REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

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January 27, 2023

REVENUE MEMORANDUM CIRCULAR NO. 21-2023

SUBJECT : **Clarification and Guidance on Section 5 of Revenue Regulations (RR) No. 18-2021 on the Posting of Export Bond Prior to Removal of Tobacco Products, Heated Tobacco Products and Vapor Products for Export from Place of Manufacture**

TO : All Internal Revenue Officers, Employees, and Others Concerned

I. BACKGROUND

As a general rule, all removals of excisable articles from the place of production are subject to excise tax. The National Internal Revenue Code (NIRC) of 1997, however, provides exemptions for certain persons/entities, including exporters of goods otherwise subject to excise tax if sold domestically. Notwithstanding the Tax Code's provision for tax exemption, the Bureau of Internal Revenue (BIR) does not, as a matter of policy, grant outright tax exemption on removals of excisable articles intended for export as granting an outright exemption will expose the government to possible abuses by manufacturers/exporters.

With the issuance of RR No. 3-2008 dated January 22, 2008, the BIR provided two (2) remedies to taxpayers after payment of excise tax due on every removal of excisable articles intended for export or sale/delivery to international carriers or tax-exempt entities/agencies: (1) a claim for excise tax credit/refund; or (2) a *product replenishment*. The issuance also prescribes the guidelines and procedures for availing a claim for product replenishment as a relief from payment of excise tax on prior removals.

After the enactment of R.A. No. 11346, amending certain sections of the NIRC of 1997, specifically Sections 144 and 145, RR No. 18-2021 was issued, which provides that in lieu of prior payment of excise tax on orders of internal revenue stamps, excise tax payments on locally manufactured tobacco products, heated tobacco products and vapor products intended for export may be made through the Product Replenishment Debit Memo (PRDM) prescribed under RR No. 3-2008. Alternatively, the regulations provide for the posting of an export bond, viz.:

> "***Section 5.*** xxx
>
> xxx xxx xxx
>
> *Taxpayers may opt to post an export bond prior to the removal from place of manufacture of locally manufactured cigarettes, heated tobacco products, and vapor products, which is equivalent to the amount of the excise tax due thereon if sold domestically or said products for export maybe transferred from the place of manufacture to a bonded facility, upon posting of a transfer bond prior to export, in accordance with RA No. 11346.* xxx"

This Circular is issued to clarify the provisions pertaining to the posting of an export bond as an option available to manufacturers/exporters intending to export their tobacco products, heated tobacco products, and vapor products prior to removal thereof from the place of manufacture under paragraph 7, Section 5 of RR No. 18-2021, in relation to the provisions for a claim for product replenishment under RR No. 3-2008.

II. POLICIES

Pursuant to the provisions of RR No. 18-2021, manufacturers/exporters of tobacco products, heated tobacco products and vapor products intended for export may opt to either: (1) utilize their existing balance of excise tax credits, if any, under the Product Replenishment Scheme; or (2) post an export bond equivalent to the amount of the excise tax due on their products if sold domestically, prior to the removal of their excisable products intended for export; provided, however, that in no event shall the concerned manufacturers/exporters utilize both the product replenishment scheme and export bond at the same time for a single shipment.

The option of posting for an export bond may be availed of by the manufacturers/exporters of tobacco products, heated tobacco products or vapor products, subject to the following conditions:

a) In no case shall they avail of the two (2) options (product replenishment and export bond) at the same time to cover the excise tax due for the shipment;

b) The amount of the export bond shall be equivalent to, at a minimum, the applicable excise taxes due on the two (2) immediately preceding shipments.

c) The concerned manufacturers/exporters shall file and submit the export bond to the Excise Large Taxpayers Regulatory Division of the BIR and copy-furnish the Chief, Excise Large Taxpayers Field Operations Division.

ILLUSTRATION:

Taxpayer A, a cigarette manufacturer, exported to Taiwan 5 Million packs of its cigarette brands "VTG" with a total excise tax due thereon of ₱300,000,000.00. With previously approved Product Replenishment Certificates pending liquidation, Taxpayer A's balance of excise tax credits on previous shipments available for replenishment was ₱400,000,000.00. Taxpayer A applied the articles mentioned above for product replenishment. After approval of the application, Taxpayer A's remaining excise tax credits available for product replenishment amounted to ₱100,000,000.00.

Question: Assuming that Taxpayer A will export again to Taiwan the above-mentioned cigarette brand and the total excise tax due thereon is ₱250,000,000.00, considering that it has not submitted complete exportation documents for the liquidation of prior shipments, can Taxpayer A apply for a claim for product replenishment to cover the excise tax due on this subsequent shipment?

Answer: No, since Taxpayer A's balance of excise tax credits is insufficient to cover the applicable excise tax due on its new shipment. It, however, has the option of posting an export bond to cover the excise tax due on the shipment amounting to ₱250,000,000.00; provided that the amount of the bond shall be equal to, at the very least, the excise taxes due on its immediately preceding two (2) shipments. It posted an annual export bond worth ₱600,000,000.00.

Question: Taxpayer A has liquidated its prior exportations and its product replenishment balance is now ₱300,000,000.00. The remaining balance on its export bond is ₱350,000,000.00. It will again export a shipment with excise tax due thereon of ₱300,000,000.00. What option/s can Taxpayer A avail of?

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Answer: Taxpayer A can either utilize its balance under the product replenishment scheme or the balance of its export bond. However, it cannot avail of both options.

Availment of tax credit/refund or product replenishment is governed by existing policies and procedures prescribed by relevant Revenue Regulations and other issuances.

III. EFFECTIVITY

All concerned are hereby enjoined to be guided accordingly and give this Circular as wide a publicity as possible.

This Circular shall take effect immediately.

ROMEO D. LUMAGUI JR.
Commissioner of Internal Revenue
003466

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