

**[ CUSTOMS MEMORANDUM ORDER NO. 2-2002,  
JANUARY 2, 2002, January 02, 2002 ]**

**RECORD-KEEPING AND POST ENTRY AUDIT GUIDELINES**

PURSUANT TO SECTION VII OF CUSTOMS ADMINISTRATIVE ORDER (CAO) NO. 5-2001; THE FOLLOWING RULES AND REGULATIONS ARE HEREBY PROMULGATED:

**I. Objectives:**

IV. To duly inform concerned Bureau officials/personnel and the importing/transacting public of the principles, purposes, mechanics and methodology of the Post Entry Audit system and the record-keeping requirement provided for in the aforementioned CAO.

V. To effectively implement compliance audit under a regime of fairness, transparency, efficiency, and accountability.

**II. Administrative Provisions**

A. Compliance Audit Philosophy. Compliance audit is essentially a control mechanism done at the back-end of cargo clearance. It aims to facilitate trade by allowing release of low risk imports with minimum customs intervention at the border. Customs, however, retains an option to verify the truthfulness and accuracy of import entry declarations within three years from date of filing of the import entry, by looking at the pertinent records of the importer-auditee as well as those of their customs brokers, as defined in this Order.

B. Rationale Behind the Record-keeping Requirement. To enable fast releases at the border, importers and customs brokers shall assure Customs that their entry declarations are in accordance with customs laws, rules, and regulations, particularly with respect to tariff classification, customs value, quantity and country of origin. For the purpose, the law requires them to keep at their respective places of business, for the period specified above, certain records as identified, to be used in conducting the compliance (verification) audit.

C. To determine who are required by law and this Order to keep records, the term "importer" shall include (a) the importer of record/consignee; (b) the beneficial owner, that is, the real owner as may be established by competent evidence; (c) the agent of the person or, persons effecting the importation in question; or (d) any other person or entity who knowingly causes the goods to be imported. For purposes of (d) above, the phrase "knowingly causes the goods to be imported" covers domestic transactions where (1) the terms and conditions of the importation are controlled by the person placing the order and not by the importer or consignee of record ( e.g. importer is actually an agent of the person placing the order), or (2)

technical data, molds, equipment, other production assistance, material, components, or parts are furnished by the person placing the order with the importer with knowledge that they will be used in the manufacture or production of goods to be imported.

D. Compliance audit shall be undertaken when: (a) firms are selected by a computer-aided risk management system, the parameters of which are to be based on objective and quantifiable data relating to the relative magnitude of customs revenue from the firm, rate of duties of the firm's imports, firm's compliance track record, relative risk to revenue of the firm's activities, and such other like parameters as may be officially determined; (b) errors in the import declaration are detected which, if uncorrected, would result in substantial revenue loss or grave distortion of relevant statistical data; and (c) firms voluntarily request to be audited, subject to the approval of the Commissioner of Customs. Customs broken; shall be audited only to validate audits of their importer clients and/or fill in information gaps revealed during an audit of their importer clients.

E. The importer/customs broker shall allow any customs officer authorized by the commissioner of customs to enter during office hours any premises or place, where the records referred to in Section III of this Order are kept to conduct audit examination, inspection, verification and/or investigation of:

1. The document flow;
2. Financial flow;
3. Goods inventory flow; and
4. Other business processes

necessary or relevant in determining the adequacy and integrity of the manual or electronic system or systems by which such records are created and stored, and to ensure compliance with customs laws and existing rules and regulations, particularly in relation to customs; valuation, tariff classification, quantity and country of origin with the end in view of ensuring that proper duties and taxes have been assessed and paid.

F. In addition, the authorized Customs officer may require the importer and/or broker to make certified copies of any such documents or extracts thereof. Any record taken or borrowed by the authorized customs officer must, within twenty-four (24) working hours be returned to its custodian. A copy of any such document certified by or on behalf of the importer/broker is admissible in evidence in all courts as if it were the original.

G. Unless otherwise provided herein or in other provisions of law, the Bureau of Customs may, in case of disobedience, invoke the aid of the proper regional trial court within whose jurisdiction the matter falls. The court may punish contumacy or refusal as contempt. In addition, the fact that the importer/broker denies the authorized Customs officer full and free access to importation records during the conduct of a post-entry audit shall create a presumption of inaccuracy in the transaction declared for their imported goods and constitute grounds for the Bureau of Customs to conduct a re-assessment of such goods using the alternate methods

of valuation or tariff classification as applicable. This is without prejudice to the other criminal and administrative sanctions referred to in Section V of this Order.

