

Content

Title : Regulations Governing the Offsetting or Refund of Duties and Taxes on Raw Materials for Export Products **Ch**

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Content : Article 1 These regulations are formulated in accordance with Paragraph 5, Article 63 of the Customs Act; Paragraph 2, Article 4 of the Regulations Governing Commodity Tax; and Article 41 of the Value-added and Non-value-added Business Tax Act (hereinafter referred to as "the Act").

Matters relating to tax refunds for exported goods are handled in accordance with the provisions of these regulations. Matters not dealt with in these regulations shall be handled according to the provisions of other applicable ordinances.

Article 2 The highest government authority-in-charge of matters relating to the administration of these Regulations shall be the Ministry of Finance, and the competent authorities to handle matters relating to these Regulations shall be the Customs and the tax offices.

Article 3 Application for offsetting or refund of duties and taxes on raw materials for export products shall be filed only for products which have been exported.

Goods sold to agencies or individuals enjoying diplomatic privileges in the ROC or to other persons entitled to refund of taxes under special conditions as approved by the Ministry of Finance shall be treated as exported goods. The date of delivery as shown on the transaction voucher shall be taken as the date of export.

Article 4 Duties and taxes on raw materials for export products to be offset or refunded are limited to three kinds, as below:

1. Import duties
2. Commodity tax
3. Business tax

Article 5 The commodity tax collected by the Customs on behalf of the authorities concerned shall be offset or refunded along with the customs duties.

Article 6 In the case of imported raw materials which are subject to a single duty rate, the customs duties and commodity tax which may be offset or refunded for export products shall be assessed based on the duty rate applicable at the time of import.

In the case of imported raw materials which are subject to a compound duty rate, the customs duties and commodity tax which may be offset or refunded for export products shall be assessed based on the rate in the Second Column of the Customs Import Tariff, regardless of the duty rate applicable at the time of import.

Article 7 For raw materials imported under the quota scheme of customs duties in accordance with Article 5 of the Customs Act, the offsetting and refund of customs duties and commodity taxes shall all be calculated according to the lower rate of customs duties (rate for quota imports), regardless of whether they were imported under the lower rate (rate for quota imports) or under the general customs duty rate (rate for non-quota imports).

Article 8 For raw materials imported under the non-quota scheme of customs duties in accordance with Article 72, duties shall not be refunded when the processed products are exported. However, if the original materials are exported, the paid non-quota duties may be refunded if this meets the provisions of tax exemption.

Article 9 The criteria for offsetting and/or refund of customs duties and commodity taxes paid on raw materials shall be established by the Ministry of Economic Affairs, either on a special case as basis or on a generally applicable basis, in accordance with the quantity of raw materials required for the normal production of export goods. The criteria established on a special case basis shall be applicable for a period of not more than three years, while the criteria established on a generally applicable basis shall be applicable for a period of not more than five years. Upon expiry of the applicable period of such criteria, factories and/or firms concerned shall apply for reestablishment of such criteria.

For the criteria for refund of duties and taxes on raw materials as mentioned in the preceding paragraph, factories or firms engaged in export sales shall, when production begins, compile a "calculation table to show the quantity of raw materials used for manufacture of finished products" and send the same together with the documents relating to export sales and information concerning the quantity of the raw materials used to the Ministry of Economic Affairs for examination and approval. The Ministry of Economic Affairs shall, within 30 days from the date following the day on which those documents were received, determine, approve and publish such criteria, or shall notify the original applicants, factories or firms, of the reason why determination and approval were not granted provided.

However, that the said 30 day period may be extended as necessary, but in no event shall the extension be longer than 30 days.

Where verification of the quantity of raw material consumption can not be made on account of the fact that the raw materials used for export goods are of trifling quantities or low value or that the application for determination and approval of the criteria for refund of duties and taxes on raw materials is filed after the exportation of the products involved, establishment of the criteria for offsetting or refund of duties and taxes on such raw materials or inclusion of such raw materials in other relevant criteria may be omitted.

After the criteria for refund of duties and taxes on raw materials of

export products have been determined and approved, if the name and specification of the export products of factories or firms or the name, specification, or quantity of their raw materials used do not conform to the determined and approved criteria, an application shall be submitted again to the Ministry of Economic Affairs for determination and approval of the criteria. However, this shall not apply if the discrepancy between the actual quantity used and the quantity determined and approved in the criteria does not exceed 5% or if the said products are of a type for which a national standard has already been set and the difference to the criteria does not exceed the reasonable allowance for discrepancies provided in the national standard.

