

June 20, 2005

INFORMATIVE BULLETIN FROM INTERNAL REVENUE NO. 05-04

ATTENTION: AIR, SEA AND LAND CARRIERS WITH LICENSE TO OPERATE IN PUERTO RICO AND CUSTOM BROKERS, IMPORTERS, BONDED IMPORTERS AND CONSIGNEES

SUBJECT: IMPLEMENTATION OF THE NEW ELECTRONIC PROCEDURE FOR THE TRANSMISSION OF MANIFEST AND EXCISE TAX PAYMENT

I. INTRODUCTION

Through Informative Bulletin No. 04-05 the Treasury Department (“Department”) oriented all carriers with a license to operate in Puerto Rico (“Carriers”) and Custom Brokers (“Brokers”) regarding the new procedure implemented by the Excise Tax Bureau (“Bureau”) for the electronic transmission of manifests and about the electronic payment procedure to be used by those Carriers and Brokers that make payments on behalf of their clients. This procedure was originally implemented on April 1, 2005. Notwithstanding, on Informative Bulletin 05-04 an extension of the due date up to July 1, 2005 was informed.

With the implementation of the new electronic procedure, the Bureau expects to have a significant reduction on the flow of documents and the need to visit to our offices. Also, carriers and custom brokers will benefit since they will perform their transactions with a minimal margin error and avoid wasting time doing errands personally. The new electronic procedure guarantees the users faster processing of the manifests, obtaining the electronic release, while obtaining transaction information through our Internet page, confidentiality and making payments without the need to visit a collection center.

A. Definitions

For purposes of this Informative Bulletin the following terms will be defined as follows:

1. Importer - means any person that receives or imports an article from foreign jurisdictions, either as a consignee, by vessel, shipper agent or any other intermediary.
2. Consignee - means any person to whom the articles and merchandise are addressed to be personally picked up or by ship, shipper agent or any other intermediary.
3. Bonded Importer - is an importer that has acquired the privilege to declare their imports on the excise tax monthly return, form 2225, as long as the tax requirements imposed by the Puerto Rico Internal Revenue Code of 1994, as amended and applicable regulation has been complied. Instead of paying their excise taxes before the release of the imported articles, he will pay excise taxes no later than the tenth day of the month following the arrival date of the articles or merchandise.
4. Carrier - means any person with a license to operate a business dedicated to provide, through payment, carrier services of articles imported to Puerto Rico.
5. Person in charge of the release - means a person that has the Bureau's authorization to pick-up the merchandise.
6. Shipper - means the person that ships the merchandise to the Consignee.
7. Importer Dealer - means the person that receives or imports an article, either as a consignee or by vessel, shipping agent or any other intermediary.
8. Manufacturer - means any person engaged in the manufacturing of any article including articles assemblers or persons that assemble articles partially manufactured.

9. Raw Material - means those articles or merchandise exclusively used in the manufacturing process.

B. BACKGROUND

Section 2016 of the Puerto Rico Internal Revenue Code of 1994, as amended, ("Code"), states that every merchandise importer, including bonded importers and manufacturers, must file an Excise Tax Declaration (Form SC 2005, hereinafter "Declaration") at the Bureau of all articles received from foreign countries as provided by the administrative procedures prescribed by the Secretary of the Treasury ("Secretary"). The Declaration must be filed regardless that the articles imported are subject to tax or are exempt by the Code. The Declaration must be accompanied by the documents and the information provided by the Secretary.

Likewise, when submitting the Declaration, the consignee must submit specific and detailed information which coincides with the information provided on the Commercial Invoice and the Bill of Lading. In such case, the consignee will be responsible for the correctness and accuracy of the Declaration, even though same is prepared by another person, including a Bureau's official. The Regulation for the Administration and Application of the 1987 Excise Tax Law of the Commonwealth of Puerto Rico ("Regulation") indicates that in the case of importers, The Excise Tax Declaration will be submitted at the Bureau with the following information:

1. Bill of Lading

- a. Bill of Lading number
- b. Import date
- c. Sender / supplier (name and physical address)
- d. Consignee (name and physical address)
- e. Vessel and voyage number, or airline and flight number
- f. Quantities imported and cargo weight
- g. Port of origin with destination at Puerto Rico
- h. Destination port
- i. Detailed description of the imported merchandise

2. Commercial Invoice

- a. Name of the seller / supplier
- b. Name of the consignee

- c. Detailed description of the imported merchandise. When importing automobiles, it must be included in the invoice, the make, year, model, color, quantity and identification number of the automobile
- d. Imported quantities (units, pounds, barrels, etc.). Quantities in pallets will not be allowed.
- e. Unit value (specify currency used in the transaction)
- f. Sales terms (FOB, CIF, CF, etc.)
- g. Charges (insurance / freight)
- h. Discounts / commissions
- i. Country of origin

3. Packing List

Merchandise description detail and contents quantity of each package. Does not apply to motor vehicles.

