

PRESCRIBING THE GUIDELINES IN DETERMINING THE HS CLASSIFICATION OF MOTOR VEHICLES AND THE SEATING CAPACITY OF PASSENGER VEHICLES FOR TARIFF PURPOSES

BOC CUSTOMS TARIFF CLASSIFICATION ORDER NO. 2-97, October 01, 1997

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For tariff purposes, the following rules and regulations are hereby prescribed in the determination of the appropriate Harmonized System Code of motor vehicles, and the seating capacity of passenger motor vehicles classifiable on the basis of seating capacity:

1.0 The HS Classification per seating capacity:

1.1 A passenger motor vehicle shall be classified under HS 87.03 with a duty rate up to 1999 of 40% ad valorem if the factory installed seats can properly seat only nine (9) passengers including the driver as explained in 2.0 below.

1.2 To be outside the contemplation of HS 87.03, a passenger vehicle must have seats capable of properly seating ten (10) or more passengers including the driver as explained in 2.0 below, in which case, the same shall be classified under HS 87.02 with a duty rate up to 1999 of 30% ad valorem. Excluded from this provision are those vehicles described in 3.0 below which must be classified as directed therein.

2.0 The number of passengers that a vehicle can properly seat shall be determined as follows:

2.1 One passenger seat must meet the area specification of a horizontal rectangular area, of not less than thirty - five centimeters wide and sixty centimeters long, except in the front seat, which shall allow an area of fifty centimeters wide for the operator/driver. The sixty (60) centimeter length must be measured from the rear end of the seat to beyond the front end such that, in effect provision, is being given for passenger's legs and knees to extend beyond the seat itself.

2.2 The number of seats shall be determined by counting the number of seat spaces that meet the horizontal rectangular area specifications of 50cm x 60cm for the driver, and 35cm x 60cm for each passenger explained in 2.11 above. a contiguous row of seats shall have as many number of passenger seats as there are seat spaces that meet the specifications of 2.1.

2.3 Any fraction of a seat shall not be counted as a passenger seat, even if there are multiples of such fractions of a seat.

2.4 Aside from providing for the knees and leg spaces as in 2.1 above, a seat must also provide sufficient head room that will afford an adult average-built passenger to sit comfortably. Any seat space without the corresponding feet spaces, leg and head rooms, even if the seat itself meets the area measurements, 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 rest both his feet; by leg room means that the passenger normally rest 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 in addition to the extension described in 2.1; and head rooms 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; 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.

2.5 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 likewise be treated in the same manner.

3.0 Motor vehicles not classifiable based on seating capacity. - Regardless of seating capacity, the following motor vehicles shall be classified under

3.1 Motor cars (e.g. saloon cars, hackney carriages, sports cars, racing cars, sedans, limousine). Thus, an stretched limousine is classified under this heading even if it has a seating capacity of ten (10) or more passengers.

3.2 On-road or off-road motor vehicle with two doors, front bucketseats such as jeeps.

3.3 Specialized transport vehicles such as ambulances, prison vans, and hearses.

3.4 Motor-homes (campers, etc.) vehicles for the transport of persons, specially equipped for habitation (with sleeping, cooking, toilet facilities, etc.)

3.5 Vehicle specially designed for travelling on snow (e.g. snowmobiles).

3.6 Golf cars, golf carts and similar vehicles.

3.7 Amphibious passenger motor vehicles.

3.8 Light air cushion vehicles (hovercraft) designed to travel over both land and water.

3.9 Three-wheeled vehicles, (other than motorcycles with side cars classifiable under HS 87.71), such as those fitted with motorcycle engine and wheels, which by virtue of their mechanical structure possess the characteristics of conventional motor cars, i.e., motor car type steering system or both reverse gears and differential; and those mounted on a T-shaped chassis, whose two rear wheels are independently driven by separate battery-powered electric motors, normally operated by means of a single central controlled stick which the driver can start, accelerate, brake, stop and reverse the vehicle, as well as steer it by applying a differential torque to the drive wheels or by turning the front wheel.

4.0 A motor vehicle having both passenger and cargo compartments shall be considered:

4.1 Designed for the transport of passengers in the following instances:

4.1.1 Both the passenger and the cargo compartments are in the same body shell with no physical division in between other than the seats, as in a multi-purpose vehicle even if the passenger seats are totally collapsible into a flat bed to allow for cargo space, the area occupied by the seat shall be considered a part of the passenger compartment.

4.1.2 Even if in the same body shell the cargo compartment is bigger than the passenger compartment for as long as the cargo compartment provides for windows as are ordinarily present in passenger vehicles, as in a commuter van.

4.2 Designed for the transport of goods and thus, classifiable under HS 87.04, in the following instances:

4.2.1 The cargo compartment is physically separated from the passenger compartment as in pick-ups or crew cabs;

4.2.2 Even if both compartments are not physically separated from each other, but the cargo area is bigger than the passenger compartment and the cargo compartment is devoid of windows as in a cargo van.

5.0 A motor vehicle principally designed for the transport of passengers shall be classified as such even if it is to be used for other purposes.

Thus, a 9-seater passenger van shall be classified under HS 87.03 and not under HS 87.04 even if it is to be used as a work truck in a golf course.

Any order, memorandum or circular not consistent herewith is hereby deemed revoked, repealed or modified accordingly.

This order shall take effect immediately.

Please be guided accordingly.

Adopted: 01 Oct. 1997

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

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