

POLICY GUIDELINES ON THE ADMISSION OF DUTY-FREE AND TAX-EXEMPT MOTOR VEHICLES

WHEREAS, under Section 12 (b) of Republic Act No. 7227, as amended by Republic Act No. 9400, the Subic Special Economic Zone shall be operated and managed as a separate customs territory ensuring free flow or movement of goods and capital within, into and exported out of the Subic Special Economic Zone, as well as, provide incentives such as tax and duty-free importations of raw materials, capital and equipment;

WHEREAS, under Section 13 of Republic Act 7227, as amended by Republic Act No. 9400, Subic Bay Metropolitan Authority (SBMA, for brevity) is the zone management authority of Subic Special Economic and Freeport Zone;

WHEREAS, there is a need to formulate rules and regulations pertaining to the duty free and tax –exempt admission privilege of motor vehicles by Subic Bay Freeport (SBF, for brevity) registered business enterprise to prevent abuse;

WHEREAS, there is a need to support the domestic car industry by encouraging locators to patronize local car dealers and for them to avail of their zero rated value added tax incentive on any local purchase of motor vehicles;

NOW THEREFORE, for and in consideration of the foregoing premises, and pursuant to the Memorandum of Agreement between the SBMA and the Bureau of Customs (BOC, for brevity) adopting and implementing Administrative Order No. 4-93 and in coordination and cooperation with the Land Transportation Office (LTO), the following guidelines are hereby promulgated on the admission, registration and monitoring of duty-free and tax-exempt motor vehicles (TEV, for brevity), as follows:

I. COVERAGE

These guidelines shall cover the admission into the SBFZ of any vehicle propelled by any power other than muscular power using the public highways, except road rollers, trolley cars, etc. classified as follows:

1. **UTILITY-SERVICE VEHICLES** – vehicles which are **indispensable** in the conduct and operations of the SBF -registered authorized business activities, such as delivery trucks, cargo vans, and buses designed and for use exclusively for the transport of cargoes and passengers.
2. **TOURIST-SERVICE VEHICLES** – vehicles which are indispensable in the ordinary course of business of tourist-oriented industries, such as hotels, resort and leisure estates, theme parks and casinos to be utilized actually, directly and exclusively for the purpose of transporting tourists in tourism related activities. In no case shall the value of each vehicle exceed US\$50,000.00.
3. **COMPANY-SERVICE VEHICLES** – vehicles that are to be used as service vehicles of SBF registered enterprise, its expatriates or executives.

No luxury motor vehicles intended to be utilized as a **company-service** vehicle shall be admitted tax-free and duty-free into the SBF, unless it is a “green vehicle”, or if the official stature of the end-user, such as President, Chairman and Members of the Board of Directors of a SBF registered enterprise, requires the same. In the said event, admission of these tax-exempt vehicles shall be subject to the criteria set herein and should be with the approval of the SBMA Board of Directors.

The following are considered luxury motor vehicles:

- | | |
|----------------|-------------|
| a. Rolls-Royce | e. Porsche |
| b. Jaguar | f. Maserati |
| c. Lotus | g. Ferrari |
| d. Bentley | h. Buggati |

- i. Cadillac
- j. BMW (those with a blue book value of US\$60,000.00 or above only, or its equivalent)
- k. Lamborghini
- l. Land Rover
- m. Range Rover
- n. Alpha Romeo
- o. Lexus
- p. Chrysler
- q. Mercedes-Benz (those with a blue book value of US\$60,000.00 or above only, or its equivalent)
- r. Maybach
- s. Other motor vehicles with a blue book value of US\$60,000.00 or above, or its equivalent, based on the brand new value of the vehicle taken from U. S. Blue Book, Japan Red Book, or the World Car Year Book depending upon the country of origin of the vehicle and its model.

A **green vehicle** is defined as a vehicle that is considered to be more “environmentally friendly than traditional all-petroleum internal combustion engine vehicles (APICEVs), which includes, among others, hybrid gas, solar vehicles, hydrogen vehicles and electric vehicles.

II. POLICY ON DUTY FREE AND TAX-EXEMPT ADMISSION

1. THE FOLLOWING ARE QUALIFIED TO APPLY FOR ADMISSION OF DUTY FREE AND TAX-EXEMPT MOTOR VEHICLES (TEV):

SBF registered enterprises with **valid Certificate of Registration and Tax Exemption (CRTE, for brevity)** may apply for admission into the SBFZ tax-exempt vehicles necessary for the conduct and operations of their registered business activity, subject to the criteria/limitations set forth herein, provided, however, that SBMA reserves the right to disapprove or limit the admission of TEVs when, in its judgment, it becomes necessary to avert a violation of any law or any of its rules and regulations, or to enforce a regulatory or administrative measure.

