

COPY OF SUBIC-CLARK JOINT POLICY GUIDELINES ON THE ADMISSION PRIVILEGE FOR DUTY-FREE AND TAX-EXEMPT MOTOR VEHICLE

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- We are furnishing you a copy of Subic-Clark Joint Policy Guidelines on the Admission Privilege for Duty-Free Tax-Exempt Motor Vehicle.

- For your information, reference and file.

(SGD.) BENIGNO N. RICAFORT
President/CEO

Attachment:

Subic-Clark Joint Policy Guidelines on the Admission Privilege for Duty-Free and Tax-Exempt Motor Vehicles

WHEREAS, under Section 13 of Republic Act 7227, as amended by Republic Act No. 9400, the Subic Bay Metropolitan Authority (SBMA) as the Zone Management Authority of the Subic Special Economic and Freeport Zone, and pursuant to the Memorandum of Agreement between the SBMA and the Bureau of Customs (BOC) adopting and implementing Administrative Order No. 4-93 and in coordination with and cooperation of the Land Transportation Office (LTO), formulated rules and regulations pertaining to the duty-free and tax-exempt motor vehicle admission privilege of Subic Bay Freeport (SBF) registered business enterprises;

WHEREAS, in accordance with Section 149 of Republic Act No. 8424, otherwise known as the Tax Reform Act of 1997, the Clark Development Corporation (CDC) jointly with the BOC promulgated rules and regulations for the proper identification, control, and use of motor vehicles admitted as duty-free and tax-exempt into the Clark Freeport Zone (CFZ).

WHEREAS, following the mandate of the Subic-Clark Alliance for Development Council (SCADC) to orchestrate and accelerate the development of the Subic-Clark corridor, there is a need to harmonize policies relevant to the duty-free and tax-exempt motor vehicle admission privilege of persons and entities operating inside the SBF and CFZ.;

WHEREAS, both SBMA and CDC, each acting respectively as “Zone Authority” of the Subic Bay Freeport Zone and Clark Freeport Zone, recognize the need to support the domestic car industry by encouraging a duly-registered Freeport Zone Enterprise or “Locator” to patronize local car dealers and for them to avail of their zero-rated value added tax incentive on any local purchase of motor vehicles;

NOW THEREFORE, for and in consideration of the foregoing premises, the following guidelines are hereby promulgated on the admission, registration and monitoring of duty-free and tax-exempt motor vehicles (TEV), as follows:

I. COVERAGE

These guidelines shall cover the duty-free and tax-exempt admission of self-propelled land transportation

motor vehicles designed to travel on roads, classified follows:

- UTILITY-SERVICE/SPECIAL-PURPOSE VEHICLES – vehicles which are indispensable in the conduct and operations of the Locator's authorized business activities, such as delivery trucks, cargo vans, and buses, designed and for use exclusively for the transport of cargoes and passengers.
- TOURIST-SERVICE VEHICLES – vehicles which are indispensable in the ordinary course of business of tourist-oriented industries, such as hotels, resort and leisure estates, theme parks and casinos to be utilized actually, directly and exclusively for the purpose of transporting tourists in tourism related activities.
- COMPANY-SERVICE VEHICLES – limited to brand new vehicles that are to be used as service vehicles of the Locator. No luxury motor vehicle intended to be utilized as a company-service vehicle shall be admitted duty-free and tax-exempt into the Freeport Zone, unless the official stature of the assignee requires the same which shall be limited to the Chairman, Members of the Board of Directors, President, or Vice-president on a strictly one-to-one official to luxury vehicle assignment.

A listing of luxury motor vehicle marquee annexed herewith as Attachment 1 shall serve as reference for luxury vehicle classification. The catalog shall be automatically updated whenever new luxury vehicle productions are created.

II. POLICY ON DUTY-FREE AND TAX-EXEMPT MOTOR VEHICLE ADMISSION

- THE FOLLOWING ARE QUALIFIED TO APPLY FOR ADMISSION OF DUTY-FREE AND TAX-EXEMPT MOTOR VEHICLES:

Locators with valid Certificate of Registration and Tax Exemption (CRTE) and with valid Lease Agreements having a remaining term of at least three (3) years may apply for admission into the Freeport Zone of TEVs necessary for the conduct and operation of their registered business activity, subject to the criteria/limitations set forth herein, provided, however, that the Zone Authority reserves the right to disapprove or limit the admission of TEVs when, in its judgment, it becomes necessary to avert a violation of any law or any of its rules and regulations, or to enforce a regulatory or administrative measure.

- CRITERIA TO AVAIL OF THE DUTY-FREE AND TAX-EXEMPT MOTOR VEHICLE ADMISSION PRIVILEGE

2.1 For TEVs Considered As Company-Service Vehicles

An applicant Locator must have an investment of SIX HUNDRED THOUSAND UNITED STATES DOLLARS (US\$600,000.00) or its equivalent in peso for every vehicle to be admitted at the time of the application.

