

ADVISORY ON THE TAX TREATMENT OF IMPORTATION AND TRANSFER OF PETROLEUM AND PETROLEUM PRODUCTS TO AND FROM FREEPORT AND ECONOMIC ZONES

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**BIR REVENUE REGULATION
NO. 04-2022**

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Implementing Section 295(F), in relation to Section 294, both of the National Internal Revenue Code (NIRC) of 1997, as amended by Republic Act (RA) No. 11534 (Corporate Recovery and Tax Incentives for Enterprises [CREATE Act]), on the tax treatment of the importation of petroleum and petroleum products into, and subsequent transfer, transport and/or withdrawal through and from Freeport Zones and Economic Zones.

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BUREAU OF INTERNAL REVENUE

REVENUE REGULATION

NO. 04-2022

Implementing Section 295(F), in relation to Section 294, both of the National Internal Revenue Code (NIRC) of 1997, as amended, on the tax treatment of the importation of petroleum and petroleum products into, and subsequent transfer, transport and/or withdrawal through and from Freeport Zones and Economic Zones.

TAX TREATMENT OF ALL PETROLEUM PRODUCTS ENTERED AND IMPORTED INTO FREEPORT ZONES AND ECONOMIC ZONES

ACTIVITY	TAX TREATMENT
Importation of petroleum products by a registered export enterprise to be used directly and exclusively for its project or activity	Exempt from VAT but subject to ET
Importation by a Philippine refinery enjoying fiscal incentives with an Investment Promotion Agency (IPA) of crude petroleum to be refined at its refinery inside the Zone	Exempt from payment of applicable duties and taxes under Section 295(G) of the Tax Code
Lifting of the petroleum products produced from the imported crude oil	<p>a. During Income Tax Holiday (ITH), the ET or VAT paid, as the case may be, on petroleum products sold to entities entitled to 0% VAT or Excise Tax exemption may be claimed for refund under this rules; and</p> <p>b. During 5% Special Corporate Income Tax (SCIT)/Gross Income Earned (GIE), the export sales and sales inside the Zones shall be exempt from VAT and ET.</p>
Introduction into the customs territory of petroleum products produced from the imported crude oil by the said refinery to the extent of its local sales allowance	<p>Applicable duties and taxes payable by the importer</p> <p>NB: the ET or VAT paid, as the case may be, on sale to entities entitled to 0% VAT or ET exemption may be claimed for refund</p>
Importations of petroleum products produced from imported crude oil by registered export enterprises located outside the Zones and used directly and exclusively in their registered project or activity	Exempt from VAT but subject to ET

REFUND OF TAXES PAID

The Excise Tax or VAT paid, as the case may be, for petroleum and petroleum products that are exported outside the Philippines or transferred, delivered and sold to the following:

For Excise Tax:

- international carriers of Philippine or foreign registry on their use or consumption outside the Philippines;
- exempt entities or agencies covered by tax treaties, conventions and other international agreements for their use of consumption;
- entities which are by law exempt from direct and indirect taxes

For VAT:

- to a registered export enterprise and have been directly and exclusively used in its registered export project/activity;
- to entities engaged in international shipping or air transport operations and have been actually used therefor; or
- to entities that are statutorily zero-rated for VAT under special laws or international agreements to which the Philippines is a signatory;

It may be refunded by filing a claim for credit or refund with the BIR for verification and evaluation.

Once approved, the claim shall be forwarded to the BOC for cash payment or issuance of a tax credit certificate, as applicable.

