

CUSTOMS ADMINISTRATIVE ORDER (CAO)
NO. _____

**SUBJECT: DUTY DRAWBACK, REFUND AND ABATEMENT, AND RETURN OF
CASH DEPOSITS HELD IN TRUST**

Introduction. This CAO implements Sections 900 to 902, Chapter 1, Section 903 to 913, Chapter 2, Title IX, and other related sections of Republic Act No. 10863, otherwise known as the Customs Modernization and Tariff Act (CMTA).

Section 1. Scope. This CAO covers duty drawback including refund of internal revenue taxes, as may be applicable, refund for overpayment, abatement of duties and taxes, other refunds including those arising from final decisions in protest cases, judicial decisions, special laws and executive/Presidential issuances.

Section 2. Objectives.

- 2.1.** To provide streamlined guidelines in the application, processing and approval of claims for tax credits and refunds;
- 2.2.** To prescribe the form and manner of payment of claims for tax credits and refunds; and,
- 2.3.** To simplify the process in the utilization, revalidation and transfer of Tax Credit Certificates.

Section 3. Definition of Terms. For purposes of this CAO, the following terms are defined accordingly:

- 3.1. Abatement** - Shall refer to reduction of duties and taxes payable on imported goods on account of loss, damage, shortage, defect and other similar circumstances as defined in the law;¹
- 3.2. Duty Drawback** - refers to the refund or credit of duties, and may include internal revenue taxes actually paid for the importation, in whole or in part;²
- 3.3. Refund** - Shall refer to the return, in whole or in part, of duties and taxes resulting from an overpayment or erroneous payment³ or overcharged as a result of an error in assessment⁴. It may also include claims arising

¹ cf Customs Modernization Tariff Act (CMTA), Title IX, Chapter 2, Section 904 to 910

² cf CMTA, Title IX, Chapter I, Section 901

³ cf CMTA, Title IX, Chapter 2, Section 903

⁴ cf Revised Kyoto Convention (RKC), Chapter 4, Standard 4.18

from final decisions in protest cases, judicial decisions, special laws and executive/Presidential issuances, or any other claim where there is duty to return under the principle of *solutio indebiti*;

3.4. Tax Credit Certificate (TCC) - refers to the certificate evidencing the tax credit due to the taxpayer named therein, duly issued in accordance with existing laws, rules and regulations which shall bear, among others, the name of the grantee, the amount of credit, the date of issuance and period of validity, that can be used to settle duties and taxes due to the national government;

3.5. Tax Debit Memorandum (TDM) - refers to the proof that a portion of the TCC amount has been set aside for payment of duties and taxes due, and may be used as such payment within its validity period.

Section 4. General Provisions on Duty Drawback.

4.1. When Allowed. An importer may file for duty drawback under the following:

4.1.1. Up to maximum of ninety-nine percent (99%) of the duty imposed by law, for all fuel imported into the Philippines used for propulsion of:

- a.** Sea vessel engaged in international trade;
- b.** Sea vessel engaged in coastwise trade, provided that MARINA or any appropriate government agency has authorized the temporary conversion of that vessel to engage in international trade; and
- c.** Scheduled international airlines.⁵

4.1.2. Up to maximum of fifty percent (50%) of the duty imposed by law, petroleum oils and oils obtained from bituminous materials, crude oil imported by nonelectric utilities, sold directly or indirectly, in the same form or after processing, to electric utilities for the generation of electric power and for the manufacture of city gas.⁶

4.1.3. For imported materials including the imported articles used in the packing, covering, putting up, marking or labeling, in whole or in part for which duties had been paid, upon exportation of the goods manufactured or produced, subject to the following conditions:

⁵ cf CAO No. 14-72, as amended by CAO No. 31-76

⁶ cf CMTA, Title IX, Chapter I, Section 900 (B)

- a. The actual use of the imported materials in the production or manufacture of the goods exported with their quantity, value, and amount of duties paid thereon, should be established satisfactorily;
- b. The duties refunded or credited shall not exceed one hundred percent (100%) of duties paid on the imported materials used;
- c. There is no determination by the NEDA of the requirement for certification on nonavailability of locally-produced or manufactured competitive substitutes for the imported materials used at the time of importation;
- d. The exportation shall be made within one (1) year after the importation of materials used and claim of refund or tax credit shall be filed within six (6) months from the date of exportation; and
- e. When two or more products result from the use of the same imported materials, an apportionment shall be made on its equitable basis.⁷

