REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

October 6, 2003

REVENUE MEMORANDUM CIRCULAR NO. 60-2003

SUBJECT : Clarifying Certain Issues Raised Relative to the Implementation of Revenue Regulations No. 25-2003 Governing the Imposition of Excise Tax on Automobiles Pursuant to Republic Act No. 9224

TO : All Internal Revenue Officers and Others Concerned

Q-1: When is the effectivity of Republic Act (RA) No. 9224 ?

A-1: Pursuant to Revenue Regulations (RR) No. 25-2003 implementing the provisions of RA 9224, it shall take effect after fifteen (15) days following the publication of the said revenue regulations in a newspaper of general circulation. Inasmuch as the said revenue regulations was published on September 18, 2003, RA 9224, through the implementing provisions of the said revenue regulations, shall take effect on October 4, 2003.

Q-2: The transitory provisions of RR No. 25-2003 provides the submission to the BIR sworn statements of the different brands of automobiles as well as the list of inventory on-hand thereof. When shall be the cut-off period of the list of inventory on-hand and when is the deadline of submission of the sworn statements and list of inventories?

A-2: The transitory provisions of RR No. 25-2003 require that the said sworn statements and the list of inventory on hand of the different brands of automobiles shall be submitted within seven (7) working days from the date of effectivity of the said revenue regulations. Since the effectivity of the new law is on October 4, 2003, the cut-off period of the list of inventory shall be October 3, 2003 and the deadline for the submission of the sworn statements and inventory list shall be on October 14, 2003.

Q-3: Why is there a need for automobile dealers to be registered separately with the BIR as an excise taxpayer requiring, among others, that an Assessment Number shall be issued to them, and that Official Record Books (ORBs) shall be maintained and transcripts thereof submitted regularly with the BIR?

A-3: There is a need to include the automobile dealers among the tax payers that are to be monitored by the BIR inasmuch as the automobile dealer's selling price is prescribed

by the RR 25-2003 as one of the bases in determining the appropriate basis for the computation of the ad valorem tax.

The registration of the dealer as an excise taxpayer shall be made in addition to his registration with the BIR as a regular taxpayer.

Q-4: Are the registration and other administrative requirements provided in RR No. 25-2003 applicable to manufacturers/assemblers of automobiles which are duly registered enterprises located and operating within the legislated economic or freeport zone?

A-4: If a duly registered PEZA or SBMA manufacturer/assembler of automobiles is an enterprise entitled to the tax incentives granted by the law governing such economic or freeport zone, such manufacturer/assembler of automobile is not required to comply with the registration and other administrative requirements provided in RR No. 25-2003. In case of introduction of the automobile to the customs territory from such economic or freeport zone, the same is deemed importation subject to all the BIR regulatory requirements on importation of excisable articles.

However, in case the manufacturer/assembler is a mere locator not entitled to any tax incentives under the laws governing such economic or freeport zone, all the registration and administrative requirements prescribed by the provisions of RR No. 25-2003 shall apply.

Q-5: In case the manufacturer/assembler, importer or dealer has no transaction or operation in a given a month, is he/she still required to submit the transcript of ORBs for the said month of operation?

A-5: Inasmuch as the submission of transcript of ORB is a mandatory requirement and the provisions of the revenue regulations do not provide for any qualification, the submission of the transcript of ORB are still required to be complied with indicating therein the phrase “No Transaction” or “No Operation”.

Q-6: What are the BIR forms that shall be used in filing a return for the payment of excise tax on automobiles and for the remittance of advance deposit? Are importers of automobiles also required to use the said BIR forms?

A-6: The Excise Tax Return for Automobiles and Non-Essentials (BIR Form No. 2200-AN) shall be used by the manufacturers/assemblers, for filing and payment of the excise tax as well as for the remittance of advance deposit. It shall also be used by all other persons who are required to pay the excise tax on automobiles to the BIR. The use of such BIR form is not required for payment of excise tax on imported automobiles since the excise tax is required to be paid at the Bureau of Customs.

