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MAKABAGONG ADUANA, MATATAG NA EKONOMIYA



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INTEGRITY

ACCOUNTABILITY

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06 July 2021

mmr

CUSTOMS MEMORANDUM CIRCULAR
NO. 145-2021

To: The Assistant Commissioner
All Deputy Commissioners
All Directors and Division Chiefs
All District/Port Collectors
And Others Concerned

SUBJECT: Revenue Regulation No. 15-2013 & Revenue Memorandum
Oder No. 35 – 2002, on the Importation of Cargo Vessels

Attached is the letter dated 29 June 2021 from Mr. CAESAR R. DULAY, Commissioner of Internal Revenue, endorsing copies of Revenue Regulations No. 15-2013 Implementing Republic Act No. 10378 and Revenue Memorandum Oder No. 35:

Revenue Regulations No. 15-2013 entitled: *"An Act Recognizing the Principle of Reciprocity as Basis for the Grant of Income Tax Exemptions to International Carriers and other Taxes Imposed thereon by Amending Sections 28(A)(3)(A), 109, 118 and 236 of the National Internal Revenue Code (NIRC), as amended, and for other purposes."*

Revenue Memorandum Oder No. 35 entitled: *"Prescribing the Guidelines and Procedures in the Processing and Issuance of AUTHORITY TO RELEASE IMPORTED GOODS (ATRIG) for Excise Value-Added Tax Purposes."*

For your information and guidance.

For record purposes, please confirm the dissemination of this circular throughout your offices within fifteen (15) days from receipt hereof.


REY LEONARDO B. GUERRERO

Commissioner

JUL 08 2021



BOC-09-22507

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M-119-2021
6/29/2021

BUREAU OF CUSTOMS
Office of the Commissioner
G/F OCOM Building, 16th Street,
South Harbor, Port Area, Manila



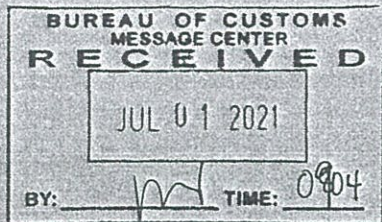
BOC-09-22507

Attention: **REFY LEONARDO B. GUERRERO**
Commissioner of Customs

Sir:

Respectfully forwarding copies of Revenue Regulations No. 15 – 2013 and Revenue Memorandum Order No. 35 – 2002 as requested by the Bureau of Customs in connection with the inter-agency meeting conducted last June 22, 2021 on the importation of cargo vessels.

Thank you.

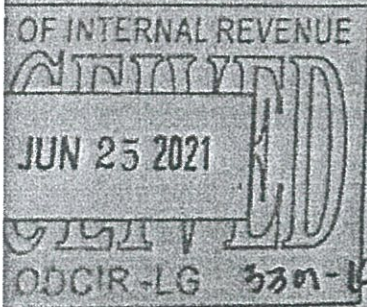


Very truly yours,

Caesar R. Dulay

CAESAR R. DULAY
Commissioner of Internal Revenue

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REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

September 20, 2013

REVENUE REGULATIONS NO. 15-2013

SUBJECT: Revenue Regulations Implementing Republic Act No. 10378 entitled "*An Act Recognizing the Principle of Reciprocity as Basis for the Grant of Income Tax Exemptions to International Carriers and Rationalizing other Taxes Imposed thereon by Amending Sections 28(A)(3)(A), 109, 118 And 236 of the National Internal Revenue Code (NIRC), as amended, and for other Purposes.*"

TO: All Internal Revenue Officers and Others Concerned.

SECTION 1. BACKGROUND. —

On March 7, 2013, Republic Act (RA) No. 10378 entitled "*An Act Recognizing the Principle of Reciprocity as Basis for the Grant of Income Tax Exemptions to International carriers and Rationalizing other Taxes Imposed thereon by amending Sections 28(A)(3)(a), 109, 118 and 236 of the National Internal Revenue Code (NIRC), as amended, and for other Purposes*" was signed into law. Pursuant thereto, international carriers may now avail of preferential rates or exemption from income tax on their gross revenues derived from the carriage of persons and their excess baggage based on the principle of reciprocity or an applicable tax treaty or international agreement to which the Philippines is a signatory. The law also provided for the exemption of international carriers from Value-Added Tax (VAT) and Common Carrier's Tax (Percentage Tax on International Carriers) on their carriage of passengers. It limits the imposition of Common Carrier's Tax (Percentage Tax on International Carriers) to the carriage of cargoes.

The policy behind the rationalization of taxes on international carriers is to improve the competitiveness of the Philippine Tourism Industry by encouraging more international carriers to maintain flight and shipping operations in the country and by the eventual reduction of international plane and ship fares. These are intended to facilitate the movement of goods and services and to attract more foreign tourists and investments.

SECTION 2. SCOPE. — Pursuant to Section 244 of the National Internal Revenue Code of 1997 (NIRC), as amended, and Section 5 of RA No. 10378, these Regulations are hereby promulgated to implement RA No. 10378, amending Sections 28(A)(3)(a), 109, 118 and 236 of the NIRC.

SECTION 3. DEFINITION OF TERMS. —

- 3.1. *Common Carrier* — refers to individuals, corporations, firms or associations engaged in the business of carrying or transporting passengers or goods or both, by land, water or air, for compensation, offering their services to the public and shall include transportation contractors.
- 3.2. *Philippine Carrier* — refers to a Philippine Air Carrier and/or Philippine Sea Carrier, as herein defined.
- 3.3. *Philippine Air Carrier* — refers to an airline corporation duly organized and existing under the laws of the Republic of the Philippines that is engaged in both domestic and international air transportation of goods, passengers, or both.
- 3.4. *Philippine Sea Carrier* — refers to a shipping corporation duly organized and existing under the laws of the Republic of the Philippines that is engaged in both domestic and international sea transportation of goods, passengers, or both.
- 3.5. *International Common Carrier* — refers to an International Air Carrier or International Sea Carrier, as herein defined.
- 3.6. *Home Country* — refers to the country under whose laws the international carrier was duly organized or incorporated.
- 3.7. *International Air Carrier* — refers to a foreign airline corporation doing business in the Philippines having been granted landing rights in any Philippine port to perform international air transportation services/activities or flight operations anywhere in the world. On-line carriers refer to international air carriers having or maintaining flight operations to and from the Philippines. Off-line carriers refer to international air carriers having no flight operations to and from the Philippines.
- 3.8. *International Sea Carrier* — refers to a foreign shipping corporation doing business in the Philippines, having touched or intention of touching any Philippine port to perform international sea transportation services/activities from the Philippines to anywhere in the world and vice versa, in the case of on-line carrier, or having maintained business establishment, agent or representative office in the Philippines for the sale of owned tickets/passage documents or tickets/passage documents of other shipping companies, which shipping companies operate without touching any Philippine port, in the case of off-line carrier.
- 3.9. *On-line flights or voyages* — refer to flight or voyage operations carried out or maintained by an international carrier between ports or points in the territorial jurisdiction of the Philippines and any port or point outside the Philippines.
- 3.10. *Off-line flights or voyages* — refer to flight or voyage operations carried out or maintained by an international carrier between ports or points outside the

territorial jurisdiction of the Philippines, without touching a port or point situated in the Philippines, except when in distress or due to *force majeure*.

3.11. *Chartered flights or voyages* — refer to flight or voyage operations which include operations between ports or points situated in the Philippines and ports and points outside the Philippines, which include block charter, placed under the custody and control of a charterer by a contract/charter for rent or hire relating to a particular airplane/vessel.

3.12. *“Originating from the Philippines”* — shall include the following:

A) Where passengers, their excess baggage, cargo and/or mail originally commence their flight or voyage from any Philippine port to any other port or point outside the Philippines;

B) Chartered flights or voyages of passengers, their excess baggage, cargo and/or mail originally commencing their flights or voyages from any foreign port and whose stay in the Philippines is for more than forty-eight (48) hours prior to embarkation save in cases where the flight of the airplane belonging to the same airline company or the voyage of the vessel belonging to the same international sea carrier failed to depart within forty-eight (48) hours by reason of *force majeure*;

C) Chartered flights of passengers, their excess baggage, cargo and/or mail originally commencing their flights or voyages from any Philippine port to any foreign port; and

D) Where a passenger, his excess baggage, cargo and/or mail originally commencing his flight or voyage from a foreign port alights or is discharged in any Philippine port and thereafter boards or is loaded on another airplane owned by the same airline company or vessel owned by the same international sea carrier, the flight or voyage from the Philippines to any foreign port shall not be considered originating from the Philippines, unless the time intervening between arrival and departure of said passenger, his excess baggage, cargo and/or mail from the Philippines exceeds forty-eight (48) hours, except, however, when the failure to depart within forty-eight (48) hours is due to reasons beyond his control, such as, when the only next available flight or voyage leaves beyond forty-eight (48) hours or by *force majeure*. *Provided, however*, that if the second aircraft belongs to a different airline company, or the second vessel belongs to a different international sea carrier, the flight or voyage from the Philippines to any foreign port shall be considered originating from the Philippines regardless of the intervening period between the arrival and departure from the Philippines by said passenger, his excess baggage, cargo and/or mail.

