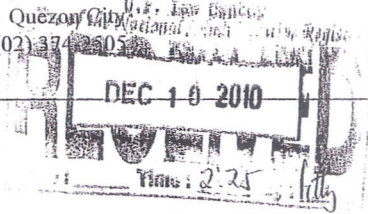


Republic of the Philippines
DEPARTMENT OF AGRICULTURE
NATIONAL TOBACCO ADMINISTRATION

Scout Reyes Street, corner Panay Avenue, Quezon City, National Capital Region, Philippines
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MEMORANDUM CIRCULAR NO. 003, SERIES OF 2010

TO : ALL EXPORTERS/IMPORTERS/TRANSHIPPERS OF TOBACCO PRODUCTS

SUBJECT : AMENDMENT/ADDENDUM TO THE RULES AND REGULATIONS GOVERNING THE EXPORTATION AND IMPORTATION OF LEAF TOBACCO AND TOBACCO PRODUCTS TO INCLUDE TRANSSHIPMENTS WITHIN FREEPORT AND PEZA-REGISTERED ECONOMIC AND PROCESSING ZONES

DATE : 09 December 2010

WHEREAS, the **NATIONAL TOBACCO ADMINISTRATION (NTA)** recognizes the existence of a new tobacco business activity of transshipping tobacco products which is usually undertaken within freeport zones and/or legislated and/or Philippine Economic Zone Authority (PEZA)-registered Economic and Processing Zones (EPZ);

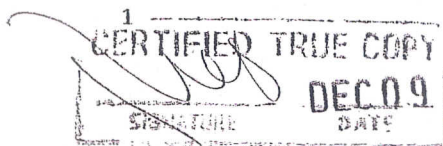
WHEREAS, while the **NTA** recognizes that this business undertaking encourages, promotes, induces and accelerates a sound and balanced industrial, economic and social development of the country, it is likewise equally important to take into consideration from verified reports that most contraband cigarettes usually originate from the Philippines, among other countries, through the facilities of these economic zones, which clandestinely make it to the local market and greatly affects the Philippine tobacco industry, thus deprives the government of millions in revenues;

WHEREAS, in order that the reputation of the Philippines will not continue to be tainted with depravity and anonymity of fraud on illegal activities, such as smuggling and counterfeiting of tobacco products, there is a need to prescribe and promulgate rules and regulations to monitor, supervise and regulate the transshipment of tobacco products;

WHEREAS, Section 6 of Republic Act No. 9334, amending Section 131 of the Internal Revenue Code, removed the tax exemption of tobacco products destined to legislated free ports/zones. Also, cigars/cigarettes removed or transferred from one free port to another free port shall be deemed an importation into the Philippine customs territory;

WHEREAS, the Philippine government, through the **NTA**, pursuant to the provisions of the World Health Organization-Framework Convention on Tobacco Control (WHO-FCTC), is mandated to adopt stricter rules and procedures for the protection of the rights of the people for the safeguard of their health from the hazards of tobacco smoke;

WHEREAS, the **NTA** as the government agency mandated to regulate the tobacco industry, has the sole authority to issue rules and regulations to monitor, supervise and regulate the transshipment of tobacco products through the expansion in the



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application of the NTA Rules and Regulations Governing the Exportation and Importation of Leaf Tobacco and Tobacco Products, to cover the transshipments of the tobacco products undertaken through the facilities of freeport and economic zones;

FOR AND IN CONSIDERATION OF THE FOREGOING PREMISES, after due consultation with the concerned transshippers/stakeholders of the tobacco industry and by virtue of the powers and authority vested upon the NTA, the following addendum to the rules and regulations governing the exportation and importation of tobacco products is hereby adopted for the guidance, information and compliance by all concerned:

Section 1. Section 1 of the Amended Rules and Regulations Governing the Exportation and Importation of Leaf Tobacco and Tobacco Products is hereby amended to read as follows:

“Section 1. Title. - These rules and regulations shall be known as and cited as the “Tobacco Exportation, Importation and Transshipment Rules and Regulations”.

Section 2. Section 2 is hereby amended to read as follows:

“Section 2. Purpose and Objectives. – These rules and regulations are promulgated to prescribe the procedure and guidelines in order to facilitate the processing of exportation and importation of leaf tobacco and tobacco products and transshipment of tobacco products.”

Section 3. Section 4 is hereby amended to read as follows:

“Section 4. Declaration of Policy. – It is the policy of the government to promote the balanced and integrated growth and development of the tobacco industry to help make agriculture a solid basis for industrialization by administering and regulating the exportation and importation of leaf tobacco and tobacco products and transshipment of tobacco products. It is likewise the policy of the government to protect the populace from hazardous products and promote the right to health and instill health consciousness among them, with the corresponding obligation of the government to institute a balanced policy to promote the general welfare, to safeguard the interests of the workers and other stakeholders of the tobacco industry.”

