

[BIR REVENUE MEMORANDUM ORDER NO. 10-2014, February 10, 2014]

POLICIES, GUIDELINES AND PROCEDURE IN THE ACCREDITATION OF IMPORTERS AND CUSTOMS BROKERS AND THE REVOCATION THEREOF

SECTION 1. OBJECTIVES. – This Order is issued to:

- 1.1 Prescribe the policies, guidelines and procedure in the accreditation of importers and customs brokers, and the revocation thereof;
- 1.2 Define the duties and responsibilities of designated Bureau of Internal Revenue (BIR) offices in the accreditation and dis-accreditation of importers and customs brokers and in the monitoring and verification of their compliance with the BIR-prescribed criteria for accreditation; and
- 1.3 Prescribe the reportorial requirements for the proper monitoring of accredited importers and customs brokers.

SECTION 2. DEFINITION OF TERMS. – For purposes of this Order, the following words and/or phrases shall be defined as follows:

- 2.1 “**Accounts Receivable/Delinquent Account (AR/DA)**” – refers to an outstanding tax liability of a taxpayer arising from a tax assessment or any unpaid delinquent account which is considered final, executory, and demandable. This may result from, among others, any of the following:
 - 2.1.1 Taxpayer failed to pay the tax due per return within the time prescribed for its payment;
 - 2.1.2 Tax payment made thru bank draft or check but was denied by drawee-bank due to drawer-taxpayer’s insufficiency of funds in his/its bank accounts, accounts closure, or for other reasons of dishonor under the Negotiable Instruments Law;
 - 2.1.3 An assessment which has been established to be final, executory, and demandable due to, among others, the following grounds:
 - A. Failure of the taxpayer to file a valid protest within thirty (30) days from receipt of the Formal Letter of Demand and Final Assessment Notice (FLD/FAN);
 - B. Failure of the taxpayer to appeal to the Court of Tax Appeals (CTA) within thirty (30) days from date of receipt of the decision of the Commissioner of Internal Revenue (CIR) denying the protest to the FLD/FAN;

- C. Failure of the taxpayer to appeal to the CTA within thirty (30) days from date of receipt of the decision of the CIR's duly authorized representative denying the protest to the FLD/FAN; or failure of the taxpayer to elevate the protest to the CIR within thirty (30) days from date of receipt of the final decision of the CIR's duly authorized representative denying the protest to the FLD/FAN;
- D. Failure of the taxpayer to appeal to the CTA within thirty (30) days from: (a) the lapse of the one hundred eighty (180)-day period for the CIR or his duly authorized representative to act on the protest to the FLD/FAN; or (b) the date of receipt of the decision of the CIR or his duly authorized representative denying the protest to the FLD/FAN in case the taxpayer opted to await the decision;
- E. Failure of the taxpayer to timely file a motion for reconsideration or new trial before the CTA Division or failure to appeal to the CTA En Banc and Supreme Court based on existing Rules of Procedure; or
- F. Failure of the taxpayer to receive any assessment notices because it was served in the address indicated in the BIR's registration database and the taxpayer transferred to a new address or closed/ceased operations without updating and transferring its BIR registration or cancelling its BIR registration, as the case may be, under the procedure prescribed in pertinent issuances.

2.2 **"Annual Income Tax Return"** – this refers to the declaration of a taxpayer's taxable income that is embodied in BIR Form Nos. 1700, 1701 or 1702, as the case may be, filed annually with the BIR, together with the required attachments.

2.3 **"BIR Importer Clearance Certificate (BIR-ICC) or BIR Customs Broker Clearance Certificate (BIR-BCC)"** – a certificate issued to an importer or customs broker who qualifies with the BIR-prescribed criteria/requirements for accreditation, indicating therein the importer's or customs broker's name, registered address, and Taxpayer Identification Number (TIN).

2.4 **"Branch"** – means a separate or distinct establishment or place of business where sales transactions are conducted independently from the Head Office (HO).

2.5 **"Cannot Be Located (CBL) Taxpayer"** – refers to a status of a registered taxpayer whose whereabouts could not be located in the address given by him/it in the return filed or at the address registered/given by him/it to the BIR.

2.6 **"Customs Broker"** – refers to any person who is bona fide holder of a valid Certificate of Registration/ Professional Identification Card issued by the Professional Regulatory Board and Professional Regulation Commission pursuant to Republic Act No. 9280 or the Customs Brokers Act of 2004, as amended. As provided therein, the

"customs broker profession" involves services consisting of consultation, preparation of customs requisite documents for imports and exports, declaration of customs duties and taxes, preparation, signing, filing, lodging and processing of import and export entries; representing importers and exporters before any government agency and private entities in cases related to valuation and classification of imported articles and rendering of other professional services in matters relating to customs and tariff laws, its procedures and practices.