Q-7: Are automobile importers and/or dealers also required to issue Withdrawal Certificates (WC) to cover sales of automobiles to customers?

A-7: Withdrawal Certificates are issued by revenue officers assigned by the BIR at the place of production in order to document the removal of excisable articles therefrom. Under the instant case, a WC is no longer necessary.

Q-8: In case a dealer has existing inventories of locally assembled and imported automobiles prior to the effectivity of RR 25-2003, is he required to reflect these inventories as part of his opening stocks and record the sale thereof in the ORB?

A-8: In order to avoid confusion on the sales transactions and to reflect a complete picture of all the transactions of the automobile dealer, there is a need to indicate such existing inventories as part of automobile dealer's opening stocks and record the sales thereof in the ORB.

Q-9: Under RR No. 25-2003, any introduction of automobile from a duly legislated freeport zone to the customs territory shall be deemed importation. In case the automobile to be brought out of the freeport zone was locally assembled and the same was purchased from the customs territory free of tax, what specific office shall be responsible for the collection of the excise tax due on such introduction?

A-9: For imported automobiles, the excise tax shall be paid with the Bureau of Customs since the introduction thereof to the customs territory is deemed importation. However, for locally purchased automobiles which are brought into the Freeport zone and subsequently re-introduced into the customs territory, the excise tax shall be paid to the Bureau of Internal Revenue.

Q-10: Where will the application for a permit to operate as a manufacturer/assembler, importer or dealer of automobiles be submitted?

A-10: The application for a permit to operate as a manufacturer/assembler, importer or dealer of automobile shall be submitted in accordance with the following:

1. With the LT Assistance Division II, National Office, if the applicant is a registered excise large taxpayer, and if the applicant is a non-large taxpayer whose business address is located within Revenue Region (RR) No. 4-Pampanga, RR No. 5-Valenzuela, Bulacan, RR No. 6-Manila, RR No. 7-Quezon City, RR No. 8-Makati and RR No. 9-San Pablo.

2. With the Excise Tax Area Offices, if the business address of the applicant is located outside of the revenue regions enumerated above.

Q-11: If the manufacturer/assembler is also an importer of CBU automobiles, can he commingle tax-paid imported stocks with his unpaid locally assembled automobiles at the place of manufacture/assembly?

A-11: Yes, he may be allowed, provided that the necessary written permit has been secured from and approved by the appropriate BIR prior to effecting the actual commingling thereof. In case of failure to do so, the excise tax shall be re-imposed on all subsequent removals of the commingled tax-paid imported automobile.

The subsequent removal of a tax-paid commingled automobile shall be accompanied by a WC indicating therein the phrase "Tax-Paid Imported".

Q-12: What shall be the consequence in case the manufacturer/assembler or importer fails to submit the sworn statements prescribed under the transitory provisions as well as under the provisions requiring the semi-annual submission thereof, or whenever a new brand of automobile is to be manufactured/assembled or imported, or when it is required to submit an amended sworn statement?

A-12: For importers, since the sworn statements are required to be part of the supporting documents in their applications for ATRIG, failure to comply with this requirement will result to non-processing/issuance of the ATRIG. For manufacturers/assemblers, any brand/model covered by the unsubmitted sworn statement shall not be allowed to be removed from the place of manufacture/assembly. In addition, the applicable administrative penalty, in both instances, shall be imposed.

Q-13: Is there a need for the BIR to verify and approve the submitted sworn statements before the same can be used as basis in the computation of the excise tax?

Will there be any penalty to be imposed in case any discrepancy was determined after verification of the said sworn statements by the BIR? If yes, when shall said penalty be reckoned for purposes of computing the applicable interest?

A-13: No. Once the prescribed sworn statements have been submitted with the BIR, the same can already be used as basis in the computation of the excise tax. The pre-approval of the sworn statements by the BIR is not prescribed under existing revenue issuances. However, the sworn statements shall, at anytime, be subject to verification by the appropriate BIR office to determine the correctness of the declarations made therein..