2. CRITERIA TO AVAIL OF THE DUTY FREE AND TAX-EXEMPT ADMISSION PRIVILEGE

2. 1 - For Tourist-Related And Service Vehicles Only:

a) Amount of Investment:

An applicant-SBF enterprise must have an investment of **TWO HUNDRED FIFTY THOUSAND UNITED STATES DOLLARS (US\$250,000.00) or its equivalent in peso** for every vehicle to be admitted at the time of the application. Additional TEVs can be availed of with every **TWO HUNDRED FIFTY THOUSAND UNITED STATES DOLLARS (US\$250,000.00) or its equivalent in peso** investment. The term “investment” refers and is limited to investment made on capital equipment and development of land and structure only.

OR

b) Number of Regular Employees

An applicant-SBF enterprise must have **at least 50 regular employees** for every vehicle to be admitted at the time of application. Additional TEVs can be availed of with every additional 40 regular employees.

2.2 For Utility Vehicles Considered As Capital Equipment

Notwithstanding the criteria mentioned in item no. 2, SBF registered enterprises, involved in transportation, travel and tours, and the like, are entitled to the admission of **utility vehicles as capital equipment** vis-à-vis its SBF registered business activity and operations, but

subject to the endorsement of the SDA for Business and Investment and approved by SBMA Board of Directors.

3. NUMBER OF ALLOWABLE MOTOR VEHICLES TO BE ADMITTED:

Utility vehicles – maximum of 10

Tourist vehicles – maximum of 6

Company vehicles – maximum of 6

In no case shall an SBF enterprise be allowed to admit more than a combined number of **fifteen (15) vehicles** within the term of its Lease Agreement, except if required by its operations and approved by the SBMA Board of Directors.

4. PERIOD TO EXERCISE THE PRIVILEGE.

The applicant-SBF enterprise must have been operating for **at least one (1) year** at the time of the application for Admission Authority, unless by the very nature of their business and the classification of the vehicles to be admitted, it is necessary to admit the same upon actual commencement of operations, in which case, admission may be allowed subject to the approval of the SBMA Board of Directors.

5. LIMITATIONS ON THE TAX-EXEMPT AND DUTY-FREE ADMISSION PRIVILEGE

- A. The privilege is personal and non-transferable.
- B. The applicant - SBF enterprise must have **no outstanding financial obligations** with SBMA unless he can show an SBMA Board of Directors approved payment scheme covering the obligation and the fact that it has not defaulted on the said payment scheme agreement.
- C. Applicant-SBF enterprise must show proof or justification of the necessity of the vehicle(s) to be admitted in its business operations.
- D. Issuance of Admission Authority shall be **prior to the admission** of the tax-exempt and duty-free motor vehicle into the Subic Bay Freeport Zone.
- E. No issuance of Admission Authority until and unless the previously admitted tax-exempt and duty-free motor vehicles has been presented for inspection.
- F. Registration of the duty free and tax-exempt motor vehicle with SBMA's Transportation and Communication Department (TCD, for brevity) and Registration of Tax-Exemption with LTO upon arrival.
- G. Special SBMA blue plates shall be issued by the LTO to the TEV.
- H. Subject to the exceptions herein provided, all TEVs shall be for use inside the Freeport only.
- I. Within **five (5) years from registration** with the TCD, no duty-free and tax-exempt vehicles shall be sold to any SBF enterprise.
- J. Once the registered owner ceases to be a bonafide SBF enterprise, he must:
 - 1. FOR TEVs admitted as BRAND NEW vehicles and those USED TRUCKS, BUSES AND HEAVY AND/OR AGRICULTURAL EQUIPMENT referred to in Sections 3.1.1 to 3.1.5 of Executive Order No. 156,

a. The owner should pay the corresponding taxes and duties;

OR

b. Sell, assign or convey the same to a qualified SBF-registered enterprise.

To be considered **BRAND NEW**, the motor vehicle shall be:

a) of current advance year model in the country of origin and/or manufacture, OR

b) of year model immediately preceding year in the country of origin and/or manufacture provided that:

(i) the motor vehicle has a mileage of not more than 200 kilometers; AND

(ii) the motor vehicle has been acquired by the importer from the dealer as first owner.