Additional TEVs can be availed of for every additional investment of SIX HUNDRED THOUSAND UNITED STATES DOLLARS (US\$600,000.00) or its equivalent in peso. The maximum number of TEVs a locator can import are:

- Utility Vehicles – 10 Units;
- Tourist Vehicles – 6 Units; and
- Company Vehicles-6 Units

2.2 For TEVs Considered As Utility-Service/Special-Purpose or Tourist-Service Vehicles

Locators involved in transportation, travel and tours, and the like, are entitled to the admission of TEVs as capital

equipment vis-a-vis its duly-registered business activity and operation, but subject to the endorsement of the Zone Authority's Business & Investment unit.

- PERIOD TO EXERCISE THE PRIVILEGE

The applicant Locator must have been operating for at least one (1) year at the time of the application for Admission Authority, unless by the very nature of their business and the classification of the vehicles to be admitted, it is necessary to admit the same upon actual commencement of operations, in which case admission may be allowed subject to the endorsement of the Zone Authority's Business & Investment unit.

- LIMITATIONS ON THE DUTY-FREE AND TAX-EXEMPT ADMISSION PRIVILEGE

- The privilege is granted only to certified/registered Locators and is non-transferable.
- The Applicant Locator must have no outstanding financial obligations with the Zone Authority unless he can show an approved payment scheme covering the obligation and the fact that it has not defaulted on the said payment scheme agreement.
- The Applicant Locator must identify the principal user of the vehicle and show proof or justification detailing the necessity of the vehicle(s) to be admitted in direct relation to its registered business activity.
- The issuance of Admission Authority shall be prior to the admission of the TEV into the Freeport Zone.
- A request for extension or amendment of Admission Authority shall be accepted only if the request is made within its validity period.
- The TEV shall be registered with the LTO for a blue license plate under the "Special Registration of Tax-Exempt Vehicles in Free Ports and Special Economic Zones" and with the Zone Authority's Motor Vehicle Registration unit or its equivalent office.
- The Applicant Locator shall present to the Zone Authority for inspection the TEV together with the registration papers from LTO and the Admission Authority.
- Subsequent renewals of the LTO registration shall require the endorsement of the Zone Authority subject to the verification that the Locator remains qualified for the TEV privilege.
- Subject to the conditions herein provided under Section IV, all TEVs shall be for use inside the Freeport Zone only.
- Within three (3) years from the date of admission, no TEV shall be allowed to be sold, assigned, transferred, or paid duties and taxes.
- Notwithstanding the limitation mentioned in the preceding item letter "J", once the registered owner ceases to be a bona fide Locator, he must:
 - For TEVs admitted either as brand new vehicles or as used trucks, buses and heavy and/or agricultural equipment referred to in Sections 3.1.1 to 3.1.5 of Executive Order No. 156,
 - Sell, assign or convey the same to a qualified Locator; OR
 - Pay the corresponding duties and taxes for the sale, assignment, or transfer to any entity.

To be considered BRAND NEW, the motor vehicle shall be of current or advance year model in the country of origin and/or manufacturer at the time of admission.

- For TEVs admitted as USED VEHICLES, the Locator must:

- Sell, assign or convey the same to a qualified Locator; OR

- Re-export the same to other countries[1].

- REQUIREMENTS FOR THE ADMISSION OF DUTY-FREE AND TAX-EXEMPT MOTOR VEHICLES

a)

Letter of Intent justifying the request for the admission of the motor vehicle addressed to the concerned Official of the Zone Authority in accordance with Section II. Item 4. Letter C hereof,

b)

Accomplished application form with the duly signed agreement on conditions for admission of the TEV, attached thereto,

c)

Original Copy of the Secretary's Certificate of the Locator 's authorized representative,

d)

Certified True Copy of a Valid CRTE,

e)

Certified True Copy of the Pro Forma Invoice, Commercial Sales Invoice or Certificate of Ownership,

f)

Certification from the Zone Authority's Business and Investment unit on the amount of investment as defined herein under Section II, Item 2.1,

g)

Certificate of "No Outstanding Financial Obligations" from the Zone Authority's Accounting unit and/or Certificate of Approved Payment Scheme,

h)

Notarized certification from the applicant that the loading of the requested motor vehicle at the port of origin has not yet been effected.

i)

Certificate of Inspection from the Zone Authority's Motor Vehicle Registration unit for previously requested TEVs.

III. SUBSEQUENT SALE, TRANSFER, ASSIGNMENT OR PAYMENT OF DUTIES & TAXES OF DUTY-FREE AND TAX-EXEMPT MOTOR VEHICLES

- Sale, transfer, assignment, or payment of duties and taxes of TEVs within three (3) years from the date of admission is prohibited.

