



DUTY CONCESSION SCHEME

GUIDELINES FOR AVIATION TRANSPORT DEVELOPMENT

DUTY CONCESSION SCHEME UNDER THE PROVISION OF THE CUSTOMS AMENDMENT ACT 2007 (SECTION 163A) & THE CUSTOMS (AVIATION TRANSPORT DEVELOPMENT) REGULATIONS 2012:

BACKGROUND:

This scheme is one of the government's support program aimed at further encouraging the development for Aviation Transport. This program is mainly for the exemption of Customs Duty on approved aircrafts and parts imported from overseas suppliers for use by businesses approved as a **"Qualifying Project"** as per provisions of the Customs (Aviation Transport Development) Regulations 2012.

TWO BASIC PROCESSES WHEN CONSIDERING APPLICATIONS UNDER THE DUTY CONCESSION SCHEME:

- I. **Qualifying Projects:** all applications must be submitted to MCIL for preliminary assessment for the Investment Committee's final evaluation before submission to Cabinet for consideration. This process may take less than a month if all required supporting information is provided together with the completed application form.
- II. **Approved Goods:** It is expected that an initial list of required goods will be submitted together with completed application for Cabinets consideration. However requests for additional goods from qualifying projects must also be submitted to MCIL for assessment before submission to MOF for approval. This process can be finalized within 48 hours if all details are provided with request for consideration of additional goods.

NOTE: All applicants are required to obtain written approval as a **Qualifying Project** prior to the importation of goods as the scheme is not operated on a retrospective basis. Other details relating to expected steps and procedures for this scheme are provided in section (B) of this guideline.

A. GUIDELINES WHEN CONSIDERING ASSISTANCE FOR AVIATION TRANSPORT DEVELOPMENT:

1. Eligibility Criteria [Regulations 3(1)]:

A company development project application must:

- i. be beneficial to the economy of Samoa; and
- ii. to be in the public interest; and
- iii. that the project will establish a new travel route or re-establish an old route no longer serviced by an air transport provider; and
- iv. that the project is new to Samoa; and
- v. that the applicant has no other aviation transport operations in any other country.

2. Criteria for Application for Aviation Development Project [Regulations 3(2)]:

An application for aviation transport development must be sent to the Chief Executive Officer of MCIL for processing which must contain each of the following:

- a. The full name, address and present occupation or main business of the applicant, and, if the applicant is a public or private company, full details regarding the officers and shareholders of the company and its registered office.
- b. The full names of the principals or intended directors, their addresses, background and experience in aviation transport operations.
- c. The nature of the applicant's project, the resulting aviation service, the anticipated volume of operation during each of the first 10 years of operation, and the price at which the applicant expects to be able to market the aviation service.
- d. The estimated sources, amounts, from cash or otherwise and purpose of the capital intended to be expended on the qualifying project during each of the first 10 years of operation.
- e. A description and estimation of the cost of physical structures to be erected or added, and of capital equipment to be purchased.
- f. The nature of any land title applying to that site held or expected to be obtained by the applicant, and if an applicant's project is to be built upon customary land, a copy of the relevant lease agreement where relevant.
- g. The terms and conditions under which workers will be employed, including salaries, wages and any provision for amenities and housing of the workers, and the number of Samoans and of other workers intended to be employed initially and during each of the first 10 years of operation and description of the duties of workers.

- h. Details of goods that the applicant claims required for the qualifying project for which the applicant seeks exemption from customs duty wholly or partially –
 - i. Whether if the goods is used wholly or partially for that purpose; and
 - ii. If only partially used, the extent of use for the goods.
- i. If the nature of the applicant’s project is a service –
 - i. The date on or before the service is set to commence; and
 - ii. The estimated service cost analysis including operating costs and a copy of a service marketability survey; and
 - iii. For a domestic air service, the expected frequency of flights.
- j. Any other information or particulars, as the Chief Executive Officer may require.

3. Criteria and Application for approved goods [Regulations 4(1)].

Approved goods are assessed by the Investment Committee and should apply only to the following capital goods used solely for a qualifying project,

- i. Airplanes of an unladen weight not exceeding 15,000kg and designed for the commercial transport of persons as described in tariff heading 8802.3010 of HS 2007;
- ii. Parts of aeroplanes described in subparagraph (i);
- iii. Aviation gasoline, aviation kerosene and jet fuel included under tariff headings 2710.1120 and 2710.1130 of HS 2007

A person seeking to import any approved goods must apply in writing to the Chief Executive Officer of MCIL in which the following information must be included **[Regulations 4(2)]**.

- i. A full list of goods to be imported;
- ii. Sufficient information or description of goods such as the harmonised system description so as to assist in determining the applicable tariff rate;
- iii. A detailed description of proposed use of goods; and
- iv. Written confirmation that the goods are being imported solely to be used on a qualifying project;
- v. An undertaking that the full duty payable for the goods shall be paid if they are later sold within Samoa, or used by any person other than the approved person for any purpose;
- vi. Any other information or particulars required by the Chief Executive Officer.