C. EXCISE TAX DECLARATION

This form must be filled in all its parts and specify the type of imports. The quantities included on the Declaration must coincide with those detailed on the Commercial Invoice and Bill of Lading. These documents must accompany the Declaration.

Section 2068 of the Code, establishes that the person responsible for the payment of excise taxes or all taxable articles imported from a foreign jurisdiction in any way will be the consignee, when the article is consigned to him.

Therefore, is the responsibility of the consignee to declare and file the documents before taking possession of the article. In case the articles are received by mail, he must file the Declaration of Excise Taxes of Merchandise Imported by Mail or Air Carrier (Model SC 2008.1) together with the documents already described no later than the second working day followed by the day in which the article was received, at any of the Bureau's offices. If it is a bonded importer, the excise taxes will be paid no later than the tenth (10th) day of the following month of the month in which the article is in its possession.

D. MANUFACTURERS

Section 2069 of the Code, provides that in the case of articles taxable a lien by other sections of the Code, manufactured in Puerto Rico, the manufacturer will be responsible for the tax payment. Pursuant to the Code and for the payment of excise taxes within the herein specified time frame, the manufacturer must have been registered with the

Identification Number office of the Bureau, as manufacturer. Hence the manufacturer will be able to pay the excise taxes no later than the tenth (10th) day of the following month following the month in which the tax liability occurs. The manufacturer will pay excise taxes for all manufactured article and sold in Puerto Rico based on a sixty percent (60%) of the total invoiced to his clients.

Section 2031 of the Code, states that raw material used in Puerto Rico for the production of finished goods will be exempt from excise taxes. In order for the manufacturer to pick-up raw material exempt from excise taxes, he must have the shipping documents duly documented with his name and the Bureau's tax identification number, which entitles him as a manufacturer.

Be aware, that if the articles or merchandise imported by the manufacturer are not raw material's such articles or merchandise must be declared according to the procedures mentioned above for the importer.

Regarding to sugar or petroleum products manufactured in Puerto Rico and a means an agreement or consent between the manufacturer and the bonded distributor exists, entitling the last one to distribute the manufactured product, the tax will be paid no later than the tenth of the month following the sale of the sugar or of the month in which the distributor carrier starts moving the petroleum products from his tanks.

E. IMPORTERS SPECIAL CASE

Article 6.005 of the Regulations, establishes that as an exception to the procedure described above, the Secretary may authorize the sea, air or land carriers or any other person with a business dedicated to delivering cargo to Puerto Rico, pay the excise taxes for the articles imported in Puerto Rico for their clients and authorize these carriers to take them in their possession. Said authorization will take in to consideration the volume or frequency of the carrier's imports, his excise tax payment history and other taxes, licenses required and related documents. The application must be filed in writing with the Bureau in the form provided by the Secretary and if the authorization is given, a bond must be filed for the purposes of guaranteeing payment of those excise taxes that may be due in connection to the merchandise imported in Puerto Rico.

Also, Article 5.003 of the Regulations provides that any person operating a carrier business must pay an annual tax for the license right and furnish all the documents required to the Identification Number office of the Bureau. Besides, he must comply with the requirements established on the Internal Revenue Circular Letter No. 05-08 dated May 12, 2005.

Carriers will deliver to the officers of the Excise Tax offices the cargo documents related to each shipment imported in Puerto Rico within 24 hours after the arrival. The documents delivered will include the carrier's name as it appears on the carrier license and should identify the shipment date in which was introduced into Puerto Rico. The shipment documents will identify the following information:

- a. Name and shipper's address
- b. Name and consignee's address
- c. Description of the imported merchandise
- d. Amount and weight for the imported merchandise
- e. Date of shipment introduction

Article 2.014A(5) of the Regulations establishes that the carrier will maintain a perpetual inventory of the received shipments, shipments pending a release permit from the Department, authorized shipments pending delivery and delivered shipments. In the event that the carrier needs to amend his shipment documents informing any difference on the same, it has to be done within the following forty eight (48) after the difference is examined.