4.2. No Double Claim. A registered enterprise under Republic Act No. 5186, otherwise known as the "Investment Incentives Act", or Republic Act No. 6135, otherwise known as the "Export Incentives Act of 1970", which has previously applied for tax credits based on customs duties paid on imported raw materials and supplies, whether granted or not shall no longer be allowed to apply for and be entitled to duty drawback under this section with respect to the same importation subsequently processed and re-exported.⁸

4.3. Period to File Claim for Duty Drawback.

- 4.3.1.** A claim and application for a drawback shall prescribe if it is not filed within one (1) year from the date of importation in case of Sections 4.1.1 and 4.1.2 of this CAO.⁹
- 4.3.2.** For duty drawback under Section 4.1.3 of this CAO, the claim shall be filed within six (6) months from the date of exportation. The claimant may request an extension to file the claim for another six (6) months; provided that the request is made before the lapse of the six (6) month period and the actual filing of the

⁷ c/cMTA, Title IX, Chapter I, Section 900 (C)

⁸ c/cMTA, Title IX, Chapter 1, Section No. 901

⁹ c/cMTA, Title IX, Chapter 1, Section No. 902

claim shall not exceed one (1) year from the date of exportation.

¹⁰

- 4.3.3.** Where the duty drawback claim under Section 4.1.3 of this CAO involves multiple importations or exportations, prescription period shall be counted from the date of the first importation or first exportation, as the case may be.

4.4. Documentary Requirements. All applications for duty drawback shall be supported by the following documentary evidence:

- 4.4.1.** Proof of Importation.
- (i)** Import Entry
 - (ii)** Bill of Lading
 - (iii)** Commercial Invoice

- 4.4.2.** Other Documents.¹¹

- a.** For Duty Drawback under Section 4.1.1.

- (i)** Sales Invoices/Delivery Receipt
- (ii)** Official Receipt
- (iii)** Purchase Order
- (iv)** Bunkering Permit/Customs Inspector Certification/Airline Certification
- (v)** BOC Computation Table Using Regular Scheme
- (vi)** Schedule of Deliveries to International Vessels/International Airlines
- (vii)** Schedule of Importation

- b.** For Duty Drawback under Section 4.1.2.

- (i)** Purchase Invoice and Delivery Receipt
- (ii)** Official Receipt
- (iii)** BOC Computation Table Using Regular Scheme
- (iv)** Schedule of Fuel Oil Purchases of Electric Utilities
- (v)** Schedule of Importation

- c.** For Duty Drawback under Section 4.1.3.

- (i)** Export Declaration
- (ii)** Export Bill of Lading
- (iii)** Export Invoice
- (iv)** Shipment Information Sheet

¹⁰ *cf* CMTA, Title IX, Chapter 1, Section No. 902

¹¹ *cf*, Book III, Duty Drawback Group Manual of Operations, One Stop Shop Inter-Agency Tax Credit and Duty Drawback Center

- (v) Bank Credit Memo
- (vi) BOC Computation Table Using Regular Scheme
- (vii) Schedule of Export/Schedule of Sales or Purchases for direct and indirect exports
- (viii) Schedule of Raw Material Usage
- (ix) Schedule of Importation

Section 5. General Provisions on Refund.

5.1. When Allowed. An importer may file for refund of any duties and taxes charged in excess of the amount due, under the following circumstances:

- 5.1.1.** When there is error in the assessment or goods declaration;
- 5.1.2.** When the Bureau permits a change in customs procedure from one where duties and taxes are paid to another where no or less duties and taxes are required to be paid;¹²
- 5.1.3.** Manifest clerical errors made on an invoice or entry, errors in return of weight, measure and gauge;
- 5.1.4.** Errors in the distribution of charges on invoices not involving any question of law.¹³

5.2. Exception to Refund. A refund under Section 5.1.1 and 5.1.2 of this CAO, shall not be granted if the amount of duties and taxes involved is less than Five Thousand Pesos (P5,000.00). Provided, that the Secretary of Finance, in consultation with the Commissioner, may adjust the minimum amount, taking into account the CPI, as published by the PSA.¹⁴

5.3. Period to File Claim for Refund. All claims and applications for refund of duties and taxes shall be made in writing and filed with the Bureau within twelve (12) months from the date of payment of duties and taxes.¹⁵ Pursuant to Article 13 of the Civil Code of the Philippines, when the law speaks of "months", it shall be understood that months are of thirty (30) days; therefore, twelve (12) months are of three hundred sixty (360) days.