Article 10 The amount of offsetting and refund of customs duties and commodity taxes for export products is calculated on the basis of the name and quantity of the said raw materials.

If the amount resulting from the above-mentioned calculation is less than the rate or amount jointly decided upon by the Ministry of Finance and the Ministry of Economic Affairs, it shall not be refunded.

Article 11 Where the FOB price of an exported product is below the CIF price of raw materials used in that product, customs duties and commodity taxes on such raw materials shall be refunded in accordance with the ratio of the FOB price to the CIF price. However, under any of the following circumstances, the duties and taxes on the raw materials used may be offset or refunded in accordance with the provisions of the preceding Article:

1. Where the FOB price of an exported product is not below the CIF price of the raw materials used within three months prior to the date of customs release of the said exported product.
2. Where it is certified by the authority in charge of trading that an addition of the income from other sales price(s) has made the actual FOB price higher than the CIF price of the raw materials used.
3. Where, owing to defects found in the exported product(s) of a previous shipment, an agreement has been reached between the buyer and the seller either to sell similar product(s) in a subsequent export shipment at a lower (discount) price or to deduct the selling price of the defective product(s) from the FOB price of the current shipment, whereby the FOB price of the current shipment becomes lower than the CIF price of the raw materials used therein, and special approval has been granted by the authority in charge of trading.

Article 12 For export products whereof the criteria for refund of taxes on raw materials have already been prescribed, factories or firms may, after the export sale of such products, directly apply to the competent authority-in-charge for offsetting or refund of customs duties and commodity taxes.

If the imported raw materials are used for manufacture of component parts of export products without making any request for calculation of waste and loss and furthermore, upon exportation of finished products, the report is made to the Customs in advance for inspection and examination, taxes may be refunded as actually applicable without applying for establishment of criteria for refund of taxes. However, if the condition of the component parts used is abnormal, and evidentiary documentation has been submitted to the Ministry of Economic Affairs by the factory or firm, and the criteria for refund of taxes therefore have not been prescribed, the Customs may approve the refund.

Article 13 For export factories or firms which meet any one of the two requirements below and calculate their Business Tax according to the provisions of Section 1, Chapter 4 of the said Act, such factories or firms may record the Business Tax payable on account on their imported raw materials by self-executed affidavits in accordance with the provisions of the Regulation.

1. Exclusively provide taxable goods or services.
2. Exclusively provide taxable goods or services, investment and apply the direct deduction method for computing tax.

The provision prescribed in the above paragraph is only applicable to

factories or firms engaged in exportation which import raw materials directly from abroad and which are then re-exported by themselves. It is not applicable to the cases where importation and exportation occurs between a taxable area and a bonded area.

The Business Tax payable recorded on account shall be offset against the amount calculated according to the FOB price of the exported goods and the tax rate prescribed in Article 10 of the Act.

The Business Tax payable on imported raw materials which has been approved to be recorded on account shall be offset monthly by the Customs based on the total amount of exports in said month.

Detailed information on the amount of Business Tax payable recorded on account after being offset as prescribed in the above paragraph shall be provided on the website of the Customs to factories and firms for checking. The operational regulations of the Business Tax payable recorded on account and being offset on imported raw materials used for exportation shall be prescribed by the Customs.

Article 14 In case of any of the following circumstances, duties and taxes on raw materials for export products may be recorded on account upon application filed with the competent authority, except for those which refund is not permitted pursuant to the regulations:

1. Security or guarantee bond provided pursuant to Article 11 of the Customs Act.

2. Duties and taxes on raw materials for export products which are permitted for a self-executed affidavit pursuant to Article 15.

For the imported raw materials to which the tax rate provided in the third column of the Customs Import Tariff is applicable under the provisions of Articles 6 and 7, the portion of customs duties which exceeds the tax rate provided in the first column is not allowed to be recorded on account.

Factories and firms applying for account recording of duties and taxes according to the preceding Paragraph 1 and Article 13 Paragraph 1 shall meanwhile execute an affidavit to guarantee that such raw materials will not be used for domestic sale

Article 15 An export factory or firm meeting any one of the three requirements below, for which it was found after investigation that during the period of time referred to any one of the three requirements below that there was no deficit on the average, no overdue tax, and no violation of the laws and regulations, and the deficit of previous years, if any, was already made up may be approved for processing self-executed affidavit and account recording for the duties and taxes on raw materials for their export products:

1. During the past two years, the average export record amounted to NT\$60 million or above each year, or the amount of tax offsets and refunds amounted to NT\$30 million or above each year.