Should any discrepancy be determined after verification of the submitted sworn statements, the applicable penalties shall be imposed including interest. The interest shall be computed reckoned from the time of the initial removal of the brand/model of automobile covered by the sworn declaration over which the discrepancy has been determined.

Q-14: In case the suggested dealer's price of an automobile in Metro Manila is different from the suggested dealer's price of the same brand/model in the province, what dealer's price shall be indicated by the manufacturer/assembler

or importer in the sworn statement? Is the manufacturer/assembler or importer required to submit a different sworn statement for this brand/model?

A-14: In general, the variances in selling prices among Metro Manila and provincial dealers consist of the cost of insurance and freight (CIF) only. If the CIF is separately billed or separately indicated in the invoice of the dealer, the suggested retail price excluding the CIF shall be used and reflected by the manufacturer/assembler or importer in the sworn statement. However, if the CIF is deemed included in the suggested dealer's price and the same cannot be accurately derived therefrom, the suggested retail prices, including the CIF, for the different provincial locations shall be separately indicated in the same sworn statement for the affected brand/model.

Q-15: Are the dealers of automobiles required to submit sworn statements?

A-15: No. Only manufacturer/assemblers and importers of automobiles are required to submit sworn statements.

Q-16: Who should be the authorized signatories to the sworn statement? Is a customs broker authorized to sign the prescribed sworn statement in behalf of his client-importer?

A-16: The authorized signatory to the sworn statement shall be any of the following:

1. President, Vice President or Treasurer, in case of corporation or partnership
2. Owner, in case of single proprietorship
3. Any person duly designated by any of the above individuals, as the case may be, provided that such designation is made in writing, duly notarized, and submitted to the BIR.

A customs broker can sign the prescribed sworn statement provided that his authority is in writing and subject to the conditions provided for in Item 3 above.

Q-17: How should be the different selling prices of automobiles required to be indicated in the sworn statement be computed given the following assumptions?

	Brand A (local)	**Brand B (Local)**	**Brand C (Imported)**
DIRECT COSTS			
Raw Materials (CKD, SKD and other parts)	P 180,600	P 515,000	0
Labor	15,050	95,000	0
Overhead	15,050	95,000	0
Total	210,700	705,000	0
COST OF IMPORTATION (For imported CBUs based on value used by the Bureau of Customs)			P 800,000 *
COST OF ACCESSORIES			
Mandatory (airconditioner, radio & mag wheels)	60,000	150,000	0
Optional	10,000	15,000	0
Total	70,000	165,000	0
COST OF ACCESSORY INSTALLATION	7,000	10,000	0
SELLING & ADMINISTRATIVE EXPENSES	13,300	20,000	150,000

TOTAL COST OF PRODUCTION/IMPORTATION AND EXPENSES	301,000	900,000	950,000
ASSUMED MANFUACTURER'S/ASSEMBLER'S & IMPORTER'S PROFIT MARGIN	16.279%	25%	30%
ASSUMED DEALER'S PROFIT MARGIN	15%	29%	30%

* The cost of mandatory accessories (airconditioner, radio and mag wheels) already forms part of the cost of importation.

A-17: The computations of the different selling prices of automobiles that are required to be indicated in the sworn statement are as follows:

NET MANUFACTURER'S/SSEMBLER'S & IMPORTER'S SELLING PRICE Brand A (P301,000 x 116.28%) Brand B (P900,000 x 125%) Brand C (P950,000 x 130%)	350,000	1,125,000	1,235,000
ADD: Excise Tax Brand A (P350,000 x 2%) Brand B [P112,000 + (40% x P25,000)] Brand C [P112,000 + (40% x P135,000)]	7,000	122,000	166,000
VAT Brand A [(P350,000 + 7,000) x 10%] Brand B [(P1,125,000 + 122,000) x 10%] Brand C [(P1,235,000 + 166,000) x 10%]	35,700	124,700	140,100
GROSS MANUFACTURER'S/ASSEMBLER'S & IMPORTER'S SELLING PRICE	392,700	1,371,700	1,541,100
ACTUAL DEALER'S SUGGESTED SELLING PRICE (inclusive of VAT & excise) Brand A [(P350,000x115%)+7,000] 110% Brand B [(P1,125000x129%)+122,000] 110% Brand C [(P1,235,000x130%)+166,000] 110%	450,450	1,730,575	1,948,650
MINIMUM MANUFACTURER'S/ASSEMBLER'S & IMPORTER'S SELLING PRICE Based on 80% actual dealer's suggested selling price, net of excise & VAT Brand A (P 402,500 x 80%) Brand B (P1,451,250 x 80%) Brand C (P1,605,500 x 80%)	P 322,000	P 1,161,000	P 1,284, 400

