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MEMORANDUM

TO : ALL DISTRICT COLLECTORS
ALL SUB-PORT COLLECTORS
ALL CONCERNED



BOC-02-06916

FROM : 
ATTY. VENER S. BAQUIRAN,
Deputy Commissioner, RCMG


ATTY. MARIA YASMIN M. OBILLOS-MAPA,
Acting Director, Legal Service

SUBJECT : IMPORTATIONS OF VARIOUS CAPITAL EQUIPMENT
OF EXISTING BOARD OF INVESTMENTS (BOI)
REGISTERED BUSINESS ENTERPRISE

DATE : 02 AUGUST 2021

The Department of Finance (DOF) issued a letter from Antonette C. Tionko, Undersecretary, Revenue Operations Group (attached hereto as **Annex A**) in relation to the importations of various capital equipment of existing Board of Investments (BOI)-registered business enterprise.

In the said letter, Usec. Tionko indicated that on 11 June 2021, a letter from the Commissioner was received by the FIRB Secretariat seeking guidance on whether importations of various capital equipment of existing BOI-registered business enterprises may be released using as basis CMO No. 07-2020 (Interim Procedure on Provisional Goods Declaration) pending the finalization of the CREATE IRR, wherein under the said CMO, a posting of the required bond equal to the amount of taxes and/or duties due is needed for the provisional release of imported goods but which bond will be released upon submission of the proof of exemption (of the duties) information within 45 days from said release of imported goods.

Notably, it was mentioned that the proof of exemption that these BOI-registered entities should submit to the Bureau pertains to the Certificate of Authority to Import (CAI) that the BOI shall issue upon effectivity of the CREATE IRR, which bridges the gap from the repeal of E.O. No. 85, series of 2019 and the transitory provisions under the CREATE Act providing, to wit:

RULE 18, Section 5. Non- Income related tax incentives. – All registered business enterprises that will continue to avail of their existing tax incentives subject to Sections 1, 2 and 3 of this Rule, may continue to enjoy the duty exemption until the expiration of the CAI/Admission Entry or until the expiration of the transitory period

under Section 311 of the Code, Provided, that the VAT exemption on importation and VAT zero-rating on local purchases shall only apply to goods and services directly and exclusively used in the registered project or activity with the concerned IPA; Provided further that, transactions falling under Section 106 (A)(2)(a)(3), (4), and (5) and Section 108 (B)(1) and (5) of the Code, as amended, shall be subject to the twelve percent (12%) VAT pursuant to Revenue Regulations No. 09-2021. Provided finally, that excess input taxes attributable to zero-rated sales by VAT-registered RBEs, may at the RBE's option, be refunded or applied for a tax credit, subject to the guidelines provided under Revenue Regulation No. 13-2018, as amended.

After the expiration of the transitory period under Section 311 of the Code and without prejudice to Rule 3, Section 3, all applicable taxes shall apply.

Further, Usec. Tionko stated that considering, however, that the CREATE IRR has already been issued, the BOI can proceed with the issuance of the CAI on subject capital equipment importations of existing BOI-registered enterprises whose entitlement of the duty exemption thereon has been extended until the expiration of the transitory period under Section 311 of the Code, further suggesting that the Bureau require the submission of the CAI by the importers under the circumstances.

Therefore, the Bureau shall require the submission of the CAI by the importers as a requirement for the release of importations of various capital equipment of existing BOI-registered business enterprises.

For your information and strict compliance.

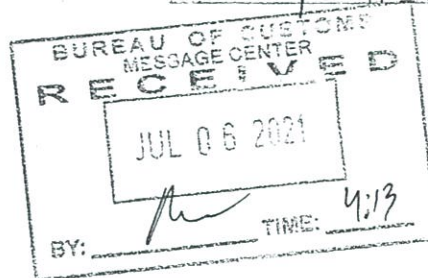


Republic of the Philippines
DEPARTMENT OF FINANCE
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REPUBLIC OF THE PHILIPPINES
BUREAU OF CUSTOMS
OFFICE OF THE COMMISSIONER
ASSESSMENT AND REGULATING GROUP
BY: [Signature]
DATE: 7/7/2021