5.4. Documentary Requirements. All applications for refund shall be supported by evidence of the basis of erroneous payment or overcharge, including the following documentary evidence:

- 5.4.1.** Proof of Importation.

¹² *cf* CMTA, Title IX, Chapter 2, Section 903

¹³ *cf* CMTA, Title IX, Chapter 2, Section 912

¹⁴ *cf* CMTA, Title IX, Chapter 2, Section 903

¹⁵ *cf* CMTA, Title IX, Chapter 2, Section 913

- a. Import Entry
- b. Bill of Lading
- c. Commercial Invoice
- d. Packing List

Section 6. General Provisions on Abatement.

6.1. When Allowed. An importer may file for abatement or refund of duties and taxes for the following cases:

6.1.1. For missing packages, subject to the following conditions:

- a. The package appears on the manifest or bill of lading or airway bill;
- b. The importer or consignee certifies under pain of penalty for falsification or perjury that the package is missing; and
- c. Upon production of proof satisfactory to the Collector concerned, that the package in question has not been unlawfully imported into the Philippines.¹⁶

6.1.2. For deficiency in contents of packages, subject to the following conditions:

- a. Upon opening of any package, a deficiency in the quantity of the goods is found to exist based upon the invoice;
- b. Deficiency shall be certified, under pain of penalty for falsification or perjury, by the customs officers concerned; and
- c. Upon the production of proof showing that the shortage occurred before the arrival of the goods in the Philippines.¹⁷

6.1.3. For goods lost or destroyed after arrival:

- a. Goods have been lost due to injury, theft, destruction through fire or any other cause, while under the custody of customs;
- b. Satisfactory proof of such loss under any of the following circumstances:
 - (i) While within the territory of any port of entry, prior to unloading under the Bureau's supervision;

¹⁶ *cf* CMTA, Title IX, Chapter 2, Section 906

¹⁷ *cf* CMTA, Title IX, Chapter 2, Section 907

- (ii) While remaining in customs custody after unloading;
- (iii) While in transit from the port of entry to any port in the Philippines; and
- (iv) While released under sufficient security for export except in case of loss by theft.¹⁸

6.1.4. For defective goods, subject to the following conditions:

- a. The goods are found defective or otherwise not in accordance with the agreed specifications at the time of importation or exportation;
- b. The goods are returned either to the supplier or other persons designated by the supplier subject to the following conditions:
 - (i) The goods have not been worked, repaired, or used in the country of importation, and are re-exported, within a reasonable time; and
 - (ii) The goods have not been worked, repaired, or used in the country to which they were exported and are reimported within a reasonable time.

Provided, however, that the use of the goods shall, however, not hinder the refund if such use was indispensable to discover the defects or other circumstances which caused the re-exportation or re-importation of the goods.¹⁹

6.1.5. For dead or injured animals, under the following conditions:

- a. It is certified, under pain of penalty for falsification or perjury and upon proof satisfactory to the Bureau that an animal subject of importation dies or suffers injury before arrival, or while in customs custody; and
- b. The carcass on board or in customs custody is removed and disposed under the conditions prescribed by the concerned regulatory agency and at the expense of the importer.²⁰

6.2. Requirement of Examination Report. In all cases of abatement or refund of duties, the Customs Officer concerned shall submit an examination report as to any fact discovered which indicates any