2. During the past three years, the average export record amounted to NT\$40 million or above each year, or the amount of tax offsets and refunds amounted to NT\$20 million or above each year.

3. During the past four years, the average export record amounted to NT\$20 million or above each year, or the amount of tax offsets and refunds amounted to NT\$10 million or above each year.

In accordance with the preceding Paragraph, the export record during the past three years already reached NT\$40 million after the third year had begun or the amount of tax offsets and refunds reached NT\$20 million; or the export record during the past four years already reached NT\$20 million after the fourth year had begun or the amount of tax offsets and refunds reached NT\$10 million; furthermore, during the past 2 or 3 years there was no deficit on the average when the book was audited at each year end, no overdue tax, and no violation of laws and regulations; it shall be considered that 3 or 4 full years have already elapsed.

The term "has no overdue taxes and violation of laws and regulations" set forth in the preceding two paragraphs means that within each specific period, no overdue taxes or fines are imposed; or that overdue taxes or penalties were imposed and paid up; or that a security has been provided for the overdue taxes or outstanding fines.

A factory or firm processing self-executed affidavit and account recording

is required to file a renewal application every year; such renewal application should be filed with the original Customs one month before the expiration date of the self-executed affidavit and account recording privileges previously granted.

Article 16 Factories and firms satisfactory to the provisions set forth in Paragraph 1 of Article 13 and Paragraph 1 of Article 15 shall apply, with the following documents, to the competent authorities for approval to execute affidavits by themselves:

1. Certificate of export performance record issued by the authorities in charge of foreign exchange or trade. In the case of an applicant using the amount of tax offset and refund as an instrument in making the request, all details in the request shall be in accordance with records maintained by the authorities in charge.
2. Certificate of auditing account issued by the local tax office.
3. Identity certificates issued by the local tax office to prove that the factories or firms have fulfilled the provisions set forth in Paragraph 1 of Article 13.
4. Affidavit.

In the aforementioned certificate or record, the periods covered shall be from January to December of each specified year before the application, except Paragraph 3.

Article 17 Where a factory or firm approved for a self-executed affidavit and account recording is found to have any of the following circumstances, its privilege of self-executed affidavit and account recording shall be suspended:

1. Failure to pay the imposed taxes or penalties which are overdue, or failure to provide commensurate security for the imposed taxes or penalties
2. Notable deterioration of the business conditions of the factory or firm
3. Provision of false or illegally altered documents to obtain the privilege of self-executed affidavit

Where an export factory or firm applying for recording its business tax on accounts changes its status and thus fails to satisfy the provisions of Paragraph 1 of Article 13, the tax office shall immediately send the Customs a written notice notifying the Customs to suspend the factory or firm's privilege of making a self-executed affidavit and recording the business tax on accounts. The outstanding business tax which is not due for payment should be collected immediately, and the offsetting operation should be suspended.

A factory or firm with the privilege of making self-executed affidavit and recording business tax on account is suspended pursuant to Subparagraphs 1 and 2 of Paragraph 1 should, within 14 days after the day following the delivery of the Customs notice, submit a commensurate security or guaranty bond for taxes which are not due for payment. In case of failure to submit the security or guaranty bond, the Customs should suspend the offsetting operation of the factory or firm, and collect all outstanding taxes and delinquent fees. For a factory or firm with the privilege of making self-executed affidavit and recording business tax on account which is suspended pursuant to Subparagraph 3 of Paragraph 1, the Customs should suspend the offsetting operation and collect the taxes which are not due for payment. Where a factory or firm processing self-executed affidavit or account recording fails to renew its qualification for self-executed affidavit or account recording for the following year, in the absence of any of the circumstances provided in Paragraph 1 or Paragraph 2, the taxes which have been recorded on account and are not due for payment may be continuously offset

Article 18 An application for refund of duties and taxes on export products shall be submitted together with relevant supporting certificates for export within one year and six months from the following commencement dates; otherwise the application shall not be entertained. In a case where import certificates are exempted according to law, application for refund of tax shall be submitted within six months after export.

1. For duties and taxes on imported raw materials: the date following the day on which the said raw materials were released after import.

2. For commodity tax on domestically made raw materials: the date following the day on which the said raw materials were shipped out of the factory. Factories and firms meeting the unusual conditions provided for in Paragraph 4 of Article 63 of the Customs Act and thus unable to apply for offsetting or refund of duties and taxes within the prescribed time limit may apply to the Ministry of Finance for extension within one month after the expiry of the time limit specified in Paragraph 1. Each extension shall not exceed the maximum period of one year.