Based on the total cost of production/importation & expenses divided by 90% Brand A (P 301,000/90%) Brand B (P900,000/ 90%) Brand C (P950,000/90%)	P 334,444	P 1,000,000	P1,055,556

Q-18: What will be the applicable excise tax rate for motor vehicles that are included in the inventory list submitted to the BIR as of September 8, 2003 and/or October 3, 2003? Are these still covered by the provisions of Revenue Regulations (RR) Nos. 14-99 and/or RR No. 4-2003?

A-18: Since Republic Act (RA) No. 9224 did not contain any provision allowing existing inventories of motor vehicles to be subjected to the provisions of RR No. 14-99 and/or RR No. 4-2003, all removals of motor vehicles that are considered automobiles, either from the production/assembly plant or customs custody, beginning October 4, 2003 shall be taxed using the new excise tax rates provided for in the said Act. In the same manner, all removals of automobiles that are part of the existing inventories as of October 3, 2003 prior to the effectivity of RR No. 25-2003 shall be taxed in accordance with the excise tax rates under the new law.

Q-19: What is the tax treatment on imported Completely Built-Up (CBU) motor vehicles that arrived at the Bureau of Customs (BOC) before the effectivity of RA 9224?

A-19: The taxation of Imported CBU motor vehicles that arrived at the BOC before the effectivity of RA 9224 shall be governed by the tax law and implementing revenue regulations thereof prevailing at the time of their importation into the Philippines, provided that the corresponding Import Entry Declaration has been filed and the appropriate taxes and customs duties have been paid to the BOC. Thus, if a motor vehicle which may be exempted or may be paying at a lower tax rate pursuant to the old tax law and implementing revenue regulations that are prevailing at the time of its importation, the same shall remain as such even if it was released from the customs' custody and/or withdrawn from the importer's establishment and sold during the effectivity of RA 9224, provided, that the conditions for the filing of the said declaration and payment of the taxes and customs duties, if applicable, on or prior to October 3, 2003 are satisfactorily met.

Q-20: In case an automobile is returned to the manufacturing/assembly plant for re-assembly or repair, will the subsequent removal thereof result to a re- imposition of excise tax?

Is there a need to issue a Withdrawal Certificate (WC) for its subsequent removal from the manufacturing/assembly plant and to enter said transaction in the ORBs?

A-20: If the returned automobile has undergone a major re-assembly/repair consisting of change of the major components of the automobile such as engine, chassis or body, the subsequent removal thereof shall be subject to the re-imposition of excise tax, in the same manner as regularly removed finished automobiles. However, in case the returned automobile will not undergo a major re-assembly/repair, the additional excise tax that to be imposed on the subsequent removal thereof shall cover only the value-added component for such minor repair, provided that the prescribed written permit has been secured from and issued by the appropriate BIR office prior to the actual return of the automobile to the manufacturing/assembly plant premises.

In both cases, the manufacturer/assembler shall comply with the administrative requirements pertaining to the issuance of the prescribed WC to document the subsequent removal, and the posting of such transaction in the appropriate accounts of the ORBs, indicating therein the phrase "Returned for Re-assembly/Repair".

Q-21: If an automobile will be sold at a price lower than the cost to manufacture/import plus all the selling and administrative expenses until the same is sold, will the 10% minimum margin be applied even if the manufacturer/assembler or importer does not own the business of the dealer or buyer or he does not have any interest in the profits thereof?