- 2.7 **"e-filing"** – means the process of electronically filing tax returns, including attachments, specifically through the internet.
- 2.8 **"Electronic Filing and Payment System (eFPS)"** – refers to the system developed and maintained by the BIR for electronically filing tax returns, including attachments, and paying taxes due thereon, specifically through the internet.
- 2.9 **"e-payment"** – means the process of electronically paying a tax liability through the internet banking facilities of Authorized Agent Banks (AABs).
- 2.10 **"Facility"** – may include but not limited to place of production, showroom, warehouse, storage place, garage, bus terminal, or real property for lease with no sales activity. A facility shall be registered as a branch whenever sales transactions/activities are conducted thereat.
- 2.11 **"Head Office (HO)"** – refers to the declared specific or identifiable principal place/head office of business as stated in the Articles of Incorporation/Articles of Partnership/Articles of Cooperation/DTI Certificate of Registration, as the case may be, or, in the absence thereof, the place where the complete books of accounts are kept. It is the fixed place of business, whether rented or owned, and whether or not the products/ services being sold are actually located or displayed thereat. For persons who conduct business in a nomadic or roving manner, such as peddlers, "tiangges", mobile stores operators, common carries/school bus operators without designated garages/terminals, etc., their place of residence shall be considered as the HO.
- 2.12 **"Importer"** – refers to any person who brings goods into the Philippines, whether or not made in the course of his trade or business. It includes nonexempt persons or entities who acquire tax-free imported goods from exempt persons, entities or agencies.
- 2.13 **"Inter-Active Forms (IAF) System"** – refers to the system/facility developed and maintained by the BIR, other than the eFPS, that allows taxpayers to electronically file tax returns and pay the corresponding taxes due thereon through the internet banking facilities of AABs.

2.14 **“Primary Registration”** – the process by which a person, whether an individual, including estates and trusts, or a corporation and other juridical entities, upon application and full compliance with the registration requirements prescribed in Revenue Regulations No. 7-2012, is registered with and consequently included in the registration database of the BIR.

Primary Registration may involve two scenarios depending on the purpose of the taxpayer applying for registration as follows:

- A. TIN ISSUANCE AND REGISTRATION – refers to issuance of TIN to all persons who will engage in business, practice of profession or employment and who may or may not be subject to any national internal revenue tax but may be required to file the corresponding tax return, statement or other documents as required by the Code such as: income tax, estate and donor’s tax, value added tax, percentage tax, withholding tax, excise tax and documentary stamp tax (DST), including registration of its branch/es (for purposes of securing a branch code);
- B. PURELY TIN ISSUANCE – refers to issuance of TIN to applicants under Executive Order (EO) 98, series of 1998 e.g. in the case of individuals required to incorporate the TIN in all forms, permits, licenses, clearances, official papers and documents which they secure from other government agencies e.g. Local Government Unit (LGU), Department of Trade and Industry (DTI), Land Transportation Office (LTO), Department of Foreign Affairs (DFA), etc. It also includes issuance of TIN to Overseas Filipino Workers (OFWs)/Overseas Contract Workers (OCWs) as defined under these Regulations as well as to Non-Resident Foreign Corporations (NRFC)/Non-Resident Alien not engaged in Trade or Business (NRANETB) subject to final withholding tax on income derived from sources within the Philippines.

2.15 **“Secondary Registration”** – shall pertain to subsequent registration activities after the issuance of BIR Certificate of Registration (COR) relative to the printing and issuance of official receipts/sales invoices; keeping/registering of books of accounts and other accounting records; applying for certain accreditation requirements and securing other applicable registration-related permits.

2.16 **“Stop Filer case”** – refers to system created case when a taxpayer fails to file a return for a required tax type for a taxable period (i.e., Income Tax, VAT, Percentage Tax, etc.) which is required to be filed regularly (monthly, quarterly, annually).

SECTION 3. GENERAL POLICIES. –

3.1 Pursuant to DOF Department Order (DO) No. 12-2014, all importers and customs brokers (individuals, partnerships, corporations, cooperatives, associations [whether taxable or non-taxable]), unless otherwise exempted, are required to secure accreditation from the BIR

under the guidelines, policies and procedure set forth in this Order. This constitutes the first phase of the accreditation process. Only importers and customs brokers who are accredited by the BIR shall be issued with *BIR Importer Clearance Certificates (BIR-ICCs)* and *BIR Customs Broker Clearance Certificates (BIR-BCCs)*. The *BIR-ICCs* and *BIR-BCCs* shall then be presented by the importers and customs brokers to the BOC for their BOC accreditation under the rules and regulations to be issued by the BOC for this purpose. This constitutes the second and final phase of the accreditation process.

3.2 Only importers and customs brokers who satisfy the following accreditation criteria shall be accredited by the BIR:

- 3.2.1 Existence, at all times, of a Head Office (HO) or principal place of business for the conduct of business operations;
- 3.2.2 Full compliance with all the primary and secondary registration requirements of the BIR (i.e., for the HO, branch, or facility);
- 3.2.3 No "stop-filer" cases with the BIR as herein defined, or timely filing of the required tax returns and payment of the taxes due under existing internal revenue tax laws, rules, regulations, and issuances;
- 3.2.4 No record of any AR/DA with the BIR as herein defined;
- 3.2.5 No record of any pending criminal complaint filed by the BIR for tax evasion and other criminal offenses under the Tax Code, whether filed in court or in the Department of Justice (DOJ) or subject of final and executory judgment by court
- 3.2.6 No unresolved issues arising from discrepancies in the declared income or expenses resulting from the matching of third-party information from the BIR's Reconciliation Lists for Enforcement (RELIEF) System and Tax Reconciliation System (TRS). If any such unresolved issues exist, the non-resolution must not have been caused by or must not be attributable to the importer or customs broker;
- 3.2.7 Not tagged as a CBL taxpayer as herein defined;
- 3.2.8 No material misrepresentation in the documents submitted in applying for accreditation.

In the event of any change in any material information previously provided in the application for accreditation, the importer or customs broker shall report the matter in writing to the BIR, thru the ARMD, within (10) days from the occurrence thereof. Examples of such changes include:

- A. Change of ownership, corporate officers, members of the board, or partners;
- B. Change of address of the HO, branch, or facility;
- C. Amendments to the Articles of Incorporation/Partnership/Cooperation, as approved by the SEC or CDA;
- D. Corporate restructuring such as mergers or consolidations; and
- E. Temporary or permanent closure/cessation/stoppage of business.