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

September 2, 2020

REVENUE MEMORANDUM CIRCULAR NO. 94-2020

SUBJECT : **Circularizing the Joint Memorandum Order (JMO) No. 1-2020 Prescribing the Implementing Guidelines for the Collection and Disbursement of Fuel Marking Fees Pursuant to DOF-DBM-COA Permanent Committee Joint Circular 001.2018 and Payment of Fuel Marking Fee Using BIR Form No. 0623**

TO : **All Internal Revenue Officers and Others Concerned**

For the information and guidance of all internal revenue officials, employees and others concerned, attached herewith as **Annex "A" is the signed copy of Joint Memorandum Order (JMO) No. 1-2020 dated August 28, 2020,** "Prescribing the Implementing Guidelines for the Collection and Disbursement of Fuel Marking Fees Pursuant to DOF-DBM-COA Permanent Committee Joint Circular 001.2018."

Pursuant to Section 12 of the NIRC, as amended, BIR shall collect the Fuel Marking Fees at the same time as the internal revenue taxes on petroleum product subject to Fuel Marking are collected. For this purpose, filer or declarant shall use the **Fuel Marking Fee Form (BIR Form No. 0623) marked as Annex "B"** for payment of Fuel Marking Fee. The BIR must ensure that the Fuel Marking Fee has been paid before the marking of the fuel, hence prepayment is authorized.

In consideration of the biofuel requirements, a volume percentage allowance shall be added to the Declared Volume of the petroleum product to be marked. Thus, the Fuel Marking Fee shall be computed as follows:

a. **For Gasoline:**
   FMF= Declared Volume x 110% x Php 0.06884 (VAT inclusive)
b. **For Diesel:**
   FMF= Declared Volume x 102% x Php 0.06884 (VAT inclusive)
c. **For Kerosene:**
   FMF= Declared Volume x Php 0.06884 (VAT inclusive)

All internal revenue officials and employees are enjoined to give this Circular as wide a publicity as possible.

CAESAR R. DULAY
Commissioner of Internal Revenue

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/HREA,LTS EXCISE/bsm/glr

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Annex "A"

Republic of the Philippines
DEPARTMENT OF FINANCE
Bureau of Internal Revenue
Bureau of Customs

JOINT MEMORANDUM ORDER NO. 1-2020
28 August 2020

SUBJECT: PRESCRIBING THE IMPLEMENTING GUIDELINES FOR THE COLLECTION AND DISBURSEMENT OF FUEL MARKING FEES PURSUANT TO DOF-DBM-COA PERMANENT COMMITTEE JOINT CIRCULAR 001.2018

SECTION 1. Scope. – This Order shall govern the collection of Fuel Marking Fees and the disbursement of Fuel Marking Trust Account for the 2nd to 5th year of implementation of the Fuel Marking Program pursuant to Section 148-A subsection (h) of the National Internal Revenue Code (NIRC), as amended, in relation to Department of Finance (DOF), Department of Budget and Management (DBM) and Commission on Audit (COA) Permanent Committee Joint Circular No. 001.2018 and DOF-BIR-BOC Joint Circular 001.2019.

SECTION 2. Objectives.

2.1. To establish the procedure for the collection of Fuel Marking Fees for the mandatory marking of locally refined, manufactured or imported gasoline, diesel and kerosene, including those in Free Zones, after the duties and taxes thereon have been paid; and

2.2. To provide guidelines on the documentation and the validation thereof for purposes of payment to the Fuel Marking Provider.

SECTION 3. Definition of Terms. For purposes of this Order, the following terms are defined accordingly:

3.1 Declared Volume – shall refer to the volume of fuel declared by the Importer for purposes of payment of excise tax duly supported by verifiable documents, such as but not limited to Bill of Lading, Authority to Release Imported Goods (ATRIG), Commercial Invoice, etc.

