



Superintendency of Tax Administration

SUPERINTENDENCY RESOLUTION

SAT-DSI-315-2020

Superintendency of Tax Administration
Superintendency Resolution Number SAT-DSI-315-2020
The Acting Superintendent of Tax Administration

WHEREAS:

The Article 3, item b) of the Decree Number 1-98 of the Congress of the Republic of Guatemala establishes that the Superintendency of Tax Administration (SAT, by its initials in Spanish) is in charge of managing the Customs System of the Republic, as well as enabling the foreign trade pursuant to the law and according to the international agreements and treaties that have been ratified by Guatemala. Additionally, it is in charge of monitoring the non-dutiable nature associated with the customs regime. Likewise, according to the referred legislation, the Superintendency of Tax Administration is the responsible entity to create the internal provisions within its competence that enable and warrant the fulfillment of the purpose of SAT, the Tax and Customs Legislations, and its regulations.

WHEREAS:

One of the faculties of the Customs System is to perform the customs control to analyze, supervise, oversee, verify, investigate, and evaluate the fulfillment and application of the provisions in the Central American Uniform Customs Code (CAUCA, by its initials in Spanish) and its Regulations, as well as the regulatory standards of entry and exit of merchandise, means of transportation of the Customs territory, and the activity of individuals or legal persons that are part of the foreign trade. Such performance is based on the fulfillment of duties and liabilities of the assistants, as well as the rules and proceedings that have been established in the Central American Uniform Customs Code -CAUCA- and its Regulations and by the Customs System over the customs operations, the actions derived from them, the statements, the establishment of customs-tax liabilities, tax payments, the performance of exporters and importers, producers and other entities that have the customs-taxing obligations.

WHEREAS:

The Article 5 of the Central American Uniform Customs Code Regulations establishes in the items f), n), u), and w) the general tasks and duties of the Customs Service that are complying and enforcing the rules contained in the Central American Uniform Customs Code, its Regulations, and other customs provisions; verifying that the assistants fulfill with the requirements, duties, and established liabilities; granting, suspending or canceling, when it is applicable, the authorizations of the assistants and further tasks given in the mentioned Code and its Regulations, among others.

WHEREAS:

Pursuant to the Resolution J.D. No. 05/04/2019, the Board of Directors of “Santo Tomas de Castilla” Trade and Industry Free Zone, Regulations for the Authorization, Enabling, and Functioning of Special Public Economic Development Zones (ZDEEP, by its initials in Spanish) and its amendment, Resolution J.D. 63/32/2019 that includes an amendment by addition in the Article 10 Bis, it states that “THE INTERESTED PARTY shall be registered as an Assistant of the Customs Public Office before SAT, having to exhaust the corresponding proceeding in accordance with the Central American Uniform Customs Code and its Regulations, for which, it shall submit its application within the next fifteen days following the notification date of the Resolution issued by the Board of Directors of ZOLIC, described in the previous Article.”

THEREFORE:

On the basis of the previous considerations and in the exercise of the competences and faculties granted in the Article 22 item b), Article 23 items a) and f) of the Decree Number 1-98 of the Congress of the Republic of Guatemala; Articles 5 and 639 of the Regulations of the Central American Uniform Customs Code; and Article 25 items 1) and 6), and Article 31 of the Directors’ Agreement Number 007-2007 of the Internal Regulations of the Superintendency of Tax Administration.

RESOLVES:

To issue the following,

ADMINISTRATIVE PROVISIONS TO ESTABLISH AND ACKNOWLEDGE THE INTERESTED PARTY AS AN ASSISTANT OF THE CUSTOMS PUBLIC OFFICE IN ITS CAPACITY OF DEVELOPER OF THE SPECIAL PUBLIC ECONOMIC DEVELOPMENT ZONES.

Article 1.

Purpose. The current administrative provisions are intended to establish and acknowledge the position of Developer of the ZDEEP as an Assistant of the Customs Public Office according to the Article 19, item d), of the Central American Uniform Customs Code, as well as the contents in the Article 118 of the Regulations of the Central American Uniform Customs Code as well as Article 10 Bis. of the Resolution J.D. No. 05/04-2019, Regulations for Authorization, Enabling, and Functioning of the ZDEEPs, and determine the specific requirements that are additional to the general ones established in the Central American Uniform Customs Code and its Regulations, which the interested party shall comply in order to be authorized as an Assistant of the Customs Public Office.

Article 2.

Compulsory Application. The current administrative provision is a mandatory application for the Developer of the ZDEEP to become an Assistant of the Customs Public Office.

Article 3.

Interested Party or Developer: The interested party or developer is the individual or legal person who has transferred in leasing or usufruct real estate of his/her property in favor of ZOLIC, in order to establish a ZDEEP, once it has been authorized and enabled by the Board of Directors of ZOLIC for that purpose.

Article 4.

Liability. The Developer of the ZDEEP shall be jointly and severally liable before the tax authorities for any taxing results derived from actions, omissions, infringements, and felonies incurred by any of his/her employees accredited before the Customs Service, without prejudice of the civil, administrative, or criminal liabilities to which such employees are legally subject to.

Article 5.

Requirements. The Developer of the ZDEEP shall submit the application that complies with the requirements established in the Article 122 of the Tax Code, Decree Number 6-91 of the Congress of the Republic of Guatemala and the Articles 56, 58, and 59 of the Regulations of the Central American Uniform Customs Code.

