

REVENUE REGULATIONS GOVERNING THE IMPOSITION OF EXCISE TAX ON AUTOMOBILES AND OTHER MOTOR VEHICLES

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Chapter I

Scope and Definition of Terms

SECTION 1. Scope. — Pursuant to the provisions of Section 245 in relation to Section 4 of the National Internal Revenue Code, as amended, these regulations are hereby promulgated to implement the provisions of Section 149 of Title VI of the said Code imposing an excise tax on automobiles and other motor vehicles.

SECTION 2. Definition of Terms. — For purposes of these regulations and for a more effective enforcement and monitoring of excise tax collection, the following words and phrases shall have the sense and meaning indicated hereunder:

a. Automobile — shall be defined as a four (4) or more wheeled vehicle other than trucks as defined under R.A. 4136 and R.A. 1188 which is propelled by gasoline, diesel, or any other motive power and specially designed for the transport of persons and not used primarily for carrying of freight and merchandise: Provided, That its seating capacity shall be less than ten (10) adult passengers including the driver: Provided, further, That the sizes of the passenger seats shall not be less than 35 centimeters wide and 60 centimeters long. It shall include utility or light commercial vehicles designed for passenger use with seating capacity of less than ten (10) adult passengers, including the driver.

For the uniform application of the seating capacity criterion, the passenger seats should conform to the following area specifications:

1 For each adult passenger, a horizontal rectangular area, including seat and feet space not less than thirty-five centimeters (35 cm.) wide and sixty centimeters (60 cm.) long, except in the front seat, which shall allow an area of fifty centimeters (50 cm.) wide for the driver or operator.

2 Half-seat shall not be counted as one passenger seat even if there are multiples of half-seats. Thus, a utility vehicle with nine (9) and one-half (1/2) seats or nine (9) and two (2) half-seats and so on shall be considered as automobile subject to ad valorem tax.

3 The number of seats in a utility vehicle shall be determined by counting the number of seat spaces that meet the horizontal rectangular area specifications of fifty centimeters (50 cm.) wide by sixty centimeters (60 cm.) long for the driver, and thirty five centimeters (35 cm.) wide by sixty centimeters (60 cm.) long for each passenger. A contiguous row of seats shall have as many number of passenger seats as there are seat spaces that meet the thirty five centimeters (35 cm.) by sixty centimeters (60 cm.) measurements. However, any seat space in excess of the aforesaid area specifications, if any, shall not be counted as one seat even if it meets the half-seat specifications of seventeen and one-half centimeters (17 1/2 cm.) wide.

4 Aside from meeting the aforesaid measurements, the seat area must include the corresponding feet spaces, leg and head rooms that will afford an average-built adult passenger to seat comfortably. Any seat space without the corresponding feet spaces, leg and head rooms, even if it meets the area specifications, shall not be counted as a passenger seat.

For this purpose, the feet space shall refer to the corresponding floor area of a passenger seat, upon which a sitting passenger normally rests both his feet; by leg room means that the passenger seat shall have enough elevation from the floor so as to allow the normal bending of the knees and positioning of the legs of a seated passenger; and head room refers to the unobstructed ceiling space of a passenger seated upright.

A passenger seat whose corresponding feet space is obstructed by a gear box shall be considered without seat space; a seat laid down directly on the floor with only the seat itself providing its elevation from it shall be considered without leg room; and it shall also be considered without head room if the ceiling or sides of the vehicle touches any part of the head of a passenger seated upright.

5 The seats in the rear cargo/luggage compartment shall not be counted as passenger seats even if these are factory installed and meet the area specifications. Jump-seats, fold-away or fold-down seats shall also be treated in the same manner.

- b. Light Commercial Vehicle (LCV) — shall refer to a motor vehicle other than an AUV that may be classified as a light truck such as commuter van, or any four-wheel drive vehicle with gross vehicle weight of up to three (3) tons which are used primarily for carrying of passenger.
- c. Asian Utility Vehicle (AUV) — shall mean an originally Philippine designed low-cost utility vehicle with a higher-local content than an LCV and a gross vehicle weight of up to three (3) tons.
- d. Special Purpose Vehicle — shall refer to a vehicle for specific applications such as cement mixer, fire truck, ambulance and/or medical unit, armored military vehicle, crane truck, off-road vehicle, luxury tourist bus with specialized body, etc.
- e. Completely Knocked Down (CKD) — shall refer to parts and components for assembly purposes that are imported in disassembled condition. The CKD pack, however, may include not only parts and components but also sub-assemblies and assemblies such as engine, transmission, axle assemblies, chassis and body assemblies.
- f. Semi-Knocked Down (SKD) — shall refer to parts and components for assembly purposes that are imported in partially assembled condition. SKDs include semi-assembled vehicles.
- g. Completely-Built-Up (CBU) — shall refer to vehicles imported in completely assembled form and ready for use by the consumers.
- h. Manufacturer's of Importer's Gross Selling Price — shall refer to the price, net of value-added tax, at which locally assembled and/or imported automobiles are offered for sale at wholesale to the dealers or through their sales agents to the public, as fixed by the assembler or importer. If the manufacturer or importer also sells or allows such automobiles to be sold at wholesale in another establishment of which he is the owner or in the profits of which he has an interest, the wholesale price in such establishment shall constitute the gross selling price. Should such price be less than the cost of manufacture/importation plus expenses incurred until the automobiles are finally sold, then a proportionate margin or profit, not less than ten percent (10%) of such manufacturing/importation costs and expenses, shall be added to constitute the gross selling price.
- i. Place of Production — shall refer to an area designated by a manufacturer or assembler as depicted in the factory plat and plan submitted to and approved by the Commissioner of Internal Revenue or his duly authorized representative, wherein the process of manufacturing or assembling of the motor vehicles are done until the same shall have been completely finished and ready for sale.
- j. Assembler/Manufacturer — shall refer to the person who combines body frame/chassis, engine, drive train, suspension and other automotive parts or one who alters any part of a vehicle to render it fit for the transport of passengers or vehicle that meet the specifications of an automobile ready for use as defined herein in such a

manner as to render a vehicle fit for registration with the Land Transportation Office.

k. Importer — shall refer to any person bringing in from a foreign country automobiles which are intended for sale, for personal use, or for use in business.

l. Wholesaler/Distributor/Dealer — any person, natural or juridical, with whom or in which the manufacturer or importer has no proprietary interest, directly or indirectly, who purchases the automobiles from the manufacturer or importer for purposes of sale or subsequent distribution to the end-user or ultimate consumer.

m. Brand and Model — shall refer to the name or trademark used to identify a product or group of products of a particular manufacturer or importer and duly registered with the BIR.

n. Primary Raw Materials — shall refer to key materials, such as engine, chassis, or other main assemblies, used in the production or assembly of automobiles.

