October 19, 2016

BIR RULING NO. 354-16

Sec. 131, NIRC; RR 2-2016; RR 03-08; RMC 48-02

Asian Development Bank
6 ADB Avenue, Mandaluyong City
1550 Metro Manila, Philippines

Attention: *AAA*

Gentlemen :

This refers to your letter dated July 5, 2016 requesting clarification on the applicability of Revenue Regulations (RR) No. 2-2016 on diplomatic missions and international organizations such as the Asian Development Bank (ADB).

It is represented that prior to the issuance of RR No. 2-2016, ADB tax-exempt shipments were not required by the Bureau of Customs (BOC) to undertake the ATRIG process in view of the exemption of the diplomatic and international organization (IO) community under the previous RR on ATRIG and that RR No. 2-2016 has created a confusion and additional processes which may also be construed as disregarding the approval by the Department of Finance granted on the Free Entry Request (FER) for the BOC to release ADB tax-exempt shipments.

In reply, please be informed that while RR No. 2-2016 was issued to lay down guidelines and procedures on the *"Issuance of Authority to Release Imported Goods (ATRIGs) for Imported Automobiles Already Released from Customs Custody."* It however states that said guidelines generally applies to all importations, to wit:

> IV. When and under what circumstances ATRIG is issued
>
> The ATRIG shall be issued for *all importations of articles subject to excise tax (whether exempt or taxable)*, including the raw materials in the production thereof, as well as the machineries, equipment, apparatus or any mechanical contrivances

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especially used for its assembly/production; *and on all importations of articles exempt from VAT except on those articles specifically identified and enumerated in the Circular issued jointly by the Bureau of Internal Revenue and the Bureau of Customs, as circulated by RMC 48-2002.*

The ATRIG should be issued prior to release of the excisable product from the customhouse. Revenue Memorandum Order No. 35-2002 dated October 28, 2002 details the policies, guidelines and procedures in the processing of ATRIGs. In particular, for imported automobiles, Revenue Regulations No. 25-2003 dated September 16, 2003 mandates that all importations of automobiles whether for sale or otherwise, shall not be released without payment of *ad valorem* tax. Furthermore, under the Bureau of Customs (BOC) and Bureau of Internal Revenue (BIR) Joint Order which was published on the May 1, 2004, a Certificate of Payment shall be issued only when an ATRIG covering the automobile/vehicle is presented. In the event that the articles covered by the application for ATRIG have already been released from customs custody prior to issuance thereof, no ATRIG shall be allowed to be issued just to complete the documentation of the importation for Bureau of Customs (BOC) purposes.

Thus, an ATRIG shall be issued for all importations of articles subject to excise tax, whether exempt or taxable, except for the following articles enumerated under BIR-BOC Joint Memorandum Circular No. 1-2002: [1]

A. Live animals, and unprocessed meat carcasses or parts thereof (whether fresh, frozen, chilled, salted, dried or boneless), except race horses, game cocks or chicken for cock fighting, and pets;

B. Live marine food products or unprocessed meat/parts thereof (whether, fresh, chilled or frozen, dried, salted, shelled or filleted), except ornamental and aquarium fishes;

C. Unprocessed vegetables products (whether whole, cut, sliced, broken, dried, fresh, chilled, frozen, shelled, skinned or split);

D. Unprocessed edible fruits and nuts (whether fresh or dried, shelled or peeled), but not bottled, powdered or canned;

E. Unprocessed cereals; and

F. Unprocessed seeds, miscellaneous grains, medicinal herbs and plants.

Considering that RR No. 02-2016 provided for the repeal or modification of all other issuances inconsistent with the foregoing, it effectively repealed or modified RR No. 03-08 [2] in so far as it did not require an ATRIG for the removal of excisable articles in case of

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international organizations, such as ADB.

As it is, RR No. 02-2016 now requires an ATRIG for the removal of excisable articles intended for export or sale/delivery even to tax-exempt entities/agencies, such as the ADB, a requirement that does not appear in RR No. 03-08.

This ruling is being issued on the basis of the foregoing facts as represented. However, if upon investigation, it will be disclosed that the facts are different, then this ruling shall be considered null and void.

Very truly yours,

(SGD.) CAESAR R. DULAY
Commissioner of Internal Revenue

Footnotes

1. As reiterated in Revenue Memorandum Circular (RMC) 48-2002.
2. January 22, 2008, Amending Certain Provisions of Existing Revenue Regulations on the Granting of Outright Excise Tax Exemption on Removal of Excisable Articles Intended for Export or Sale/Delivery to International Carriers or to Tax-Exempt Entities/Agencies and Prescribing the Provisions for Availing Claims for Product Replenishment.

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