

2010 – 2015
TAXATION BAR EXAM QUESTIONS
ON
TARIFF & CUSTOMS CODE

Under the Tariff and Customs Code, abandoned imported articles becomes the property of the:
(2011 Bar Question)

- (A) government whatever be the circumstances.
- (B) insurance company that covered the shipment.
- (C) shipping company in case the freight was not paid.
- (D) bank if the shipment is covered by a letter of credit.

SUGGESTED ANSWER:

- (A) government whatever be the circumstances.

Amaretto, Inc., imported 100 cases of Marula wine from South Africa. The shipment was assessed duties and value-added taxes of P300,000 which Amaretto, Inc. immediately paid. The Bureau of Customs did not, however, issue the release papers of the shipment yet since the Food and Drug Administration (FDA) needed to test the suitability of the wine for human consumption. Is the Bureau of Customs at fault for refusing to release the shipment just as yet? (2011 Bar Question)

- (A) Yes, because the importation was already terminated as a result of the payment of the taxes due.
- (B) Yes, the Bureau of Customs is estopped from holding the release of the shipment after receiving the payment.
- (C) No, if the amount paid as duties and value-added taxes due on the importation was insufficient.
- (D) No, because the Bureau of Customs has not yet issued the legal permit for withdrawal pending the FDA's findings.

SUGGESTED ANSWER:

- (D) No, because the Bureau of Customs has not yet issued the legal permit for withdrawal pending the FDA's findings.

Importation of goods is deemed terminated: (2012 Bar Question)

- a) When the customs duties are paid, even if the goods remain within the customs premises;
- b) When the goods are released or withdrawn from the customs house upon payment of the customs duties or with legal permit to withdraw;
- c) When the goods enter Philippines territory and remain within the customs house within thirty (30) days from date of entry;
- d) When there is part payment of duties on the imported goods located in the customs area.

SUGGESTED ANSWER:

- b) When the goods are released or withdrawn from the customs house upon payment of the customs duties or with legal permit to withdraw

Section 1202, Tariff and Customs Code

Under the Tariff and Customs Code, as amended:

- a. **When does importation begin and when is it deemed terminated?**

b. In what cases is the decision of the Collector automatically reviewed by the Commissioner of Customs? In what instance/s is the decision of the Commissioner automatically appealed to the Secretary of Finance? (2015 Bar Question)

SUGGESTED ANSWER:

a. Importation begins when the carrying vessel or aircraft enters the jurisdiction of the Philippines with intention to unlade therein. Importation is deemed terminated upon payment of the duties, taxes and other charges upon the articles, or secured to be paid, at a port of entry and the legal permit for withdrawal shall have been granted, or in case said articles are free of duties, taxes and other charges, until they have legally left the jurisdiction of the customs.

b. Whenever the decision of the Collector of Customs is adverse to the government, the said decision is automatically elevated to the Commissioner of Customs for review, and if such decision is affirmed by the Commissioner of Customs, the same will be automatically elevated to and be finally reviewed by the Secretary of Finance.

The imported articles shall in any case be subject to the regular physical examination when: (2012 Bar Question)

- a) The importer disagrees with the findings as contained in the government surveyor's report;
- b) The number, weight and nature of packages indicated in the customs entry declaration and supporting documents differ from that in the manifest;
- c) The container is not leaking or damaged;
- d) The shipment is covered by alert/hold orders issued pursuant to an existing order.

SUGGESTED ANSWER:

b) The number, weight and nature of packages indicated in the customs entry declaration and supporting documents differ from that in the manifest

Section 1401, Tariff and Customs Code, as amended by RA 7650.

Mr. Z made an importation which he declared at the Bureau of Customs (BOC) as "Used Truck Replacement Parts". Upon investigation, the container vans contained 15 units of Porsche and Ferrari cars.

Characterize Mr. Z's action. (1%)(2013 Bar Question)

- (A) Mr. Z committed smuggling.
- (B) Mr. Z did not commit smuggling because he submitted his shipment to BOC examination.
- (C) Mr. Z only made a misdeclaration, but did not commit smuggling.
- (D) Mr. Z did not commit smuggling because the shipment has not left the customs area.

SUGGESTED ANSWER:

(A) Mr. Z committed smuggling.

Under Section 3602¹ of the Tariff and Customs Code of the Philippines, fraudulent or false declaration of imported or exported articles is smuggling.

Choose the correct answer. Smuggling - (1%)

(A) does not extend to the entry of imported or exported articles by means of any false or fraudulent invoice, statement or practices; the entry of goods at less than the true weight or measure; or the filing of any false or fraudulent entry for the payment of drawback or refund of duties.

(B) is limited to the import of contraband or highly dutiable cargo beyond the reach of customs authorities.

(C) is committed by any person who shall fraudulently import or bring into the Philippines, or assist in so doing, any article, contrary to law, or shall receive, conceal, buy, sell or any manner facilitate the transportation, concealment or sale of such article after importation, knowing the same to have been imported contrary to law. (2014 Bar Question)

SUGGESTED ANSWER :

C. Smuggling is committed by any person who shall fraudulently import into the Philippines, or assist in so doing, any article, contrary to law, or shall receive, conceal, buy, sell, or any manner facilitate the transportation, knowing the same to have been imported contrary to law.