¹⁸ *cf* CMTA, Title IX, Chapter 2, Section 908

¹⁹ *cf* CMTA, Title IX, Chapter 2, Section 909

²⁰ *cf* CMTA, Title IX, Chapter 2, Section 910

discrepancy and cause the corresponding adjustment on the goods declaration.²¹

6.3. Other Conditions on Abatement or Refund of Duties.

6.3.1. When goods have not yet been released for consumption or have been placed under another customs procedure, provided that no other offense or violation has been committed, the declarant shall neither be required to pay the duties and taxes nor be entitled to refund thereof in any of the following cases:

- a.** When, at the request of the declarant, the goods are abandoned, or as determined by the Bureau, the goods are destroyed or rendered commercially valueless while under customs control. Any cost herein incurred shall be borne by the declarant;
- b.** When goods are destroyed or irrecoverably lost by accident or force majeure. The remaining waste or scrap after destruction, if taken into consumption, shall be subject to the duties and taxes that would be applicable on such waste or scrap if imported in same state; and
- c.** When there are shortages due to the nature of the goods.²²

6.3.2. As an alternative to re-exportation or re-importation, when defective the goods are expressly abandoned or destroyed or rendered commercially valueless under customs control as the Bureau may decide, the importer shall not be entitled to an abatement or a refund if it does not defray the costs of such abandonment, destruction, or rendition.²³

6.3.3. Except as otherwise provided, no abatement of duties shall be made on account of damage incurred or deterioration suffered during the voyage of importation; and duties will be assessed on the actual quantity imported as determined by the customs officers concerned.²⁴

6.4. Documentary Requirements. All applications for abatement or refund shall be supported by the following documentary evidence:

6.4.1 Proof of Importation.

- a.** Import Entry

²¹ *cf* CMTA, Title IX, Chapter 2, Section No. 911

²² *cf* CMTA, Title IX, Chapter 2, Section No. 904

²³ *cf* CMTA, Title IX, Chapter 2, Section No. 909

²⁴ *cf* CMTA, Title IX, Chapter 2, Section No. 905

- b. Bill of Lading
- c. Commercial Invoice
- d. Packing List
- e. Certification from Supplier or Short-Landed Certificate or Bad Order Survey, as the case may be.

Section 7. Common Provisions.

7.1. Inclusion of Internal Revenue Taxes in the Claim. In claims for duty drawback and refund, the applicant shall indicate in his application whether the claim includes the refund of internal revenue taxes. When internal revenue taxes are included in the claim, the BOC shall secure a certification from the Bureau of Internal Revenue that the same has not been claimed as creditable input tax nor has it been the subject of a similar claim for refund. The Commissioner of Internal Revenue shall be informed of any refund of internal revenue taxes granted as a consequence of a claim for duty drawback or refund.²⁵

7.2. No Outstanding Obligation. Prior to the approval of the claim, the Bureau shall ensure that claimant has no outstanding obligation, which means that the claimant must settle the outstanding obligation first. The Bureau shall strictly implement the regular submission of Statement of Accounts from the Collection Districts of importer/claimants who regularly files a claim for duty drawback or tax credit and refund.

7.3. Form of Payment. Approved claims for tax credit or refund may be paid in cash or through the issuance of TCC, subject to budgetary requirements, laws, rules and regulations.²⁶

7.4. Validity of TCCs. TCCs issued pursuant to this CAO shall have a validity period of five (5) years from the date of issue. However, the TCC may be revalidated for another five (5) years or for a total of ten (10) years subject to the following conditions:²⁷

- 7.4.1.** The TCC holder must apply for revalidation before the lapse of the fifth year;
- 7.4.2.** The application of revalidation must be approved by the Bureau; and
- 7.4.3.** The issuance of new TCC indicating the revalidated period of effectivity.

²⁵ *cf* CMTA, Title IX, Chapter 2, Section No. 913

²⁶ *cf* Executive Order No. 68 (s. 2012)

²⁷ *cf* Customs Memorandum Order (CMO) 16-2012

7.5. Utilization of TCCs. Every utilization of the TCC with the Bureau shall be covered by a duly issued Tax Debit Memorandum (TDM), which shall be valid for sixty (60) days. The TDM shall bear the original amount, the creditable balance and the amount to be charged/deducted from the particular TCC sought to be utilized. However, no TDM shall be issued if the applicant has outstanding obligation.²⁸

7.6. Transfer of TCCs. The transfer of TCCs shall be subject to the existing policies and guidelines on the transfer or assignment of the BOC issued TCCs.²⁹

7.7. Period to Process Claims. Eligible claims for tax credit or refund and duty drawback, shall be processed, paid or granted, within sixty (60) days after receipt of properly accomplished claims.³⁰

7.8. Notice to PCAG. Post Clearance Audit Group shall be provided with a monthly summary list of applications for drawback and refund³¹ and summary list of all approved claims. The summary list shall contain the following details:

- 7.8.1** Name of Importer or Claimant;
- 7.8.2** Entry Number; and
- 7.8.3** Amount of Claim.

