



CUSTOMS ADMINISTRATIVE ORDER (CAO)

NO. 12-2020

SUBJECT: IMPLEMENTING RULES AND REGULATIONS FOR SECTION 4(S), 4(CC), 4(ZZZ), AND SECTION 18 OF "BAYANIHAN TO RECOVER AS ONE ACT"

Introduction. This CAO implements Section 4, paragraphs (s), (cc), (zzz) and Section 18 of Republic Act No. 11494, otherwise known as "Bayanihan to Recover as One Act."

Section 1. Scope. This CAO shall cover importations of health products, equipment, or supplies in Section 4, paragraphs (s), (cc), and (zzz) and Section 18 of Republic Act No. 11494, otherwise known as "Bayanihan to Recover as One Act."

Section 2. Objectives.

- 2.1. To establish an informed compliance regime for importers and/or manufacturers entitled to exemption from import taxes, duties and fees under RA 11494; and
- 2.2. To facilitate speedy customs clearance of such tax and/or duty-exempt importations, without sacrificing the Bureau's other core functions of revenue collection and border security through application of risk management techniques and Information and Communication Technology (ICT) enabled monitoring and control systems.
- 2.3. To provide for a seamless refund mechanism for importations exempted from duties and taxes covered in the retroactive effect of the "Bayanihan to Recover as One Act."

Section 3. Definition of Terms. For purposes of this CAO, the following terms are defined as follows:

- 3.1. **Act** — shall refer to Republic Act No. 11494, otherwise known as "*Bayanihan to Recover as One Act*."
- 3.2. **Bureau** — shall refer to the Bureau of Customs.¹

¹ cf. CMTA, Title I, Chapter 2, Section 102 (i).

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- 3.3. Customs Duties** — shall refer to duties imposed on the importation of goods pursuant to the CMTA.
- 3.4. Tax Exemption Indorsement (TEI)** — shall refer to an indorsement from the Revenue Office (RO) of the Department of Finance (DOF) evidencing exemption of a particular importer from payment of duties and/or taxes on his importations.
- 3.5. Taxes** — shall refer to all taxes, fees and charges imposed under the Customs Modernization and Tariff Act and the National Internal Revenue Code (NIRC) of 1997, as amended, and collected by the Bureau.²
- 3.6. Value Added Tax (VAT)** — shall refer to a form of sales tax, levied on the sale, barter, exchange or lease of goods or properties and services in the Philippines and on the importation of goods into the Philippines as imposed pursuant to National Internal Revenue Code (NIRC).³

Section 4. General Provisions. Pursuant to Section 4(cc) and 4(zzz) of the Act, the importation of products, equipment or supplies deemed as critical or needed to carry out the policy declared in the Act⁴ and other goods necessary to aid in the COVID-19 public health emergency shall be exempt from duties, taxes, and fees, including:

- a. Personal Protective equipment such as gloves, gowns, masks, goggles, face shields, surgical equipment and supplies;
- b. Laboratory equipment and its re-agents;
- c. Medical equipment and devices;
- d. Support and maintenance for laboratory and medical equipment;
- e. Surgical equipment and supplies;
- f. Medical supplies, tools, and consumables such as alcohol, sanitizers, tissue, thermometers, hand soap, detergent, sodium hypochlorite, cleaning materials, povidone iodine, common medicines (e.g. paracetamol tablets and suspension, mefenamic acid, vitamins tablet and suspension, hyoscine tablet and suspension, oral rehydration solution, and cetirizine tablet and suspension);
- g. COVID-19 testing kits;
- h. Others as may be identified by the Department of Health and other relevant government agencies;

² cf. CMTA, Title I, Chapter 2, Subsection 102 (oo).

³ cf. Republic Act No. 8424 "National Internal Revenue Code of 1997", as amended.

⁴ cf. Republic Act No. 11494, Section 4, par. u (1).



- i. Equipment for waste management, including, but not limited to, waste segregation, storage, collection, sorting, treatment and disposal services;
- j. Inputs, raw materials and equipment necessary for the manufacture or production of essential goods referred to in Section 4(u)(1) of the Act related to the containment or mitigation of COVID-19, subject to the requirements as may be set forth by the Department of Trade and Industry; and
- k. Personal computers, laptops, tablets or similar equipment appropriate for use in schools, donated for distribution to public schools regardless of level, including state universities and colleges (SUCs) and vocational institutions under TESDA.⁵

Section 5. Retroactivity and Refund. Pursuant to Section 18 of the Act, the grant of exemption for goods under Section 4 (cc) of the Act, shall be deemed to be in effect since Republic Act No. 11469 expired or beginning 25 June 2020.⁶ Thus, all covered and qualified shipments which arrived and were cleared by the Bureau from 25 June 2020 subject to refund shall be processed pursuant to the provisions of CAO No. 04-2019⁷ and its related issuances.