3.13. *“Continuous and Uninterrupted Flight or Voyage”* — refers to a flight or voyage in the carrier of the same company from the moment a passenger, excess baggage, cargo, and/or mail is lifted from the Philippines up to the point of

final destination of the passenger, excess baggage, cargo and/or mail. The flight or voyage is not considered continuous and uninterrupted if transshipment of passenger, excess baggage, cargo and/or mail takes place at any port outside the Philippines on another aircraft or vessel belonging to a different company.

- 3.14. "*Place of Final Destination*" — refers to the place of final disembarkation designated or agreed upon by the parties in a contract of air or sea transportation where the passengers, their excess baggage, cargo and/or mail are to be transported and unloaded by the contracting company.
- 3.15. "*Transient Passenger*" — refers to a passenger who originated from outside of the Philippines towards a final destination also outside of the Philippines but stops in the Philippines for a period of less than forty eight (48) hours, or even more than forty-eight (48) hours, if the delay is due to *force majeure* or reasons beyond his control, wherein in both cases the passenger boarded an airplane or vessel of the same company bound to the place of final destination.
- 3.16. "*Non-revenue passengers*" — refers to the non-revenue passengers as defined under *Resolution No. 788 of the International Air Transport Association regarding Free and Reduced Fare or Rate Transportation and any other Free/Reduced Rate Mileage Programs Administered by individual International Air Carriers*.
- 3.17. "*Adult passenger*" — refers to a passenger who has attained his twelfth (12th) birthday.
- 3.18. "*Children*" — refers to passengers who have attained their second (2nd) but not their twelfth (12th) birthday.
- 3.19. "*Infant*" — refers to a passenger who has not attained his second (2nd) birthday.
- 3.20. "*Baggage*" — refers to such articles, effects and other personal property of a passenger as are necessary or appropriate for wear, use, comfort or convenience in connection with his trip.
- 3.21. "*Excess baggage*" — refers to that part of the baggage which is in excess of that baggage which may be carried free of charge.
- 3.22. "*Refund*" — refers to the repayment to the purchaser of all or a portion of the fare, rate or charge for unused carriage or service.
- 3.23. "*Tax Treaties*" — refers to the Double Taxation Conventions or Double Taxation Agreements entered into by and between the Philippines and other Contracting States or jurisdictions for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.

SECTION 4. INCOME TAX. —

4.1) Income Tax Imposed on International Carriers with Flights or Voyages Originating from Philippine Ports. — An international carrier having flights or voyages originating from any port or point in the Philippines, irrespective of the place where passage documents are sold or issued, is subject to the Gross Philippine Billings Tax of two and one-half percent (2½ %) imposed under Section 28(A)(3)(a) and (b) of the NIRC, as amended, unless it is subject to a preferential rate or exemption on the basis of an applicable tax treaty or international agreement to which the Philippines is a signatory or on the basis of 'reciprocity.'

A) Determination of Gross Philippine Billings of International Air Carriers. — In computing for "Gross Philippine Billings" of international air carriers, there shall be included the total amount of gross revenue derived from passage of persons, excess baggage, cargo and/or mail, originating from the Philippines in a continuous and uninterrupted flight, irrespective of the place of sale or issue and the place of payment of the passage documents.

The gross revenue for passengers whose tickets are sold in the Philippines shall be the actual amount derived for transportation services, for a first class, business class or economy class passage, as the case may be, on its continuous and uninterrupted flight from any port or point in the Philippines to its final destination in any port or point of a foreign country, as reflected in the remittance area of the tax coupon forming an integral part of the plane ticket. For this purpose, the Gross Philippine Billings shall be determined by computing the monthly average net fare of all the tax coupons of plane tickets issued for the month per point of final destination, per class of passage (*i.e.*, first class, business class, or economy class) and per classification of passenger (*i.e.*, adult, child or infant), and multiplied by the corresponding total number of passengers flown for the month as declared in the flight manifest.

For tickets sold outside the Philippines, the gross revenue for passengers for first class, business class or economy class passage, as the case may be, on a continuous and uninterrupted flight from any port or point in the Philippines to final destination in any port or point of a foreign country shall be determined using the locally available net fares applicable to such flight taking into consideration the seasonal fare rate established at the time of the flight, the class of passage (whether first class, business class, economy class or non-revenue), the classification of passenger (whether adult, child or infant), the date of embarkation, and the place of final destination. Correspondingly, the Gross Philippine Billings for tickets sold outside the Philippines shall be determined in the manner as provided in the preceding paragraph.

Passage documents or tickets revalidated, exchanged and/or endorsed to another on-line international airline shall be included in the taxable base of the carrying airline and shall be subject to Gross Philippine Billings tax if the passenger

is lifted/boarded on an aircraft from any port or point in the Philippines towards a foreign destination.

The gross revenue on excess baggage which originated from any port or point in the Philippines and destined to any part of a foreign country shall be computed based on the actual revenue derived as appearing on the official receipt or any similar document for the said transaction.

The gross revenue for freight or cargo and mail shall be determined based on the revenue realized from the carriage thereof. The amount realized for freight or cargo shall be based on the amount appearing on the airway bill after deducting therefrom the amount of discounts granted which shall be validated using the monthly cargo sales reports generated by the IATA Cargo Accounts Settlement System (IATA CASS) for airway bills issued through their cargo agents or the monthly reports prepared by the airline themselves or by their general sales agents for direct issues made. The amount realized for mails shall, on the other hand, be determined based on the amount as reflected in the cargo manifest of the carrier.

Provided, however, that in the case of the passenger's passage documents or flights from any port or point in the Philippines and back, that portion of revenue pertaining to the return trip to the Philippines shall not be included as part of "Gross Philippine Billings."

In the case of a flight that originates from the Philippines but transshipment of passenger, excess baggage, cargo and/or mail takes place elsewhere in another aircraft belonging to a different airline company, the Gross Philippine Billings shall be determined based on that portion of the revenue corresponding to the leg flown from any point in the Philippines to the point of transshipment.

In cases where a flight is interrupted by *force majeure* resulting in the transshipment of the passengers, their excess baggage, freight, cargo and/or mail to another airplane operated by another airline company and transshipment takes place in another country, the Gross Philippine Billings shall be determined based on that portion of flight from the Philippines up to the point of said transshipment.

Non-revenue passengers shall not be given value for purposes of computing the taxable base subject to tax. Refunded tickets shall likewise not be included in the computation of Gross Philippine Billings.

In computing the taxable amount, the foreign exchange conversion rate to be used shall be the average monthly Airline Rate as provided in the Bank Settlement Plan (BSP) Monthly sales report or the Bankers Association of the Philippines (BAP) rate, whichever is higher. The average monthly BAP rate shall be computed by adding all the different BAP rates during the month and dividing the same by the number of days during the month.

Adequate schedules, records and documents, such as but not limited to the following, shall be kept and maintained at all times in the local principal office or place of business of the international airline and shall be made available to the assigned internal revenue officers for verification of the gross revenues reported for Gross Philippine Billings Tax purposes:

- I) Passenger Flight Manifest showing date, Flight Number, the names of the passengers grouped per each point of final destination as classified in accordance with the classes of passage (whether first class, business class or economy class), and further sub-grouped in accordance with the classification of passenger (whether adult, child, infant or non-revenue);
- II) Monthly Summary of Taxable and Non-Revenue Passengers, Passenger Per Day, per Flight Number showing the daily number of passengers per flight route on each day and per each point of final destination grouped in accordance with class of passage (whether first class, business class or economy class) and classification of passenger (whether adult, child, infant, or non-revenue);
- III) A complete file of cargo/mail manifests in chronological order. Based on the cargo and/or mail manifests, monthly schedules of mail revenue and cargo sales reports must be prepared containing the following information:
 - a) Cargo/mail manifest should include information on:
 - a.1) Flight number;
 - a.2) Date and time of departure;
 - a.3) Destination of the aircraft;
 - a.4) Number of airway bills per flight;
 - b) Semi-monthly Cargo Sales Reports should include information on:
 - b.1) Airway bill number;
 - b.2) Weight of cargo and the actual amount of revenue derived; and
 - b.3) Total amount of Cargo revenue for the sales period covering half month sales;
 - c) Monthly Mail Revenue should include information on:
 - c.1) Weight of Mail and Freight rate per unit of measurement; and
 - c.2) Total amount of Mail Revenue for the month
- IV) A complete record of the income/revenue from excess baggage of passengers derived in Philippine Pesos or applicable foreign currency;
- V) BSP Airline Billing Analysis Report containing the following information:
 - a) Name of travel agent;
 - b) Ticket number;
 - c) Gross fare of the ticket;