Section 8. Appeals.

8.1. The importer may file an appeal of a denial of a claim for refund or abatement, whether it is a full or partial denial, with the Commissioner within thirty (30) days from the date of the receipt of the denial. The Commissioner shall render a decision within thirty (30) days from the receipt of all the necessary documents supporting the application. Within thirty (30) days from receipt of the decision of the Commissioner, the case may also be appealed to the CTA.³²

8.2. Pursuant to Section 1128 of the CMTA, the Commissioner shall automatically review any decision by the District Collector that is adverse to the government. The records of the case shall be elevated to the Commissioner within five (5) days from the promulgation of the decision. The Commissioner shall decide on the automatic review within thirty (30) days from receipt of the records, or within ten (10) days in the case of

²⁸ *cf* "Utilization of a Tax Credit Certificate (TCC)" of CMO No.27-2009

²⁹ *cf* Customs Memorandum Circular No. 31-2006

³⁰ *cf* CMTA, Title IX, Chapter 1, Section No. 901

³¹ *cf* CMTA, Title X, Section 1003 (1)(i)(ii)

³² *cf* CMTA, Title IX, Chapter 2, Section No. 913

perishable goods. When no decision is rendered within the prescribed period or when any decision rendered by the Commissioner is adverse to the government, the records of the case under review shall be automatically elevated within five (5) days for the review of the Secretary of Finance. The decision issued by the Secretary of Finance, whether or not a decision was rendered by the Commissioner within thirty (30) days from receipt of the records, or within ten (10) days in the case of perishable, shall be final upon the Bureau.

Section 9. Fees. A processing fee shall be imposed upon every application for tax credit and refund, based on the following schedule:

AMOUNT OF CLAIM				PROCESSING FEES
Up to		PhP	50,000	700.00
Over PhP	50,001	to	100,000	900.00
Over	100,001	to	200,000	1,100.00
Over	200,001	to	300,000	1,300.00
Over	300,001	to	400,000	1,500.00
Over	400,001	to	500,000	1,700.00
Over	500,001	to	750,000	2,300.00
Over	750,001	to	1,000,000	3,000.00
Over	1,000,001	to	5,000,000	4,000.00
Over	5,000,001	up		5,000.00

Section 10. Authority of the Commissioner to Issue Rules. The Commissioner of Customs shall prescribe the rules and regulations to govern the application, processing and approval of claims of duty drawback and refund under this CAO.

Section 11. Penal Provision. Violations of this CAO committed by any person, officer or employee shall be penalized in accordance with Title XIV of the CMTA and other applicable penal provisions.

Section 12. Transitory Provision. Pending a centralized and updated Bureau system governing tax credit and refund transactions, the existing TCC and TDM modules in the current Bureau system shall be utilized to implement this CAO. The MISTG shall devise a system by which each of the concerned units can easily monitor said transactions.

Section 13. Repealing Clause. This CAO specifically amends or repeals previously issued CAO No. 14-72 and others which are inconsistent with the provisions here stated.

Section 14. Separability Clause. If any part of this CAO is declared unconstitutional or contrary to existing laws, the other parts not so declared shall remain in full force and effect.

Section 15. Effectivity. This CAO shall take effect within 15 days from publication at the Official Gazette or a newspaper of national circulation.

The Office of the National Administrative Register (ONAR) of the UP Law Center shall be provided three (3) certified copies of this CAO.

NICANOR E. FAELDON
Commissioner

Approved:

CARLOS G. DOMINGUEZ III
Secretary

Informational Section.

History.