A-21: Pursuant to the provisions of Section 130 (B) of the Tax Code, if the manufacturer's/assembler's or importer's selling price is less than the cost of manufacture/importation plus expenses incurred until the goods are finally sold, a proportionate margin of profit of not less than ten percent (10%) of such manufacturing/importation cost and expenses, shall be added to constitute the gross selling price. This applies whether or not the manufacturer/assembler or importer does not own the business of the dealer or buyer or he does not have any interest in the profits thereof.

Q-22: For purposes of determining the 10% minimum margin of the manufacturer/assembler or importer, what constitute selling and administrative expenses?

A-22: Selling and administrative expenses represents all expenses incurred by the manufacturer/assembler or importer until the automobiles are finally sold, provided that these expenses are incurred in the usual course of the business, such as salaries and wages of the administrative and sales personnel, commissions, utilities expenses, depreciation, representation and transportation expenses. However, for purposes of computing the selling and administrative expenses, extraordinary expenses not incurred in the usual course of business, such as losses from fire or pilferage, separation pays of retrenched employees and the like, shall not form part thereof.

Q-23: For purposes of the preparation of the Sworn Statement for each brand or variants of automobiles, how is the selling and administrative expenses computed?

A-23: All selling and administrative expenses that can be directly attributed to a specific brand/model of automobile shall be reflected in the sworn statement of such brand/model of automobile. However, in case the selling and administrative expenses cannot be directly attributed to any specific brand/model, such expenses shall be allocated based on the selling price of the specific brand/model. For this purpose, the ratio of the total sales per brand/model against the total sales of all brand/models, whether taxable or exempt, during the immediately preceding taxable year as reflected in his audited financial statements, shall be used as basis in the allocation of selling and administrative expenses that cannot be directly attributed to any brand/model of automobile.

Example:

Total sales per audited financial statements	
Model A (5 units @ P2.0M)	P 10,000,000
Model B (25 units @ P1.M)	25,000,000
Model C (50 units @ P.8M)	40,000,000
Total	P 75,000,000

Selling & Administrative Expenses

Directly attributable to each model per unit	
Model A (5 units @ P180,000)	P 900,000
Model B (25 units @ P24,000)	600,000
Model C (50 units @ P8,000)	400,000
Total	P 1,900,000
Not directly attributable to any model	P 10,500,000

The selling and administrative expenses assignable to each of the specific brand/model shall be computed as follows:

1. Determine the percentage share of each model in the total sales:

Model A (P10,500,000/75,000,000)	13.33%
Model A (P25,000,000/75,000,000)	33.33
Model A (P40,000,000/75,000,000)	53.34
Total	100.00%

2. Allocate the total selling and administrative expenses that cannot be directly attributed to any brand/model based on the percentage share of each brand/model in the total sales of the company.

Model A (P10,500,000 x 13.33%)	P 1,399,650
Model A (P10,500,000 x 33.33%)	3,499,650
Model A (P10,500,000 x 53.34%)	5,600,700
Total	P 10,500,000

3. Calculate the allocable expenses per unit of each brand/model.

Model A (P1,399,650/ 5 units)	P 279,930
Model A (P3,499,650/ 25units)	139,986
Model A (P5,600,700/ 50 unit)	112,014

4. Calculate the allowable expenses per unit of each brand/model.

Model	Directly Attributable Expenses	Allocable Expennses	Total
Model A	P 180,000	P 279,930	P 459,930
Model B	24,000	139,986	163,986
Model C	8,000	112,014	120,014

Based on the above computations, the amount of selling and administrative expenses of Brand/Model A, B and C shall be P459,930.00, P163,986.00 and P120,014.00, respectively.

Q-24: What should be the correct amount of taxable net selling price of the manufacturer/assembler or importer (MAI) in case discounts are granted to dealers or buyers and the discounts granted by the dealers to the buyers-customers given the following assumptions?