2. For TEVs admitted as **USED VEHICLES**, the vehicles should be:

a. Sold to a qualified SBF registered entity and for use only within the Freeport zone;

OR

b. Reexported to other countries¹.

“USED VEHICLE” shall refer only to those used vehicles coming from the country of origin of the requesting SBF-registered enterprise or was owned by the parent company or affiliate of the requesting SBF-registered enterprise.

K. Request for extension or amendment of Admission Authority shall be granted only if the request is made within its validity period.

6. REQUIREMENTS FOR THE ADMISSION OF DUTY FREE AND TAX-EXEMPT MOTOR VEHICLES

a) Letter of Intent justifying the request for the admission of the motor vehicle addressed to the Head of the Regulatory Group,

b) Accomplished application form,

c) Original Copy of the Secretary’s Certificate of the SBF registered enterprise’s representative,

d) Valid CRTE

e) If applicable, certified True Copy of the Commercial sales invoice (brand new motor vehicles)

f) If applicable, certified True Copy of the Certificate of Ownership (**USED TRUCKS, BUSES AND HEAVY AND/OR AGRICULTURAL EQUIPMENT**),

g) Agreement/undertaking on conditions for admission of motor vehicle, attached to its application, duly agreed to and signed by the applicant,

¹ Office of the Government Corporate Counsel Opinion No. 108 Series of 2008

- h) Certification from the Business and Investment Group on the amount of investment or Certification from the Labor Center on the number of regular employees until a centralized database has been created.
- i) Certificate of “No Outstanding Financial Obligations from the Accounting Office” and/or SBMA Board approved payment scheme (for admission of duty free and tax-exempt brand new motor vehicles) until a centralized database has been created
- j) Notarized certification from the applicant, submitted before the issuance of an Admission Authority, that the loading of the subject motor vehicle at the port of origin has not yet been effected.
- k) Certification of Inspection from the TCD of previously admitted duty-free and tax-exempt motor vehicles.

III. SUBSEQUENT SALE, TRANSFER OR ASSIGNMENT OF DUTY FREE AND TAX-EXEMPT MOTOR VEHICLES

- 1) Sale transfer or assignment of duty-free and tax-exempt motor vehicles within the five (5) year period is prohibited.
- 2) After the five (5) year prohibitory period:

A. For TEVs admitted as brand new vehicles and those used trucks, buses and heavy and/or agricultural equipment referred to in Sections 3.1.1 to 3.1.5 of Executive Order No. 156

- a) The TEV can be sold, assigned or transferred without payment of the required tax and duties on the motor vehicle provided,
 - i) Vendee, assignee or transferee is also a qualified SBF-registered;
 - ii) Vendee, assignee or transferee has not used up or availed of its admission privilege,
 - iii) The type of vehicle and activity of the vendee, assignee, or transferee allows the sale, assignment or transfer thereof; and
 - iv) The TEV can be used outside of the Freeport Zone upon issuance of the conduction pass.

OR

- b) The TEV can be sold, assigned or transferred upon payment of the corresponding taxes and duties to:
 - i) Any entity upon payment of the corresponding taxes and duties; and
 - ii) The TEV can be used outside of the Freeport Zone.

B. For TEVs admitted as used vehicles

- a) it can be sold, transferred, assigned, in accordance with Aa (i) to (iii). However, it cannot be used outside the Freeport zone. It cannot be also sold, assigned or transferred as in Ab (i) to (ii).²

² Office of the Government Corporate Counsel Opinion No. 108 Series of 2008

- 3) There can be no sale, transfer or assignment of duty free and tax-exempt motor vehicles without prior written clearance from TCD.
- 4) A payment of **1% transfer fee** to SBMA based on the gross sale and/or compensation received in consideration of the sale, assignment or transfer of any TEV or US\$200.00, whichever is higher.

IV. CONDITIONS FOR THE USE OF DUTY FREE AND TAX EXEMPT MOTOR VEHICLES

A. Within the Freeport Zone

All motor vehicles admitted tax and duty free by a SBF registered enterprise shall be used only within the Freeport Zone.