For purposes of the refund, the covered and qualified shipment must secure a Tax Exemption Indorsement (TEI) from the Department of Finance-Revenue Office (DOF-RO). The amount of refund shall be limited to actual duties and taxes received by the Bureau.

Section 6. Regulatory Clearance. The following policy shall be applied to the importation covered by this CAO:

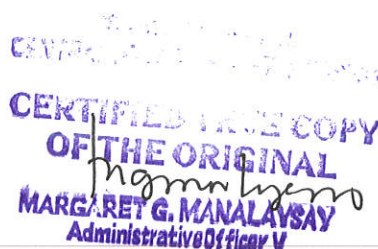
- 6.1.** The issuances of the Food and Drug Administration (FDA) and other regulatory agencies with regard to the requirements and clearances of goods covered under this Order shall be complied with, unless inconsistent with the provision of this Act.
- 6.2.** Imported health products for donation, duly certified by the regulatory agency or their accredited third party in the originating countries with established regulation, shall automatically be cleared. The certification shall not be required for health products which is not subject to clearance from FDA.⁸

⁵ cf. Republic Act No. 11494, Section 4, par. (zzz).

⁶ cf. Republic Act No. 11494, Section 18.

⁷ cf. Customs Administrative Order No. 04-2019.

⁸ cf. Republic Act No. 11494, Section 4, par. (s).



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- 6.3. The equipment and technologies and services being imported under Section 4(i) of this CAO shall be approved by the Department of Environment and Natural Resources, Department of Health, or other concerned agencies.⁹
- 6.4. The Department of Trade and Industry must certify that the equipment and supplies under Section 4(j) of this CAO being imported are not locally available or of insufficient quality and preference.¹⁰

Section 7. Operational Provisions.

- 7.1. Customs clearance procedure for importations of medical equipment and supplies for commercial purposes shall be in accordance with existing rules and regulations issued by the Bureau. Provided, that the actual value of the imported goods shall determine whether the clearance procedure is under formal or informal entry process.
- 7.2. The Bureau of Customs shall not unnecessarily delay the release of donated medical equipment and supplies deemed as critical or needed to carry out the objective of the Act.¹¹ Clearance procedure for donated medical equipment and supplies shall be under informal entry process.
- 7.3. The Joint Administrative Order on Relief Consignment and Customs Memorandum Order No. 07-2020 on the Interim Procedure on Provisional Goods Declaration and its related issuances shall apply in suppletory capacity for the speedy release of the medical equipment and supplies deemed as critical or needed to carry out the objective of the Act, including foreign donations to a national agency.
- 7.4. The shipments entitled to exemption under Section 4(cc) and 4(zzz) of the Act may be released under Provisional Goods Declaration (PGD) subject to the submission of Tax Exemption Indorsement (TEI) from the Department of Finance-Revenue Office (DOF-RO) within the period prescribed under the rules for PGD.

⁹ cf. Republic Act No. 11494, Section 4, par. (cc).

¹⁰ *Ibid.*

¹¹ cf. Republic Act No. 11494, Section 4(s).

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Section 8. Reportorial System. The Bureau of Customs shall submit a daily report of all importations covered by this CAO to the Secretary of Finance for statistical and monitoring purposes.

Section 9. Penal Provision. Any person, whether natural or juridical, who makes or attempts to make any entry of imported goods by means of any false or fraudulent statement in order to avail of the privilege shall be subject to sanctions and penalties provided under Section 1401, Chapter 1, Title XIV of the CMTA.

Section 10. Covered Period. The grant of exemption shall only cover importations which arrived and were cleared by the Bureau upon the effectivity of the Act until 19 December 2020.¹² This is without prejudice, however, to Section 4 (cc) of the Act which is effective beginning 25 June 2020 and the privilege granted to importers under Section 121 or 800 (m) of the CMTA.

Section 11. Separability Clause. If any part of this CAO is declared unconstitutional or contrary to existing laws, the other parts not so declared shall remain in full force and effect.

Section 12. Effectivity. This CAO shall take effect immediately after publication in the Official Gazette or a newspaper of national circulation.

The Office of National Administrative Register (ONAR) of the UP Law center shall be provided three (3) certified copies of this CAO.



REY LEONARDO B. GUERRERO

Commissioner of Customs
SEP 15 2020

APPROVED:



CARLOS G DOMINGUEZ
Secretary of Finance

SEP 18 2020



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¹² cf. Republic Act No. 11494, Section 4(s).