

REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
Quezon City

June 05, 2003

REVENUE MEMORANDUM CIRCULAR NO. 32-2003

SUBJECT : Revised Uniform Guidelines on the Imposition of Value Added Tax on the Sale Through the Public Auction/Negotiated Sale of Motor Vehicles Imported Through the Subic Freeport Zone and other Freeport Zones

TO : All Internal Revenue Officials and others Concerned

I. Background - On June 3, 2003, Revenue Memorandum Circular (RMC) No. 31-2003 was issued to clarify the tax treatment of motor vehicles and heavy transportation/construction equipments imported through the Subic Economic and Freeport Zone (SSEFZ), as well as through the other legislated freeport zones and thence sold these thru public auction or negotiated sale. Said circular was issued on the premise that while the importation of the vehicles are deemed terminated prior to the conduct of auction sale which sale in effect becomes a second vatable event, the computation of excise tax at Customs is not based on the importer's selling price. Subsequent information gathered from the Bureau of Customs indicates that the excise tax is being assessed based on the estimated importers selling price which includes a ten percent (10%) profit margin.

In view of this additional information, this Circular is issued to clarify the implementation of RMC No. 31-2003 with regard to the taxability on the sale of imported motor vehicles whether by public auction or through negotiated sale.

II. Implementation – The imported motor vehicles after its release from Customs custody are sold through public auction/negotiated sale by the consignee within or outside of the Freeport Zone:

- A.** The gross income earned by the consignee-seller from the public auction/negotiated sale of the imported vehicles shall be subject to the preferential tax rate of five percent (5%) in lieu of the internal revenue taxes imposed by the National Internal Revenue Code of 1997, provided that the following conditions are present:
1. That the consignee-seller is a duly registered enterprise entitled to such preferential tax rate as well as a registered taxpayer with the Bureau of Internal Revenue (BIR).

2. That the total income generated by the consignee-seller from sources within the customs territory does not exceed thirty percent (30%) of the total income derived from all sources.

B. In case the consignee-seller is a registered enterprise and/or locator not entitled to the preferential tax treatment or if the same is entitled from such incentive but its total income from the customs territory exceeds thirty percent (30%) of its entire income derived from the customs territory and the freeport zone, the sales or income derived from the public auction/negotiated sale shall be subjected to the regular internal revenue taxes imposed by the Tax Code. The consignee-seller shall also observe the compliance requirements prescribed by the Tax Code. When public auction or negotiated sale is conducted within or outside of the Freeport zone, the following tax treatment shall be observed:

1. Value Added Tax (VAT)/Percentage Tax (PT) – VAT or PT shall be imposed on every public auction or negotiated sale.
2. Excise Tax – The imposition of excise tax on public auction or negotiated sale shall be held in abeyance pending verification that the importer's selling price used as a basis by the Bureau of Customs in computing the excise tax is correctly determined.

III. Authority to Release Imported Goods (ATRIG) requirement- For motor vehicles defined as automobiles under the existing revenue regulations and imported through the SSEFZ, an Authority to Release Imported Goods (ATRIG) shall be secured from the Regional Director, Revenue Region No. 4, San Fernando, Pampanga through the Revenue District Officer, RDO No. 19, SBMA before the value added/excise taxes, if any, is paid and the automobile is released from the Bureau of Customs, pursuant to the Joint Memorandum Circular No. 1-2002 between the BIR and the BOC and Revenue Memorandum Order No. 35-2002 dated October 28, 2002.

All revenue officials and employees and other concerned are enjoined to give this circular as wide a publicity as possible.

(Original Signed)
GUILLERMO L. PARAYNO, JR.
Commissioner of Internal Revenue