Article 6.

Specific Requirements. In addition to the previous article, the Developer of the ZDEEP shall comply with the following requirements:

- a) The Extra-Customs area enabled by ZOLIC for the operations of the ZDEEP shall be duly delimited and have the proper infrastructure and safety features that comply with the standards needed to develop the purposes of the

ZDEEP and its users, which have been established by the Board of Directors of ZOLIC in consensus with the Customs Service. Such data shall be accredited by submitting the blueprints and the original written opinion issued by a Civil Engineer or Architect, who shall be an active member of his/her association, containing the type of construction, the safety measures and further characteristics of the facilities.

Previous to authorize the Assistant of the Customs Public Office, SAT shall verify the facilities of the ZDEEP to confirm they meet the conditions needed for an operation according to the statements established in the Article 60 of the Central American Uniform Customs Code.

b) Submit the Resolution that authorize the ZDEEP issued by the Board of Directors of ZOLIC;

c) Prepare a specific area for the previous evaluation and prompt verification of merchandise;

d) Submit and keep a valid warranty bond for an amount not less than one hundred fifty thousand Central American pesos or its equivalent in the local currency to warrant the fulfillment of the tax obligation for the operations to be carried out in the ZDEEPs. The warranty conditions and its validity are ruled by the Central American Uniform Customs Code and its Regulations;

e) Cover the monthly fees of the personnel of SAT who is providing services in the ZDEEP, which shall include salaries and benefits in accordance with the Organic Law of SAT, its internal regulations, and further applicable labor rules. The estimate shall include any other benefit created for officers and employees of SAT, or those added to the current benefits, which affect the salaries and benefits of SAT employees appointed to the different offices of the Tax Administration;

f) Establish a suitable area for the operations of SAT staff, providing furniture, office equipment, and further elements that may be needed for the staff. Such space shall be specific and permanent, arranged by the Customs Service, to carry out the functions of control and customs clearance of goods.

g) The area arranged for SAT staff shall have a minimum space of 40 square meters or the space needed according to the number of employees of SAT and the volume of operations, and shall have the infrastructure conditions necessary for the customs staff to carry out the corresponding control tasks. This area shall include bathrooms for the exclusive use of SAT staff, as well as a dining area where they can take their meals.

h) Establish the equipment and software needed for the electronic transmission and exchange of information with the Customs Service of the operations carried out by the staff;

i) For the purpose of item h), the ZDEEPs shall have the hardware equipped with the appropriate technology and data transmission service that may be linked to the Customs Service, and allows a permanent and simultaneous control of the merchandise operations in the ZDEEPs at the time the goods are received or withdrew. Such information shall be electronically linked with the mentioned office.

j) Indication of the control system of the goods stock, as well as the description of the automated equipment that will be used for such controls.

Article 7.

The Code. The Developer of the ZDEEP shall receive the Assistant Code of the Customs Public Office, which will be activated by the Office of Qualification, Registry, and Control of Assistants of the Public Office of the Customs Intendancy Customs Management Department of SAT.

Article 8.

Refusal to grant Tax Benefits. Being registered as an Assistant of the Customs Public Office does not grant the interested party any tax exemption.

Article 9.

Control and Jurisdiction. In accordance with the Article 34 of Decree Number 22-73 of the Congress of the Republic, the Organic Law of "Santo Tomás de Castilla Trade and Industry Free Zone," the control over the customs operations in the ZDEEP related to the tax regime to which the goods will be submitted, shall be performed by the Customs Delegation appointed for that effect, which shall be under the jurisdiction of the Customs Management closer to its geographic location, without prejudice of the competence that the Central American Uniform Customs Code and its Regulations and any other legislation grant to the auditing bodies.

Once the registry as Assistant of the Customs Public Office is completed, the Unit of Special Regimes of the Customs Intendancy Department of Customs Management shall proceed with the authorizations, registries, and controls of the Customs Regimes

regarding its competence, and it will proceed to activate the code of the ZDEEPs. Subsequently to the application of one of the parties, the Tax Identification Number (NIT, by its initials in Spanish) of the users will be enabled once they are duly authorized by the Board of Directors of ZOLIC.

Article 10.

Unexpected Cases. The cases that have not been considered in this Resolution shall be resolved by the Customs Intendant of SAT.

Article 11.

Administrative Provisions. The Customs Intendency has received instructions to create the internal provisions, as well as to carry out the actions and adjustments of administrative nature that may be needed to grant the capacity of Assistant of the Customs Public Office to the interested party or Developer as ZDEEP.

Article 12.

Provisional rules. For the entities that were authorized or enabled before entering into force the Resolution J.D. No. 05/04-2019 of the Board of Directors of "Santo Tomás de Castilla Trade and Industry Free Zone", Regulations for the Authorization, Enabling, and Functioning of the ZDEEP and its amendments that are currently operating, shall be ruled by the provisions that allowed their operations. They also shall request to SAT their legal capacity to become an Assistant of the Customs Public Office.

Article 13.

Validity. This resolution will be in force from the day after its publication in the Official Journal.

GIVEN IN THE OFFICE OF THE SUPERINTENDENT OF TAX ADMINISTRATION IN GUATEMALA CITY, ON THE THIRD DAY OF APRIL OF THE YEAR TWO THOUSAND TWENTY.

Werner Ovalle Ramírez

Acting Superintendent of Tax Administration

Lic. Guillermo René González Juárez

Acting General Secretary
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