Chapter II

Coverage, Bases and Rates of Tax

SECTION 3. Persons Liable to the Tax. — The following persons shall be liable for the payment of ad valorem tax on automobiles:

a. On locally manufactured/assembled automobiles.

The excise tax shall be paid by the manufacturer or assembler of automobiles. Should domestically produced or assembled products be removed from the place of production without the payment of the tax, the dealer/trader, owner, or person having possession thereof shall be liable for the excise tax due thereon. In case of transfers of locally assembled automobiles from a tax-exempt person to a non-tax exempt individual or entity, the transferee or possessor thereof shall be the one liable therefor.

b. On imported automobiles.

The excise tax shall be paid by the owner or importer of the goods or by the dealer/trader, or by any person who is found in possession of any untaxed articles other than the one legally entitled to exemption therefrom. In cases where the tax-free automobiles are brought or imported into the country by persons, entities, or agencies exempt from tax and are subsequently sold, transferred, or exchanged in the Philippines to non-exempt persons or entities, the purchaser or transferee of automobiles shall be considered as the importer, and shall be liable for the excise tax due on such importation.

SECTION 4. Vehicles Subject to Ad Valorem Tax. — The ad valorem tax under Section 6 of these Regulations shall be imposed on the production, assembly or importation of conventional automobiles, including LCVs or utility vehicles classified as automobiles under Section 2(a) hereof. For purposes of these regulations, the following four or more wheeled vehicles shall be exempt from ad valorem tax:

- a. Public passenger transport type vehicles with seating capacity of ten (10) or more persons, including the driver.
- b. Vehicles classified as light trucks designed primarily for transport of cargoes such as delivery vans, pick-ups, etc. regardless of seating capacity
- c. Special purpose vehicles.

SECTION 5. Exemption from Payment of Ad Valorem Tax. — The following removals of locally assembled/manufactured or imported automobiles from place of production or from customs custody, respectively, are exempt from the payment of the appropriate excise taxes subject to certain conditions:

a. Removals of Goods for Export.

No ad valorem tax shall be collected on locally produced or manufactured automobiles which shall be removed for exportation and are actually exported without returning to the Philippines subject to the following conditions:

(1) Permit for Export Shipment. — Immediately before removal, exporters of automobiles shall apply in writing for a written permit from the Commissioner of Internal Revenue, stating the kind, quantity and value of the automobiles to be exported, country of destination, name of the vessel, consignee, and place of loading. The discovery of any such product in transit or products which have actually been exported without the issuance of the appropriate permit shall be deemed prima facie evidence of illegal removal of the same and the ad valorem tax shall be due immediately upon demand.

(2) Delivery direct to vessel. — Automobiles for export shall be loaded direct from the place of assembly to the vessel or means of transportation carrying them outside the Philippines and the same shall be under the supervision of authorized internal revenue officer. A certification of actual exportation duly attested to by the internal revenue officer shall be filed by the exporter to the Revenue District Office immediately after loading and departure of the vessel or other means of transportation from the Philippine territory.

(3) Proof of exportation. — Exporters of automobiles are required to submit proof of exportation satisfactory to the Commissioner of Internal Revenue within thirty (30) days from the date of removal from the place of production. The proofs of exportation shall consist of the following documents:

- (a) Statement from the Bangko Sentral ng Pilipinas or any of its accredited banks that the proceeds of the sale in acceptable foreign currency have been inwardly remitted and accounted for in accordance with the existing banking rules and regulations;
- (b) Certified true copy of the bill of lading or airway bill; and
- (c) Commercial invoice issued by the producer/exporter to the foreign consignee.

In cases where the proofs of exportation are not submitted within the thirty day period, or where such proofs are submitted within the period but the same are not satisfactory to the Commissioner of Internal Revenue, the producer/exporter shall be required to pay the ad valorem tax including the applicable penalties. Such payment shall be entered in the Official Register Book stating the date of payment and validation number of the official receipt covering the payment.

(4) Exporter's bond. — When deemed necessary, an exporter shall be required to give a bond for an amount equivalent to the ad valorem tax due on the exported automobiles prior to the removal of the same for export shipment, conditioned upon the exportation of the same in good faith.

b. Delivery to tax-exempt persons or entities.

Manufacturers or assemblers of automobiles are hereby allowed to sell to tax-exempt persons or entities without the pre-payment of ad valorem tax subject to certain conditions.

1. Tax exempt persons or entities.

- (a) Embassies of foreign governments subject to the principle of reciprocity.
- (b) Tax-exempt organizations such as the Asian Development Bank pursuant to special laws and subject to existing rules and regulations.
- (c) Other tax-exempt entities or agencies covered by tax treaties, conventions, and international agreements to which the Philippines is a signatory subject to reciprocity.

The above persons or entities may also remove imported automobiles from customs custody without the pre-payment of the ad valorem tax subject to existing rules and regulations.