B. Outside the Freeport Zone

Only those TEVs admitted as brand new vehicles and those used trucks, buses and heavy and/or agricultural equipment referred to in Sections 3.1.1 to 3.1.5 of Executive Order No. 156 can be used outside the Freeport Zone subject to the following conditions:

a) Issuance of conduction pass upon physical presentation of the subject motor vehicle, which is a prerequisite for the use of tax-exempt and duty-free motor vehicles outside the Freeport Zone.

b) Each TEV must be covered with a bond acceptable to SBMA which may be in cash, irrevocable stand-by letter of credit/bank guarantee or surety bond, equivalent to 100% of the amount of duties, taxes, and other charges due on the subject vehicle and conditioned to the use of the subject vehicle in accordance with these Policy Guidelines.

c) All TEVs cannot be used outside of the Freeport zone for more than three hundred thirty six (336) hours or fourteen (14) days in a month. One day shall mean twenty-four (24) hours. No succeeding conduction passes shall be issued unless the TEV is presented for inspection before the TCD.

e) The Conduction Pass shall be presented at the gate every time the motor vehicle is used outside of the Freeport Zone with the following information:

- i) name/s of the registered owner and driver/s;
- ii) plate number of the duty free and tax-exempt motor vehicle;
- iii) date and time of departures; and
- iv) date and time of return.

f) No new conduction pass shall be issued unless the previously issued conduction pass has been surrendered to the TCD.

V. PROCESSING FEE – All TEVs to be admitted to SBFZ shall be assessed a processing fee of US\$100.00 per vehicle. However, applications for admission of “green vehicles” shall be imposed a processing fee of US\$20.00 only.

VI. INVENTORY AND INSPECTION POLICY

1. Tax-exempt and duty-free motor vehicles shall be subject to periodic and on-the-spot inspection or inventory.
2. Duty free and tax exempt vehicles must be presented at least once a month at TCD or in the manner or at such times as may be set by the TCD.

3. Registered owner/s should report to or notify the TCD on the whereabouts of duty free and tax exempt vehicles that fail to return after the validity of the pertinent trip ticket and must present sufficient proof of justification for said failure.

VII. FINES and PENALTIES

<u>Violations</u>	<u>Fines & Penalties</u>
1. Admission of tax-exempt and duty free motor vehicles by a non-qualified entity	US\$5,000.00 and forfeiture of TEV plus suspension of CRTE for three (3) months
2. Admission of tax-exempt motor vehicle prior to application of Admission Authority.	
a. First Offense	US\$ 3,000.00
b. Second Offense	US\$ 5,000.00 and forfeiture of TEV
3. Sale, transfer or assignment of TEV within the the five (5) year prohibitive period	
First offense	US\$2,000.00 for both entities
Second offense	Suspension of admission privilege of both entities for 2 years
4. Allowing the use of one’s privilege or one’s Admission Authority	US\$5,000.00 for both entities and suspension of admission privilege of both entities for 2 years and forfeiture of TEV.
5. Sale, Transfer, Assignment of TEV without prior clearance.	
First offense	US\$1,000.00 for both entities
Second offense	two –year suspension of admission privilege of both entities
6. Falsification of Trip Ticket/Conduction Pass.	
First offense	US\$3,000.00 and two-year suspension of privilege without prejudice to the filing of the corresponding criminal action for falsification of documents
7. Failure to present TEV for inspection/inventory	
a. First Offense	US\$ 1,000.00

b. Second Offense	2-year suspension of admission privilege
c. Third Offense	Filing of appropriate case and recommendation for cancellation or revocation of CRTE
8. Use of duty free and tax-exempt vehicle outside the Freeport zone longer than the approved limit of days	<p>US\$100.00/excess day and locator shall be given 48 hours from the expiry date indicated on the conduction pass to explain the non-return of the TEV, otherwise, the presumption of smuggling arises.</p> <p>After the lapse of the prescribed 48 hours, a recommendation for suspension of operations of business of the locator shall be submitted to the SBMA Board of Directors.</p>
10. Any other act or omission tending to circumvent these Policy Guidelines	Depending on surrounding circumstances, penalties may range from a fine of US\$100.00 to the forfeiture of the TEVs and suspension or cancellation of future applications for admission of TEVs and of the CRTE.

VIII. TRANSITORY PROVISIONS

1. All existing used TEVs admitted before the effectivity of these Policy Guidelines may continuously avail of the issuance of Conduction Passes and all other privileges pertaining thereto, only if said used vehicles are presented to the TCD for inspection within three (3) months from the approval of herein Policy Guidelines. Otherwise, said TEVs lose availment of conduction pass and all other privileges pertaining thereto and are automatically covered by this new Policy Guidelines.

2. All issuances inconsistent with herein Policy Guidelines are hereby repealed.

IX. EFFECTIVITY

Herein Policy Guidelines shall take effect upon approval of the Board and shall be applied in prospective.

file name: Leonor – latest-TEV policy