H. Where a document in a foreign language is presented to a Customs officer in relation to the carrying out of any duty or the exercise of any power of the Bureau of Customs under the Tariff and Customs Code of the Philippines, as amended (TCCP), or any law under enforcement or administration by Customs, or rules or regulations promulgated thereunder, said document must be accompanied with a translation in English or Filipino, certified correct under oath by the translator.

### III. Records Required to be Kept

#### A. By the Importer

All importers are required to keep at their principal place of business, for a period of three (3) years from the date of filing of the import entry, all the records of their importations and/or books of accounts, business and/or computer systems and all other customs commercial data, in whatever form, including payment records relevant for the verification of the accuracy of the transaction value declared by the importers/customs brokers on the import entry. In particular, they are required to keep the following:

1. Company or entity structure including the following to the extent that they are required for submission to the Securities and Exchange Commission or to the Bureau of Domestic Trade, as the case may be:

- a. Articles of incorporation, articles of partnership and the like;
- b. List of incorporators, stockholders, partners, members of the board of directors, owners;
- c. Organizational structure;
- d. Management and key personnel including authorized declarants and their specimen signatures;
- e. Capital composition, stock and transfer book;
- f. Principals and/or subsidiaries and their capital composition, if applicable;
- g. List of exporters/suppliers to which the importer is related pursuant to Section II.B.2.e of Customs Administrative Order No. 5-2001;

2. Ordering and purchase documentation including the following:

- a. Sales and other related agreements, in whatever form, including, whenever applicable, those covering distribution, royalty, agency, warranty, terms of payment, and the like;
- b. Correspondence or communication relating to the import transaction, in whatever form, including, whenever applicable, purchase orders, vouchers, confirmations, pro-forma invoice, acknowledgment receipts, notices, advisories, and the like;

c. Product description or specifications, brochures, manuals, catalogues, pamphlets, fliers, literatures, if applicable;

3. Shipping, importation, exportation, and transportation documentation including the following to the extent that they are required by law or regulation to be produced and/or presented in the course of import clearance processing or for internal revenue taxation purposes, as the case may be:

a. Import/export entry;

b. Invoice/consignment notes;

c. Import and export licenses/permits;

d. Ocean bill of lading, master air waybill, house air waybill, consolidator bill of lading;

e. Shipping instructions, freight forwarders instructions;

f. Certificates of Origin, Certificates of Eligibility, Certificates of Inspection and Loading;

g. Freight and insurance contracts;

h. Packing lists;

i. Transshipment permits, boatnotes, special permits to transfer;

j. Quota Allocation Certificates;

k. Customs brokerage agreements, billings, statement of accounts, receipts;

l. Receipts for arrastre charges, cargo handling and storage fees;

m. Short or over shipped/bad order reports, if applicable;

n. Goods tally records, if applicable;

o. Correspondence with BOC and Customs decisions.

4. Manufacturing, stock, and resale documentation including the following to the extent that they are required by the internal revenue laws and Bureau of Internal Revenue regulations to be generated/ produced and kept:

a. Inwards goods register/receipts journal;

b. Stock register/inventory records;

C. Production records;

d. Costing records;

e. Sales records;

f. Customs lists.

5. Banking and accounting information including the following to the extent that they are required by internal revenue laws and Bureau of Internal Revenue regulations to be generated/ produced and kept:

a. Letters of credit, applications for letter of credit, bank details;

b. Remittance advice;

c. Receipts, cashbooks;

d. Schedules of accounts payables and accounts receivables;

e. Credit card transactions;

f. Telegraphic money transfers;

g. Offshore monetary transactions;

h. Cheque records;

i. Debit/Credit Notes or Memos;

j. Evidence of payments by any other means, including information detailing non-cash compensation transactions.

6. To the extent required by internal revenue law and Bureau of Internal Revenue regulations to be produced/generated and kept, charts and codes of accounts, ledgers, financial statements, accounting instruction manuals, and systems and program documentation that describes the accounting system used by the importer.

7. Whenever applicable, papers, books, registers, discs, films, tapes, sound tracks and other devices or things in or on which information contained in the records described in Section III.A. sub-sections 1 to 6 of this regulation are recorded or stored.

B. By the Customs Broker

All customs brokers are required to keep at their principal place of business, for a period of three (3) years from the date of importation copies of the importation records in whatever form covering transactions that they handle including records enumerated in Section III.A sub-sections 3, 6 and 7 of this Order.

#### IV. Compliance Audit Operations

Pending the creation of the Post Entry Audit Office (PEAO), the post entry audit system of BOC shall be initially handled by the interim Post Entry Unit (PEAU) whose organizational set up and functions are defined under Customs Special Order No.