2 Requirements in the sale of automobiles to tax-exempt entities.

No automobiles shall be removed from the assembly plant or place of production for sale to tax-exempt agencies without prior written approval from the Commissioner of Internal Revenue. The tax-exempt customer of the assembler shall apply in writing for the approval of such exemption submitting, among others, favorable endorsement from concerned government agency (e.g. Department of Foreign Affairs for tax-exempt purchase of automobile by foreign embassies for their official use); an authenticated true copy of the purchase order indicating the description of the automobiles to be purchased; the chassis and engine numbers; and the place or location of delivery of the automobiles.

3 Tax credits/refunds by tax-exempt persons or entities.

In cases where the tax-exempt agencies purchased automobiles in which the ad valorem tax due thereon was included or where the ad valorem tax had been erroneously or illegally collected, such tax-exempt agencies may file a claim for tax refund or tax credit with the Commissioner of Internal Revenue under existing rules and regulations, submitting the following:

- a) Authenticated copy of the Certificate of Tax Exemption;
- b) Original and duplicate copies of sales invoices;
- c) Certified photocopies of proof of payment of the ad valorem tax.

The claim for tax credit/refund for erroneous payment of ad valorem tax should be filed within two (2) years from date of payment of the tax. Processing of claims for tax refund shall be done by the BIR but actual issuance of TCC/refund shall come from the agency where the actual payment was made.

c. Removal of automobiles for test run — Should an automobile be removed for a test run, prior notice of the test should be given to the Revenue District Officer or internal revenue officer assigned at the plant who may allow the test run; provided, that the unit under the test run shall be returned to the plant on the same day. In the event that the assembler failed to return the said unit to the plant within the prescribed period, the ad valorem tax otherwise due thereon shall be immediately due and demandable.

SECTION 6. Rates and Bases of Ad Valorem Tax. — There shall be levied, assessed and collected an ad valorem tax on automobiles based on the manufacturer's or importer's selling price, net of excise and value-added tax, in accordance with the following schedules:

a. Gasoline-fed engines

Engine Displacement (in cc.) Tax Rate

up to 1600 15%

1601 to 2000 35%

2001 to 2700 50%

2701 or over 100%

b. Diesel-fed engines

Engine Displacement (in cc.) Tax Rate

up to 1800 15%

1800 to 2300 35%

2301 to 3000 50%

3001 or over 100%

Provided, that in the case of imported automobiles not for sale, the tax imposed herein shall be based on the total value used by the Bureau of Customs in determining tariff and customs duties, including customs duty and all other charges, plus ten percent (10%) of the total thereof.

Where a tax-exempt automobile subsequently sold, transferred or exchanged by a tax-exempt person or entity was determined to be originally acquired by such person or entity primarily for the purpose of avoiding the payment of the excise tax, the ad valorem tax shall be computed based on the original purchase price or value of importation of such vehicle at the time of its original purchase or importation by such tax-exempt person without the benefit of any deduction for depreciation otherwise allowed under existing rules and regulations.

SECTION 7. Computation of Ad Valorem Tax on Automobiles. — The ad valorem tax due on locally assembled or imported automobiles shall be computed as follows:

a. On Locally Manufactured/Assembled Automobiles:

Situation No. 1 — The registered wholesale price is higher than the cost of production and distribution.

Example: Model — Toyota Corolla — GLI MT

Engine Displacement — 1600

Fuel used — Gasoline

Manufacturer's wholesale price — P 390,000 1/

Cost of production and distribution — P 365,000 2/

1/ Net of excise and value-added taxes

2/ Exclusive of ad valorem tax and includes all selling and administrative costs until the automobiles are sold to customers

Since the manufacturer's wholesale price of P 390,000 is higher than the total cost of production and distribution of P 365,000, the wholesale price of P 390,000 shall be used as the basis in computing the ad valorem tax.

Computation of tax due:

Manufacturer's wholesale price P 390,000

Multiplied by applicable AVT rate 15%

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Ad valorem tax due thereon P 58,500

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Situation No. 2. The selling price is less than the cost of production and distribution

Example: Model — Toyota Corolla — GLI MT

En Engine Displacement — 1600

Fu Fuel used — Gasoline

M Manufacturer's wholesale price — P 390,000 1/

C Cost of production and distribution — P 400,000 2/

1/ Net of excise and value-added taxes

2/ Net of ad valorem tax but includes all selling and administrative costs until the automobiles are sold to customers

Since the manufacturer's wholesale price of P 390,000 is less than the cost of production and distribution, the taxable base should be the cost of production and distribution of P 400,000 plus 10% mark-up.

Computation of tax due:

Cost of production and distribution P 400,000

Add: 10% mark-up 40,000

Amount subject to ad valorem tax P 440,000

Multiplied by applicable AVT rate 15%

Ad valorem tax due thereon P 66,000

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b. On Imported Automobiles for Resale:

Example: Model — Toyota Camry Luxury Edition

Engine Displacement — 2000

Fuel used — Gasoline

Importer's wholesale price — P 500,000 3/

Cost of importation and distribution — P 490,000 4/

3/ Net of excise and value-added taxes

4/ Net of ad valorem tax and includes cost of importation and all selling and administrative costs until the automobile is sold to customers

Since the importer's wholesale price of P 500,000 is more than the importer's cost of importation and distribution of P 490,000, the wholesale price should be the basis in computing the ad valorem tax.

Computation of tax due:

Importer's wholesale price P 500,000

Multiplied by applicable AVT rate 35%

Ad valorem tax due thereon P 175,000

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c. Imported Automobiles not for Resale:

Example: Model — Mercedes Benz

Engine Displacement — 2200

Fuel used — Gasoline

Value used by Bureau of

Customs

in determining the tariff and
customs duties — P 1,500,000 5/

5/ Includes all expenses incurred prior to release from customs custody

Computation of tax due:

Value as determined by BOC plus
customs duty P 1,500,000
Add: 10% mark-up on total value 150,000

Total amount subject to ad valorem tax P 1,650,000
Multiplied by applicable AVT rate 50%

Ad valorem tax due thereon P 825,000
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d. On Subsequent Sale or Transfer of Tax-Exempt Automobiles:

Example: Model — Toyota Corolla — GLI MT

Engine Displacement — 1600
Fuel used — Gasoline
Original Purchase Price — P 400,000
Number of years from acquisition
to disposition or transfer — 6 years

Under existing rules and regulations, the value of the automobile at the time of sale, transfer, or exchange should be based on its depreciated value of 10% each year but in no case shall the allowable charge for depreciation will be more than 50% of the original cost or value.