After forty eight hours (48) of finding the differences on the manifest, the carrier will have to submit a written application to the Bureau, in order to amend it and make the corrections accordingly. The carrier must accompany with the application, the documents that will be the evidence for the Bureau to approve the change made on the manifest.

Article 2.014A(5) of the Regulations also provides that the carrier will not deliver to any consignee, nor to his representative, nor to the person in charge of the pick up, the merchandise or articles for consignees in Puerto Rico, received from the shippers or people abroad, and which is subject to payment of excise taxes upon its introduction into Puerto Rico, without having previously received from said consignee, representative or person in- charge of the pick up of said merchandise or articles, a certification from the Secretary or from his authorized fiscal agent, confirming the consignee's compliance with Law regulations.

Every carrier in violation with the regulation, will be subject to the imposition of an administrative fine and to the payment of the corresponding tax of said articles, including additional tax, fines and interests computed from the import date of the articles. Likewise, the license issued to the Carriers could be suspended.

F. PRIOR ADMINISTRATIVE PUBLICATIONS

The Department has issued in the past several circular letters, informative bulletins and administrative orders addressed to carriers, importers, bonded importers, builders and or different types of taxpayers regarding the matter previously discussed, that pursuant to the Code it will be taxpayers.

Among these this communications are Administrative Order No. 91-05 of June 11, 1991, Administrative Order No. 93-02 of March 31, 1993, Administrative Order No. 93-06 of August 12, 1993, Circular Letter No. 95-09 of November 3, 1995, Informative Bulletin No. 98-05 of November 6, 1998, Informative Bulletin No. 99-09 of December 20, 1999, Circular Letter from the Excise Tax Bureau dated April 17, 2002, Informative Bulletin No. 99-09, Circular Letter No. 02-04 of May 20, 2002, Internal Revenues Circular Letter No. 02-06 of May 29, 2002, Internal Revenue Circular Letter No. 02-12, Internal Revenues Circular Letter No. 03-01, Internal Revenue Informative Bulletin 04-05 of November 30, 2004, Internal Revenue Informative Bulletin No. 04-06 of December 23, 2004, Internal Revenue Informative Bulletin No. 05-02, Internal Revenues Circular Letter No. 05-08 and others.

The purpose of this Bulletin is to group part of the provisions stated in the communications mentioned above clarifying the obligations and responsibilities of each person engaged in the importation of articles to Puerto Rico and bring said provisions to the modern methods of information compilation according to the applicable ruling provisions. The aforementioned communications are hereby modified and/or revoked to the extent that they are inconsistent with the provisions of this Bulletin.

II. STEPS FOR THE IMPLEMENTATION OF THE NEW ELECTRONIC PROCEDURE

Following we indicate the steps to follow for the implementation of the new electronic procedure to send the manifest:

A. Connection Requirements

To use the system, it is necessary to have the following connection requirements:

- a. Personal computer (PC) with minimum requirement of a Windows 95/98/NT/2000/XP Operation System;
- b. A printer, preferably, laser;

- c. An Internet connection;
- d. Internet Access (access provider);
- e. Browser - Internet Explorer version 5.0 or higher; and with SSL support and minimum 128 bit encryption;
- f. Adobe Acrobat Reader 5.0 or higher.

B. Access

The system which will allow the processing of manifests and the excise tax declarations electronically is known as Tax System of the Department (SISCON-Excise Taxes), that is available in our web page through the Internet at <https://siscon.hacienda.gobierno.pr>.

The Bureau offered orientations during the month of December with all the Department's personnel in connection with the implementation of this new procedure. The user's code and password to access the electronic system were delivered on the days when the orientations were offered to the Department. This as a security and control measure, once the user enters this page, the user's code and password will be required in order to access the electronic system. No user can access the system until he gets his a user's code and password. If you have not participated in the orientations offered by the Department, you may contact Angelica Cruz of the Bureau at her telephone numbers (787)774-1494, (787)774-1297 or (787)774-1201.

C. File Format (“Layout”)

Once the credentials of the users have been validated, the system SISCON-Excise Taxes will open an application window with the module in which the user wishes to work. Among the options are found the Carrier Importer Module and the Imposition Module, Payment and Release (IPLE).

1. Carriers Module - Manifest Transmission

The Carriers Module of the SISCON-Excise Taxes system will allow the carriers to transmit its data files to the Bureau. These files will contain the manifest information.