3.2 Free Zone – shall refer to special economic zones registered with the Philippine Economic Zone Authority (PEZA) under Republic Act No. 7916, as amended, duly chartered or legislated special economic zones and freeports such as Clark Freeport Zone; Poro

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Point Freeport Zone; John Hay Special Economic Zone and Subic Bay Freeport Zone under Republic Act No. 7227, as amended by Republic Act No. 9400; the Aurora Special Economic Zone under Republic Act No, 9490, as amended; the Cagayan Special Economic Zone and Freeport under Republic Act No. 7922; the Zamboanga City Special Economic Zone under Republic Act No. 7903; the Freeport Area of Bataan under Republic Act No. 9728; and such other freeports as established or may be created by law[1];

3.3 **Fuel Marking** — shall refer to the addition or administration of Official Fuel Marker to petroleum products that are refined, manufactured, or imported into the Philippines, such as but not limited to, unleaded premium gasoline, kerosene, and diesel, after the taxes and duties thereon have been paid.[2]

3.4 **Fuel Marking Fee (FMF)** — shall refer to the fee to be paid by the refiner, manufacturer or importer of petroleum products for the marking services of the Fuel Marking Provider. The same shall be computed based on the agreed contract price of Php 0.06884 (VAT inclusive), multiplied by the actual liter of fuel marked by the Fuel Marking Provider.[3]

3.5 **Fuel Marking Provider** — shall refer to the firm engaged by the government that is responsible for providing, monitoring and administering the Official Fuel Marker, provide equipment and devices, conduct field and confirmatory tests, and perform such other acts incidental or necessary to the proper implementation of the provisions of the law and its implementing rules and regulations.[4]

3.6 **Fuel Marking Trust Account** — shall refer to the trust liability account established for the purpose of implementing the Fuel Marking Program and maintained by the Bureau of the Treasury (BTr) pursuant to Section148-A, subsection (h) of the NIRC, as amended and DOF-DBM-COA Joint Circular No. 001.2018 dated October 2, 2018.[5]

3.7 **Implementing Agencies** — shall refer to the Bureau of Customs (BOC) and the Bureau of Internal Revenue (BIR), which are mandated under Section 148-A, subsection (f) to supervise and

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[1] Republic Act No. 10863, Section 102(w)
[2] DOF-BOC-BIR Joint Circular 001.2019, Section 2.6
[3] *cf* Section 3.3., Permanent Committee Joint Circular No. 001-2018
[4] *cf* Section 148-A, subsection (f) of the National Internal Revenue Code as amended by Republic Act No. 10963
[5] DOF-BOC-BIR Joint Circular 001 2019, Section 2.9

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direct the Fuel Marking Provider in the administration and implementation of the Fuel Marking Program.

3.8 **Importer** — shall refer to a natural or juridical person engaged in the import of any goods into the Philippines. For the purpose of this Order, this shall also refer to the person, entity, or consignee-on-record who imports the petroleum products into the country.

3.9 **Marking Services** — shall refer in general to the end-to-end solution provided by the Fuel Marking Provider to the Philippine Government. These shall include but are not limited to, providing the fuel markers, administering and injecting the fuel markers, conducting field testing and confirmatory laboratory testing, and all other necessary services and goods in relation to FMP as contracted.[6]

3.10 **Official Fuel Marker** – shall refer to the chemical additive and corresponding quantitative ratio identified by the Secretary of Finance as the Official Fuel Marker. The Official Fuel Marker must be distinct and, to the greatest degree possible, impossible to imitate or replicate. Provided, that the Official Fuel Marker must be unique to the Philippines and that its chemical composition and quantitative ratio must persist for at least three (3) years from their application or administration to the unmarked fuel.[7]

3.11 **Refiner** – shall refer to any a natural or juridical person who locally refines petroleum through distillation, conversion and treatment thereof.[8]

SECTION 4. Collection of Fuel Marking Fees. The BIR and BOC shall collect the Fuel Marking Fee (FMF) at the same time as the internal revenue taxes on manufactured, refined or imported petroleum products are collected.[9] In all instance, the FMF and the internal revenue taxes must be paid by the importer or refiner prior to the marking activities.

