



REPUBLIC OF THE PHILIPPINES  
DEPARTMENT OF FINANCE  
BUREAU OF CUSTOMS  
MANILA

October 10, 1997

CUSTOMS MEMORANDUM ORDER

No. 31-97

Subject: Supplementary Procedures for Motor Vehicles  
Under HS 87.03 and HS 8702.10 90 and HS 8702. 90 90  
But Not Subjected to Ad Valorem Tax

In view of the confirmation made by Commissioner Liwayway Vinzons-Chato, Bureau of Internal Revenue (BIR), in her reply of August 29, 1997, copy attached, that pending issuance of new guidelines or revenue regulations implementing Section 149, National Internal Revenue Code (NIRC), its concerned offices shall continue to issue ATRIGs not subjecting to Ad Valorem Tax (AVT) motor vehicles whose seating capacity exceeds nine (9) passengers as determined in accordance with the area specifications prescribed in RA 4136 as per its current guidelines.

To effectively monitor the motor vehicles covered by such ATRIGs for which no ad valorem tax is imposed, the following supplementary procedures are hereby prescribed to govern the processing of subject motor vehicles pending issuance of the new guidelines/revenue regulations on the matter:

1.0 Motor Vehicles declared under HS 87.03:

- 1.1 Under Green Lane - All importations of motor vehicles declared in the import entry under HS 87.03 with the ad valorem tax (AVT) being paid shall be qualified for Green Lane processing subject to the Selectivity System.
- 1.2 However, motor vehicles declared under HS 87.03 but for which the non-imposition of ad valorem tax (AVT) is being claimed shall require the presentation of the covering Authority to Release Imported Goods (ATRIG) and shall be coursed through, at least, under the Yellow Lane or even the Red Lane.
- 1.3 Under Yellow Lane - In addition to the usual activities, the COO 3/5 shall, in the processing of documents under the Yellow Lane, carefully verify the ATRIG not subjecting the motor vehicle to AVT by:
  - 1.3.1 Comparing the vehicle description in the ATRIG with those in the entry;
  - 1.3.2 Ensuring that the ATRIG is duly issued and coursed through authorized channels;
  - 1.3.3 Checking that there is no ATRIG or any information on file subjecting to AVT the same kind of vehicle.

On the basis of above evaluation, the COO 3/5 may accept the ATRIG, otherwise, the matter may either be elevated to higher authorities for further verification, or converted to Red Lane processing, as herein below provided in 1.4, stating the reasons therefor.

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1.4 Under Red Lane - In addition to 1.2 above, the following activities shall also be undertaken under the Red Lane:

1.4.1 Physical examination of the motor vehicle in the presence of the MOVE Team, OCOM, to determine its year model and engine displacement as well as its seating capacity using as basis the current BIR regulations on the matter.

1.4.2 If the MOVE Team determines an irregularity in the issuance of the ATRIG, the matter shall be reported to the Commissioner of Customs stating the grounds so that a proper reconsideration of the ATRIG shall be made with the Commissioner of Internal Revenue.

1.4.3 If no discrepancy is noted, the ATRIG and the entry declaration shall be accepted, and the motor vehicle concerned shall be cleared accordingly.

2. Motor Vehicles under HS 8702.10 90 and HS 8702.90 90:

2.1 Motor vehicle declared under HS 8702.10 90 and HS 8702.90 90 shall also be required the presentation of ATRIG not subjecting the vehicle to AVT which shall be validated in accordance with the Yellow Lane procedures in 1.3 above.

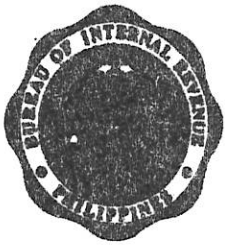
2.2 In the processing of subject motor vehicles coursed through the Red Lane, the physical examination shall be performed by the regularly assigned FED personnel to determine the applicable HS Code, its year model and engine displacement.

2.3 If the assigned FED personnel rejects the HS Code declared for the motor vehicle and instead reclassifies it under HS 87.03, the ATRIG shall be scrutinized following the procedures in 1.3 and 1.4 above.

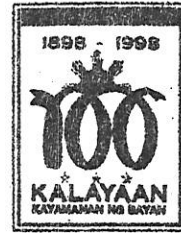
Any order, memorandum or circular not consistent herewith is deemed revoked, repealed or otherwise modified accordingly.

This Order shall take effect immediately.

  
GUILLEMO L. PARAYNO, JR.  
Commissioner



REPUBLIC OF THE PHILIPPINES  
DEPARTMENT OF FINANCE  
BUREAU OF INTERNAL REVENUE



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29 August 1997

EMD-31-97

Hon. GUILLERMO L. PARAYNO JR.  
Commissioner of Customs  
Bureau of Customs  
Port Area, Manila

Dear Commissioner Parayno:

We write in reference to your letter of 14 July 1997 regarding following motor vehicles:

<u>ATRIG NO.</u>	<u>CONSIGNEE</u>	<u>DESCRIPTION</u>
01605	Daniel A. Yap	Toyota Land Cruiser 1997, 4500 cc
01606	Ma. Ruru C. Yap	Ford Expedition 1997, 4600 cc
01607	Daniel A. Yap	Chrysler Town and Country 1997, 3800 cc
01608	Ma. Ruru C. Yap	Toyota Land Cruiser 1997, 4500 cc

We understand that these vehicles were all classified by the BOC at HS Code 87.03 at 40% ad valorem and are considered motor vehicles principally designed for the transport of less than ten (10) persons. But they were, nonetheless, issued ATRIGs by RDO Jaime Concepcion and exempted from ad valorem tax. This office referred the matter to RDO Concepcion for his explanation. Based on the report of RDO Concepcion and on the documents he submitted, the aforesaid vehicles are ten (10) seaters and are indeed exempt from ad valorem tax.

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At present, the BIR is applying the seating capacity rule as follows:

- a. A utility vehicle shall be considered automobile and thus subject to ad valorem tax if it is specially designed for the transport of passengers not exceeding nine (9), including the driver.
- b. The passenger seats should conform to the area specifications prescribed under R.A. 4136.
- c. For each adult passenger, a horizontal rectangular area, including seat and feet space is not less than 35 cm. wide and 60 cm. long, except in the front seat, which shall allow an area of 50 cm. wide for the operator.
- d. For each half passenger, a horizontal rectangular area, including seat and feet spaces, is not less than 17.5 cm. wide by 60 cm. long, provided that each continuous row of seats shall not be allowed to have more than one-half passenger.
- e. A utility vehicle specially designed for the carriage of goods, cargo, freight or for special purpose, i.e. a hearse, ambulance and similar vehicles shall be exempt from ad valorem tax.

The seating capacity of these vehicles were all measured and found to conform to the above criteria, thus exempting them from ad valorem tax. Our two agencies are presently reviewing the seating capacity criteria. To this end, I have assigned Atty. Danilo Uy, who, I understand, is coordinating with your Atty. Aaron Redubla. I was informed that they will soon come out with guidelines that will subject utility vehicles to ad valorem tax. However, until this new guideline becomes effective or a revenue regulation is issued, the BIR and the BOC have no choice but to implement the present criteria.

We trust we have sufficiently explained the matter. However, should you have any further questions and/or clarification, please do not hesitate to let us know.

Very truly yours,



LIWAYWAY VINZONS-CHATO  
Commissioner