POLICY GUIDELINES ON THE ADMISSION OF TAX EXEMPT AND DUTY FREE AIRCRAFT (TEDFA), ENGINES, PARTS AND ACCESSORIES

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This certifies that:

The records of the Office of the Corporate Secretary show that during the Two Hundred Fortieth (240th) Meeting of the Board of Directors of the Subic Bay Metropolitan Authority held last 17 May 2013 wherein there was a quorum to validly transact business, the following resolution was approved:

> Resolution No. 13-05-4772
>
> "RESOLVE, as it is hereby resolved, that upon recommendation of Management and without prejudice to COA Regulations and pertinent laws on the matter, the Board hereby approves the Policy Guidelines on the Admission of Tax Exempt and Duty Free Aircraft (TEDFA), Engines, Parts and Accessories, a copy of which is incorporated herein by way of reference,"

(SGD) RUBEN O. FRUTO
Corporate Secretary SBMA

POLICY GUIDELINES ON THE ADMISSION OF TAX EXEMPT AND
DUTY FREE AIRCRAFT (TEDFA), ENGINES, PARTS AND ACCESSORIES

As approved by the Subic Bay Metropolitan Authority Board in Resolution no. 13-05-4772 dated May 17, 2013 and ratified on June 21, 2013 the Policy Guidelines on the Admission of Tax Exempt and Duty Free Aircraft (TEDFA) shall be imposed on all qualified locators of the Subic Bay Metropolitan Authority.

Resolution No. 13-05-4772 Series of 2013

RESOLVE, as it is hereby resolved, that upon the recommendation of Management and without prejudice to COA regulations and pertinent laws on the matter, the Board hereby approves the Policy Guidelines on the Admission of Tax Exempt and Duty Free Aircraft (TEDFA), Engines, Parts and Accessories, as follows:

WHEREAS, under Section 12(b) of Republic Act No. 7227, as amended by Republic Act No. 9400, the Subic Special Economic Zone shall be operated and managed as a separate customs territory ensuring free flow or movement of goods and capital within, into and exported out of the Subic Special Economic Zone, and providing incentives such as tax and duty-free importations of raw materials and capital equipment;

WHEREAS, under section 13 of Republic Act. No. 7227, as amended by Republic Act No. 9400, Subic Bay Metropolitan Authority (SBMA) is the management authority of the Subic Special Economic Zone;

WHEREAS, there is a need to formulate rules and regulations pertaining to the duty free and tax-exempt admission privilege of aircraft by Subic Bay Freeport registered enterprises to prevent abuse;

WHEREAS, TEDFA refers to the Tax Exempt and Duty Free Aircraft;

NOW THEREFORE, for and in consideration of the foregoing premises, consistent with the Memorandum of Agreement between the SBMA and the Bureau of Customs (BOC) adopting and implementing Customs

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Administrative Order No. 4-93 and in coordination and cooperation with the Civil Aviation Authority of the Philippines (CAAP), the following guidelines are hereby promulgated on the admission, registration and monitoring of Tax Exempt Aircraft, engines, parts and accessories:

I. COVERAGE

These guidelines shall cover the admission of aircraft and/or engines, replacement of parts and accessories thereof into the Subic Bay Freeport Zone.

II. OBJECTIVES

1)

To ensure that the duty free privilege of a Subic Bay Freeport Registered enterprise to admit TEDFA, engines, parts and accessories is not abused;

2)

To ensure that the Tax Exempt Aircraft are principally used in connection with Subic Bay Freeport related flights or business;

3)

To ensure that Tax Exempt aircraft engines, parts and accessories are solely used in TEDFA and not used or sold outside the SBFZ; and

4)

To ensure that locators admitting TEDFA lease sufficient and reasonable hangar space to house the TEDFA in SBIA.

III. POLICY ON DUTY FREE AND TAX EXEMPT ADMISSION

1.

Strict Application and Observance of SBFZ as hub or core base of Operations.

SBFZ locators shall be allowed admissions of TEDFA, engines, parts and accessories on the premise that the units shall be used primarily in support of and in furtherance to the business operations of the locator in the SBFZ. The minimum condition set by SBMA is that the units are principally based in SBFZ, in accordance with the stipulations provided in their Certificate of Registration and Tax Exemption, and that the TEDFA, returns, stays and uses SBFZ as their core base of operations such that at the end of each flying sortie these TEDFA returns, stays, uses and maintains physical presence at the SBIA. If such condition is not met, locators will have to pay duties and taxes for their TEDFA, engines, parts and accessories pursuant to Sec. 47 (B) of RA 7227 and relevant customs and internal revenue rules and regulations.