Computation of tax due:

Original purchase price P 400,000
Less: Allowable depreciation (limited
to 50% only since the age of the
automobile is more than 5 years) 200,000

Depreciated value P 200,000
Multiplied by the applicable AVT rate 15%

Ad valorem tax due thereon P 30,000
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The cost of any accessories or optional equipment such as car airconditioner, radio, wheel covers, mag wheels, or any other attachments installed on the unit or units removed or sold shall form part of the tax base or selling price.

In cases where these accessories or equipment are installed outside the production or assembly plant but the costs of such installations form part of the expenses of the assembler, all subsequent billings therefor by the assembler to the dealer or customer shall form part of the taxable base.

Chapter III

Time, Place and Manner of Filing Return and Payment of Tax

SECTION 8. Time, Place and Manner of Filing of Return and Payment of Ad Valorem Tax on Automobiles. —

a. On locally manufactured/assembled automobiles.

(1) Filing of return — Any person liable to pay ad valorem tax on locally produced or assembled automobiles shall, before removal of such products, file in triplicate for each place of production a separate consolidated return (BIR Form 2200) and supporting attachments (BIR Forms 2204 and 2207) setting forth the registered brand names and brand codes of vehicles, the total production during the return period, the quantity of automobiles to be removed, and the excise tax due.

In case of payment of ad valorem tax by any person other than the local car assembler or manufacturer, the excise tax return shall likewise be accomplished and filed by such person indicating all the pertinent information thereat.

(2) Payment of Ad valorem tax

(a) The ad valorem tax due on locally manufactured or assembled automobiles shall be paid by the manufacturer/assembler before removal from the place of production. In case a person is found in possession of untaxed domestically manufactured or assembled automobiles, the tax due thereon shall be paid immediately upon demand.

(b) Advance Payment or Deposit — Every person liable to pay ad valorem tax who is authorized to avail of the advance payment scheme may be allowed to effect removals of excisable articles from his place of production without prior filing of the prescribed excise tax returns and supporting documents provided he has sufficient balance of deposits with the BIR to cover full payment of the excise tax due on said removals. The prescribed excise tax return and all attachments may be filed with a duly accredited bank or duly authorized collection agent not later than the first working day of the calendar week immediately following the week of actual removals. Payment of excise tax deposits shall be made by filing in triplicate a Payment Form (BIR Form No. 0605).

(3) Where to file and pay — The excise tax return and all the supporting attachments shall be filed with, and the excise tax due thereon paid to a bank duly accredited by the Commissioner of Internal Revenue under the jurisdiction of the revenue district where the person liable for the payment of the tax is registered or required to be registered. In places where there are no duly accredited agent bank within the municipality or city, the excise tax return together with the supporting attachments shall be filed with and any amount due paid to the duly authorized collection agent under the jurisdiction of the Revenue District Office or duly authorized Treasurer of the City or Municipality where the production plant is located or the person in possession of untaxed automobiles is registered or required to be registered.

b. On imported automobiles

The excise tax due on imported automobiles shall be paid by the importer to the Customs Collector prior to the release of such goods from customs custody.

The release of imported automobiles for resale shall not be allowed without the presentation to the Collector of Customs of the original copy of the appropriate Permit to import duly issued by the Revenue District Officer having jurisdiction over the importer's principal place of business.

Chapter IV

Other Compliance Requirements

SECTION 9. Who May Engage in Business. — Any person or entity duly registered with the Bureau of Internal Revenue as manufacturer/assembler or importer of automobiles may engage in business as such.

a. Application for registration as manufacturer/assembler or importer/dealer of automobiles.

Any person or entity desiring to engage in business as manufacturer/assembler or importer of automobiles for resale shall apply in writing with the Commissioner of Internal Revenue thru the Revenue District Officer having jurisdiction over his place of production by filing Application for Registration (BIR Form No. 1901 or 1903, as the case may be) and attaching to his application the following documents:

- (1) Plat and plan of manufacturer's assembly plant/importer's warehouse, location plan, storage and other physical facilities of the establishment;
- (2) Certificate of registration with the Bureau of Domestic Trade, in case of single proprietorship;
- (3) Duplicate or certified true copy of the latest income tax return of the applicant, where applicable;
- (4) Certified true copy of the Articles of Incorporation or Co-Partnership duly registered with the Securities and Exchange Commission, the applicant is a corporation or partnership; and
- (5) Surety bond prescribed under Section 9 of these regulations.

b. Processing of Application for Registration to Engage in Business.

Upon receipt of the application together with the required documents attached thereto, the Commissioner of Internal Revenue or his duly authorized representative shall conduct ocular inspection of the desired place of production/assembly and/or warehouse of the automobiles.

The production plant where the automobiles are manufactured or assembled shall be enclosed and shall have only one entry/exit so as to eliminate unlawful removal of manufactured/assembled automobiles. This entry/exit point shall at all times be easily accessible to all authorized internal revenue officers.

If the Commissioner of Internal Revenue is satisfied that the intended place where the automobiles are manufactured/assembled and/or stored as well as the surety bond posted by the applicant comply with the requirements of the law, the application to engage in business as such shall be approved.

No person shall engage in business as manufacturer/assembler, importer or dealer of automobiles unless the premises upon which the business is to be conducted shall have been approved by the Commissioner or his duly authorized representative.

c. Assessment numbers of manufacturers/assemblers and importers of automobiles.