Article 19 In the event duties and taxes on export-oriented raw materials charged to account cannot be offset within the prescribed time limit, such outstanding duties and taxes shall be paid immediately. The amount of duties/taxes to be made up shall be calculated based on the duty-paying value and rate determined according to the duty code at the time when the raw materials were imported and shall be marked on the guarantee sheet of charge to account by the authority in charge.

Article 20 Imported raw materials for processing into export products with the duties and taxes leviable thereon on credit shall not be diverted for domestic sale, unless the outstanding duties and taxes have been paid to the authority in charge.

Where the raw materials for which import duties and taxes and delinquent surcharge have been paid up are exported after having been processed into export products, an application may still be filed after exportation in accordance with these Regulations for refund of paid-up import duties and taxes.

Article 21 Where an export factory or firm approved for account recording is found to have any of the following circumstances, the privilege of account recording shall be suspended for a maximum of six months in accordance with Article 92 of the Customs Act:

1. The factory or firm fails to make a supplementary payment of the duties, taxes and delinquent fees.
2. The factory or firm does not cooperate in providing or refuses to provide the data required by the authority-in-charge or its competent authorities.
3. The factory or firm sells goods in the domestic market, thereby infringing the provision of Paragraph 1 of the preceding article.
4. The factory or firm falsely and deliberately records materials not used for processing and export in the accounting book.

Article 22 If Customs duties and commodity taxes on raw materials to be processed for export, which were charged to account against security furnished by a credit institution, are offset within the prescribed time limit, the competent authority-in-charge shall notify the credit institution to discharge its guaranty responsibility. In case of failure to offset within the prescribed time limit, the credit institution which serves as the guarantor shall be liable to pay the duties and taxes demanded for payment and delinquent fee to be levied according to the amount of duties and taxes involved at the rate of 0.05 per cent per day, commencing from the date following the day on which the duties and taxes were charged to account until the date of full payment of duties and taxes.

Article 23 An application for offsetting or refund of customs duties and commodity taxes on raw materials shall, after export of the finished products, be submitted according to the time limit set forth in Article 18 along with the photocopies of duplicate export declaration, import declaration and relevant supporting documents to the competent authority-in-charge which shall complete the procedure within fifty days from the date following the day on which the application was received. In case the procedure becomes impossible to execute as a result of inconsistent formalities or incomplete documents, the applicant shall be notified in writing and advised to take corrective action within the limited time as the situation may justify, and the date of the application submitted for offsetting or refund shall be taken as the date of corrective action. The number of days used by the Customs for approval and issuance of the

said duplicate shall be deducted from the time limit provided for offsetting or refund of duties and taxes, but the deduction shall not include the number of days that fall within the responsibility of the factory or firm in question.

The above-mentioned number of days used by the Customs for issuing the duplicate refers to the period beginning from the day following the issuance of export approval and the issuance of the duplicate.

The application for offsetting or refund of duties and taxes as mentioned in Paragraph 1 shall be done via the electronic operation system for the offsetting or refund of duties and taxes on raw materials for export products.

After the exporter or its delegate submits the aforementioned application; the competent authority-in-charge must complete the procedure within 20 days from the second day after the electronic copy application has been submitted. However, in the event that the Customs rejects the application and notifies the applicant to re-submit via the system in record, the date of the application submitted for offsetting or refund shall be subject to the conditions given in Paragraph 1.

The deadline for re-submission referred to in Paragraph 1 and in the previous paragraph is limited to 30 days starting from the second day after Customs sends out the electronic copy or hard copy of notification being received. If necessary, the applicant may appeal for an extension once only with such extension being limited to 30 days. In case of failure by applicants to re-submit their application, the Customs are entitled to exclude the unapproved items from the application, and to make any refund of duties and taxes to such applications without notification to such applicants.

Article 24 In co-operation with exporting factories and firms applying for offsetting or refund of duties and taxes on raw materials, the original supplier shall furnish a letter of consent or affix its seal to the export application or to the application for offsetting or refund of duties and taxes in order to provide evidence of its concurrence. However, those applicants who apply online, such suppliers shall express their consent via the electronic operation system for the offsetting or refund of duties and taxes on raw materials for export products.

If a factory or firm which should furnish a letter of consent for offsetting or refund of duties and taxes on raw materials as stated in the preceding paragraph suspends its business operation, and if the authority in charge of the original registration certifies that the said suspension of business operation is genuine, they may execute an affidavit for the purpose of effecting the offsetting or refund of duties and taxes.