Net manufacturer's/assembler's or importer's selling price (NMISP) per sworn statement	**P 450,000**
NMISP (Minimum 80% of the Suggested Retail Price per sworn statement)	**455,000**
NMISP (Minimum 90% of the Cost and Expenses per sworn statement)	**440,000**
Suggested Dealer's Selling Price (net of VAT & excise tax)	**568,000**
Actual Dealer's Selling Price	

(net of VAT & excise tax)	**570,000**
Manufacturer's/Assembler's or Importer's Discount to Dealers	**5,000**
Dealer's Discount to Buyers	**10,000**

A-24: As a rule, discounts are not allowable deductions from the NMISP for excise tax purposes. If the dealer sold the automobile at P568,000 only, the taxable NMISP shall be P455,000 (minimum 80% of the suggested retail price per sworn statement) since it is the highest of the three declared selling prices in the sworn statement. However, since the automobile was actually sold by the dealer at P570,000, the correct taxable base should be P456,000 (80% of the actual dealer's price of P570,000).

Q-25: In case the sales discounts granted by manufacturer/assembler or importer are taken up in its books of accounts as a separate expense item and not as outright deduction from sales, will such discounts be included in the selling and administrative expenses that will be used in computing the minimum net manufacturer's selling price in the event that the automobile was sold at a loss?

A-25: If discounts are treated as part of the selling and administrative expenses and not as outright deduction from sales, such discounts shall be excluded in the computation of the NMISP based on the minimum 90% of the cost and expenses to be reflected in the Sworn Statement.

Q-26: Under RR No. 25-2003, the minimum net manufacturer's/assembler's or importers selling price shall not be less than 80% of the dealer's selling price. Is the 20% difference deemed the maximum profit margin of the dealer? If yes, who is liable to pay the differential excise tax in case the dealer's profit margin exceeds the said 20% ceiling? Will penalties be imposed for the said differential excise tax considering that the lapse of time between the date of removal from the place of manufacture/assembler or customs' custody and the date of actual sale by the dealer?

For purposes of computing the 20% profit ceiling, what is the treatment of the price of optional accessories installed by the dealer? Will this be included in the computation of the maximum 20% profit margin of the dealer?

A-26: Yes, the 20% difference between the NMISP and the actual dealer's price is deemed the maximum profit margin of the dealer. In case the actual profit margin of the dealer per brand/model of automobile exceeds the 20% ceiling, the manufacturer/assembler or importer of the automobile shall be liable to pay the differential excise tax on the excess margin regardless of whether or not he has no knowledge of such difference in price. Accordingly, the applicable penalties shall be imposed, including interest, which shall be reckoned from the date of actual removal

of the affected brand/model of automobile from the place of manufacture/assembly or release from customs' custody.

The price of optional accessories installed by the dealer shall form part of the dealer's selling price for purposes of computing the 20% maximum profit margin if the said accessories are included in the invoice issued for the sale of the automobile. However, if the manufacturer/assembler or importer owns the business of the dealer or buyer or he has interest in the profits thereof, the dealer's selling price, including the price of the optional accessories, shall be the basis in the computation of the excise tax.

Q-27: RR No. 25-2003 prescribes that the value of air conditioner, radio or mag wheels including the cost of installation thereof, whether or not the same were actually installed in the automobile, shall form part of the net manufacturer's/assembler's or importer's selling price. For this purpose, what value shall be used as basis on such accessories if the same are not actually installed in the automobile?

A-27: The theoretical value of the mandatory accessories (i.e. air conditioner, radio and mag wheels) that are not actually installed in the automobile from the time of removal of the automobile from the place of manufacture/assembly or release from the customs' custody shall be established in the following manner:

1. If the manufacturer/assembler or importer of automobile also sells such accessories and installs the same in other automobiles of the same brands/models, the invoice price of such accessories, net of VAT, shall be the theoretical value thereof.

2. If the manufacturer/assembler or importer of automobile also sells such accessories and installs the same in different brands/models of automobiles, the invoice price of such accessories, net of VAT, shall also be used as the theoretical value thereof.