Every manufacturer/assembler of automobiles shall, for each and every production plant or storage place, be assigned a permanent and official assessment number, distinct for each paragraph under which he operates. This assessment number must be indicated in his Certificate of Registration and Permit to Operate as an excise taxpayer. This number shall likewise be stamped in the Official Registration Books (ORBs) that will be issued to him by the Commissioner of Internal Revenue or his duly authorized representative. No two manufacturers or importers under the same paragraph shall be given the same assessment number. For assemblers operating more than one assembly plant, a separate assessment number shall be assigned for each and every place of production. When a manufacturer/assembler retires from business, his assessment number will be dropped. When there is a change in ownership of the production or assembly plant by reason of sale, transfer, or otherwise, the Commissioner of Internal Revenue shall not allow the new owner or transferee thereof to use the old assessment number of his vendor or transferee, even if the right to use said assessment number has been included in the sale

or transfer. Such assessment number when dropped from the roll, shall no longer be allowed to be reissued to another production plant or establishment. In case of importers of automobiles for resale, an assessment number shall likewise be issued for each establishment or warehouse. The Revenue District Officer having jurisdiction over the taxpayer's place of production or warehouse/distribution shall keep, by paragraph, a chronological assessment roll of the manufacturers/assemblers, importers and dealers of automobiles in their respective territories.

SECTION 10. Registration of Brand Name. — Every manufacturer or producer of automobiles shall, before commencement of actual production or assembly, file with the Revenue District Office having jurisdiction over the production /assembly plant an Application for Brand Registration (BIR Form No. 2230) showing all brand names and models of automobiles for production or assembly. In case new brands and models will be assembled or manufactured, a new Application for Brand Registration for such new brand shall be filed before producing the same.

Manufacturers or assemblers desiring to phase-out or cease production of an existing registered brand and model shall immediately inform the BIR of such intention by filing an updated Application for Brand Registration.

SECTION 11. Manufacturer's/Assembler's or Importer's Sworn Statement. — Every manufacturer/assembler or importer of automobiles for resale shall file with the Commissioner of Internal Revenue or his authorized representative on or before the end of each calendar semester, or for every proposed registration of a new brand of automobiles, including its variants, a sworn statement showing, among others, the following information:

- a. Name, address, TIN, and Assessment Number of the manufacturer/importer;
- b. The names and variants of the different models assembled or manufactured;
- c. Registered wholesale price or market value of each model and variants; and
- d. Production/importation costs and all other expenses incurred or to be incurred until the automobile is finally sold (e.g., materials, labor, overhead, selling and administrative expenses, etc.) per brand or model.
- e. Yield or usage ratio of primary raw materials to be used in the assembly or production of automobiles up to the brand/model level.

The manufacturer or importer shall file an amended sworn declaration of the registered wholesale price of any brand/model of automobiles whenever there is a change on the actual wholesale price thereof. The amended sworn declaration shall be filed before the said brand/s or model/s of automobiles may be removed from the place of production or assembly for sale to wholesalers/distributors at the new registered wholesale price or before removal thereof from customs custody. No changes in the registered selling price of the automobiles shall be allowed unless the corresponding amended sworn statement shall have been submitted to the Commissioner of Internal Revenue.

The declaration on the yield or usage ratio of primary raw materials to be used in the assembly or production of automobiles per brand or model shall be submitted only once before commencement of operations and/or introduction of new brand/model. However, if there are changes in technology or processes that affect the submitted yield ratio, an amended sworn declaration shall be made by the taxpayer immediately before the introduction of such changes.

The sworn statement shall be subject to verification by the Commissioner of Internal Revenue or his duly authorized representative to determine its correctness and/or accuracy. For this purpose, the Commissioner of Internal Revenue or his duly authorized representative may examine and/or require the production of the

manufacturer's or importer's books of accounts or such other documents from which the accuracy and correctness of the sworn declarations may be determined. In case it is determined that the sworn declaration does not accurately and correctly reflect the prices of automobiles, the taxpayer shall be assessed the deficiency ad valorem tax, inclusive of surcharges and interests.

In the event that the existing inventory of tax-paid imported automobiles shall be sold by the importer/dealer in amounts higher than the registered wholesale prices as reflected in the original sworn statement used by BOC in the computation of excise taxes paid thereon, the importer/dealer shall file with the Commissioner of Internal Revenue an amended sworn declaration before effecting such sale or transfer. Any additional excise tax due arising from the changes in selling prices shall be paid by the importer/dealer on or before any sale or transfer of such automobiles to the buyer.

SECTION 12. Manufacturer's or Importer's Bond. — Every manufacturer/assembler and/or importer of automobiles for resale shall post a surety bond which shall be conditioned upon the faithful compliance with laws and regulations relating to such business and for the satisfaction of all fines and penalties imposed by the National Internal Revenue Code.

a. Basis of surety bond to be posted

The amount of bond to be posted by manufacturers or importers of automobiles shall be in an amount equal, as nearly as can be estimated, to twenty percent (20%) of the ad valorem tax payable by them during an average year. However, no such bond shall be required in an amount exceeding five hundred thousand pesos (P 500,000.00) nor be received in a sum less than ten thousand pesos (P 10,000.00).

b. Registration of surety bond

For more effective control and monitoring of the manufacturer's and importer's bond herein prescribed, such bond shall be duly registered with the BIR. For registration purposes, the taxpayer, thru the RDO having jurisdiction over the place of production, shall cause the submission of the original copy of the duly approved bond certificate to the Cash Disbursement and Bonding Section, General Services Division, National Office, for appropriate registration and safekeeping.

SECTION 13. Prohibition Against Changes or Alterations. — No changes, alterations, or new constructions shall be made in the establishment as per the plat and plan originally approved by the Commissioner of Internal Revenue or his duly authorized representative, nor alterations of new equipment, transferring or putting up of new warehouse or storage facilities, or any other form of changes or alterations, shall be made without first securing the necessary permit from the Commissioner of Internal Revenue or his duly authorized representative. In case any changes shall be made, the plat and plan, as amended, shall be submitted for approval.