- d) Fare Adjustments and Other Deductions;
 - e) Net fare derived by airline;
 - f) Philippine Travel Taxes and Miscellaneous Taxes and fees; and
 - g) Net amount payable to the airline company (including taxes and miscellaneous fees);
- VI) Semi-Monthly Sales Report for Direct Sales or Issues made by the airline company and/or its General Sales Agent in the Philippines containing the following information:
- a) Ticket number;
 - b) Date of issuance of ticket;
 - c) Gross fare of ticket;
 - d) Fare adjustments and other deductions;
 - e) Net fare derived by airline;
 - f) Philippine Travel Taxes and miscellaneous taxes and fees; and
 - g) Net amount received (including taxes and miscellaneous fees).
- VII) A complete file of the tax coupons of airline tickets sold and ticketed in the Philippines indicating the net fare paid by the travel agent/passenger;
- VIII) A file of charter agreements/contracts in the case of chartered flights;
- IX) A complete file of airline tickets issued based on incoming prepaid ticket advices which plane tickets were sold outside the Philippines; and
- X) Copies of passenger manifests submitted to the Bureau of Immigration.

B) Determination of Gross Philippine Billings of International Sea Carriers. — In computing for “Gross Philippine Billings” of international sea carriers, there shall be included the total amount of gross revenue whether for passenger, cargo, and/or mail originating from the Philippines up to final destination, regardless of the place of sale or payments of the passage or freight documents.

Non-revenue passengers shall not be given value for purposes of computing the taxable base subject to tax. Refunded tickets shall likewise not be included in the computation of Gross Philippine Billings.

In proper cases, the domestic shipping agent shall apply for a Taxpayer Identification Number (TIN) of each foreign international shipping line it represents. Each foreign international shipping line is by itself a taxpayer separate and distinct from the agent and the other principals of the same agent. For purposes of registration and securing the TIN of the principal/s, the shipping agent must submit the Agency Agreement between him and his principal/s which will suffice as the documentation requirement.

The shipping agent shall file the pertinent tax returns for each principal using the TIN and name of the particular principal. The shipping agent should not use its own TIN in filing the returns of the principal it represents.

C) Attachments to quarterly and annual Gross Philippine Billings (GPB) returns to filed by international carriers:

- I) For quarterly and annual GPB returns - A Statement of Gross Philippine Billings duly certified by an independent Certified Public Accountant, showing among others, the Taxable Passenger Revenue for each flight number or voyage, the cumulative quarterly/annual summary as well as the monthly summary totals of gross revenue derived from the uplifts/transport of passengers, excess baggage, cargo and mails from the Philippines subject to tax under Section 28(A)(3) of the NIRC, as amended, the applicable average conversion rate mentioned in Sec. 4.1(A) hereof to arrive at the Taxable Gross Philippine Billings, and the GPB rate used in arriving at the tax due for the quarter/year.
- II) For annual GPB returns - Audited Financial Statements, even in cases of no-payment returns due to tax exemption.

4.2) Preferential Income Tax Rate or Exemption of International Carrier with Flights or Voyage Originating from Philippine Ports. — Under Section 28(A)(3) of the NIRC, as amended by RA No. 10378, international carriers doing business in the Philippines may avail of a preferential income tax rate or income tax exemption on their gross revenues derived from the carriage of persons and their excess baggage on the basis of the following:

A) Applicable tax treaty to which the Philippines is a signatory. — Tax Treaties generally allow the Philippines to impose preferential income tax rates on profits from the operation of ships or aircrafts in international traffic by residents of the other contracting states. There are Tax Treaties which provide that the tax shall not exceed the lesser of one and one-half percent (1½ %) of the gross revenues derived from sources in the Philippines, or the lowest rate of the Philippine tax that may be imposed on profits of the same kind derived under similar circumstances by a resident of a third State.

In order to avail of the preferential income tax rates under Tax Treaties, international carriers shall observe the procedures stated in Revenue Memorandum Order No. 072-10 on the *Guidelines on the Processing of Tax Treaty Relief Applications (TTRA) Pursuant to Existing Philippine Tax Treaties*. Accordingly, a tax treaty relief application (TTRA) is required to be filed with the International Tax Affairs Division (ITAD) of the BIR and duly approved by the Commissioner of Internal Revenue or his/her duly authorized representative, before an international carrier may be entitled to avail of the preferential rate.

A TTRA filed by and/or granted to an international carrier prior to the effective date of these Regulations shall remain valid and binding, thus dispensing with the need for such international carrier to file a new TTRA under these Regulations.

B) Reciprocity. — This may be invoked by an international carrier as basis for Gross Philippine Billings Tax exemption when its Home Country grants income tax exemption to Philippine carriers.

The domestic law of the Home Country granting exemption shall cover income taxes and shall not refer to other types of taxes that may be imposed by the relevant taxing jurisdiction. The fact that the tax laws of the Home Country provide for exemption from business tax, such as gross sales tax, in respect of the operations of Philippine carriers shall not be considered as valid and sufficient basis for exempting an international carrier from Philippine income tax on account of reciprocity.

Reciprocity requires that Philippine carriers operating in the Home Country of an international carrier are actually enjoying the income tax exemption.

The following procedures shall be observed in order to avail exemption from Gross Philippine Billings Tax on the basis of 'reciprocity':

- l) The international carrier shall file an application for a confirmatory ruling for its Gross Philippine Billings Tax exemption on the basis of reciprocity with the International Tax Affairs Division (ITAD) of the Bureau of Internal Revenue by submitting the following documents:
 - a) Request letter providing a brief overview of its operations and specifying the legal basis relied upon to establish that its Home Country grants income tax exemption to Philippine carriers;
 - b) Original Copy of consularized certification issued by the tax authority of the Home Country of the international carrier to the effect that such international carrier is a resident of such country;
 - c) Original copy of a certification from the Philippine Securities and Exchange Commission (SEC) stating that the international carrier is registered to engage in business in the Philippines;
 - d) Competent Proof of Reciprocity:
 - d.1) Until such time that the Department of Finance (DOF), in coordination with the Department of Foreign Affairs (DFA), has entered into an exchange of notes between the Philippines and the Home Country of an international carrier, as mentioned in Section 5 of RA No. 10378, for purposes of facilitating the availment of reciprocal exemptions provided under the last paragraph of Section 28(A)(3) of the NIRC, as amended by RA No. 10378, the following documents shall be submitted:

i) Original copy of consularized certification issued by the tax authority of the Home Country of the international carrier stating that Philippine carriers, or in general, all international carriers operating in such country, are granted income tax exemption under its laws. The certification shall cite the legal basis of such exemption; and

ii) An official publication of the laws of the Home Country of the international carrier relied upon (in English translation) to establish that its Home Country grants income tax exemption to Philippine carriers; or a copy of the such laws of its Home Country (in English translation) attested by the officer having the legal custody of the record, or by his deputy, and accompanied, if the record is not kept in the Philippines, with a certificate that such officer has the custody. The certificate may be issued by a secretary of the embassy or legation, consul general, consul, vice consul, or consular agent, or any officer in the foreign service of the Philippines stationed in the foreign country in which the record is kept, and authenticated by the seal of his office. The attestation must state, in substance, that the copy is a correct copy of the original, or a specific part thereof, as the case may be, and must be under the official seal of the attesting officer.

d.2) Upon the execution of the Exchange of Notes between the Philippines and the Home Country of the concerned international carrier, reference to the relevant Exchange of Notes facilitating the availment of reciprocal exemptions provided under the last paragraph of Section 28(A)(3) of the NIRC, as amended by RA No. 10378, shall suffice for purposes of complying with the requirement of a competent proof of reciprocity described above.

The specific procedures expressly provided in the Exchange of Notes may amend/supersede the procedure for availment provided under these Regulations, to the extent that they are incompatible with those prescribed herein.

e) Such other documents as may be prescribed by the BIR for the proper evaluation of the application.

II) The ITAD shall, upon submission of all the necessary documents, prepare the ruling confirming the tax exempt status of the applicant international carrier, for final approval of the Commissioner of Internal Revenue or his or her duly authorized representative.

III) It shall be the duty of ITAD to monitor the granting of preferential tax rates and tax exemptions to international carriers. The ITAD shall also furnish copies of rulings issued to international carriers to the concerned offices of the Bureau of Internal Revenue.