3. If the manufacturer/assembler or importer of automobile does not sell any of these mandatory accessories, the prevailing market price of these brand new accessories, net of VAT, shall be used as the theoretical value.

Q-28: In case of imported CBU automobiles intended for sale with pre-installed mandatory and/or optional accessories and the value of the same were not separately indicated in the importation documents, is there a need to separately indicate the value thereof in the sworn statement?

A-28: No. However, there shall be indicated in the sworn statement, the phrases "Inclusive of the mandatory and/or optional accessories" and "Not Applicable" right after the items "Cost of Importation" and "Cost of Accessories", respectively. In addition, if

there is no value for the "Cost of Accessories" and the "Cost of Installation", the figure "0" shall be indicated in the peso column.

Q-29: Are automobiles removed for demo/display in public showrooms subject to excise tax?

A-29: Since the provisions of the Tax Code does not include excise tax-free removal of automobiles intended for demo/display in public showrooms, the same are still subject to the imposition of excise tax before removal from the place of manufacture/assembly or release from customs custody.

Q-30: RR No. 25-2003 requires the posting of surety bond for the initial registration of manufacturer/assembler, importer and dealer of automobiles for sale as well as the annual renewal thereof. Since the dealer of automobiles for sale is not the person primarily liable to pay the excise tax, is the posting of surety bond applicable to the said dealer?

If the manufacturer/assembler or importer is maintaining adequate balance of deposit to cover the excise tax due on removals of automobiles, can the BIR waive the posting of the said bond?

In case the taxpayer fails to post the prescribed surety bond, what will be the implication?

A-30: Since the posting of surety bond is required only from the manufacturers and importers of articles subject to excise tax, the dealers of automobiles need not be required to post the surety bond.

The posting of surety bond by the manufacturer/assembler or importer and the maintenance of adequate excise tax deposit by the manufacturer/assembler serve two different objectives. The posting of the surety bond is prescribed to guarantee payment of future excise tax liabilities of the excise taxpayer while the maintenance of adequate deposit is only a payment scheme that may be adopted by any excise taxpayer for administrative convenience in the payment of excise for each and every removal of excisable articles.

The posting of surety bond by the manufacturer/assembler or importer is a separate and express requirement by the Tax Code; hence, the BIR is not authorized to waive the said requirement despite the existence of an adequate balance of deposit to cover the excise tax due on removal of automobiles by the manufacturer/assembler.

Failure to comply with this requirement will result to non-issuance of the prescribed permit to operate, in case of new applicants, or revocation of the permit to operate, in case of existing permit-holders. In both cases, the applicable administrative penalties shall be imposed.

Q-31: Is there a need to apply for an Authority to Release Imported Goods (ATRIG) for the release of imported automobiles not intended for resale but for own use by the importer?

For tax-exempt importation of automobiles either for own use or for resale, is an ATRIG necessary before the automobile can be released from customs custody?

In case a tax-exempt entity imports an automobile free of taxes and duties and subsequently sells or transfer such automobile to a person not entitled to any tax exemption, will the taxable buyer or transferee be required to secure an ATRIG from the BIR?

For importation of motor vehicles that are expressly classified as tax-exempt (e.g. trucks, buses, jeeps, etc.), is there is a need to secure an ATRIG from the BIR?

A-31: The provisions of RR No. 25-2003 expressly provide that ATRIG shall be secured for all importations of automobiles whether for sale or not, regardless of whether the same are taxable or tax-exempt. Accordingly, the ATRIG shall still be required on imported automobiles intended for personal use by the importer.

Since the aforesaid requirement of the revenue regulations does not provide for any qualification, an issuance of an ATRIG is still required before a tax-exempt importation of automobiles, either for own use or for resale, can be released from the customs' custody.

In case a tax-exempt entity imports an automobile free of taxes and duties and subsequently sells or transfer such automobile to a person not entitled to any tax exemption, such subsequent sale or transfer is considered an importation; hence, subject to the requirement for the issuance of ATRIG.