4.1 **BOC.** Pursuant to Section 12 of the NIRC, as amended, BOC shall collect the Fuel Marking Fees on imported petroleum product subject to Fuel Marking. For this purpose, the following guidelines shall be observed:

a. When the Importer or declarant lodges the goods declaration, the code "**FMF**" shall trigger the computation of

[6] DOF-DBM-COA Permanent Committee Joint Circular 001 2018, Section 3.7
[7] DOF-BOC-BIR Joint Circular 001.2019, Section 2.13.
[8] cf. Department of Energy (DOE) Department Circular 2003-01-001
[9] DOF-BOC-BIR Joint Circular 001.2019, Section 3.1

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Fuel Marking Fee for petroleum products subject to Fuel Marking.

b. Duties and taxes for petroleum products subject to Fuel Marking shall be computed pursuant to existing laws and their implementing rules and regulations.

c. All District and Port Collectors shall ensure that the volume allowance and Fuel Marking Fee are properly computed and paid prior to Fuel Marking.

4.2 **BIR.** Pursuant to Section 148 of the NIRC, as amended, the BIR shall collect the Fuel Marking Fees for locally refined or manufactured petroleum product. For this purpose, the following guidelines shall be observed:

a. For payment of Fuel Marking Fee, the Refiner shall use the ***Fuel Marking Fee Form (FMFF).*** *The form shall capture the* VAT component as reference for the fuel company/owner in recording the VAT upon payment of the Fuel Marking Fee.

b. In the instance that the balance of Fuel Marking Fee as reflected in the FMFF is not enough to cover the volume of fuel to be marked, additional deposit shall be made prior to Fuel Marking.

c. A separate report shall be provided by the Excise LT Field Operations Division (ELTFOD) specifying the Total Deposit and Actual Utilization to account for the balance of deposit and/or payable either prior to scheduled marking, if available or after the marking as a basis for monitoring/tax administration purposes.

d. To ensure sufficiency of balance of fuel marking fees, the manufacturers/ Refiners shall make a forecast of its removal of finished petroleum products and provide sufficient deposit corresponding to the amount of future removals for not less than 3-5 calendar days.

4.3 The BOC and BIR shall commence collection of the Fuel Marking Fees on all manufactured, refined or imported petroleum products withdrawn and/or lodged beginning **4 September 2020**.

4.4 The Fuel Marking Fee shall be characterized as non-revenue collection, recorded as trust receipts and credited to the Fuel Marking Trust Account to be maintained by the Bureau of Treasury (BTr) pursuant to the DOF-DBM-COA Joint Circular No. 001.2018 dated October 2, 2018.

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SECTION 5. Computation of Fuel Marking Fees. In consideration of the biofuel requirements of Republic Act No. 9367, otherwise known as the "Biofuel Act of 2006," a volume percentage allowance shall be added to the Declared Volume of the petroleum product to be marked. For this purpose, the Fuel Marking Fee shall be computed as follows:

5.1 For Gasoline:
FMF= Declared Volume x 110% x Php 0.06884 (VAT inclusive)

5.2 For Diesel:
FMF= Declared Volume x 102% x Php 0.06884 (VAT inclusive)

5.3 For Kerosene:
FMF= Declared Volume x Php 0.06884 (VAT inclusive)

SECTION 6. Payment to the Fuel Marking Provider. The BOC shall be responsible for payment of the amount due to the Fuel Marking Provider for Marking Services rendered based on the contract price in the amount of six thousand, eight hundred eight-four hundred thousandths centavos per liter (P0.06884 per liter) for the second through the fifth year of the Fuel Marking Program.

The payment shall be sourced from the Trust Receipt created pursuant to Section 148-A of the NIRC, as amended, in relation to DOF-DBM-COA Permanent Committee Joint Circular 001.2018.