C) Applicable international agreement to which the Philippines is a signatory. — While RA No. 10378 recognizes international agreements as basis for granting exemption or preferential tax rate to international carriers, the Philippines, to date, has not negotiated any agreement with another state or jurisdiction providing for income tax exemption or preferential tax treatment to international carriers aside from tax treaties.

4.3) International Carriers Without Flights/Voyage Starting From Or Passing Through Any Point In The Philippines. — An off-line international carrier having a branch/office or a sales agent in the Philippines which sells passage documents for compensation or commission to cover off-line flights/voyages of its principal or head office, or for other airlines/sea carriers covering flights/voyages originating from Philippine ports or off-line flights/voyages, is not considered engaged in business as an international carrier in the Philippines and is, therefore, not subject to Gross Philippine Billings Tax provided for in Section 28(A)(3) of the NIRC, as amended. Nevertheless, an off-line international carrier shall be subject to the regular rate of income tax under Section 28(A)(1) of the NIRC, as amended, based on its taxable income from sources within the Philippines.

4.4) Taxability of Income Other Than Income From International Transport Services. — All items of income derived by international carriers that do not form part of Gross Philippine Billings as defined under these Regulations shall be subject to tax under the pertinent provisions of the NIRC, as amended.

Demurrage fees, which are in the nature of rent for the use of property of the carrier in the Philippines, is considered income from Philippine source and is subject to income tax under the regular rate as the other types of income of the on-line carrier.

Detention fees and other charges relating to outbound cargoes and inbound cargoes are all considered Philippine-sourced income of international sea carriers they being collected for the use of property or rendition of services in the Philippines, and are subject to the Philippine income tax under the regular rate.

SECTION 5. COMMON CARRIER'S TAX. — International air carriers and international shipping carriers doing business in the Philippines on their gross receipts derived from the transport of cargo from the Philippines to another country shall pay a Common Carrier's Tax (Percentage Tax on International Carriers) equivalent to three percent (3%) of their quarterly gross receipts pursuant to Section 118 of the NIRC, as amended by RA No. 10378.

For purposes of determining the Common Carrier's Tax liability of international carriers pursuant to Section 118 of the NIRC, as amended, "gross receipts" shall include, but shall not be limited to, the total amount of money or its equivalent representing the contract, freight/cargo fees, mail fees, deposits applied as payments, advance payments and other service charges and fees actually or

constructively received during the taxable quarter from cargo and/or mail, originating from the Philippines in a continuous and uninterrupted flight, irrespective of the place of sale or issue and the place of payment of the passage documents.

In cases when the Gross Philippines Billings Tax provided for in Section 28(A)(3) of the NIRC, as amended, is not applicable, the Common Carrier's Tax herein imposed under Section 118 of the NIRC, as amended, shall still apply. Provided that, an off-line international carrier having a branch/office or a sales agent in the Philippines which sells passage documents for compensation or commission to cover off-line flights or voyages of its principal or head office, or for other airlines/sea carriers covering flights or voyages originating from Philippine ports or off-line flights or voyages, is not considered engaged in business as an international carrier in the Philippines and is, therefore, not subject to the three percent (3%) Common Carrier's Tax under Section 118(A) of the NIRC, as amended. This provision is without prejudice to classifying such taxpayer under a different category pursuant to a separate provision of the NIRC.

SECTION 6. VALUE-ADDED TAX. — The transport of passengers by international carriers doing business in the Philippines shall be exempt from value-added tax (VAT) pursuant to Sections 109(1)(S) of the NIRC, as amended by RA No. 10378. The transport of cargo by international carriers doing business in the Philippines shall be exempt from VAT pursuant to Sections 109(1)(E) of the NIRC, as amended by RA No. 10378, as the same is subject to Common Carrier's Tax (Percentage Tax on International Carriers) under Section 118 of the NIRC, as amended. International carriers exempt under Sections 109(1)(S) and 109(1)(E) of the NIRC, as amended, shall not be allowed to register for VAT purposes.

SECTION 7. REPORTORIAL REQUIREMENT. — International carriers, through their authorized personnel or representative, shall submit to ITAD a sworn certification stating that there is no change in the domestic laws of its Home Country granting income tax exemption to Philippine carriers (**Annex A**). The sworn certification shall be submitted on or before January 31 of each year from the time the international carrier was issued a ruling by the BIR confirming its Gross Philippines Billings Tax exemption on the basis of reciprocity as prescribed in Section 4.2(B) hereof. Failure to submit the sworn certification shall be a ground for the revocation of such ruling.

SECTION 8. PENALTY CLAUSE. — Any violation of the provisions of these Regulations shall be subject to penalties provided in Section 275 and other pertinent provisions of the NIRC, as amended.

SECTION 9. REPEALING CLAUSE. — All existing rules and regulations and other issuances or parts thereof which are inconsistent with the provisions of these Regulations are hereby modified, amended, repealed and revoked accordingly.

SECTION 10. SEPARABILITY CLAUSE. — If any of the provisions of these Regulations is subsequently declared unconstitutional, the validity of the remaining provisions hereof shall remain in full force and effect.

SECTION 11. EFFECTIVITY CLAUSE. — These Regulations shall take effect after fifteen (15) days following its complete publication in a newspaper of general circulation in the Philippines.

(Original Signed)
CESAR V. PURISIMA
Secretary of Finance

Recommending Approval:

(Original Signed)
KIM S. JACINTO-HENARES
Commissioner of Internal Revenue

SWORN CERTIFICATION

KNOW ALL MEN BY THESE PRESENTS:

I, _____, in my capacity as _____ of _____, with business address _____, do hereby certify that there is NO substantial change in the law entitled _____ granting _____ to Philippine Carriers as of _____ (date).

This certification is being issued as a requisite in the availment of tax exemption based on reciprocity with the International Tax Affairs Division of the Bureau of Internal Revenue.

SIGNATURE OF REPRESENTATIVE
OVER PRINTED NAME

TITLE/POSITION OF SIGNATORY

IN WITNESS WHEREOF, I have signed this Certification on this _____ day of _____, 20____ in _____.

NOTARY PUBLIC

REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

October 28, 2002

REVENUE MEMORANDUM ORDER NO. 35-2002

SUBJECT : Prescribing the Guidelines and Procedures in the Processing and Issuance of AUTHORITY TO RELEASE IMPORTED GOODS (ATRIG) for Excise and Value-Added Tax Purposes

TO : All Assistant Commissioners, Regional Directors, Revenue District Officers and Others Concerned

I. OBJECTIVES

This Order is issued to:

1. Provide uniform procedure for the processing and issuance of Authority to Release Imported Goods (ATRIG);
2. Prescribe the use of the official accountable form for ATRIG;
3. Prescribe reporting requirements for the effective control and monitoring of all processed applications and issued ATRIGs; and
4. Delineate the duties and responsibilities of all revenue offices and personnel responsible in the processing of ATRIGs as well as in the requisition, utilization and custody of the ATRIG form.

II. POLICIES AND GUIDELINES

1. An Application for ATRIG (Annex "A") for value-added tax purposes shall be filed in duplicate with the Revenue District Office (RDO) having jurisdiction over the port of entry. For excise tax purposes, however, the Application for ATRIG shall be filed with the Excise Tax District Office

(ETDO) where the taxpayer-importer is registered or required to be registered. The Application for ATRIG shall be distributed as follows:

Original - RDO/ETDO
Duplicate - Importer/Broker

Each importation shall be covered by a separate application for ATRIG. In cases where the importation involves articles of the same kind but are covered by two or more Bills Of Lading issued to the same importer under the same vessel, the consolidated application may be accepted and processed. The application for ATRIG shall be notarized and properly accomplished and signed by the importer or his duly authorized representative with the prescribed documentary stamp affixed thereon.

2. No application shall be accepted if the importer-applicant and/or broker-representative is/are not duly registered taxpayer(s) with the BIR. In cases where the intended importation consists of excisable articles, raw materials, machineries, equipments, apparatus or any mechanical contrivances especially used for the production of excisable articles, the application for ATRIG shall likewise not be accepted if the importer-applicant does not have a separate Permit to Operate as an Importer for excise tax purposes.
3. BIR Form No. 1918 (Annex "B") shall be used whether for excise or value-added tax (VAT) purposes and shall be approved and issued by the Revenue District Officer of the RDO/ETDO authorized to process and approve the ATRIG. For this purpose, upon initial receipt of the new sets of this form, reproductions and/or issuances of pro-forma ATRIGs shall thereafter be strictly prohibited.

The form shall be filled-up completely, prepared in triplicate and distributed as follows:

Original - Bureau of Customs
Duplicate - Issuing RDO/ETDO
Triplicate - Business Intelligence Division (National office)

The above provision notwithstanding, all applications for ATRIG for excise tax purposes shall be filed with and processed by the concerned Excise Tax District Office having jurisdiction over the importer.

