

# REPUBLIC OF THE PHILIPPINES

## BOARD OF INVESTMENTS

### **Procedural Guidelines in the Availment of Incentive on Unrestricted Use of Consigned Equipment Under Article 39(g) of Executive Order No. 226 now Article 39(f) as amended by R.A. 7918**

The following Procedural Guidelines are hereby promulgated to govern the availment of Incentive under Article 39(g) of E.O. 226 now Article 39(f) as amended by R.A. 7918 on Unrestricted Use of Consigned Equipment.

#### **I. LEGAL BASIS**

Article 39(g) now Art. 39(f) of E.O. 226 as amended by R.A. 7918 provides that machinery, equipment and spare parts consigned to any enterprise registered with the Board of Investments (BOI) shall not be subject to restrictions as to period of use of such machinery, equipment and spare parts: Provided that the appropriate re-export bond equivalent to 100% of the estimated taxes and duties is posted: Provided further, that such consigned equipment are reasonably needed in the enterprise's registered operations and shall be for the exclusive use of the registered enterprise.

#### **II. DEFINITION OF TERMS**

1. **Definition of Terms.** For purposes of these rules and regulations, the terms used herein shall be construed to have the following meaning:

- a. **Machinery and Equipment** shall refer to capital equipment reasonably needed in the firm's registered activities, including major components, accessories, attachments, accompaniments, non-perishable tools etc. The life span of which by design is equal to the life of the capital equipment of which they are a part. The equipment that will be fixed or immovable or that which will form part of the structure or foundation of a building or plant and hence are non re-exportable can not be allowed in this incentive.
- b. **Spare Parts** shall mean the usual components of machinery and/or equipment that are subject to wear and tear or damage arising from normal use, utilization and operation.
- c. **Consigned Equipment** shall refer to capital equipment loaned to local company by its foreign parent/affiliate/subsidiary/buyer/marketing arm company which is reasonably needed and to be used exclusively by the former in its registered operation.

- d. **Consignor** shall refer to the sender/supplier of the capital equipment and parts that could be the registered enterprise's foreign principal, affiliate or buyer of its export products.
- e. **Consignee** shall refer to the applicants registered enterprise to whom the consigned capital equipment and parts are sent or shipped or delivered for its exclusive use.
- f. **Date of Official Filing** shall mean the date stamped on the application by the Record Section as recorded in its Record/Logbook for application of incentives.

### **III. GUIDELINES IN THE AVAILMENT OF UNRESTRICTED USE OF CONSIGNED EQUIPMENT**

**1. Period of Availment.** The period of availment of this incentive shall in no case exceed ten (10) years from date of registration. During the ten (10) year period, BOI registered firms shall be allowed to import their machinery and equipment on consignment basis which they can use for an unlimited period provided a re-export bond is posted.

**2. Who May Avail of the Unrestricted Use of Consigned Equipment.** All enterprises whether new, expanding, existing, or modernizing registered with BOI, can import equipment and spare parts on consignment basis regardless of location.

**3. When Request for Endorsement Should be Filed.** Request for endorsement to the Department of Finance to release imports of consigned equipment under re-export bond shall be filed with BOI either prior to loading on board a carrier or upon arrival of the shipment and upon completion of import documents.

#### **4. Conditions for Availment of Unrestricted Use of Consigned Equipment**

- a. The release of capital equipment and spare parts from Custom's custody shall be subject to the posting of re-export bond.
- b. Import documents should indicate that the importation is on consignment basis.
- c. Consigned equipment should be either directly needed or reasonably needed in the firm's registered activity.
- d. Consigned equipment should be for the exclusive use of the firm in its registered activity.
- e. Acquisition of the consigned equipment should not result in the firm's exceeding its registered capacity.

- f. Qualified spare parts shall not be confined to those going with the machinery/equipment to be consigned but shall also include those imported separately provided they are ascertained to replace the spare parts which were subjected to normal wear and tear due to usage, utilization and operation of machinery/equipment consigned previously to the registered enterprise.
- g. Guarantee spare parts for use on non-consigned equipment may be allowed for release under re-export bond. Renewal thereof shall be allowed during the guaranty period. Upon expiration of which the firm shall be required to re-export subject spare parts or pay the corresponding taxes and duties.
- h. The importation shall be covered by shipping documents in the name of the applicant firm as consignee to whom the shipment will be delivered directly by Customs authorities.
- i. The capital equipment shall be installed and/or used in the site indicated by the applicant firm and shall not be used or transferred elsewhere without prior approval by BOI.
- j. Since title remains with the consignor, depreciation of consigned machinery and equipment will be reflected in the book of accounts of the consignor. The consigned imports shall be reflected in the consignee's books of accounts as consigned through a memorandum entry.
- k. The Bangko Sentral ng Pilipinas reserves the right to examine pertinent books of accounts for which purpose it shall be periodically provided with the audited financial statements of the consignee.

