplicate copy of the QRTDA, original copy of CES and the compilation of original copies of Payment Compliance Certificates, Tax Subsidy Availment Certificate, Statement of Accounts, Assessment Notices issued by the BOC and/or BIR.

5.2.7 From the issuance of SARO, the procedures in Sections 5.1.1.6 to 5.1.1.9 of this Circular shall be observed.

6. ACCOUNTING REQUIREMENTS

Pertinent accounting entries for transactions relating to the above procedures shall be recorded in accordance with the Circular/Guidelines which may be issued by the Commission on Audit for the purpose.

7. SANCTIONS

The head of a National Government Agency, GOCC, AFPCEs, PNPSSS or PX MARTS who, by fault or negligence, fraudulently misrepresents any transaction or importations as official, shall suffer the appropriate penalties provided by law, either administratively or criminally or both. The concerned tax subsidy applicant shall be responsible for ensuring that all procedural guidelines prescribed in this Circular insofar as these affect their application are strictly adhered to. In case of a transaction or importation made in the name of another National Government Agency or GOCC, the sanctions referred herein shall apply to the head of the agency or GOCC primarily responsible for the transaction or importation. Whenever applicable, the sanctions referred herein shall likewise apply to any private entity involved in the transaction or importation.


8. REPEALING PROVISION

All pertinent issuances and other existing rules and regulations inconsistent with this Circular are hereby repealed or modified accordingly.

9. EFFECTIVITY

This Circular shall take effect CY 2014.


CESAR V. PURISIMA
Secretary
Department of Finance
020726


FLORENCIO B. ABAD
Secretary
Department of Budget and Management

