

*Repeals and replaces
CAO 10-93 and
CMO 64-93*



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

MASTER COPY. *[Signature]*

CUSTOMS ADMINISTRATIVE ORDER
NO. 01-2014

SUBJECT: Guidelines on the Imposition of Surcharge under Section 2503 of the
Tariff and Customs Code, as amended)

1. Repealing Clause

By authority of Section 608 of the Tariff and Customs Code of the Philippines (TCCP) as amended, and in order to ensure a uniform implementation of Section 2503 of the TCCP, CAO 10-93 and CMO 64-1993 are repealed. All references to CAO 10-93 and CMO 64-1993 shall be construed to refer to CAO 01-2014. Other rules, regulations, orders and rulings inconsistent herewith are hereby modified and amended accordingly. If any part of this Order is declared by courts as unconstitutional or contrary to existing laws, the other parts not so declared shall remain in full force.

2. Amount of Surcharge

The Collector of Customs shall impose the surcharge in Section 2503 of the TCCP in accordance with the following:

a. For Misclassification.

Where the percentage difference in misclassification is ten per cent (10%) or more but not exceeding thirty per cent (30%) the amount of surcharge shall be as follows:

- i. When the percentage difference is ten per cent (10%) or more but not exceeding twenty per cent (20%), a one time surcharge of the difference in customs duty shall be imposed.
- ii. When the percentage difference exceeds twenty per cent (20%) but not exceeding thirty per cent (30%) a two times surcharge of the difference in customs duty shall be imposed.

b. For Undervaluation, Misdeclaration in Weight, Measurement or Quantity

When the percentage difference in undervaluation/misdeclaration in weight, measurement or quantity is ten per cent (10%) or more, but not exceeding thirty per cent (30%), a surcharge of two times of the difference in customs duty shall be imposed.

An undervaluation, misdeclaration in weight, measurement or quantity of more than thirty percent (30%) between the value, weight, measurement or quantity declared in the entry, and the actual value, weight, measurement or quantity shall constitute a *prima facie* evidence of fraud penalized through seizure proceedings under Section 2530 of the TCCP."

3. Determination of Percentage Difference in Undervaluation, Misclassification and Misdeclaration

For purposes of determining the amount of surcharge due to undervaluation, misclassification and misdeclaration, the computation of the percentage difference shall be in accordance with following:

a. Undervaluation

The percentage difference in undervaluation shall be determined using this formula:

$$\frac{\text{duty using valuation as found} - \text{duty using valuation as declared}}{\text{duty using valuation as found}}$$

b. Misclassification

The percentage difference in misclassification shall be determined using this formula:

$$\frac{\text{duty using classification as found} - \text{duty using classification as declared}}{\text{duty using classification as found}}$$

c. Misdeclaration in weight, measurement or quantity

The percentage difference in misdeclaration shall be determined using this formula:

$$\frac{\text{duty using weight, measurement or quantity as found} - \text{duty using weight, measurement or quantity as declared}}{\text{duty using weight, measurement or quantity as found}}$$

4. Mandatory Imposition of Surcharge

Imposition of surcharge under Section 2503, TCCP is mandatory except in following cases:

a. For Misclassification.

When the entered tariff classification is based on an advance tariff classification ruling issued by the Tariff Commission pursuant to its authority under Section 1313-a of the TCCP which had not been reversed by the Secretary of Finance as of the time of the entry of such tariff classification, but which is subsequently reversed by the Secretary of Finance at any time between the time the tariff classification was entered but before final liquidation of the import.

b. For Errors, under certain circumstances

When the undervaluation, misclassification, and misdeclaration in entry described under Section 2503 of the TCCP is:

- i. Discovered before any payments are made on the entry; and
- ii. The result of either of the following:
 - a. Manifest clerical error made in an invoice or entry
 - b. Error in return of weight, measure, or gauge, duly certified to under penalties of falsification or perjury by the surveyor or examining official (when there are such officials at the port)
 - c. An error in the distribution of charges on invoices not involving any question of law, certified to under penalties of falsification or perjury by the surveyor or examining official

5. Surcharges Not Subject to Compromise

The imposition of surcharge under Section 2503 of the TCCP, as amended, may not be subject of compromise under Section 2316 of the TCCP. Surcharge properly imposed cannot be waived. Good faith on the part of the importer is not a valid defense.

6. Effectivity

This Order shall take effect immediately upon publication in a newspaper of general circulation or Official Gazette and three (3) copies deposited to the UP Law Center.


JOHN P. SEVILLA
Commissioner

14-00299am
22-jan-2014

Approved by:


CESAR V. PURISIMA
Secretary of Finance

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