#### **5. Transfer, Sale or Disposition of Consigned Equipment**

The transfer of consigned machinery, equipment, accessories spare parts thereof from the registered enterprise previously authorized to accept such machinery, equipment and spare parts thereof to another BOI-registered enterprise shall be subject to the posting of the appropriate re-export bond by the transferee and shall not be made without prior Board approval.

Any sale or disposition of equipment acquired on consignment basis shall be subject to Customs rules and regulations.

Outward remittance of foreign exchange covering the proceeds of sale, transfer or disposition of consigned capital equipment and spare parts shall be allowed only upon prior approval of the Bangko Sentral ng Pilipinas.

The registered enterprise shall notify the Board in writing when any consigned machinery, equipment, accessories and spare parts thereof are re-exported.

#### **IV. PROCEDURAL STEPS IN THE ISSUANCE OF ENDORSEMENT FOR THE RELEASE OF CONSIGNED EQUIPMENT UNDER RE-EXPORT BOND**

1. **Documentary Requirements** – Six (6) sets of documents are needed in each of the following:

A. For requests of Endorsement for release of Consigned Equipment under re-export bond.

A-1 For shipments that have already arrived.

1. Letter request
2. Shipping documents (e.g. bill of lading, packing list)
3. Invoice and
4. Other documents as required by BOI (e.g. brochure of equipment, etc.)
5. Clearance on compliance with reporting requirements from Incentives Monitoring Division.
6. Clearance from Industry Planning Group as to firm's compliance with submission of reportorial requirements.

A-2 For shipments that have not yet arrived or are still to be loaded on board a carrier.

1. Letter request
2. Pro-forma invoice indicating the importation is on consignment basis.
3. Other documents as required by the Board.
4. Clearance from the Industry Group as to the firm's compliance to its submission of reportorial requirements.
5. Clearance from the Incentives Monitoring Division as to the firm's compliance to its submission of import entries and internal revenue declaration.

B. For request of Endorsement for Renewal/Extension/Cancellation of Re-export and request for Authority to Re-export Consigned Equipment.

1. Letter request
2. Latest BOI endorsement for release under re-export bond or extension/renewal of re-export bond issued to applicant firm
3. Copy of Re-export Bond
4. Invoice
5. Bill of Lading or Airway Bill
6. Clearance on compliance with reporting requirement from the Incentives Department
7. Clearance from the Industry Planning Group as to the firm's compliance to its submission of reportorial requirements.

2. Procedural Steps. All requests shall be filed with the Incentives Department of the Board of Investments

1. The applicant firm presents its letter-request and supporting documents to the Incentives Department (ID) for checklisting.
2. ID staff checklists request for completeness of documentary requirements.
3. If letter-request and supporting documents are complete, ID staff stamps “OK FOR ACCEPTANCE” on the letter-request . ID staff issues a ‘CLAIM SLIP” indicating the target date of release which is five (5) working days from date of official acceptance.
4. Applicant files the request together with the supporting documents with the Records Section. Upon payment of filing fee with the cashier, BOI Records Section stamps the date of official filing and the application number on the application.
5. Records Section transmits the letter-request complete with documents to the Incentives Department for evaluation and processing.
6. After evaluation, the Incentives Department staff prepares endorsement addressed to the Department of Finance (DOF). The same shall be initialed by the staff/analyst and Division Chief (CE) and then signed by the Director of (ID)
7. The endorsement is forwarded to the Records Section for release. Distribution of said endorsement shall be as follows:

Original request + documents  
1<sup>st</sup> copy  
2<sup>nd</sup> copy  
3<sup>rd</sup> copy  
4<sup>th</sup> copy

Department of Finance  
Applicant Firm  
Bureau of Customs  
Record Section (BOI)  
Other Incentive Division (BOI)

## V. REPEAL/EFFECTIVITY CLAUSE

1. **Amendments, Modification and/or Repeal.** The Board of Investments has the power and authority to amend, modify and/or repeal any of the provisions of the Procedural Guidelines on the availment of incentive on unrestricted use of consigned equipment.
2. **Effectivity.** All applications filed on or after June 25, 1998 shall be processed in accordance with these guidelines.