4. For excise tax purposes, the ATRIG shall be issued for all importations of articles subject to excise tax (whether exempt or taxable), including the raw materials in the production thereof, as well as the machineries, equipment, apparatus or any mechanical contrivances especially used for its assembly/production.

For VAT purposes, the ATRIG shall be issued on all importations of articles exempt from VAT except on those articles specifically identified and enumerated in the Circular issued jointly by the Bureau of Internal Revenue and the Bureau of Customs.

5. The ATRIG shall be processed, approved and issued within one (1) day from the time of the actual receipt of the application, in cases where the application for ATRIG is supported by complete documents and there is no legal/factual issue on the taxability of the imported article.
6. Proper coordination with the authorized representatives of the Bureau of Customs shall always be maintained if an ocular inspection is needed in order to verify the actual description of the imported article or to secure a sample thereof for purposes of laboratory analysis.

With respect to imported automobiles, prior ocular inspection shall be conducted at all times to determine its taxability and compliance with the prescribed seating capacity criteria under existing revenue issuances.

7. For purposes of filing, identification and classification of articles, either for excise or VAT purposes, the authorized issuing offices shall add such descriptive letters or word which shall be printed right below the ATRIG's pre-printed serial number according to the following order:
 - a) PRODUCT CODE (for excise) or VAT CODE (for VAT exemption)
 - b) YEAR OF ISSUE
 - c) RDO NUMBER
 - d) RDO, RR, ETDO or NO Office CONTROL NUMBER

8. Applications for ATRIG with legal issues on the taxability or exemption of the imported articles shall be referred to the Legal Division of the Regional Office or to the Law Division, National Office, as the case maybe, for appropriate resolution. Any request for a ruling on an article involving factual issues requiring laboratory comment/evaluation/recommendation for purposes of identification and/or classification shall be referred to BIR Laboratory Unit in the National Office prior to referral to the proper legal office. In case the request for a ruling affecting the application for ATRIG is directly filed by the taxpayer with the Legal Division or Law Division in the Regional or National Office, respectively, or the VAT Review Committee, the same shall nevertheless be referred to the BIR Laboratory Unit prior to the formulation and issuance of the appropriate ruling.

For issues not requiring legal resolution, samples of the imported goods requiring laboratory analysis shall be referred to the BIR Laboratory Section National Office, for appropriate action. In this connection, physical laboratory analysis/comment/evaluation shall be conducted on samples of every

shipment of alcohol and alcohol products, petroleum products, and such other articles to determine its taxability and proper tax classification. Samples thereof shall be taken directly from the shipment by authorized BIR representative(s) in the customs premises, in coordination with the customs' authorized representatives.

In the event that the correct product classification and basis of taxation of imported article can be sufficiently determined on the basis of acceptable Certificate of Analysis and/or Material Safety Data Sheet (MSDS) together with complete product specification and/or product data/information, whichever is applicable, the conduct of actual laboratory analysis may be dispensed with. However, these documents shall be referred to the BIR Laboratory Unit for appropriate evaluation and comment, prior to the issuance of ATRIG.

9. All requests for the issuance of BIR strip stamps or labels for alcohol or tobacco products, whichever is applicable, shall be processed in accordance with existing revenue issuances only after the submission by the taxpayer-importer of proofs of excise tax payment on the imported excisable articles covered by the application for ATRIG.
10. In cases where the articles covered by the application for ATRIG have already been released from custom' custody prior to the issuance thereof, no ATRIG shall be allowed to be issued just to complete the documentation of the importation for BOC purposes.
11. The issuing RDO/ETDO shall ensure that the articles subject to excise tax, whether taxable or exempt, are delivered to the importer's place of business/production. For this purpose, the Revenue Officer(s) assigned to process the application for ATRIG shall be designated to supervise the release of imported articles from the customs premises up to the importer's place of business/production. In addition to the foregoing, proper coordination and/or notification shall be made by the ATRIG issuing office to the BIR office having jurisdiction over the excise tax establishments with Revenue Officer(s) Assigned on Premises (ROOPs). Such notification shall be made prior to the release of imported articles from customs custody to ensure that said ROOPs are duly alerted on incoming deliveries/shipments.
12. For purposes of uniformity in the use of VAT codes and product codes, the following codes for each product description shall be strictly observed:

VAT/PRODUCT CODES	DESCRIPTION
a) AGRI	Agricultural & Marine Food Products and Breeding Stock & Genetic Materials
b) FERT	Fertilizers
c) FEEDS	Feeds and Feed Ingredients

d)	ALCO	Alcoholic Products
e)	COOP	Agricultural and Electric Cooperatives
f)	OSLA	Other Special Laws or International Agreements
g)	VAT	All Other Articles Subject to VAT (Articles held to be “vatable” and do not fall under the other product codes)
h)	TOB	Tobacco Products
i)	OIL	Petroleum Products
j)	MIN	Mineral Products
k)	AUTO	Automobiles
l)	NEG	Non-Essential Goods & Other Articles

All ATRIGS issued for machineries, equipment, apparatus or any mechanical contrivances used for the assembly/production of articles subject to excise tax shall bear the same product codes of the assembled/manufactured products.

Examples:

a) For excise tax purposes

OIL – 2002 – 50 - 00000001

b) For VAT-exempt purposes

FEEDS– 2002 – 50 – 00000001

c) For Articles Subject to VAT ((Articles held to be “vatable” and do not fall under the other product codes)

VAT – 2001 – 41 – 00000001

13. The issuing RDO/ETDO shall maintain an ATRIG Registry Book and shall enter all ATRIGs that have been issued in a sequential manner according to the Control Number thereof. The Registry Book shall contain the following information:

- a. ATRIG Control Number
- b. Date of issue
- c. Name and address of importer/applicant
- d. Importer’s TIN
- e. Name and address of Broker
- f. Broker’s TIN
- g. Description of imported articles(s)
- h. Bill of Lading/Airway Bill Number

- i. Name of Carrier and Voyage Number
- j. Value of Importation (in US Dollars)

Likewise, an ATRIG control card for each/importer/applicant shall be prepared containing the following information:

- a. Name and address of importer/applicant;
 - b. Importer's TIN;
 - c. Name and address of broker
 - d. Broker's TIN;
 - e. ATRIG Control Number;
 - f. Date of ATRIG;
 - g. Letter of Credit (LC) Number, if applicable;
 - h. Description of articles(s) imported:
 - i. Airway bill/Bill of lading number;
 - j. Name of carrier;
 - k. Quantity;
 - l. Value in US dollar;
 - m. Date released;
 - n. Amount of Taxes paid
14. A monthly summary report (Annex C), together with the triplicate copies of ATRIGs that have been issued, shall be transmitted on a regular basis to the Business Intelligence Division at the National Office for purposes of reconciliation and verification with their database, indicating the following information:
- a. Name and address of importer/applicant
 - b. Importer's TIN
 - c. Name and address of Broker
 - d. Broker's TIN
 - e. Permit to Import Number
 - f. Date of Issuance of Permit to Import
 - g. ATRIG Control Number
 - h. Date of ATRIG
 - i. Letter of Credit Number
 - j. Import Entry Declaration Number
 - k. Description of imported articles(s)
 - l. Volume of Importation
 - m. Value of Importation (in US Dollars)
 - n. Bill of Lading/Airway Bill Number
 - o. Name of Carrier/Voyage/Flight Number
 - p. VAT Due, if applicable
 - q. Excise Tax Due, if applicable

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The Business Intelligence Division shall, after performing such reconciliation, transmit a monthly summary report on the results of its findings which should include among others, whether or not, each importation is covered with ATRIG and such other discrepancies to the concerned Revenue District Office, Excise Tax District Office, and/or Excise Taxpayers Data Reconciliation & Analysis Division in the National Office, as the case may be, where the importer is registered or required to be registered.

The summary report received by the RDO, ETDO or Excise Taxpayers Data Analysis & Reconciliation Division in the National Office, as the case may be, shall form part of respective database for purposes of audit and monitoring of the activities of the taxpayers under their jurisdiction.

- 15. In monitoring the stock balance of the ATRIG Form, a computer file shall be maintained by the Accountable Officer using any appropriate software program, in lieu of "Stock Cards", containing the following columnar headings described below:

DATE	RECEIVED			ISSUED			BALANCE			
	Qty	Serial Number		Requesting Office/Name of Acct. Officer	Qty	Serial Number		Qty	Serial Number	
		From	To			From	To		From	To

- 16. The provisions provided under of Revenue Memorandum Order No. 32-98, dated March 5, 1998 shall govern the handling, requisition, loss, damage, cancellation, disposal, inventory and reporting requirements of the said form.
- 17. ATRIGs that have been issued may be subject anytime to post audit or review by any Office authorized by the Commissioner or the Deputy Commissioner for Operations.