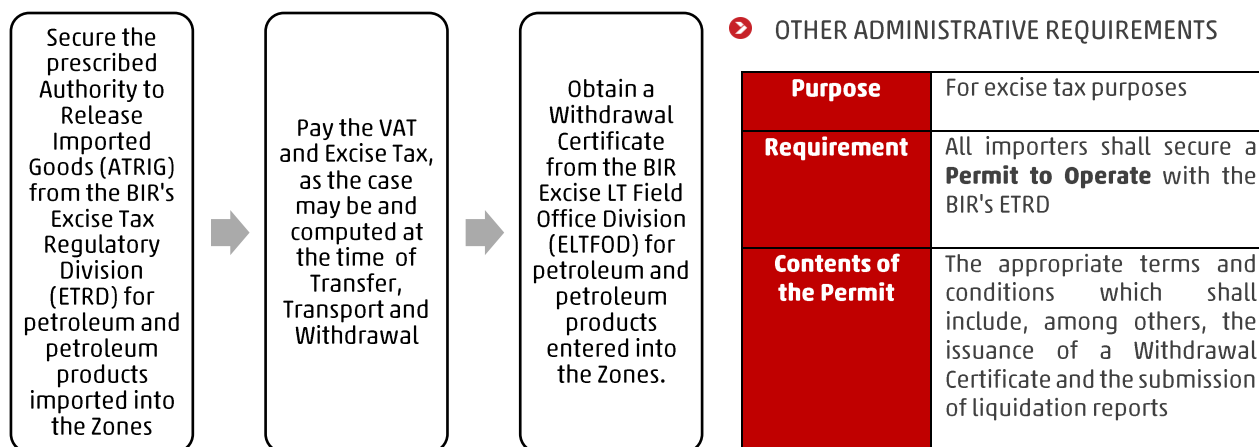
No claim for refund shall be granted unless it is properly shown to the satisfaction of the BIR that said petroleum or petroleum products have actually been transferred, delivered, sold, and used by, the foregoing entities for the above-stated purposes.

No refund for taxes shall be granted for the product sold in case the Zone registered enterprise shall subsequently:

1. sell/introduce the petroleum or petroleum products, or part of the volume into the customs territory (except sales of fuel for use in international operations); and
2. sell to another Zone registered business enterprise and/or party not enjoying tax privileges

The possessor of petroleum or petroleum products must be able to present sufficient evidence that the proper taxes due thereon have been paid. Otherwise, all the taxes due on said goods shall be collected from said possessor/user.

For each and every Transfer, Transport and/or Withdrawal of petroleum and petroleum products, the party which entered the same or the importer shall before the release from Customs custody and the respective Zone Authority:



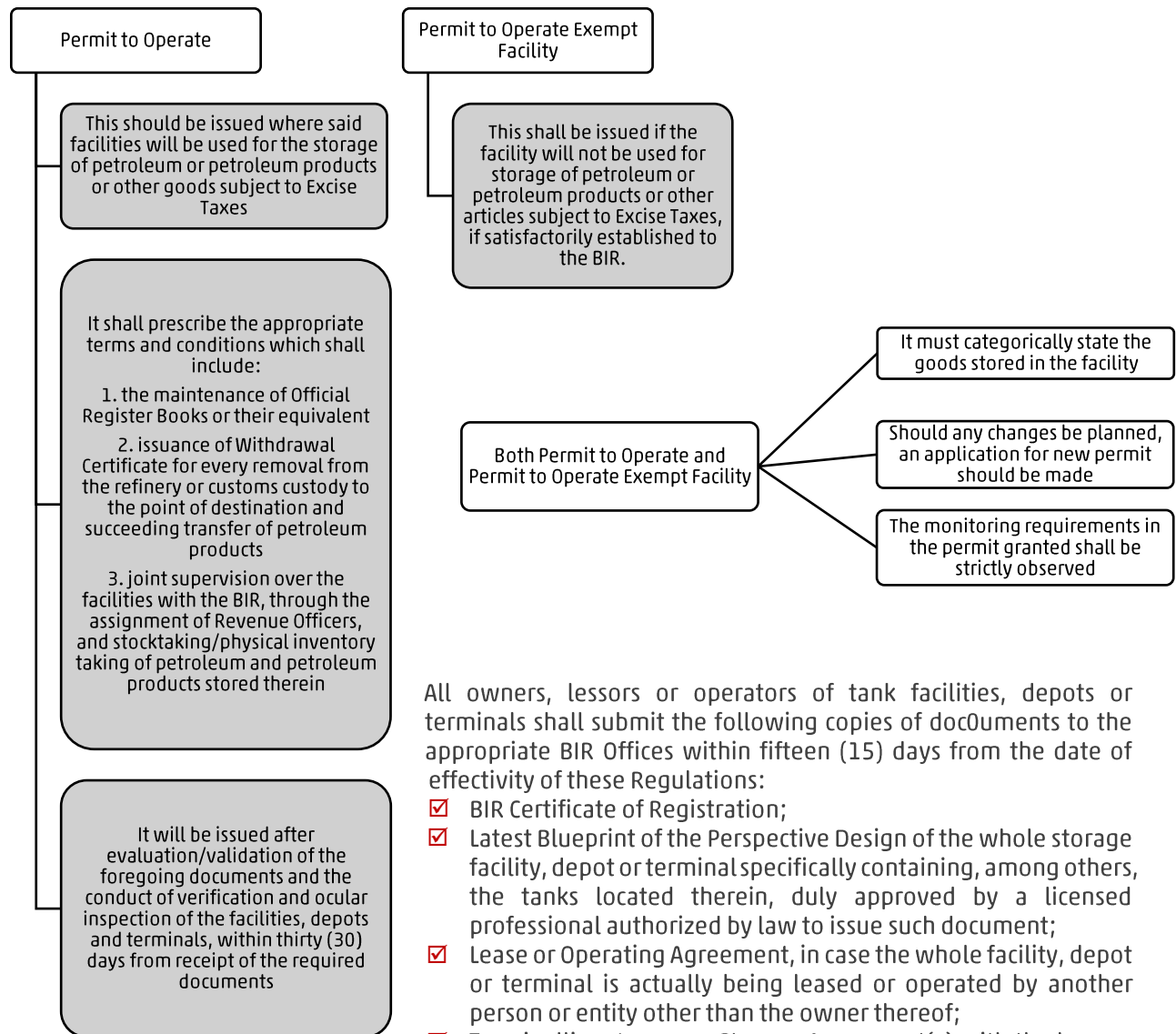
The Withdrawal Certificate shall, at all times, accompany each and every Transfer, Transport and/or Withdrawal of petroleum products regardless of the mode of conveyance.

REGISTRATION OF STORAGE FACILITIES

All tank facilities, depots or terminals throughout the Philippines, including those located within the Freeport Zones as well as within the Economic Zones shall be registered by the owners, lessors or operators thereof with the appropriate BIR Office having jurisdiction over the said facilities as follows:

Revenue Regions Where the Storage Facilities are Located	Appropriate BIR Office Where to Register
Revenue Region Nos. 4, 5, 6, 7, 8, 9 and 10	Excise Tax Regulatory Division, National Office
Revenue Region 1, 2 and 3	Excise Tax Area I - Baguio City
Revenue Region Nos. 11 and 12	Excise Tax Area III - Bacolod
Revenue Region Nos. 13 and 14	Excise Tax Area IV - Cebu
Revenue Region Nos. 15 and 19	Excise Tax Area V - Davao
Revenue Region Nos. 16, 17 and 18	Excise Tax Area VI - Cagayan de Oro

PERMIT TO OPERATE VIS-À-VIS PERMIT TO OPERATE EXEMPT FACILITY



All owners, lessors or operators of tank facilities, depots or terminals shall submit the following copies of documents to the appropriate BIR Offices within fifteen (15) days from the date of effectivity of these Regulations:

- ☑ BIR Certificate of Registration;
- ☑ Latest Blueprint of the Perspective Design of the whole storage facility, depot or terminal specifically containing, among others, the tanks located therein, duly approved by a licensed professional authorized by law to issue such document;
- ☑ Lease or Operating Agreement, in case the whole facility, depot or terminal is actually being leased or operated by another person or entity other than the owner thereof;
- ☑ Terminalling, Lease, or Storage Agreement(s) with the lessee-owner(s) of the content(s) of the respective tank(s); and
- ☑ Notarized undertaking(s) executed jointly with the respective lessee-owner(s) of the content(s) of the storage tank(s) within the facility, depot or terminal containing the tank number, description of the product and the volume of inventory thereof as of the date of effectivity of these Regulations.

Source:
Revenue Regulation No. 04-2022