



CUSTOMS GAZETTE

Updates on Customs-Related Matters

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In Brief

Implementing Tax Incentives and Fee Privileges for the Procurement, Importation, Donation, Storage, Transport, Deployment and Administration of the Coronavirus Disease 2019 (COVID-19) Vaccines Under Section 11 of Republic Act No. 11525, Otherwise Known as the "COVID-19 Vaccination Program Act of 2021" - RR No. 1-2021 (page 02)

EO 128 (Series of 2021) on "Temporarily Modifying the Rates of Import Duty on Fresh, Chilled or Frozen Meat of Swine Under Section 1611 of Republic Act No. 10863 Otherwise known as the "Customs Modernization and Tariff Act" - CMC 70-2021 (page 06)

Republic Act No. 11534 Otherwise Known as the "Corporate Recovery and Tax Incentives Enterprise Act" or "CREATE" Act - CMC 71-2021 (page 07)

Implementation of Informal Entry System for Low Dutiable Express Shipments - OCOM NO. 66-2021 (page 08)

Tariff Commission Circulars/Advance Rulings (TCC/AR) - AOCG MEMO NO. 168-2021 (page 09)

Implementation of Executive Order No. 128 Entitled "Temporarily Modifying the Rates of Import Duty on Fresh, Chilled or Frozen Meat of Swine under Section 1611 of Republic Act No. 10863, Otherwise Known as the "Customs Modernization and Tariff Act" - AOCG MEMO NO. 162-2021 (page 10)

Tariff Commission Circulars/Advance Rulings (TCC/AR) - AOCG MEMO 201-2021 (page 11)

Tariff Commission Circulars/Advance Rulings (TCC/AR) - AOCG MEMO NO. 202-2021 (page 12)

Tariff Commission Circulars/Advance Rulings (TCC/AR) - AOCG MEMO NO. 203-2021 (page 13)

Tariff Commission Circulars/Advance Rulings (TCC/AR) - AOCG MEMO NO. 204-2021 (page 14)

Validity Extension of Existing License to Operate (LTO) and Certificate of Products Registration/Notifications (CPR/Ns) Issued by the Food and Drug Administration (FDA) - AOCG MEMO NO. 205-2021 (page 15)

Extension March 31, 2021 of the Validity Period of declaration of Customs No. 166/2563 - AOCG MEMO NO. 206-2021 (page 16)

RR NO. 1-2021

Issue Date: April 8, 2021

Scope

Pursuant to the provisions of Sections 244 and 245 of the National Internal Revenue Code ("NIRC") of 1997, as amended, the following Regulations are hereby promulgated to prescribe the guidelines, procedures and requirements for availing the tax exemptions and fee privileges granted under Section 111 of Republic Act (RA) No. 11525, viz.:

"SEC. 111. Exemption from Import Duties, Taxes and Other Fees for the Procurement, Deployment and Administration of COVID-19 Vaccines. Beginning January 1, 2021, the procurement, importation, donation, storage, transport, deployment, and administration of COVID-19 vaccines through the COVID-19 Vaccination Program by the government or any of its political subdivisions and by private entities shall be exempt from customs duties value-added tax, excise tax donor's tax, and other fees: Provided, That the vaccines shall not be intended for resale or other commercial use and shall be distributed without consideration from persons to be vaccinated." (Underscoring supplied)

Coverage

Beginning January 1, 2021 and during the period of the state of calamity as declared under Proclamation No. 1021 dated September 16, 2020 issued by the President of the Philippines, the (i) procurement, (ii) importation, (iii) donation, (iv) storage, (v) transport, (vi) deployment, and (vii) administration of COVID-19 vaccines through the COVID-19 Vaccination Program by:

- the National Government, through the Department of Health (DOH) and the National Task Force Against COVID-19 (NTF),
- any of the political subdivisions of the State, and
- private entities, and international humanitarian organizations, such as the Philippine Red Cross (PRC)

shall be exempt from value-added tax (VAT), excise tax and donor's tax and other fees, subject to the guidelines, procedures and requirements provided hereunder.

Guidelines and Procedures

The following guidelines and procedures shall be followed and observed:

- No VAT shall be imposed on the procurement of COVID-19 Vaccines by the entities mentioned in Section 2 hereof. Hence, VAT shall not be part of the contract price for the procurement of the COVID-19 Vaccines by these entities.
- No VAT and excise tax shall be imposed on the importation of COVID-19 Vaccines by the entities mentioned in the Coverage Section hereof.
- The importation of COVID-19 Vaccines as allowed herein shall not be subject to the issuance of an Authority to Release Imported Goods (ATRIG) under Revenue Memorandum Order (RMO) No. 35- 2002, as amended; and may be released-by the Bureau of Customs (BOC) without need of an ATRIG. However, the BIR may conduct a post investigation/audit on the importations released by the BOC without ATRIG pursuant to these Regulations.
- No VAT shall be imposed by the service providers on the services to be rendered to the entities mentioned in the Coverage Section hereof for the storage, transport, deployment and administration of the COVID-19 Vaccines. Hence, VAT shall not be part of the contract price for the engagement/procurement of such services by these entities.
- No donor's tax shall be imposed on the donation of the COVID-19 Vaccines to the entities mentioned in the Coverage Section hereof, subject to the ordinary rules of deductibility as provided for in Section 34 (H) of the NIRC of 1997, as amended, and its existing rules and regulations, if applicable.
- The tax incentives herein shall only be applicable if the vaccines are not intended for resale or other commercial use and shall be distributed without any consideration from persons to be vaccinated.

Requirements

For the purpose of qualifying for exemption from VAT, excise tax, and donor's tax, the entities mentioned in Section 2 hereof availing of the exemption must present the following:

- Certified true copy of the COVID-19 vaccine procurement agreement/multi-party agreement, as may be applicable. The multi-party agreement on the procurement by the Local Government Units (LGUs) and private entities shall include the DOH and the relevant supplier of the COVID-19 vaccine,
- Certified true copy of the COVID-19 vaccine's Certificate of Product Registration or Emergency Use Authorization (EUA) issued by the Food and Drug Administration (FDA),
- "Sworn Declaration" from the taxpayer-buyer/importer/donee that the COVID-19 vaccines shall not be intended for resale or other commercial use and shall be distributed without consideration from persons to be vaccinated, in accordance with the COVID-19 Vaccination Program of the National Government. For private entities, a statement shall be included that any such vaccines shall be for the sole and exclusive use of such entities and their related parties, if any, as discussed under Section 4 of Revenue Regulations No. 19-2020: and,
- For COVID-19 vaccines donated to the entities mentioned in the Coverage Section hereof, in addition to the foregoing requirements, the following shall be presented:
 - for the National Government and LGUs, a certified true copy of the duly accepted Deed of Donation; and
 - for private entities and international humanitarian organizations, a certified true copy of the duly accepted Deed of Donation and/or BIR Form 2322 (Certificate of Donation).

Transitory Provisions

The grant of exemption for the importation of COVID-19 vaccines, engagement of services for the storage, transport, deployment and administration, as well as the donation of the COVID-19 vaccines is deemed to be in effect beginning January 1, 2021. The value-added tax on all covered and qualified shipments/importations/services that may have been paid from January 1, 2021 until the effectivity of these regulations, shall be refunded pursuant to Section 204(C) of the Tax Code in accordance with existing rules and procedures for refund of value-added tax on importation/services, provided that the input tax on the imported items/services have not been reported and claimed as input tax credit in the monthly and/or quarterly value-added tax returns. The same shall not be allowed as input tax credit pursuant to Section 110 of the Tax Code for purposes of computing the value-added tax payable of the concerned taxpayer/s for the said period.

Similarly, Excise Tax and Donor's Tax on all covered and qualified transactions that may have been paid from January 1, 2021 until the effectivity of these Regulations, shall be refunded pursuant to Section 204(C) of the Tax Code and its implementing rules and regulations.

Repealing Clause

All existing rules and regulations or parts thereof, which are inconsistent with the provisions of these regulations, are hereby revoked.

Separability Clause

If any clause, sentence, provision or sections of these Regulations shall be held invalid or unconstitutional, the remaining parts thereof shall not be affected thereby.

Effectivity

These Regulations shall take effect beginning January 1, 2021 and shall remain in full force and effect during the period of the state of calamity under Proclamation No. 1021 dated September 16, 2020 issued by the President of the Philippines.

CMC 70-2021

Issue Date: April 9, 2021

In view of the effectivity of Executive Order No. 128 (series of 2021) on "Temporarily Modifying the Rates of Import Duty on Fresh, Chilled or Frozen Meat of Swine under Section 1611 of Republic Act No. 10863, otherwise known as the "Customs Modernization And Tariff Act," on 09 April 2021, all concerned are informed that all articles specifically listed in Annex A of EO 128, which are entered into or withdrawn from warehouses in the Philippines for consumption, shall be levied the temporary MFN rates of duty as prescribed therein.

EO 128 shall be effective for a period of one (1) year.

Thus, the Bureau of Customs' Electronic to Mobile (E2M) System is hereto required to reflect the temporary MFN rates of duty pursuant to the said EO.

All District and Sub-Port Collectors, and all others concerned are hereby directed to confirm the dissemination of this Order throughout their offices within five (5) days from receipt thereof for records purposes.

This Order shall take effect immediately.