III. PROCEDURES

A. REVENUE DISTRICT OFFICE (RDO) HAVING TERRITORIAL JURISDICTION OVER THE PORT OF ENTRY

RECEIVING OFFICER

- 1. Check whether or not the Application for ATRIG is properly filled up and attached with complete supporting documents. The attachments are complete if the following documents are present:
 - a. Commercial Invoice;
 - b. Consular Invoice;
 - c. Bill of Lading or Airway Bill, whichever is applicable;
 - d. Packing List;

- e. Import Entry & Internal Revenue Declaration;
- f. Copies of Certificates for Registration in the appropriate RDO, if the importer/broker is applying for ATRIG for the first time;
- g. Duly notarized Certificate of Undertaking (for automobiles, feed ingredients, petroleum additives, etc.); and
- h. 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.).

In case of imported excisable articles, the following supporting documents are to be attached, in addition to the abovementioned applicable requirements:

- a. Permit to Operate as Excise Taxpayer, if the importer is applying for the first time.
 - b. Permit to Import, when the articles to be imported are tobacco/ alcohol products, raw materials in the assembly/production of these products or any apparatus or mechanical contrivances used in the production thereof.
 - c. Requisition for Revenue Strip Stamps & Labels (BIR Form No. 2620) for the issuance of strip stamps, auxillary and regular labels, in cases of importation of cigars, cigarettes and alcohol products.
2. Verify if the importer and the broker, if applicable, are registered with the BIR.
- a. Check whether or not the Tax Identification Numbers of the Importer and Broker as declared in the application are existing in the Registration System of the Integrated Tax System (ITS).
 - b. Determine if the information reflected in the Registration System tallies with the declaration in the application.
3. If the importer/broker, is/are not registered or where there are inconsistencies in the information declared in the application with that of the Registration System, return the application and require the importer or the broker to register first or file a registration update with the appropriate BIR Office.
4. In cases where the application is in order, the same shall be received in the following manner:
- a. Stamp or print the word "RECEIVED" on the original and duplicate copies of the application;

- b. Indicate the time and date of receipt of the application; and
- c. Affix the receiving officer's signature or initials on the appropriate space in the application form.

REVENUE OFFICER ASSIGNED TO PROCESS THE APPLICATION FOR ATRIG

1. Process the application:
 - a. Check authenticity of each supporting document.
 - b. Verify whether the article sought to be exempted from VAT falls within the exemption provided for under Section 109 of the Tax Code.
 - c. Verify whether the importer is BIR-registered for VAT and excise tax purposes. If not, the importer shall be required first to register in accordance with existing regulations on registration before its application for ATRIG shall be processed.
 - d. Verify the existence of a Permit to Import for excise tax purposes, as required under existing regulations. The same shall first be required before the application is processed.
 - e. Verify if the importer of excisable articles has subsisting surety bond as prescribed under Section 160 of the Tax Code.
 - f. Require submission of the following, in cases where there are doubts on the representations made by the importer on its application, whichever is applicable:
 - i. Samples of the imported goods to be taken directly and personally from the shipment by the processing revenue officer and/or BIR laboratory representatives for BIR laboratory analysis.
 - ii. Literatures/brochures/product data containing product description of imported goods.
 - iii. Certification from appropriate regulatory government offices authenticating the representations made by the importer/applicant.
 - iv. Conduct actual ocular inspection of motor vehicles.

- g. Evaluate product information/literature, in case the articles require no laboratory analysis.
 - h. Check existence of applicable BIR Rulings on the taxability or exemption of articles listed on the application;
 - i. Refer to the Legal Division of the Regional Office or the Law Division in the National Office, as the case maybe, when the application for ATRIG requires legal resolution; and
 - j. Refer to the BIR Laboratory Section samples of imported goods requiring laboratory analysis in order to determine their correct classification for taxation purposes.
2. Prepare the ATRIG for approval and signature by the duly authorized official.
 3. Forward the ATRIG to the approving official for final review and signature.
 4. File in sequential order the duplicate copies of all approved ATRIG together with all the supporting documents.
 5. Coordinate with importer as to the exact details of release from customs custody (date, time, mode of delivery and place of destination of the imported articles), in cases where the ATRIGs are issued for excise tax purposes.
 6. Prepare the monthly summary reports of all ATRIGs issued, and transmit the same, together with the triplicate copies of the ATRIGs that have been issued, to the Business Intelligence Division at the National Office not later than the tenth (10th) day of the succeeding month.

RELEASING OFFICER

1. Prepare the transmittal letter addressed to BOC covering all approved ATRIGs for the day, for signature by the approving official.
2. Post all the information on the approved ATRIG to the ATRIG Control Card and the ATRIG Registry Book.
3. Send the transmittal letter, together with all the original copy(ies) of the approved ATRIG thru a designated Revenue Officer, directly to the BOC not later than 12:00 noon of the following day. The original copy of the approved ATRIG shall, in no case, be allowed to be delivered to the BOC thru the importer/applicant or broker/representative.

REVENUE OFFICER(S) DESIGNATED TO SUPERVISE RELEASE OF IMPORTED ARTICLES

1. Proceed to the Bureau of Customs at the designated place and time to oversee the physical release of imported articles.
2. Obtain copy of proof payment of excise tax from importer/applicant, in appropriate cases, which document shall be included in the docket for ATRIG.
3. Check whether the required auxiliary official labels or internal revenue stamps are duly affixed on the package and/or container of imported articles, whenever applicable, prior to release of the imported articles from customs custody.
4. Accompany the shipment from the time of its release from the customs' warehouse up to the time of its actual receipt at the place of destination.
5. Verify the exact location of the premises upon arrival at the actual unloading point. Make sure that the intended destination is the same as the actual unloading place; otherwise, any deviation thereto shall be fully disclosed in the release report.
6. Verify whether or not ROOPs are assigned at the unloading point.
 - a. If in the affirmative, prepare and properly accomplish the Certificate of Supervision (Annex D) and require the revenue officers assigned on premises to acknowledge and sign the Certificate of Supervision attesting to the fact of the actual supervision of the release and delivery of the imported articles from the point of release from customs custody to the designated place of unloading.
 - b. If in the negative, proceed to supervise the unloading and the inspection of the imported articles in the premises of the importer. In the presence of the importer's representatives, count the quantity/volume of the articles unloaded and verify the details from the import documents. Prepare and properly accomplish the Certificate of Supervision (Annex D) and require the person in-charge of operations at the time of unloading to acknowledge the supervision of release from customs custody and the results of the inspection conducted on the unloaded articles and to sign the Certificate of Supervision herein prescribed.
7. Submit a written report within two (2) days from the time the articles are unloaded from the importer's premises together with the copy of the said

Certificate. The proposed assessment for any discrepancy discovered during actual inspection shall be submitted not later than the following day when supervision and inspection was made.

B. LAW DIVISION (NATIONAL OFFICE) OR LEGAL DIVISION (REGIONAL OFFICE), AS THE CASE MAY BE

1. Receive from RDO/ETDO the application for ATRIG requiring legal resolution.
2. Prepare resolution on the application in question and transmit the same to the RDO/ETDO within twenty four (24) hours from receipt thereof, if possible.
3. Forward the Application together with the legal opinion to RDO/ETDO for preparation of appropriate ATRIG.

C. BIR LABORATORY SECTION

1. Receive from the RDO sample of imported goods or take samples directly from the shipment in coordination with RDO/ETDO and the representatives from the Bureau of Customs and the importer/broker.
2. Conduct laboratory testing of samples to determine correct classification of imported article for tax purposes (e.g. whether the imported goods are actually in their original state to qualify for exemption from VAT or whether the imported article is subject to VAT or excise tax, or both.
3. Evaluate product literature, in case the articles are not subjected to laboratory analysis.
4. Issue appropriate certification to RDO to be used as basis in the preparation of ATRIG

D. BUSINESS INTELLIGENCE DIVISION AT THE NATIONAL OFFICE

1. Receive the Monthly Summary Reports from the Issuing Office together with the triplicate copies of all approved ATRIGs.
2. Conduct review and evaluation of all submitted Monthly Summary Reports together with the triplicate copies of all approved ATRIGs according to established procedures.
3. Compare ATRIG data with data obtained from BOC linkages.

4. Check whether the classification/taxability of articles in the ATRIG is correctly applied by Bureau of Customs.
5. Check whether all the goods released requiring ATRIGs are duly covered by approved ATRIGs.
6. Prepare and transmit to the appropriate BIR Office where the importer is registered or required to be registered a summary report on its findings which shall include importations during the given month not covered by an ATRIG and such other discrepancies that have been found as a result of the reconciliation that have been conducted.
7. Coordinate with the Bureau of Customs for the appropriate course(s) of action with regards to discrepancies that have been determined or discovered.
8. Segregate copies of ATRIGs according to articles subject to excise tax or VAT, VAT-exempt and exempt from excise, to be filed for future reference.