- After the three (3) year prohibitory period:

- For TEVs admitted either as brand new vehicles or as used trucks, buses and heavy and/or agricultural equipment referred to in Sections 3.1.1 to 3.1.5 of Executive Order No. 156
 - The TEV can be sold, assigned or transferred without payment of the corresponding duties and taxes to a qualified Locator. OR
 - The TEV can be sold, assigned or transferred upon payment of the corresponding duties and taxes to any entity.
- For TEVs admitted as used vehicles
- The TEV can only be sold, assigned or transferred to a qualified Locator
- There can be no sale, transfer, assignment, or payment of duties and taxes of TEVs without prior written clearance from the Zone Authority.

IV. CONDITIONS FOR THE TEMPORARY USE OF DUTY-FREE AND TAX-EXEMPT MOTOR VEHICLES OUTSIDE THE FREEPORT ZONE

Temporary use outside the Freeport Zone shall be subject to the following conditions:

1) Allowable Period for the Temporary Use Outside the Zone

All TEVs cannot be used outside of the Freeport Zone for more than three hundred thirty six (336) hours or fourteen (14) days in a month.

In instances that the TEV users shall exceed the 14-day allowable period, the locator shall submit a prior written request to the Zone Authority's Motor Vehicle Registration unit or its equivalent office and the reasons for the extension. The Zone Authority shall then process the request for approval.

2) Technology-Based Monitoring System

The Authorities shall adopt the use of state of the art technology to better monitor the compliance with the allowed maximum 14-day period outside the Free Port Zones for each month. The technology may be any one of the following:

A. Global Positioning System (GPS)

The Authorities shall accredit GPS service providers who shall have a private contract with the TEV owner. The contract shall include a non-disclosure agreement that will protect the Locator's right to privacy. However, the Authorities shall ONLY be notified by the service provider in two specific instances:

1. there is a violation of the 14-day maximum period
2. the installed equipment in the TEV is broken or tampered

B. Radio Frequency Identification (RFID) System

The Radio Frequency Identification (RFID) tag shall be incorporated with the gatepass stickers issued by the Authorities. RFID scanner shall also be installed in all the gates of the Freeport Zones to record the in-and-out of the TEV.

3) Future Technology

The Authorities shall continuously study the new systems that shall evolve in the future and may adopt which ever could best serve the monitoring purpose of the Freeport Zones and their locators, while respecting the life and validity of existing service contracts.

V. ADMINISTRATIVE FEES

- All TEVs to be admitted to Freeport Zone shall be assessed a processing fee of US\$100.00 per vehicle. However, applications for admission of “green vehicles” shall be imposed a processing fee of US\$20.00 only.

A green vehicle is defined as a vehicle that is considered to be more environmentally friendly than traditional all-petroleum internal combustion engine vehicles (APICEVs). Green vehicles include, among others, hybrid gas, solar-powered, hydrogen-fueled and electric vehicles.

- All TEVs applying for clearance in support of the annual LTO registration renewal, subject to the condition that the Locator remains qualified, shall be issued a Certificate of Renewal upon payment of an administrative fee of US\$25.00 per vehicle.

- All TEVs intended for sale, transfer, assignment, or payment of duties and taxes, subject to the conditions set forth in Section III hereof, shall be issued a clearance upon payment of an administrative fee of US\$100.00 per vehicle.

IV. INVENTORY AND INSPECTION POLICY

- TEVs shall be subject to periodic and on-the-spot inspection or inventory.

- TEVs must be presented at least once a year or in the manner or at such times as may be set by the Zone Authority.

VII. FINES AND PENALTIES

Violations

Fines & Penalties

1. Loading/Shipping of the requested motor vehicle at the port of origin prior to the approval of the Zone Authority. US\$5,000.00

2. Sale, Transfer, Assignment, or Payment of duties and taxes of TEV without prior payment of clearance. US\$2,000.00 (exclusive of duties and taxes)

3. Failure to present TEV for inspection/inventory US\$1,000.00

4. Unauthorized use of TEV outside the Freeport Zone longer than the approved limit of three hundred thirty six (336) hours or fourteen (14) days in a month.

US\$20 per hour for the first 10 hours beyond the 14-day allowed period

US\$25 per hour for the succeeding hours thereafter

The presumption of smuggling arises after 48 hours subsequent to the lapse of the 14-day allowable period. The violation shall be reported to the BOC and LTO for appropriate action and the suspension or cancellation of CRTE/Tax incentives shall be imposed upon Board approval.

5. Any other act or omission tending to circumvent these Policy Guidelines Depending on the surrounding circumstances, penalties may range from a fine of US\$500.00 to the forfeiture of the TEVs and suspension or cancellation of future applications for admission of TEVs and of the CRTE.

VII. MISCELLANEOUS PROVISIONS

- The parties herein shall coordinate with concerned government offices and agencies in pursuit of the objective of assisting locators and prospective locators in securing the required documents and permits with ease.
- In coordination with the ICQ Technical Working Group created by the SCAD Council, these joint policy guidelines shall be subject to review when necessary, and may be amended thereafter.
- These joint policy guidelines shall take effect immediately.

08 November 2010, Clark Freeport Zone, Philippines.

Adopted: 11 January 2011

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[1] Office of the Government Corporate Counsel Opinion No. 108, series of 2008.

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