SECTION 14. Requirements Before Removal of Automobiles. —

a. Preparation of Withdrawal Certificates.

The Revenue District Officer having jurisdiction over the assembly plant shall prepare an Official Withdrawal Certificate (BIR Form No. 2295) for every removal of products from place of production, irrespective of destination, and shall indicate therein the establishment's schedule, paragraph and assessment number; the name, address and TIN of the assembler; the name, address and TIN of the consignee; the date of removal; the intended destination of the shipment; the quantity and description of the type or model removed; the ad valorem tax paid, where applicable. The assembler or his duly authorized representative shall attest to the correctness of the entries therein. The Withdrawal Certificates shall be issued in consecutive numbers and the corresponding entries in the

Official Register Book shall be made immediately after the issuance thereof.

b. Alteration of prepared Withdrawal Certificates.

In case a change on the prepared Withdrawal Certificate is necessary, the assembler shall request for the issuance of a new Withdrawal Certificate in lieu thereof. The old or previously issued Withdrawal Certificate shall be surrendered to and officially cancelled by the Revenue District Officer or the internal revenue officer assigned at the establishment immediately after the replacement certificate has been issued therefor. The said internal revenue officer shall render a report to the Commissioner of Internal Revenue on the matter and such will form part of his monthly report.

c. Withdrawal Certificate to accompany shipment.

The Withdrawal Certificate shall at all times accompany the shipment of the automobiles which it covers and shall be attached to the bill of lading if the said products are shipped through a conveyance or mode of transportation not owned or operated by the consignor/assembler.

Any shipment of automobiles not properly accompanied by the prescribed Withdrawal Certificates shall be deemed prima facie evidence of illegal removal thereof.

SECTION 15. Supervision and Control of the Assembly Plant or Place of Production.

a. Custody of the Manufacturing Plant.

For internal revenue purposes, the place of production or assembly plant and storage of automobiles are under the joint custody of the Bureau of Internal Revenue and the manufacturer/assembler or importer concerned.

b. Operations of the Establishment

Establishments producing or assembling automobiles shall remain closed until the authorized internal revenue officer on duty thereat is present and no assembled products or raw materials shall be removed from their respective premises in the absence of such internal revenue officer. Unless otherwise especially allowed by the Commissioner, automobiles shall be removed from place of production either between 7:00 a.m. to 4:00 p.m. or 8:00 a.m. to 5:00 p.m.

c. Assignment of Revenue Officers.

The Commissioner of Internal Revenue or his duly authorized representative may assign internal revenue officer(s) as the need so requires for an effective supervision of the operations of automobile manufacturers/assemblers, for excise tax purposes. The duties of revenue officer(s) assigned thereat shall be, but not limited to, the following functions:

(1) To monitor receipts of raw materials, transfers of raw materials to production, and the actual production of assembled automobiles, and check that such transactions are properly recorded in the Official Register Book. No receipts, transfers or removals of such materials and finished goods shall be allowed without the presence of internal revenue officers assigned thereat who shall check and verify the kind, quantity and source of raw materials/finished goods being received, transferred and/or removed;

(2) To check whether or not the excise tax due on each and every removal of automobiles are duly paid by verifying the covering delivery invoice, the duly validated Excise Tax Return or Payment Form evidencing payment of excise tax. In case where the removals of automobiles are exempt from excise tax, the assigned internal revenue officer shall check and verify whether the tax-exempt removals are properly covered by the requisite permits.

- (3) To issue the prescribed Withdrawal Certificates to document authorized removals of raw materials and finished goods from place of production or storage.
- (4) To maintain independent auxiliary books and records of the movements of raw materials and finished goods within the production or storage plant and ensure up-to-date entries thereto. These records shall always be made available to any other authorized internal revenue officers tasked to conduct surprise audit in the maintenance thereof.
- (5) To check, at the first hour of the business day, the actual stocks of raw materials and finished products and determine whether they tally with the balances in the corresponding Official Register Book maintained by the taxpayer and the auxiliary books he keeps for the purpose.
- (6) To receive the Manufacturer's Sworn Declaration to be filed by the manufacturer concerned as required under the law and existing regulations; to administer the oath of affiant or signatories thereon; and forward the same to the Office of the RDO who has jurisdiction over the place of production.
- (7) To render his report to his superior any violation of the laws and regulations that he may uncover together with the evidences necessary to prosecute the case.
- (8) To submit weekly and monthly reports of production and removals of articles and the collection of excise taxes; and
- (9) To perform such other functions as may be required by the Commissioner or any authorized internal revenue officers.

The manufacturer/assembler shall provide suitable office space and equipment for the use of the internal revenue officers assigned thereat, who shall render eight (8) hours service daily, excluding Saturdays, Sundays and holidays. Such office space shall be strategically located in a place that is adjacent to the production and removal areas. It shall be designed in such a manner that the assigned revenue officers can have a clear and unobstructed view of the taxpayer's production and removal activities. Should overtime service be required, an advance notification to that effect should be filed with the concerned Revenue District Officer.

d. Loading and unloading of automobiles and raw materials.

No loading and unloading of automobiles or raw materials to and from the storage premises or warehouses of the manufacturing plants shall be made without the presence of the internal revenue officers assigned thereat who shall verify and check the quantity and kind of automobiles or raw materials loaded or unloaded.

e. Physical transfers of raw materials

Transfers of raw materials from one production plant to another production premises shall not be allowed unless, in addition to the requisite permits and other documentations required under existing laws and regulations, these are accompanied by an authorized internal revenue officer specifically designated for the purpose with the following specific duties, among others, to wit:

- (1) To check whether or not the transfer of raw materials from the place of source to place of destination is covered by the requisite permit granted by BIR.
- (2) To check whether the Withdrawal Certificate and other documents covering such delivery or transfer indicate the correct quantity authorized to be transferred.
- (3) To accompany shipment of raw materials or finished goods from the place of origin to intended destination and to have the receipt thereof acknowledged by the owner/operator of the said establishment or his duly

authorized representative.