E. REVENUE DISTRICT OFFICE WHERE THE IMPORTER IS REQUIRED TO BE REGISTERED AND/OR EXCISE TAXPAYERS DATA RECONCILIATION & ANALYSIS DIVISION AT THE NATIONAL OFFICE AUTHORIZED TO CONDUCT DATA RECONCILIATION

1. Receive the summary report transmitted by the Business Intelligence Division.
2. Maintain a database on the information indicated in the said summary report for purposes of audit and monitoring of activities of the importer.
3. Perform such appropriate action on the information received from the BID such as the imposition of administrative penalties, in case of failure to secure the ATRIG, misrepresentation on declarations made in the application to evade payment of correct taxes, etc.

IV. TRANSITORY PROVISION

Pending the implementation of the new organizational structure of the Bureau under Executive Order No. 114, the following transitory provisions shall be strictly observed:

1. All applications for processing and issuance of ATRIG in accordance with the procedures prescribed by this Order shall be performed by the following Offices:
 - a. Revenue District Offices having jurisdiction over the port of entry – For ATRIGs on VAT exemptions.
 - b. Large Taxpayers Assistance Division II – For ATRIGs on excisable articles, raw materials, machineries, equipment, apparatus or any mechanical contrivances especially used for the production thereof by importers required to be registered with any divisions/office under the Large Taxpayers Service or any district office falling under Revenue Region Nos. 4 to 9.
 - c. Excise Tax Areas (EXTAs) – For ATRIGs on excisable articles, raw materials, machineries, equipment, apparatus or any mechanical contrivances especially used for the production thereof by importers falling under their jurisdictions.
2. The approval of ATRIGs processed by the above processing offices shall be made by the following:
 - a. Assistant Commissioner for Large Taxpayers Service - For ATRIGs processed by Large Taxpayers Assistance Division II.
 - b. Regional Director – For ATRIGs processed by RDOs and EXTAs.
3. The monitoring, evaluation and reportorial functions prescribed herein shall be performed by the following Offices:
 - a. Audit Information, Tax Exemption and Incentives Division with respect to procedures to be undertaken by the Business Intelligence Division and the monitoring of the issuance of ATRIGs by the Large Taxpayers Service (Excise Tax Group) in the National Office; and
 - b. Field Operations Division with respect to the procedures to be undertaken in the monitoring of the issuance of ATRIGs by EXTAs/Revenue Regions for excise tax purposes.

V. REPEALING CLAUSE

All issuances and/or portions thereof inconsistent herewith are hereby repealed and amended accordingly.

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VI. PENALTY CLAUSE

Strict compliance herewith is enjoined. Any violation of the provisions of this Order shall be subject to disciplinary action and shall be dealt with accordingly.

VII. EFFECTIVITY

This Order takes effect immediately.

(Original Signed)
GUILLERMO L. PARAYNO, JR.
Commissioner of Internal Revenue

BIR FORM NO. 1918 Revised January 2000

REPUBLIKA NG PILIPINAS KAGAWARAN NG PANANALAPI KAWANIUAN NG RENTAS INTERNAS

SN _____

AUTHORITY TO RELEASE IMPORTED GOODS

The Commissioner of Customs Manila

(date)

ATTENTION: The Collector of Customs

SIR:

In connection with the following articles consigned to

TAXPAYER: _____ TIN: _____ ADDRESS: _____

and duly represented by

BROKER: _____ TIN: _____ ADDRESS: _____

Table with 6 columns: QUANTITY/UNIT, DESCRIPTION OF ARTICLES, B/L NO. & DATE OF ISSUE, VALUE, NAME OF AIRLINE/VESSEL, FLIGHT/VOYAGE NO.

(use separate sheet if necessary)

please be informed that according to the documents submitted by abovementioned importer, the shipment to be released at the Port of _____ consisting of the above described articles, will be used exclusively for _____

(state detailed description of how the articles will be used)

and indicate (place "x" in appropriate box)

- subject to the payment of the Excise Tax under Section _____ of the Tax Code, computed as follows: (use separate sheet if necessary)
exempt from the payment of the Excise Tax (state specific law granting exemption)
exempt from the payment of Value-Added Tax (state specific provision of the law granting exemption)
subject to the payment of the Value-Added Tax

In view thereof, the aforementioned shipment may now be released from your custody after the payment of the abovementioned taxes, whenever applicable. This Authority notwithstanding, the above articles shall be subject to the correct amount of tax without prejudice to the filing of criminal charges if the circumstances warrant, against any party responsible for any misrepresentation, or should the articles, upon inspection, prove to be different from or are not the same as manifested, or if any of the documents submitted in support of the application, described the articles in a manner as to conceal their true nature for the purpose of avoiding the payment of the correct amount of taxes.

Please be informed further that, for articles subject to/exempt from excise tax and/or articles to be used by the importer in the production/manufacture/assembly of excisable products, Revenue Officer _____ of this Office shall supervise the removal of the above articles from your custody pursuant to implementing revenue regulations of the National Internal Revenue Code, as amended.

Very truly yours,

Commissioner of Internal Revenue

By: Printed Name & Signature of Approving Officer

Designation

O.R. No. _____ Date _____ Amt. Pd. _____ (To be filled by the Bureau of Customs)

Handwritten notes on the left margin: 11/20/2002

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L. H. Heltin 11/15/2002

Annex "C"

SUMMARY OF AUTHORITY TO RELEASE IMPORTED GOODS (ATRIGs) PROCESSED AND ISSUED

Revenue District Office No. _____
For the Month of _____

Name/Address of Importer	TIN	Name/ Address of Broker	TIN	Permit to Import		ATRIG		Letter of Credit	Import Entry Declaration Number	Description of Imported Article	Volume	Value(\$)	Bill of Lading/ Airway Bill	Carrier/ Voyage/Flight No.	TAX DUE, IF APPLICABLE		
				Number	Date Issued	Control Number	Date								VAT	Excise Tax	

Certified Correct:

Revenue District Office/Excise Tax District Officer
Revenue District Office No. _____/Excise Tax District Office No. _____

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REPUBLIKA NG PILIPINAS
KAGAWARAN NG PANANALAPI
KAWANIHAN NG RENTAS INTERNAS

CERTIFICATE OF SUPERVISION

Date

This is to certify that on _____ the undersigned Revenue Officer(s)
Conducted (check appropriate box)

- Supervision of release from customs custody
- Supervision of release from customs custody and inspection upon unloading at the importer's premises

over the imported articles particularly described below under ATRIG No. _____ dated _____, to wit:

Description	Unit of Measure	Quantity/Volume
-------------	-----------------	-----------------

(Attach additional sheets, if necessary)

It is further certified that the following activities were actually performed (check appropriate box):

- Checked if the physical description of the articles being released from customs' custody tallies with the information in the ATRIG and import documents.
- Checked if appropriate internal revenue taxes are paid
- Checked if internal revenue stamps are properly affixed to the articles
- Checked if auxiliary official labels are attached to the articles
- Affixed the regular official labels on the packaging materials of the articles
- Personally supervised the shipment of the articles
From: _____
Up to: _____
(indicate complete addresses of loading and unloading points)
- Conducted physical count of the articles upon unloading at the importer's Premises where no revenue personnel is assigned thereat
- Others (please specify): _____

However, in the process of supervising the release of the imported goods from customs' custody up to the place of destination and the unloading thereof, the following observations were noted:

Acknowledged by:

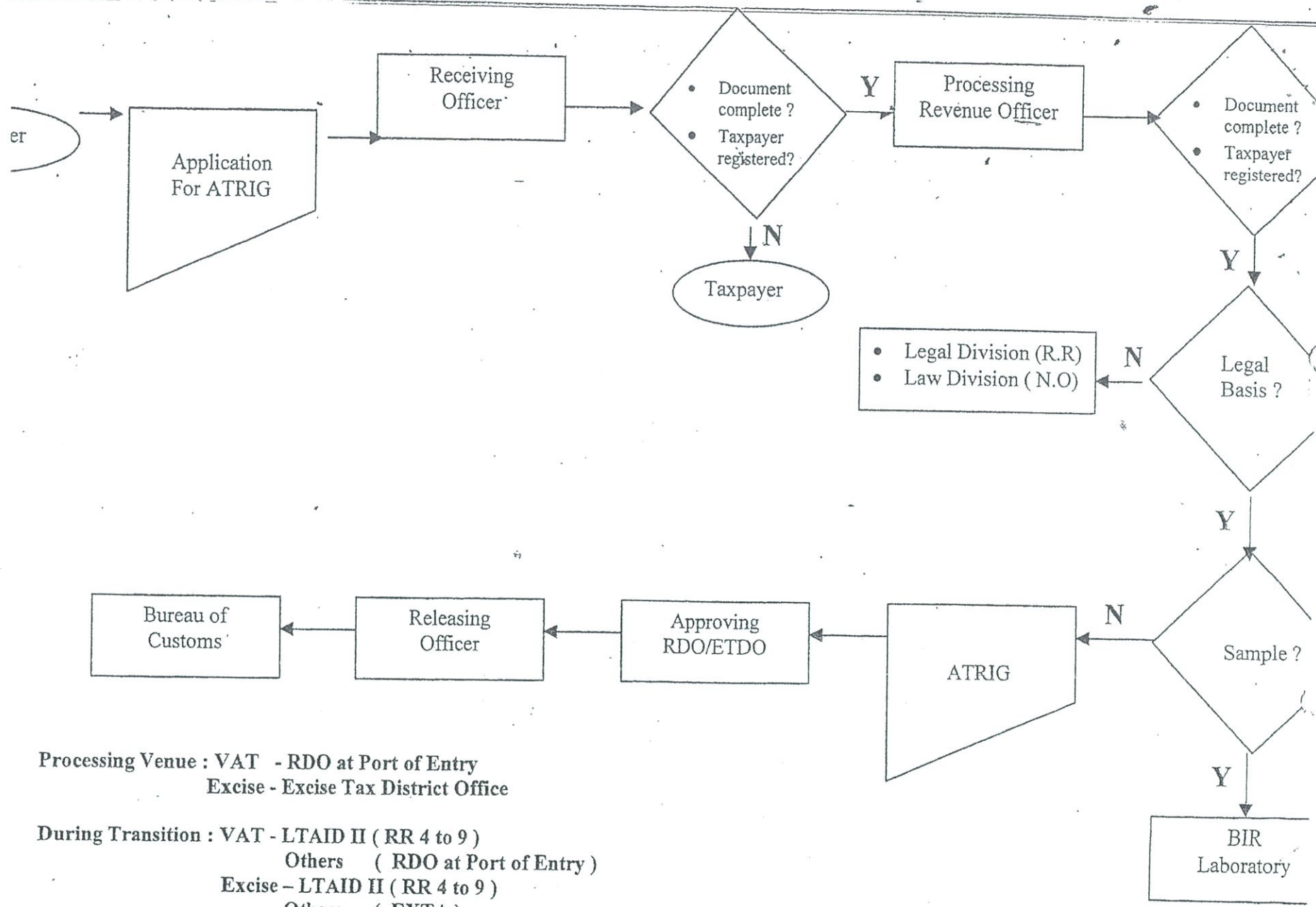
Name(s) of Revenue Officer(s)

Name of Revenue Officer(s) Assigned On
Premises/Taxpayer's Authorized Representative

Date and Time

L. Lopez Jr. 11/15/2002

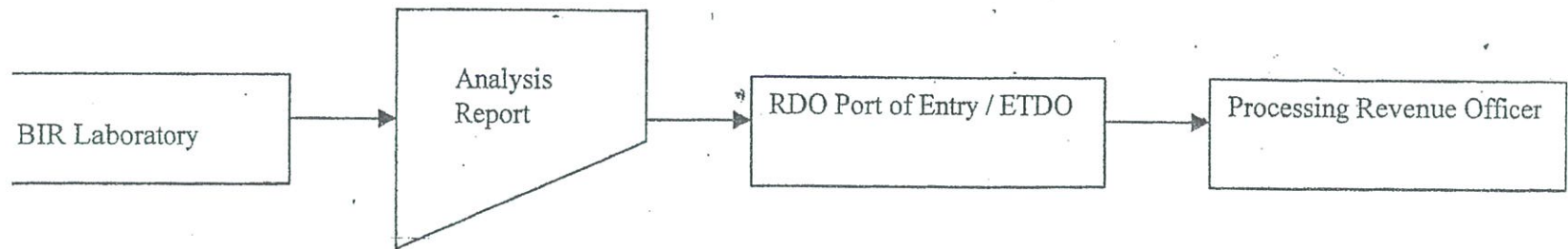
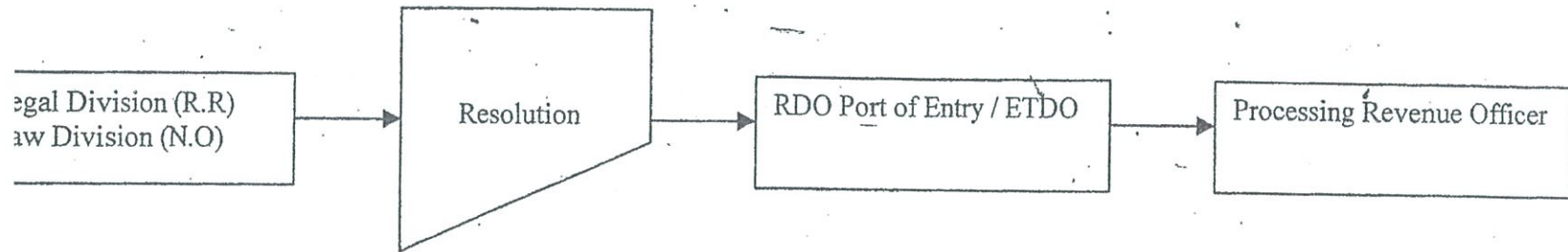
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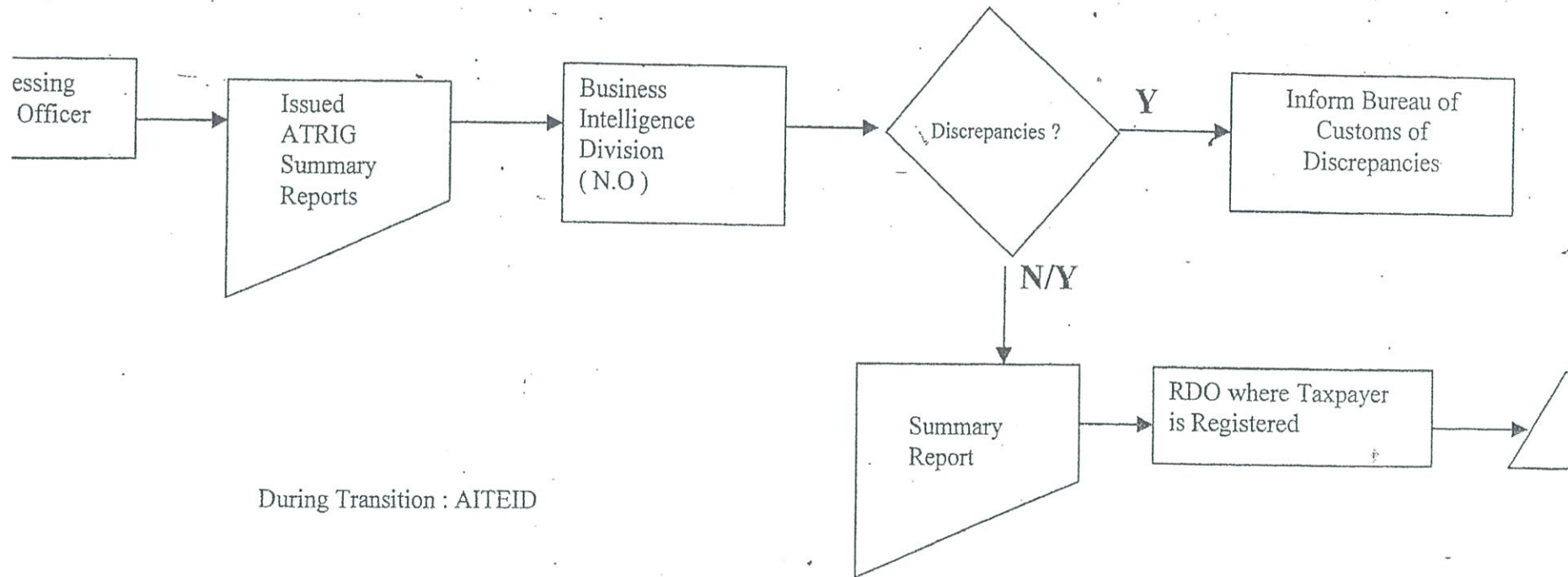
Processing Venue : VAT - RDO at Port of Entry
Excise - Excise Tax District Office

During Transition : VAT - LTAID II (RR 4 to 9)
Others (RDO at Port of Entry)
Excise - LTAID II (RR 4 to 9)
Others (EXTA)

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5)