SBFZ Locators who are Qualified for Admission of Tax Exempt Aircraft:

a)

SBFZ locators with sufficient, reasonable hangar space, engaged in aviation and logistics activities as long as they can justify the need for the admission of aircraft units in relation to their business operation in Subic. It must be

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established, however, that all TEDFA, Engines, Parts and Accessories previously imported/admitted through Subic were used in connection with Subic as the admitting/importing locators' base of operations, that is, at the very least it can reasonably prove that they maintain active hub presence in SBFZ as their core base of operations as reflected in the flight plans submitted and filed at the SBIA who will in turn issue a certification confirming that the test of reasonableness and the locators' certification attesting to the previous years' flight logs are satisfactorily complied with.

b)

Subic Bay Freeport Zone locators not otherwise involved in aviation and logistics as long as they can justify the need for the units and are able to prove that they have put up actual investment of at least Php 100 Million.

2.

Admission of all TEDFA shall be approved by the SBMA Board.

2.1

Admission of aircraft classified as hobbyist type and similar ones not in pursuit of or intended for business operations shall be at the discretion of the SBMA Board.

3.

Documentary Requirements

Subic Bay Freeport Zone locators intending to admit TEDFA, engines, parts and accessories thereof must submit the following documents:

a)

A valid Certificate of Tax Exemption (CTE) & Business Permit to Operate (BPTO);

b)

Lease Agreement for hangar space at the Subic Bay International Airport (SBIA);

c)

Entry clearance from Civil Aviation Authority of the Philippines for ferry flight of a whole aircraft;

d)

No objection from Civil Aviation Authority of the Philippines (CAAP) on aircraft parts for Philippine registered aircraft only;

e)

Invoice documents for the aircraft units; and f) Certification from SBIA authorities attesting to the locator's good standing.

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4.

Admission Permit Fee

Subic Bay Freeport Zone Registered Enterprises engaged in aviation and logistics activities or otherwise must pay a permit fee of Php 25,000.00 per TEDFA.

IV. ANNUAL MONITORING OF TEDFA

On an annual basis, a year after the date of admission, locators must submit to SBMA/SBIA certified true copies of schedules of flight logs and total flight hours of all admitted TEDFA to establish compliance with herein rules and regulations, particularly the utilization of the SBFZ as the operations hub of TEDFA and that the TEDFA actually returns to the SBFZ after each flight. SBIA has the duty and responsibility to determine the locator's actual compliance with the rules and regulations herein.

V. SALE, TRANSFER AND ASSIGNMENT OF TEDFA

Locators are prohibited from transferring ownership of TEDFA within three (3) years from admission. Subsequent transfer of ownership of TEDFA shall be subject to the following conditions:

a)

Prior to actual sale, transfer and assignment of TEDFA, locators must first secure written approval from SBMA, which shall be effective for a thirty (30) day period.

b)

Locators should provide SBMA an original notarized copy of the document perfecting the ownership transfer as approved by SBMA, within fifteen (15) days from date of transaction.

c)

If vendee of locator’s TEDFA, Engines, Parts and Accessories is not entitled to duty free privileges, or TEDFA, Engines, Parts and Accessories are removed or withdrawn from SBFZ, appropriate duties and taxes must be paid first to the Bureau of Customs (BOC) to effect transfer of ownership pursuant to Sec. 47(B) of RA 7227. If vendee is entitled to duty free incentives, vendee should first comply with the requirements listed in Item III.

d)

Payment of Php 25,000.00 transfer fee.

Any sale or assignment of any aircraft in violation of the foregoing conditions shall be subject to the payment of appropriate duties and taxes as provided in the amended Tariff and Customs Law.

VI. FINES AND PENALTIES

Offense	Penalty
Sale/transfer of aircraft units without SBMA approval	Php 250,000.00 and payment of duties and taxes if unit was sold to an entity not entitled to tax incentive privileges. This is without prejudice to Administrative and criminal charges that SBMA may opt to file as appropriate.

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Violation of CTE's Special Condition on Maintenance of active 'hub' presence in Subic.

Php 250,000.00 penalty and payment of duties and taxes to BOC.

VII. EFFECTIVITY

This Policy Guidelines shall take effect 15 days after the publication in a newspaper of general circulation.

(SGD.) ROBERTO V. GARCIA
Chairman & Administrator

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