SECTION 16. Transfer, or Sale or Disposition of Raw Materials, Semi-Processed and/or Intermediate Products.

a. Requirements in case of transfer, sale, or disposition of raw materials.

No person or entity engaged in the manufacture or assembly of automobiles shall remove, transfer, sell, loan, or dispose such raw materials without prior approval from the Commissioner of Internal Revenue.

b. Transfer of raw materials and/or semi-processed articles under bond.

Upon prior permit from the Commissioner of Internal Revenue, raw materials, semi-processed and/or intermediate products may be transferred underbond, filed on a case-to-case basis, by the manufacturer or assembler to any processing plant for initial assembly or further assembly into finished products. The bond shall answer for any internal revenue tax arising out of losses, or in such event that the assembled automobiles are not returned to the original transferor within a reasonable time after it is assembled. Such transfers shall only be allowed if the subcontractor or subassembler is duly registered as such with the BIR and is a holder of a valid Permit to Operate as an excise tax establishment. For this purpose, the subcontractor or subassembler shall likewise be subject to all the administrative requirements prescribed under these regulations.

SECTION 17. Re-assembly/Repair of "Off-spec" or Damaged Automobiles. — No automobiles which are below specification or damaged shall be returned from the assembly plant or place of production for repair or re-assembly without prior written permit from the Commissioner of Internal Revenue or his duly authorized representative. The request for permit shall contain the following:

- a. Model, quantity, engine and chassis numbers of "off-spec" or damaged automobiles;
- b. Certified photo copy of the Withdrawal Certificate covering the removal of the original shipment; and,
- c. Other information the applicant may wish to state in the request.

The return of automobiles for re-assembly or repair in the assembly plant shall be supervised by internal revenue officer who will submit to the Revenue District Officer having jurisdiction over the assembly plant a certificate duly confirmed as correct by the authorized representative of the assembly plant stating, among others, the quantity, model engine and chassis number, and date of return to the plant.

The total quantity of returned automobiles for re-assembly or repair received in the assembly plant must be entered in the Official Register Books as "Raw Material Received" in the column provided for. The ad valorem tax for the removal of re-assembled or repaired automobiles must be paid in the same manner as regularly removed finished products.

SECTION 18. Storage of Tax-Paid Automobiles. — When the ad valorem tax has been paid on automobiles, the same shall not thereafter be stored or permitted to remain in the assembly plant or place of production. All automobiles subject to ad valorem tax which are stored or allowed to remain in the assembly plant or place of manufacture after the tax thereon has been paid shall be forfeited.

SECTION 19. Registration of Automobiles. — No automobile shall be accepted for original registration by the Land Transportation Office unless accompanied by a Manufacturer's Report for locally assembled automobiles or a Tax Clearance which could be secured from the Commissioner of Customs for imported automobiles.

SECTION 20. Books and Records to be Kept and Maintained. — Every person or entity engaged in the manufacture/assembly, importation or wholesale of automobiles shall keep Official Register Books and such other forms or records that may be required by the Commissioner of Internal Revenue, which must be kept within the

place of production and shall at all times be made available for inspection by duly authorized internal revenue officer(s).

a. Installation of Official Register Book

There shall be entered in the ply leaf of the initial official register books at the time of delivery to each importer or manufacturer/assembler the following information:

(1) the date of delivery of the books, the name, address, TIN, paragraph schedule and assessment number of the establishment;

(2) the beginning inventory, whenever applicable; and

(3) a certificate signed by the internal revenue officer delivering the same and attested to by the owner or manager that all the pertinent provisions of the law and regulations governing the operations of his establishment, the use of the said official register books, and the manner of handling the products in the factory or warehouse have been fully explained to such manager and owner and that he fully understands the same and knows the penalties imposed for the disregard thereof. The original copy of this certification shall be forwarded to the concerned Revenue District Officer, the duplicate copy shall be forwarded to the Chief, Regulatory Operations Monitoring Division, National Office, and the triplicate copy shall permanently form part of the Official Register Book.

b. Records to be kept by manufacturers/assemblers.

The Official Register Book to be kept and maintained by manufacturers/assemblers of automobiles shall basically consist of the following:

(1) Raw Materials Account

(a) Debit Side — On this side shall be recorded all raw materials such as, but not limited to, CKD and other local raw materials received and intended to form part of, or to be used in the manufacture or assembly of automobiles. This Account shall reflect the kind of raw materials received, the date of receipt, the name and address of the supplier, the model of the vehicle for which the raw material is intended. For this purpose, raw material ledgers of the manufacturer/assembler shall form part of this Account as subsidiary books.

(b) Credit Side — On this side, shall be recorded the date of requisition, document reference, number and quantity issued and the model of the vehicle for which the raw material issued is intended. Any sale, transfer or removal of raw materials other than issuances for use in manufacturing shall be separately recorded in the credit column.

(2) In-Process Account

(a) Debit Side — On this side shall be recorded all raw materials issued to production and the date of issuance thereto.

(b) Credit Side — On this side shall be recorded the date of completion of assembly and quantity of assembled automobiles.

(3) Production and Removals Account

(a) Debit Side — On this side, for every type or model of completely assembled/manufactured automobiles, on which the same excise tax rate will apply, there shall be maintained a separate production and removals account. The beginning inventory taken upon installation of the Official Register Books shall be the initial entry on the Production and the date the vehicle was received or removed from the assembly premises.

(b) Credit side — On this side, removal of vehicles from the place of production shall be recorded indicating

therein the date of removal, the quantity, the model, engine displacement, engine number, body/chassis number, name of collection agent bank and the bank validation number, date paid and amount paid, or, if removed free of tax, the date of the issuance of Certificate of Exemption or permit granted by the Commissioner of Internal Revenue.

