

**[ DEPARTMENT CIRCULAR NO. DC2018-03-0006,  
April 17, 2018 ]**

**OMNIBUS RULES AND REGULATIONS GOVERNING TAX-EXEMPT  
IMPORTATIONS FOR PETROLEUM OPERATIONS UNDER  
PRESIDENTIAL DECREE NO. 87, AS AMENDED AND COAL  
OPERATIONS UNDER PRESIDENTIAL DECREE NO. 972, AS  
AMENDED**

*Adopted: 15 March 2018*

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**WHEREAS**, Presidential Decree No. 87 or the "The Oil Exploration and Development Act of 1972", as amended, and Presidential Decree No. 972 or the "The Coal Development Act of 1976", as amended, allow tax- and duty-free importation of machinery and equipment, materials and parts which are directly and actually needed and will be used exclusively by the contractor/operator in its operations;

**WHEREAS**, Section 5 (h) of R. A. 7638 or the "Department of Energy Act of 1992", as amended, states that the Department of Energy (DOE) shall exercise supervision and control over all government activities relative to energy projects;

**WHEREAS**, the then Bureau of Energy Development (BED) had issued various circulars providing for the rules and regulations governing tax-exempt importations for both petroleum and coal operations;

**WHEREAS**, Section 2 of Republic Act No. 9485 or the "Anti-Red Tape Act of 2007" mandates the government to promote transparency in each agency with regard to the manner of transacting with the public, which shall encompass a program for the adoption of simplified procedures that will reduce red tape and expedite transactions in government;

**WHEREAS**, consistent with the above-mentioned policy, it is high time that the existing circulars on tax-exempt certificate processing and issuance which were issued way back in 1980 to 2005 be updated, simplified and streamlined to make it responsive to the current situation;

**NOW, THEREFORE**, for and in consideration of the foregoing premises and pursuant to Section 5 (h) of R. A. 7638, as amended, the DOE does hereby promulgate the following rules and regulations:

**Section 1. Scope and Application.** This Department Circular shall govern the application, processing, approval and issuance of tax-exempt certificates ("TEC") for the importation, exportation and disposal of machinery, equipment, spare parts and materials used for Petroleum and Coal Operations.

**Section 2. Definition of Terms.** As used in this Circular, the following shall have the following respective meanings:

- a. **Actually, Directly and Exclusively Used** – means the use and utilization of machinery, equipment, spare parts and materials in the implementation of the approved work program of the Petroleum Service Contract or Coal Operating Contract;
- b. **Annual Procurement Plan** – means the consolidated program and activities by the SC operator or COC Holder for the current year, based on its approved WP and budget, including the machinery, equipment, spare parts and materials to be procured and the method for their procurement;
- c. **Applicant** – means the SC Operator or COC Holder with an application for the issuance of a TEC for the importation or exportation of machinery, equipment, spare parts and materials, and the sale or donation of unserviceable or used machinery, equipment, spare parts and materials duly filed with the DOE pursuant to this Circular;
- d. **Coal Operation** – means the activities of a COC Holder for:  
(a) the examination and investigation of lands, supposed to contain coal by detailed surface geologic mapping, core drilling, trenching, test pitting and other appropriate means, for the purpose of probing the presence of coal deposits and the extent thereof; (b) steps necessary to reach coal deposit so that it can be mined, including but not limited to shaft sinking and tunnelling; (c) the extraction, beneficiation and transportation up to the delivery point; and (d) the progressive mine rehabilitation and final decommissioning activities;
- e. **Coal Operating Contract Holder** – means the operator of a valid and subsisting COC issued under P.D. No. 972, as amended;
- f. **Emergency Importation** – means the importation of machinery, equipment, materials and spare parts not included in the work program but urgently needed to prevent accident, losses, and unnecessary delays and expenses;
- g. **Exportation** – means the act of sending or transmitting machinery, equipment, spare parts and materials from the Philippines to a foreign territory and covered by a TEC under a temporary Importation, or permanent Importation which is subject to repairs and/or regular maintenance;
- h. **Importation** – means the act of bringing in machinery, equipment, spare parts and materials which are Actually, Directly and Exclusively Used for Petroleum or Coal Operations from a foreign territory into the Philippine jurisdiction, with intent to land;
- i. **Machinery, Equipment, Spare Parts and Materials** – refer to capital equipment, major components thereof, non-perishable tools, machines and other mechanical, chemical and or electrical apparatus,