CMC 71-2021

Date Issued: April 8, 2021

This refers to Republic Act No. 11534 entitled, "An Act Reforming the Corporate Income Tax and Incentives System, Amending for the Purpose Section 20, 22, 25, 27, 28, 29, 34,40, 57, 109, 116, 204, and 290 of the National Internal Revenue Code of 1997, as amended, and Creating therein New Title XIII, and for other Purposes," or the "Corporate Recovery and Tax Incentives for Enterprises (CREATE) Act" which was signed into law by President Rodrigo Duterte on 26 March 2021.

On 30 March 2021, the Malacañang Record Office, transmitted a certified copy of the subject legislation including the Veto Message of the President.

Notably, Section 21 of CREATE Act identifies the Secretary of Finance and the Secretary of Trade to jointly promulgate the necessary rules and regulations thereof for its effective implementation.

All District and Sub-Port Collectors, and all others concerned are hereby directed to confirm the dissemination of this Order throughout their offices within five (5) days from receipt thereof for records purposes.

This Order shall take effect immediately for the information of all personnel.

OCOM MEMO NO. 60-2021

Issue Date: April 16, 2021

In compliance with Customs Memorandum Order (CMO) No. 09-2021 on the Guidelines on the Implementation of Customs Administrative Order (CAO) No. 05-2020 on Customs Clearance Procedures on Express Shipments, the Management Information System and Technology Group will be implementing the E2M Informal Entry System for Express Shipments on 19 April 2021. This system will only cover low dutiable shipments or goods of commercial nature with Free on Board (FOB) or Free Carrier (FCA) value of more than Ten Thousand Pesos (Php10,000) but less than Fifty Thousand Pesos (Php50,000.00). Procedures other than low dutiable value in abovementioned CMO are not yet included in this system.

For your information and guidance.

AOCG MEMO NO. 168-2021

Issue Date: April 5, 2021

Pursuant to the provisions of Section 1603 (f) of the Customs Modernization and Tariff Act (Republic Act 10863) and Section 4.9 of Commission Order No. 2017-1 (Procedure on Application for an Advance Ruling on Tariff Classification related to Importation of Goods), the Tariff Commission furnished copies of the Advance Ruling (AR) on Tariff Classification with Tariff Classification Circulars (TCC/AR) issued on 29 March 2021 and the same having been reviewed and summarized as follows:

TCC NO.	DESCRIPTION OF ARTICLES	2017 AHTN CODE	2021 RATES OF DUTY
21-013	"COOPER POWERED SYSTEMS STEP VOLTAGE REGULATOR, Model: VR-32 (25 kVA-576 kVA)"	8504.21.19	MFN - 1% Ad Valorem
21-018	"ENGINE CONTROL UNIT, MODEL: 30400-K81-N621-M1"	8537.10.99c	MFN - 5% Ad Valorem ATIGA - Zero*
21-033	"ZHIABET"	2106.90.72	MFN - 7% Ad Valorem ATIGA - Zero*
<i>*Subject to submission of their corresponding CERTIFICATE OF ORIGIN (CO).</i>			

AOCG MEMO NO. 169-2021

Issue Date: April 13, 2021

In compliance with Executive Order No. 128 dated 07 April 2021, please be informed that the rates mentioned in the said order has already been updated in the E2M System effective April 10, 2021.

For information.

AOCG MEMO NO. 201-2021

Issue Date: April 19, 2021

Pursuant to the provisions of Section 1603 (f) of the Customs Modernization and Tariff Act (Republic Act 10863) and Section 4.9 of Commission Order No. 2017-1 (Procedure on Application for an Advance Ruling on Tariff Classification related to Importation of Goods), the Tariff Commission furnished copies of the Advance Ruling (AR) on Tariff Classification with Tariff Classification Circulars (TCC/AR) issued on 13 April 2021 and the same having been reviewed and summarized as follows:

TCC NO.	DESCRIPTION OF ARTICLES	2017 AHTN CODE	2020 RATES OF DUTY
21-044	"DXN GEMPYURI MASK"	3304.99.90	MFN - 7% Ad Valorem AKFTA - Zero*
21-045	"DXN TEA TREE ESSENTIAL MASK"	3304.99.90	MFN - 7% Ad Valorem AKFTA - Zero*
<i>*Subject to submission of their corresponding CERTIFICATE OF ORIGIN (CO).</i>			

AOCG MEMO NO. 202-2021

Issue Date: April 19, 2021

Pursuant to the provisions of Section 1603 (f) of the Customs Modernization and Tariff Act (Republic Act 10863) and Section 4.9 of Commission Order No. 2017-1 (Procedure on Application for an Advance Ruling on Tariff Classification related to Importation of Goods), the Tariff Commission furnished copies of the Advance Ruling (AR) on Tariff Classification with Tariff Classification Circulars (TCC/AR) issued on 14 April 2021 and the same having been reviewed and summarized as follows:

TCC NO.	DESCRIPTION OF ARTICLES	2017 AHTN CODE	2020 RATES OF DUTY
21-046	"DXN CACAO ESSENTIAL MASK"	3304.99.90	MFN - 7% Ad Valorem AKFTA - Zero*
21-047	"THROMBOFLUX 1.5 MIU LYOPHILIZED POWDER FOR INJECTION"	3004.90.89	MFN - Zero* AIFTA - Zero*
21-049	"LUPRODEX (LEUPROPRELIN ACETATE) 3.75 MG DEPOT"	3004.39.00	MFN - 1% Ad Valorem AIFTA - Zero*

****Subject to submission of their corresponding CERTIFICATE OF ORIGIN (CO).***

AOCG MEMO NO. 203-2021

Issue Date: April 14, 2021

Pursuant to the provisions of Section 1603 (f) of the Customs Modernization and Tariff Act (Republic Act 10863) and Section 4.9 of Commission Order No. 2017-1 (Procedure on Application for an Advance Ruling on Tariff Classification related to Importation of Goods), the Tariff Commission furnished copy of the Advance Ruling (AR) on Tariff Classification with Tariff Classification Circular (TCC/AR) issued on 5 April 2021 and the same having been reviewed and summarized as follows:

TCC NO.	DESCRIPTION OF ARTICLES	2017 AHTN CODE	2020 RATES OF DUTY
21-017	"ENGINE, CONTROL UNIT, MODEL: 30400-K81-N521-M1"	8537.10.99C	MFN - 5% Ad Valorem ATIGA - Zero*

****Subject to submission of their corresponding CERTIFICATE OF ORIGIN (CO).***

AOCG MEMO NO. 204-2021

Issue Date: April 4, 2021

Pursuant to the provisions of Section 1603 (f) of the Customs Modernization and Tariff Act (Republic Act 10863) and Section 4.9 of Commission Order No. 2017-1 (Procedure on Application for an Advance Ruling on Tariff Classification related to Importation of Goods), the Tariff Commission furnished copies of the Advance Ruling (AR) on Tariff Classification with Tariff Classification Circulars (TCC/AR) issued on 31 March 2021 and the same having been reviewed and summarized as follows:

TCC NO.	DESCRIPTION OF ARTICLES	2017 AHTN CODE	2020 RATES OF DUTY
20-243	"SUPRASEC 3034 (T)"	3824.99.99	MFN - 3% Ad Valorem
20-251	"SUPRASEC 3032 (T)"	3824.99.99	MFN - 3% Ad Valorem
21-014	"TIN FREE STEEL STRIP"	7212.50.14	MFN - 1% Ad Valorem ATIGA - Zero

****Subject to submission of their corresponding CERTIFICATE OF ORIGIN (CO).***

AOCG MEMO NO. 205-2021

Issue Date: April 14, 2021

In reference to the letter dated 05 April 2021 from Director General Rolando Enrique D. Domingo, MD, Food and Drug Administration, Department of Health (FDA-DOH), please be informed of the following updated policies being implemented concerning the validity extension of existing FDA LTO and CPR/Ns pursuant to FDA Circular Nos. 2020-024 and 2020-024-A in light of the COVID-19 pandemic:

- FDA Authorizations, including Licenses to Operate (LTO), and Certificates of Product Registration/Notifications (CPR/Ns) are granted a four-month validity extension period from the original date of expiration; Provided, that an application for the renewal of the authorization has been successfully submitted to the FDA
- Regulated entities have been advised to attach FC No. 2020-024 and/or FC No. 2020-024-A, with supporting documents, when transacting with the Bureau of Customs (BOC).

Please be guided accordingly.

AOCG MEMO NO. 206-2021

Issue Date: April 15, 2021

With reference to above mentioned subject, please be informed that pursuant to Note no. 0602/CC4357 Dated 12/30/20 received by PE Bangkok from the Department of Trade Negotiations, Thai Ministry of Commerce, the validity period of Declaration of Customs No. 166/2563 is extended until March 31, 2021.

Relative thereto, importers are allowed to continue to submit scanned copies of their Certificates of Origin (CO) to claim preferential tariff treatment at the same time of the importation, subject to the condition that the original CO must be presented to the Customs Officer in charge within thirty (30) days after the clearance of goods.

For information and guidance.

ABOUT US

Nague Malic Magnawa & Associates Customs Brokers (NMM) is a general professional partnership of customs brokers duly registered by the Securities and Exchange Commission and the Bureau of Customs. As the first general professional partnership of customs brokers registered with SEC and BOC, it complies with RA 9280, or the Customs Brokers Act of 2004. It has offices in Metro Manila and Cebu, and brokers in Clark, Subic, Davao, Cagayan de Oro, Batangas, and other major ports and special economic zones in the Philippines.

To learn more about the company, please visit our website at:

<http://www.nmmcustomsbrokers.com/>

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