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Further to the memorandum of this Office dated December 5, 1995, copy attached, reiterating the "seating capacity rule" in determining whether or not an imported motor vehicle is subject to Ad Valorem Tax under Section 149, National Internal Revenue Code (NIRC), the following guidelines are hereby prescribed:

1. No motor vehicle with a seating capacity less than ten (10) shall be released without payment of ad valorem tax (AVT) unless the vehicle is covered by an Authority to Release Imported Goods (ATRIG) specifically exempting the same from the payment of AVT.
2. The indorsement for the issuance of ATRIG to the Bureau of Internal Revenue (BIR) containing the initial computation of taxes and duties payable on the motor vehicle shall always be based on the "seating capacity rule" It is up to the BIR to accept or reject the initial computation based on the "seating capacity rule".
3. Except at the Manila international Container Port (MICP) where there is an assigned BIR official at the One-Stop Processing Center (OSPC), the indorsement for the issuance of ATRIG shall be sent to the BIR only thorough official channels: at the Port of Manila, by the official messenger of the Formal Entry Division who shall hand-carry the same to the BIR Revenue District Office No. 33, in all other ports, by the official messenger of the port to the respective BIR Revenue District Office (RDO) whose jurisdiction covers such port of entry.
4. Only those ATRIGs issued and officially transmitted by the above BIR offices may be honored and given due course.
5. The receiving Customs office shall ensure the genuineness and due execution of ATRIGs by verifying the same with the issuing BIR office.
6. In case of ATRIGS not subjecting a motor vehicle to ad valorem tax (AVT), a copy of the same and the referral indorsement to BIR shall be furnished to the Commissioner of Customs thru the Customs Internal Audit.

This Order shall take effect immediately.

For compliance.

Adopted: 15 Feb. 1996

(SGD.) GUILLERMO L. PARAYNO, JR.
Commissioner

"Attachment"

Memorandum

Rule in Determining Whether an Imported
Motor Vehicle is a Utility Vehicle or An
Automobile Subject to Ad Valorem
Tax Under Section 149, NIRC

The Office of the Commissioner has been receiving many inquiries on what is the prevailing regulation in determining when an ad valorem tax under Section 149 of NIMC is impossible.

On this regard, this Office reiterates its previous Memorandum dated 13 December 1994 specifically stating that:

Seating capacity is still the rule to be applied in determining whether a motor vehicle is an automobile or a utility vehicle. Motor vehicles specially designed to transport passengers not exceeding nine(9) persons including the driver shall be considered as automobiles subject to ad valorem tax under Section 149 of the National Internal Revenue Code of the Philippines."

This ruling which has not been amended by BIR is consistent with Note No. 3 of Chapter 87 page 440 of the Tariff and Customs Code of the Philippines as amended which provides

"3. For the purposes of Heading No. 87.02, the expression public -transport type passenger motor vehicles designed for the transport of ten persons or more (including the driver)"

Be guided accordingly

Adopted: 5 Dec. 1995

(SGD.) GUILLERMO L. PARAYNO, JR.
Commissioner

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