For this purpose, the following documents shall be submitted for disbursing the amount due to the FMP for services rendered:

6.1. For processing of initial payment:

a. The following documents[10] shall be duly indorsed by the Procurement Service-DBM to the Bureau of Customs:
   i. Copy of the Approved Contract;[11]
   ii. Notice to Proceed/ Notice of Award, if any;
   iii. Transmittal of Documents to Commission on Audit (COA) (with checklist) duly received by COA;
   iv. PhilGEPS Posting (complete) / Certification from PhilGEPS;
   v. Copy of Contract or Terms of Reference (TOR), if applicable;
   vi. Certified True Copy of Performance Security, if any

[10] cf. Checklist of Documents to be submitted to Comptroller for Payment, Procurement Service-PhilGEPS, DBM
[11] cf. COA Circular 2012-001

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b. From the Fuel Marking Provider:
    i. Approved detailed breakdown of the contract cost showing in sufficient detail the derivations of the direct and indirect cost, the cost/s and date/s of acquisition of the equipment: and the list, quantities and costs of materials, spare parts, and supplies furnished by the contractor;

6.2. For processing of every Billing:

a. From the Fuel Marking Provider:
    i. Letter-request for payment;[12]
    ii. Billing Statement/Monthly Report on Fuel Marking Services rendered with attached Certificates of Marking;[13]
    iii. Monthly report on Field Testing with attached Random Field Test and Confirmatory Test Results, if applicable;[14]
    iv. Notice of Postponement and Proceed, if any;[15]
    v. Letter of Extension of Delivery/ Waiver of Penalty, if applicable;[16]

b. From the BOC Technical Inspection and Acceptance Committee (TIAC):
    i. Inspection Certification and Acceptance Report (ICAR);[17]
    ii. Inspection and Evaluation Report signed by TIAC;[18]
    iii. Inspection and Acceptance Report (IAR) signed by the TIAC and Fuel Marking Program Project Implementation Office (FMP-PIO),[19]
    iv. Endorsements from the TWG/TIAC-BOC of the detailed breakdown for payment

c. From the FMP-PIO:
    i. Certification that the marking covered in the submitted billing statements were witnessed by BOC;

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[12] Commission on Audit (COA) Circular 2012-001. Prescribing the Revised Guidelines and Documentary Requirements for Common Government Transactions
[13] Terms of Reference: Establishment and Operation of a Fuel Marking and Field Testing System, Section VIII
[14] Ibid.
[15] cf. Checklist of Documents to be submitted to Comptroller for Payment, Procurement Service-Philgeps, DBM
[16] Ibid.
[17] Ibid.
[18] Ibid
[19] Ibid.

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ii. Delivery Receipt signed by FMP-PIO;

d. If the Billing is for Marking Services under the jurisdiction of the BIR, the following shall likewise be submitted:
   i. Journal Entry Voucher issued by the BIR taking up Fuel Marking Fees collected which is due for transfer to the Fuel Marking Trust Account;
   ii. Journal Entry Vouchers issued by the Bureau of Treasury (BTr) taking up the fund transfer from the General Fund (BIR) to Fuel Marking Trust Fund (BOC);
   iii. BIR Validation Report and Indorsement for payment of the billing statements based on the actual fuel marking activity conducted within the jurisdiction of BIR. The details of the billing statements shall be reflected in said validation report;
   iv. Delivery Receipt signed by BIR

6.3. Purchase Order (duly received by the Fuel Marking Provider);[20]
6.4. Amendment to Order/ Variation Order, if any;[21]
6.5. Bureau of Treasury (BTr) Certification;
6.6. Notice of Cash Allocation (NCA) release from Department of Budget and Management;
6.7. Other documentary requirements, if deemed necessary

SECTION 7. Separability Clause. – If for any reason, any provision/s of this Order is/are declared invalid, such parts thereof not affected shall remain in full force and effect.

SECTION 8. Repealing Clause. – All orders, circulars, memoranda, and other issuances, or parts thereof, which are inconsistent with this Order, are hereby repealed or modified accordingly.

[20] cf. Checklist of Documents to be submitted to Comptroller for Payment, Procurement Service-PhilGEPS, DBM
[21] Ibid.

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SECTION 9. Effectivity. – This Order shall take effect immediately after its publication in a newspaper of general circulation.

CARLOS G. DOMINGUEZ
Secretary of Finance
AUG 28 2020

Recommending Approval:

CAESAR R. DULAY
Commissioner of Internal Revenue
036466

REY LEONARDO B. GUERRERO
Commissioner of Customs

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