whether fixed or movable; usual components of machinery and/or equipment which are subject to wear and tear arising from normal use, utilization and operation; and matters which are intended to be used in the creation of a mechanical structure, needed in Petroleum and Coal Operations;

j. **Petroleum Operation** – means searching for and obtaining petroleum within the Philippines through drilling and pressure or suction or the like, and all other operations incidental thereto. It includes the transportation, storage, handling and sale (whether for export or for domestic consumption) of petroleum so obtained but does not include any: (1) transportation of petroleum outside the Philippines; (2) processing or refining at a refinery; or (3) any transactions in the products so refined as defined under the SCs;

k. **Service Contractor** – means the petroleum service contract holder and/or operator under a valid petroleum SC;

l. **Tax Exemption Certificate (TEC)** – means the document issued by the DOE in accordance with Section 12 (b) of PD No. 87 and Section 16 (b) of PD No. 972 granting exemption from payment of tariff duties and compensating tax on the importation of machinery and equipment, and spare parts and all materials to the contractors for petroleum and coal operations; and

m. **Technical Obsolescence** – means the design or specification of the asset no longer fulfills the function for which it was originally designed and/or the machinery, equipment, spare parts and/or materials covered by a TEC has diminished in value caused by changes in technology and new inventions rendering it less desirable in the industry, including a decline in value due to improved alternatives becoming available that are more cost effective, as may be verified and approved by the DOE.

### **Section 3. Conditions for the Importation, Exportation and Disposal of machinery, equipment, spare parts and materials for Coal and Petroleum Operations.**

A. The DOE shall allow the importation of machinery, equipment, spare parts and materials for petroleum and coal operations under the following conditions, to wit:

1. The machinery, equipment, spare parts and materials of comparable price and quality are not manufactured domestically;
2. The machinery, equipment, spare parts and materials are actually, directly and exclusively used by the Service Contractor or COC Holder in its petroleum and coal operations, or in operation for it by a subcontractor;
3. The machinery, equipment, spare parts and materials are covered by shipping documents in the name of the SC Operator or COC Holder to whom the shipment will be delivered directly by the customs authorities; and

4. Prior approval of the DOE was obtained by the contractor before the importation of such machinery, equipment, spare parts and materials, through the approved WP&B and APP.

**B. Emergency Importation.** In case of emergency importation, the Applicant shall submit a written request showing the necessity of the emergency importation, subject to the conditions for regular importation under Section 3 (A) (1), (2) and (3) hereof.

In addition, the Applicant shall post a good and sufficient bond in favor of the Bureau of Customs (BoC) in an amount not less than the stated amount of duty and tax from which the Emergency Importation is being exempted. It shall be the principal condition of the bond that the Applicant shall submit to the BoC within thirty (30) days from the withdrawal of the emergency importation from customs custody, the appropriate BoC required documents qualifying the Applicant to undertake the importation on a tax-exempt basis.

Failure of the Applicant to comply with the BoC required documents within the prescribed period shall cause the automatic cancellation of the bond in favor of the BoC without recourse to a suit in law.

**C. Exportation.** The DOE shall allow the exportation of machinery, equipment, spare parts and materials when the following conditions exists:

1. That the importation is only temporary importation as indicated in the application and the duly-issued TEC by the DOE; and
2. That the machinery, equipment, spare parts and materials are to be exported for repair and/or maintenance, as approved by the DOE.

In case of exportation without prior approval of the DOE, the applicant shall be liable to pay twice the amount of taxes and duties which were originally waived in its favor.

**D. Disposal.** The DOE shall allow and approve the disposal without tax if made to:

1. Another existing SC Operator or COC Holder under a valid petroleum service contract and/or coal operating contract;
2. For reasons of technical obsolescence as may be verified by the DOE; or
3. For purposes of replacement to improve and/or expand operation under the SC or COC.

SC Operators and COC Holders are not allowed to dispose its machinery, equipment, spare parts and materials which were imported under this Circular without the prior approval of the DOE, and payment of taxes and duties thereon, if applicable.

In case the SC Operator or COC Holder disposes the machinery, equipment, spare parts and materials without prior approval from the