Drawback

Applications for duty drawback are being processed by the OSS-CENTER DOF, pursuant to Administrative Order No. 226. The OSS-CENTER reviews the claim and prepares an Evaluation Report with its recommendation, which is then transmitted to BOC for approval. The BOC in turn, verifies the payment of duties and taxes, including the computation of duty drawback amount.

Refund

There are no existing implementing rules nor CAO or CMO being followed in the processing of applications for refund, other than the provisions of the TCCP itself, save for the manner of payment or cash refund of VAT, pursuant to EO 68-A, and utilization of TCCs. Applications for refund include overpayment, excess or double payment, unutilized advanced deposits, release of cash bond, refund arising from final

decisions in protest cases, judicial decisions, special laws and executive/Presidential issuances, including payment of VAT or Excise Tax refund duly approved by the BIR.

1. Related Policies.

- Administrative Order No. 266 - Creating One-Stop-Shop Inter-Agency Tax Credit and Duty Drawback Center for the Processing of All Tax Credits and Duty Drawbacks, Defining its Powers, Duties, and Functions, and for Other Purposes, February 7, 1992
- CAO No. 14-72 - Prescribing Rules and Regulations Governing Drawback under Section 106 (b) of the Tariff and Customs Code of the Philippines, November 27, 1972
- CAO No. 2-75 - Supplementing Customs Administrative Order No. 14-72 dated November 27, 1972
- Customs Memorandum Circular No. 31-2006
- CAO No. 31-76 - Amendment to CAO No. 2-75 supplementing CAO No. 14-72 dated November 27, 1972, Prescribing Rules and Regulations Governing Drawback under Section 106 (b) of the Tariff and Customs Code, as amended by P.D. No. 34, now (c) as further amended by P.D. No. 551, August 26, 1976
- CMO No. 54-77 Guidelines for the Filing and Processing of Drawback Claim, and Issuance of Tax Credits or Refund under Section 106 of the Tariff and Customs Code, as amended and other applicable laws, rules and regulations, September 5, 1977
- CMO No. 41-83 - Supplemental Guidelines for the Filing and Processing of Drawback Claims, August 30, 1983
- CMO 59-92 - Creation of Tax Credit and Duty Drawback Center (CENTER) at the Department of Finance, June 1, 1992
- CMC 23-2006 - Tax Credit System Administered by the OSS-DOF, January 23, 2006
- CMO No. 16-2012 - Validity Period of Duty Drawback TCCs, November 27, 2012
- Manual of Operations Book III - Duty Drawback Group, One Stop Shop Inter-Agency Tax Credit and Duty Drawback Center
- CMO No. 44-2015 - Export Cargoes with Claims for Drawback, December 22, 2015
- CAO No. 5-92 - Guidelines and Procedure for Refund (Tax Credit) of Unutilized Advance Deposits of Customs Duties with Authorized Agent Banks
- EO No. 68-A - Amending Executive Order No. 68 (s. 2012) which Established the Monetization Program of Outstanding Value-Added Tax Tax Credit Certificates
- JC No. 5-2012 - Joint Guidelines Implementing the Special Provision of the General Appropriations Act on VAT Refunds on Importation
- JC No. 2-2014 - on VAT Monetization and Cash Conversion
- JC No. 1-1997 - Guidelines for the Transfer by National Government Agencies of all Cash Balances to the National Treasury
- CMO No. 28-2014 - Procedure for the Cash Refund and Input Value-Added Tax (VAT) on Importations Attributable to Zero-Rated Transactions under Section 112 of Republic Act No. 8424 (NIRC), as amended, December 16, 2014

- CMO No. 43-2015 - Procedure for Monetization and Cash Conversion of Value-Added Tax (VAT) Tax Credit Certificates
- CMO 27-2009 - Procedures for the Implementation of E2M Customs System - Phase 3: Import Assessment System (IAS) in All Customs Ports Nationwide, July 24, 2009
- CMO 41-2009 - Procedure Governing Utilization of Tax Credit Certificates
- CAO No. 2-2001 - Rates of Customs Fees and Charges

2. Webpage, Forms, Handbooks and other References.

- a. Shipment Information Sheet
- b. Statement of Refund
- c. Claimant Information Sheet