Is an article previously exported from the Philippines subject to the payment of customs duties? (2011 Bar Question)

- (A) Yes, because all articles that are imported from any foreign country are subject to duty.
- (B) No, because there is no basis for imposing duties on articles previously exported from the Philippines.
- (C) Yes, because exemptions are strictly construed against the importer who is the taxpayer.
- (D) No, if it is covered by a certificate of identification and has not been improved in value.

SUGGESTED ANSWER:

(D) No, if it is covered by a certificate of identification and has not been improved in value.

The dutiable value of an imported article subject to an *ad valorem* rate of duty under existing law shall be: (2012 Bar Question)

¹SECTION 3602. Various Fraudulent Practices Against Customs Revenue. — Any person who makes or attempts to make any entry of imported or exported article by means of any false or fraudulent invoice, declaration, affidavit, letter, paper, or by means of any false statement, written or verbal, or by means of any false or fraudulent practice whatsoever, or shall be guilty of any willful act or omission by means of whereof the Government might be deprived of the lawful duties, taxes and other charges, or any portion thereof, accruing from the article or any portion thereof, embraced or referred to in such invoice, declaration, affidavit, letter, paper, or statement, or affected by such act or omission, shall, for each offense, be punished by a fine of not less than six hundred pesos nor more than five thousand pesos and by imprisonment for not less than six months nor more than two years and if the offender is an alien, he shall be deported after serving the sentence.

- a) The home consumption value;
- b) The total value;
- c) The total landed cost;
- d) The transaction value.

SUGGESTED ANSWER:

- d)** The transaction value

Section 201, Tariff and Customs Code, as amended by RA 8181 dated March 28, 1996

Discriminatory duties may NOT be imposed upon articles: (2011 Bar Question)

- (A) wholly manufactured in the discriminating country but carried by vessels of another country.
- (B) not manufactured in the discriminating country but carried by vessels of such country.
- (C) partly manufactured in the discriminating country but carried by vessels of another country.
- (D) not manufactured in the discriminating country and carried by vessels of another country.

SUGGESTED ANSWER:

- (D)** not manufactured in the discriminating country and carried by vessels of another country.

What is the rule on appeal from decisions of the Collector of Customs in protest and seizure cases? When is the decision of the Collector of Customs appealable to the Court of Tax Appeals? Explain.
(2010 Bar Question)

SUGGESTED ANSWER:

Decisions of the Collector of Customs in protest and seizure cases are appealable to the Commissioner of Customs within 15 days from receipt of notice of the written decision of the Collector.

As a rule, decisions of the Collector of Customs are not appealable to the CTA. However, if the Collector does not decide a protest for a long period of time, the inaction may be considered as an adverse decision by the Collector of Customs and the aggrieved taxpayer may appeal to the CTA, even without the Collector's and Commissioner's actual decision.

Which cases are appealable to the CTA? (2012 Bar Question)

- a) Decisions of the Secretary of Finance in cases involving liability for customs duties, seizure, detention or release of property affected;
- b) Decisions of the Commissioner of Customs in cases involving liability for customs duties, seizure, detention or release of property affected;
- c) Decisions of the Collector of Customs in cases involving liability for customs duties, seizure, detention or release of property affected;
- d) Decisions of the BIR Commissioner in cases involving liability for customs duties, seizure, detention or release of property affected.

SUGGESTED ANSWER:

b) Decisions of the Commissioner of Customs in cases involving liability for customs duties, seizure, detention or release of property affected

Section 7, RA 9282.

MSI Corp. imports orange and lemon concentrates as raw materials for the fruit drinks it sells locally. The Bureau of Customs (BOC) imposed a 1% duty rate on the concentrates. Subsequently, the BOC changed its position and held that the concentrates should be taxed at 7% duty rate. MSI disagreed with the ruling and questioned it in the CTA which upheld MSI's position. The Commissioner of Customs appealed to the CTA en banc without filing a motion for reconsideration.

Resolve the appeal. (1%)(2013 Bar Question)

- (A) The appeal should be dismissed because a motion for reconsideration is mandatory.
- (B) The appeal should be dismissed for having been filed out of time.
- (C) The appeal should be given due course since a motion for reconsideration is a useless exercise.
- (D) The appeal should be upheld to be fair to the government which needs taxes.

SUGGESTED ANSWER:

(A) The appeal should be dismissed because a motion for reconsideration is mandatory.

The present case is similar to the case of *Commissioner of Customs vs. Marina Sales, Inc.* (G.R. No. 183868, November 22, 2010) where the Supreme Court held that Rule 8, Section 1 of the Revised Rules of Court of Tax Appeals requires that “the petition for review of a decision or resolution of the Court in Division **must** be preceded by the filing of a timely motion for reconsideration or new trial with the Division.” The word “must” clearly indicates the mandatory, not merely directory, nature of a requirement.”

A protest against an assessment issued by the Collector of Customs for unpaid customs duties on imported goods shall be filed with: (2012 Bar Question)

- a) The Commissioner of Customs;
- b) The Regional Trial Court;
- c) The Court of Tax Appeals;
- d) The Collector of Customs.

SUGGESTED ANSWER:

d) The Collector of Customs.

Section 2308, Tariff and Customs Code