In order to process said information, the transactions must be delivered by the carriers under the specific layout format which complies with the following characteristics:

- a. ASCII, Sequential and in Order;
- b. "txt" format;
- c. Length of 205 character register (Fixed)
- d. Three register types:
 - i. 0: Identifier: Contains the information of the Cargo Carrier that delivers the data. The file has only one register type 0.
 - ii. 1: Detailed Bill of Lading: Many type 1 registers can be found in the file.
 - iii. 2: Merchandise(s) Detail - For each type of register 1 there should be at least one type 2 register.

Please refer to Attachment I for the detail of fields in each type of register for the transmission file of the manifest.

2. IPLE Module - Declaration Transmission and Payment

Cargo carriers with a license to operate in Puerto Rico and custom brokers that make payments on behalf of their clients, must access the IPLE Module from the SISCON-Excise Taxes system to declare the excise taxes and make the payments electronically. The information for the excise tax declaration must be sent under a specific format or layout that complies with the following characteristics:

- a. ASCII, Sequential and in Order;
- b. "txt" format;
- c. Length of 146 character register (Fixed)
- d. Register types:
 - i. 0: Identifier: Contains the information of the lot to be transferred by the broker. The file has only one register type 0.

- ii. 1: Consignee's Declaration: At least one type 1 register in the file.
- iii. 2: Bill of Lading and Container Information - At least one type 2 register, associated to one type 1 in the file.
- iv. 3: Merchandise(s) Detail - For each type of register 2 there should be at least one type 3 register.
- v. 4: Invoice and Merchandise Supplier Information - For each type of register 1 there should be at least one type 4 register.

Please refer to Attachment II for the detail of fields in each type of register for the transmission file of the excise taxes declarations. Payments Online must be accessed through the web page www.hacienda.gobierno.pr, to make payments on or before the tenth (10th) day from the date of the filing of the declarations transmission.

Nonetheless, we remind you that to proceed with the payments you must be registered in Payments Online service accessing the web page [HTTPS://colecturia.gobierno.pr](https://colecturia.gobierno.pr).

For any comment or question in connection with the configuration of the format or layout of the files, send an electronic mail to InfoSISCON@hacienda.gobierno.pr. or call Mr. Rafael Malavé at (787) 774-1494, (787) 774-1297 or (787) 774-1201.

D. Trial and Validation Period

Once the phase of the configuration files format to be transmitted is completed, according to the specifications described above, and prior to the use of the electronic system for the manifests and payments electronic transmission, all users will be subject to a trial and validation period by the Bureau. This trial period will allow us to revise the format and the validation information that the Bureau will receive in order to process the manifests and the payments made.

The address to be used during the trial period is <http://64.185.194.12/siscon/portal/racf2webform.aspx>.

Even having an access code and password to SISCON-Excise Taxes, no carrier may access the applications to process the manifests or make electronic payments until the trial and validation period has been completed. The Bureau will only enable the codes

for the users that have completed satisfactorily said period. The trial period ends on June 30, 2005.

For any situation or question in connection to the trial and validation period you must call Mr. Jorge. L. Rivera or Mr. Rafael Malavé at (787) 774-1494, (787) 774-1297 or (787) 774-1201.

III. LIMIT DATE

From July 1, 2005, every carrier with a license to operate in Puerto Rico must be using the electronic procedure to transmit manifests to the Bureau through the Carriers Module. Therefore, from this date on, articles imported and informed through the electronic procedure may be classified automatically, as applicable. The Bureau will classify as taxable the articles for which their shipping documents correspond to written manifests. Therefore, the Department will maintain a faithful data base.

Likewise, from this date on, all carriers with license to operate in Puerto Rico, and custom brokers that make payments on behalf of their clients, must declare electronically through the IPLE module and make said payments electronically through Payments Online.

Nevertheless, all carriers and custom brokers must save and keep the information for the manifests transmitted electronically for a period of not less than 6 years in case that these are required by the Department. Such evidence could be saved electronic or printed form, as long as it can be faithfully reproduced if required by the Department.

From the date of this Informative Bulletin on, every person requesting an excise tax license to operate as cargo carrier in Puerto Rico must participate in to the electronic system for the transmission of the manifests and excise tax payments. For detailed information of the requirements to obtain the cargo carrier license, you may refer to Circular Letter No. 05-08 dated May 12, 2005 available at <http://www.hacienda.gobierno.pr>.

The provisions of this Informative Bulletin will be effectively immediately.

Cordially,

Juan C. Méndez Torres