Section 4. Section 5 is hereby amended to include the following:

“Section 5. Definition of Terms. –

x x x

- t. Transshipment - refers to transshipment of articles discharged at ports or airports of entry located in customs territory destined for delivery and actually delivered to freeport and PEZA-registered economic zones and articles coming from the latter intended for export and actually exported thru a Philippine Customs port/airport of entry which may be transported under bond, upon examination and consigned to the collector at the port of destination/export who will allow the consignor or the consignee to make entry exportation.”**

Section 5. Section 7 is hereby amended to include the following:

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"Section 7. Requirements. -

x x x

h. Certificate of Registration as Locator, in case of transshippers"

Section 6. Section 8 is hereby amended to include the following:

"Section 8. Processing of Application, Issuance of Authority and Fees. -

x x x

A. License/Permit Fee (Annual)

x x x

3. Transshipment Permit - PhP11,250.00."

Section 7. Section 10 is hereby amended to be read and to include the following:

"Section 10. Application for Export/Import/Transshipment Commodity Clearance. -

x x x

For transshipments of tobacco products, the transshippers shall secure from the NTA a Transshipment Commodity Clearance (TCC), which shall be valid within the calendar month of issuance. Said TCC shall authorize the applicant named therein to make transshipments, subject to payment of the corresponding monitoring fees as provided in this rules and regulations.

Transshippers located outside Metro Manila may file their applications by courier to be sent to the NTA, Attn: Regulation Department, at its office at NTA Bldg. Scout Reyes Street corner Panay Avenue, Quezon City or by facsimile at telefax numbers (02)3742505 or (02)3732095."

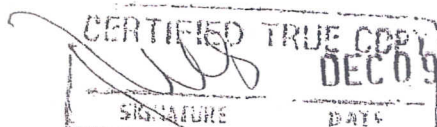
Section 8. Section 11 is hereby amended to read as follows:

"Section 11. Processing Fee. - Upon filing of the application for export/import/transshipment commodity clearance for processing, the exporter/importer/transshipper shall pay to the NTA-Central Office Cashier, a processing fee in the amount of PhP2,000.00, per ICC/ECC or monthly TCC. In the case of Export Commodity Clearance with Certificate of Authenticity for locally grown leaf tobacco, the exporter shall pay PhP3,000.00, per shipment/airway bill or bill of lading.

Within three (3) calendar days after the last day of the month of issuance of a previous TCC, with or without subsequent transshipments, the transshipper shall submit to the NTA the bills of lading, packing lists and commercial invoices of all transshipments made during the immediately preceding month, and correspondingly pay the monitoring/regulation/supervision and/or evaluation fees as hereinafter provided.

The NTA shall not issue any new TCC without submission of the aforesaid documents and/or payment of the regulation fees, without prejudice to the suspension/revocation/cancellation of the Permit to Transship tobacco products."

Section 9. Section 12 is hereby amended to read as follows:



"Section 12. Monitoring, Regulation, Supervision and/or Evaluation of the Commodity. -

X X X

A. Manufactured Products

1. Cigarettes (per case)

X X X

d. Transshipments

P5.00"

Section 10. Section 13 is hereby amended to include the following:

"Section 13. Inspection Requirements. - X X X

For transshipments, the Regulation Department (RD) shall conduct periodic inspection of the tobacco commodity for shipment of each tobacco type or brand. NTA may conduct mandatory inspection for every new brand or type transshipped.

The assigned inspector shall obtain at least one (1) ream of tobacco products or one (1) kilogram of each type of leaf tobacco, which shall be subjected to quality assurance and physico-chemical evaluation.

Section 11. Section 14 is hereby amended to include the following:

"Section 14. Issuance of Export/Import/Transshipment Commodity Clearance. - X X X

In case of remote filing of applications (facsimile/courier), the NTA, through the RD, shall determine the completeness of the application for ICC/ECC/TCC, together with the supporting documents. If the application is found complete, the NTA, through the Administrator, shall forthwith issue the ICC/ECC/TCC, to be received by the applicant either in person or also by facsimile. The facsimile ICC/ECC/TCC shall bear a notation that the same shall be honored for all intents and purposes, subject to the presentation of the original copy, which shall immediately thereafter sent by the NTA to the applicant by courier."

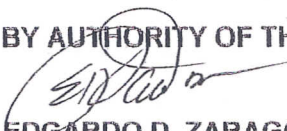
Section 12. Separability Clause. - In the event that any provision of this Memorandum Circular is declared null and void, the other provisions not affected thereby shall continue to be in full force and effect.

Section 13. Effectivity. - This Memorandum Circular shall take effect after fifteen (15) days from publication in a newspaper of general circulation and filing with the Office of the National Administrative Register (ONAR).

For the guidance and compliance of all concerned.

APPROVED UNDER BOARD RESOLUTION NO. 171-2010 DATED 25 NOVEMBER 2010.

BY AUTHORITY OF THE NTA GOVERNING BOARD:


EDGARDO D. ZARAGOZA
Administrator and Vice-Chairman
NTA Governing Board 