Inasmuch as the provisions of RR No. 25-2003 prescribes the issuance of ATRIG for "automobiles", importation of motor vehicles expressly classified as tax-exempt by the said revenue regulations need not require the issuance of ATRIG. However, a separate revenue issuance shall be issued to effectively monitor such importations and prevent any abuse in the implementation of the said provision in the existing revenue regulations.

Q-32: What constitutes conversion from originally classified tax-exempt motor vehicles into an excisable type automobile?

A-32: A conversion of motor vehicle for excise tax purposes shall include, but not limited to, the following instances:

1. When the distinct features of special purpose vehicles such as ambulance, hearse, cargo van, etc, are removed and replaced with parts, seats and other features normally found in types of motor vehicles classified as taxable automobiles.

2. When the configuration/dimension of a utility van originally designed exclusively for the transport of goods are modified/transformed into a motor vehicle that can be used for the transport of passengers.

3. When a body has been mounted to a single cab chassis to be used as a utility van not exclusively designed for the carriage of goods.

4. When a cowl chassis has been mounted with a body specifically designed for a mini-bus of less than 4 tons.

In order to provide clearer rules in the implementation of the law with respect to the conversion of tax-exempt motor vehicles to an excisable automobile, a separate revenue regulations shall be issued for this purpose.

Q-33: The revenue regulations prescribes that in case a locally manufactured/assembled or imported originally classified as a tax-exempt motor vehicle and converted any time after its removal from the place of manufacture/assembly or release from the customs custody, the owner or possessor thereof shall be liable to pay sthe excise tax based on the acquisition price plus cost of conversion. If the conversion of the vehicle will take place after the lapse of considerable period and the element of depreciation has already set in, what will be the proper basis for the computation of the excise tax?

Will the prescribed penalties for converting the depreciated vehicle be imposed?

What office will be responsible for the assessment and/or collection of the excise tax?

When will the excise tax be paid?

A-33: If the conversion of originally tax-exempt motor vehicle to excisable automobile is being done as a regular course of business by the dealer/buyer/owner, for purposes of selling the converted automobile to the public, no provision for depreciation shall be allowed for purposes of computing the applicable excise tax. However, if such conversion is done, for personal use by any person, a reasonable allowance for depreciation shall be considered, provided that the total chargeable depreciation shall not be more than ten percent (10%) per year reckoned from the date of the original acquisition thereof; provided, further that the maximum allowable depreciation shall not exceed fifty (50) percent of the acquisition cost.

If the conversion of the motor vehicle is being done as a regular course of business by the dealer/buyer/owner, the prescribed penalties shall be imposed. On the other hand,

if the conversion is done for personal use, no penalties shall be imposed provided that the same is not proven to be merely a scheme to avoid the payment of the applicable excise tax.

All excise taxes due on converted excisable automobile shall be paid to and collected by the appropriate BIR office, regardless of whether the originally classified tax-exempt motor vehicle is imported or locally purchased.

For conversion done as a regular course of business, the excise tax shall be paid before removal from the place where such motor vehicle was converted into an excisable automobile. If the conversion is done for personal use, the excise tax shall be paid to the BIR before the registration of the converted automobile with the Land Transportation Office.

Q-34: If the dealer or the owner of excise tax-exempt automobile engages the services of a body builder and caused the conversion of such originally tax-exempt automobile into a excisable automobile, who shall be liable for the payment of the excise tax on the converted automobile?

A-34: Since the ownership over the motor vehicle was not transferred to the body builder, the dealer or the owner of the converted motor vehicle shall remain to be the person liable to pay the excise tax thereon.

Q-35: Is the body builder and the owner of the converted automobile for sale required to register with the BIR as excise taxpayers? What about the owner who converts or causes the conversion of the motor vehicle for his personal use?

A-35: The body builder and the owner of the converted automobile for sale are required to secure from the BIR a permit to operate as excise taxpayers. However, owners of converted motor vehicles for personal use need not register as such.

All revenue officials concerned are requested to give this Circular as wide a publicity as possible.

(Original Signed)
GUILLERMO L. PARAYNO, JR.
Commissioner of Internal Revenue