23 June 2021

HON. REY LEONARDO B. GUERRERO
Commissioner
Bureau of Customs
Port Area, Manila
boc.com@customs.gov.ph



BOC-09-22680

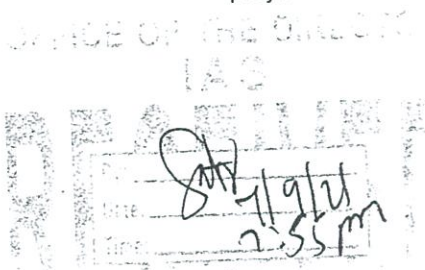
Dear **Commissioner Guerrero**:

This refers to your letter dated 25 May 2021 which was received by the FIRB Secretariat on 11 June 2021 seeking guidance on whether importations of various capital equipment of existing BOI-registered business enterprises may be released using as basis CMO No. 07-2020 (Interim Procedure on Provisional Goods Declaration) pending the finalization of the CREATE IRR.

We understand that the BOI sought the BOC Commissioner's help in releasing subject imported capital equipment pursuant to the rules permitting provisional release of imported goods upon posting of the required bond equal to the amount of taxes and/or duties due thereon but which bond will be released upon submission of the proof of exemption (of the duties) information within 45 days from said release of imported goods. The proof of exemption that these BOI-registered entities should submit to the BOC pertains to the Certificate of Authority to Import (CAI) that BOI shall issue upon effectivity of the CREATE IRR which bridges the gap from the repeal of EO 85, series of 2019 and the transitory provision under the CREATE Act providing, to wit:

RULE 18, SECTION 5. Non-income related tax incentives. – All registered business enterprises that will continue to avail of their existing tax incentives subject to Sections 1, 2 and 3 of this Rule, may continue to enjoy the duty exemption until the expiration of the CAI/Admission Entry or until the expiration of the transitory period under Section 311 of the Code. Provided, that the VAT exemption on importation and VAT zero-rating on local purchases shall only apply to goods and services directly and exclusively used in the registered project or activity of the export enterprises during the period of registration of the said registered project or activity with the concerned IPA; Provided further that, transactions falling under Section 106(A)(2)(a)(3), (4), and (5) and Section 108(B)(1) and (5) of the Code, as amended, shall be subject to the twelve percent (12%) VAT pursuant to Revenue Regulations No. 09-2021. Provided finally, that excess input taxes attributable to zero-rated sales by VAT-registered RBEs, may at the RBE's option, be refunded or applied for a tax credit, subject to the guidelines provided under Revenue Regulation No. 13-2018, as amended.

After the expiration of the transitory period under Section 311 of the Code and without prejudice to Rule 3, Section 3, all applicable taxes shall apply.




Considering, however, that the CREATE IRR has already been issued,¹ we believe that the BOI can proceed with issuance of the CAI on subject capital equipment importations of existing BOI-registered enterprises whose entitlement of the duty exemption thereon has been extended until the expiration of the transitory period under Section 311 of the Code.

Accordingly, we suggest that the BOC require the submission of the CAI by the importers under the circumstances as they can already secure the same from the BOI upon effectivity of the IRR. ✓

For your guidance. Thank you.

Very truly yours,



ANTONETTE C. TIONKO
Undersecretary
Revenue Operations Group



¹ Copy of the CREATE IRR is accessible at <https://www.officialgazette.gov.ph/downloads/2021/05may/20210618-IRR-RA-8424-RRD.pdf>



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PROFESSIONALISM

INTEGRITY

ACCOUNTABILITY

RCMG Memo No. 02-2021 p.5

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MEMORANDUM

FOR : **ATTY. VENER S. BAQUIRAN**
Deputy Commissioner
Revenue Collection Monitoring Group

JUL 16 2021

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FROM : **ATTY. YASSER ISMAIL A. ABBAS, CESE**
Director III
Imports and Assessment Service

SUBJECT : **IMPORTATIONS OF VARIOUS CAPITAL EQUIPMENT OF EXISTING BOARD OF INVESTMENTS (BOI) REGISTERED BUSINESS ENTERPRISE**

DATE : July 12, 2021

Respectfully forwarded the herein letter dated June 23, 2021 from Antonette C. Tionko, Undersecretary, Revenue Operations Group, Department of Finance, for your appropriate action.