Article 25 Factories and firms shall act in accordance with the following provisions at the time of export in the case of export products entitled to offsetting and refund of customs duties and commodity taxes:

1. They should mark on the export declaration the request for tax refund and attach to it a list of raw materials used and the information of their supplier(s) in accordance with the criteria of tax refund, including the name of the export product, the names, quality, specifications, composition, quantities and weights of the raw materials and the names of suppliers and sources of supply, and so on.

2. For exports subject to general tax refund criteria, if, according to the regulations, offsetting or refund shall be handled on an ad hoc basis, in addition to following the handling procedure according to the preceding Paragraph, the file number and material criteria shall be declared in detail on the export declaration; otherwise the offsetting and refund shall be conducted according to general criteria.

Suppliers shall create a list as referred to in Sub-paragraph 1 in the previous paragraph via the electronic operation system for the offsetting or refund of duties and taxes on raw materials for export products, and such suppliers whose application is successfully transmitted and their data are consistent with the data in the Customs computer shall be exempt from submitting the hard copy of the list when declaring their goods, the applicant shall then apply for offsetting or refund of duties and taxes on raw materials online.

Those applicants whose aforementioned list data are not consistent with declaration data of export and in the case of failure to make revision before that deadline shall write off their data first before declaring for export subject to the provisions of Paragraph 1.

Article 26 If the name, specifications and ingredients of the export products for which for offsetting or refund of customs duties and commodity taxes on raw materials is being applied, or the name, specifications and ingredient or their raw materials used, do not conform to the criteria of refund of tax on raw materials, the competent authority-in-charge shall advise the applicant in writing to submit evidentiary documents to the Ministry of Economic Affairs in order to request a certificate, or to make an explanation and send the same to the competent authority-in-charge for further action.

Regarding the specification as mentioned in the preceding paragraph in the case of failure to submit documentation according to the criteria for refund of duties and taxes on raw materials, the factory or firm may receive refund of 30% deduction from the competent authority-in-charge if the factory or firm is unable to obtain evidence or explanation from Ministry of Economic Affairs.

Article 27 When applying for offsetting or refund of duties and taxes on raw materials, suppliers may apply for one declaration form of export or collective declaration forms of export after exporting. However, suppliers shall submit application for each declaration form of export if applying online.

Suppliers shall apply for offsetting or refund of duties and taxes on raw materials for all of aforementioned declaration forms of export. Such suppliers who omit any form may re-submit their application again before that deadline in once only.

Article 28 In the case of tax refund for raw materials used by export products, if it is subsequently discovered that there is an over-refund or an under refund of duties and taxes, the competent authority-in-charge shall notify the relevant factories or firms to make up the amount over-refunded or to receive a further refund.

Article 29 For products used for participation in commodity exhibitions or trade fairs held in foreign countries, the authority-in-charge of trade shall, before exportation of such products, make a detailed list and send the same to the competent authority-in-charge to effect the refund of taxes. If the said products are subsequently required to be shipped back, supplementary collection shall be made according to the provision of the preceding article.

Article 30 In the case where a factory or firm approved for offsetting or refund of Customs duty and commodity tax has any outstanding taxes, fines and delinquent fees, such outstanding taxes, fines and delinquent fees shall be deducted from the refunded tax.

Article 31 The minimum amount of the delinquent fee which is imposed pursuant to the Regulations should be Ten NT Dollar (NT\$10); delinquent fee with an amount less than Ten NT Dollars (NT\$10) shall not be imposed. A duty or tax approved for account recording pursuant to the Regulations with an offsetting amount less than Two Hundred NT Dollars (NT\$200) shall not be imposed.

Article 32 When the criteria for refund of taxes on raw materials for export products and the criteria for refund of taxes are amended or abolished, the criteria in force on the date of exportation of the said products shall apply, provided, however, that the provisions of other relevant laws shall still govern.

Article 33 Provisions relating to the refund of taxes in these regulations shall be applicable to cases concerning the offsetting of

accounts.

Article 34 For products which have already been exported before these regulations were amended and enforced, matters relating to the offsetting and refund of taxes shall still be governed by these regulations before their amendment.

Article 35 The Regulation shall come into force from the date of promulgation.

The revisions to Article 13 and 16 made on 6 October, 2011 shall come into force on 1 January, 2012.

The revisions made on 30 August, 2012 shall come into force on 17 September, 2012.

Data Source : Ministry of Finance, R.O.C. Laws and Regulations Retrieving System