(c) Resume' — Totals of the beginning balances, production during the month, removals for the month, and the ending balances of automobiles per brand/model.

c. Records to be kept by importers

Every person or entity engaged in the importation of automobiles for purposes of resale shall keep an Official Register Book wherein shall be entered the following:

(1) On the debit side — Date of arrival of importations, subsidiary document reference (e.g. Customs Formal Entry Declaration), description of automobiles, quantity actually received, amount of ad valorem taxes paid, number/validation of the covering payment at BOC, and date of payment.

(2) On the credit side — Date of removal/sale, name and address of consignee, description of product removed, quantity and remarks.

(3) Resume' — Totals of the beginning balances, importation during the month, sales for the month, and the ending balance per brand/model of automobiles.

d. Records to be kept by wholesale dealers

Every person or entity engaged in the business as wholesale dealer of automobiles shall keep and maintain an Official Register Book containing the following information:

(1) On the debit side — Date of purchase of automobiles, document reference (e.g. Sales Invoice/Delivery Receipt), description of automobiles, and quantity actually received, and name and address of supplier.

(2) On the credit side — Date of sale, name and address of buyer, description of automobiles sold, and quantity sold.

(3) Resume' — Totals of the beginning balances, purchases during the month, sales for the month, and the ending balances of automobiles per brand/model.

e. Monthly transcript sheets to be rendered

Every manufacturer/assembler of automobiles shall prepare in three (3) sets a true and exact transcript of all entries made on both the debit and credit sides of his official register book during the preceding month, including all entries made by the internal revenue officer, and shall strike a balance in said books and on said transcript sheets showing the balance of the stocks on hand, if any. Said balance of stock shall be carried over as the first entry from the next month of the official register books. The original or the first set should be transmitted and received by the concerned Revenue District Officer not later than the 8th day of the succeeding month. The second set should be submitted to the Chief, Regulatory Operations Monitoring Division, BIR National Office, and the third set to remain on file with manufacturer/assembler, importer or wholesale dealer.

Each manufacturer/assembler, importer or wholesale dealer or his duly authorized representative, shall certify at the foot of each page of his official register books and copies of transcript sheets that the entire entries therein are true and correct and are exact copies of the entries contained in the original records and subsidiary papers of the establishment.

With the attestation of the manager or his representative therein, the revenue officer assigned in the establishment shall submit, together with the transcript sheets, a summary of operations indicating therein the number of units removed per brand/model and the taxes paid thereon.

A comparative statement of excise tax collections during the month shall likewise be prepared and submitted by the concerned revenue officer, analyzed with that of the same month of the previous year with his remarks and recommendations annotated therein. These reports shall be distributed in the same manner as the monthly transcript sheets of the official register books.

Chapter V

Conduct of Stocktaking, Verification and Inspection

SECTION 21. Stocktaking. — After every six (6) months reckoned from the date of the initial or last stocktaking, the BIR shall conduct a general or total physical inventory by actual count and/or volume of the entire stock of raw materials (including in-process or intermediate materials, articles or products) and finished products then existing and on hand, in the presence of the representative of the manufacturer/assembler or importer concerned who shall jointly attest to the fact of witnessing and verifying the results thereof by affixing their signatures on the attestation clause in the inventory certificate.

Any overage or shortage found upon the reconciliation of the results with the balances reflected in the official register book as of the date and hour of stocktaking should be debited or credited, as the case may be, on the proper column of the official register book and signed by the internal revenue officer. The corresponding written report and recommendation on the results of each and every stocktaking conducted shall be submitted to the Commissioner of Internal Revenue or his duly authorized representative.

Notwithstanding the foregoing routine schedule of stocktaking, the Commissioner of Internal Revenue may, at anytime, cause a general or total stocktaking to be conducted. Moreover, a limited or partial physical inventory of certain assembled brands or raw materials may be caused to be undertaken at any time it is deemed necessary. The manufacturer/assembler, importer or wholesale dealer shall extend all the necessary assistance to the duly authorized revenue officers to facilitate the stocktaking.

SECTION 22. Books and Records to be Open to Inspection. — All the books and records required by these regulations to be kept by manufacturers/assemblers, importers, and wholesale dealers of automobiles shall be kept at all times in the place of production or place of business, wherever applicable, subject to inspection by any authorized internal revenue officer, and upon demand, shall be immediately produced and submitted to such inspection. All entries in the said books and records shall be made in ink in a neat and legible manner. The assembler, importer or wholesale dealer shall give the necessary explanations regarding the entries contained in the books and records inspected, when so required by the internal revenue officer making the inspection. Said establishments shall also allow any authorized internal revenue officer making any inspection to enter any place where said articles are manufactured, stored, or kept and shall, upon demand, produce said articles for inspection for purposes of these regulations.

Chapter VI

Transitory Provisions

SECTION 23. Transitory Provisions. — Upon approval of these regulations, all existing manufacturers/assemblers, importers or wholesale dealers of automobiles who have not yet registered in accordance with the provisions of Section 9 thereof, shall apply for a permit to engage in business as manufacturer/assembler or importer of automobiles. He shall likewise submit a sworn statement and an inventory of the CBUs, CKDs and/or assembled

units to the Commissioner of Internal Revenue not later than December 31, 1997.

Chapter VII

Penal Provisions

SECTION 24. Penalties. — Violations of these regulations shall be subject to the pertinent penalties under Title X of the National Internal Revenue Code, as amended.

Chapter VIII

Repealing Clause and Effectivity

SECTION 25. Repealing Clause. — All existing rulings, orders, issuances, or portions thereof which are inconsistent with the provisions of these regulations are hereby revoked or modified accordingly.

SECTION 26. Effectivity. — These Regulations shall take effect immediately upon approval hereof.

Adopted: 05 Nov. 1997

(SGD) ROBERTO F. DE OCAMPO

Secretary of Finance

RECOMMENDING APPROVAL:

(SGD) LIWAYWAY VINZONS-CHATO

Commissioner of Internal Revenue

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