4. Conditions and Restrictions for imported goods [Regulations 5]

- 1. An approved applicant shall, for each qualifying project they are carrying out, keep to the satisfaction of the Comptroller and the Chief Executive Officer by providing full records and accounts of all financial transactions, assets, liabilities and funds as well as full records and inventories of all goods imported by them into Samoa.
- 2. Where the qualifying project relates to an expansion of a current business operation, the records, accounts and affairs of matters referred to in (1) and which relate to

expansion shall be kept wholly separate from the original business activities at all times.

3. All approved goods imported for a qualifying project shall be kept in a secure manner and shall be subject to conditions that may be imposed by an authorised officer to ensure the security of the stored approved goods.
4. Any authorised officer shall be entitled during reasonable hours to enter and inspect the premises where a qualifying project is or has been conducted, and to inspect and take copies of the records pertaining to that project for the purpose of ascertaining whether the provisions of these regulations are being complied with.
5. Exempting goods mentioned in part 3(ii) may cease after 3 years from the approval of the goods mentioned in 3(i).
6. No approved goods with exemption or relief from any duty under the scheme shall be sold, given away or otherwise disposed of except:
 - ✓ With the prior written approval of the CEO of the Ministry of Finance.
 - ✓ Where the assignee of a business acquires the approved goods as part of the assignment; or
 - ✓ Upon the approved person or relevant assignee as the case may be paying to the Comptroller customs duty on the value of the goods sold, given away or otherwise disposed of, as assessed at the date of the sale, gift or other disposal, less any customs duty already paid for the approved goods not refunded.
7. Duty previously exempted becomes due and payable if an approved person or relevant assignee within 5 years of the commencement of its operation or receiving import duty exemption or any other longer time frame as determined by the CEO:
 - Ceases business operations;
 - Fails to meet the criteria or conditions provided in these Regulations;
 - The requirement or condition upon which import duty assistance was initially granted has not been complied with.

B. DUTY CONCESSION SCHEME SIMPLIFIED ROADMAP & PROCESSES

| | “QUALIFYING PROJECT and APPROVED GOODS” |
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| STEP 1 | All applications including required goods with a signed covering letter must be addressed and submitted to the CEO, Ministry of Commerce Industry & Labour. |
| STEP 2 | <p>MCIL through the Industry Development and Investment Promotion Division (IDIP) does a preliminary assessment on a case by case basis which is then submitted to the Investment Committee, administered and chaired by the Ministry of Finance (MoF) for consideration.</p> <p>Applicants are encouraged to provide all required details and supporting information with the original application in order to speed up the assessment process.</p> <p>Assessment normally takes 3 working days if all required information is submitted with the original application. The IDIP Division will liaise with the applicant on any information that may be required to complete the assessment.</p> |
| STEP 3 | <p>The Investment Committee (IC) will independently review each application on a case by case basis and will liaise directly with the applicants if additional information is required.</p> <p>IC meetings are normally called by the Ministry of Finance within 14 working days after assessment of projects reaches the IC Secretariat. This will allow for circulation and for the committee members to have ample time to digest the content of a project.</p> <p>Once a final decision is reached the IC through MoF will prepare Cabinet submission through the Minister of Finance. This normally takes place within 10 seven working days after the IC meeting.</p> |
| STEP 4 | <p>Cabinet meets on a weekly basis to discuss all national priority matters including Investment projects.</p> <p>This step takes 3 – 4 weeks, depending on Cabinet’s set agenda for each meeting.</p> <p>MoF upon receipt of a Cabinet decision will in writing advice applicants accordingly; and copy MCIL and MfR for processing purposes.</p> |
| STEP 5 | <p>Ministry for Revenue (MfR) & MCIL will carry out existing monitoring and evaluation processes for ‘Qualifying Projects’.</p> <p>MCIL (IDIP division): Qualifying Project to submit import documentation (SAD forms) to MCIL for clearance. Evaluation is based on the corresponding list of ‘Approved goods’ by Cabinet. This process normally takes less than five working hours if all documents are in place.</p> |

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| | MfR (Customs division): Responsible for clearance of goods at the entry border. |
| | “OTHERS” |
| | <ol style="list-style-type: none"> 1. Preparations for Cabinet submission. Once consultations between the IC and the Project coordinators is concluded applicants are encouraged; <ul style="list-style-type: none"> ✓ to provide all additional information if required; ✓ Including a complete list of required goods for the establishment and implementation of the project (with harmonized code) together with the completed application form for assessment and submission to the Investment Commission. 2. Applicants are encouraged to seek ‘qualifying project’ status first before any shipment is made as the Duty Concession Scheme does not operate on a retrospective basis. 3. Request for ‘Additional Goods’ – in the event that additional goods may be required to complete the project, applicants (Qualifying projects) are to write to MCIL with a list of additional goods (with harmonized code). <p style="text-align: center;">This step may not be required to go through Cabinet but to the Ministry of Finance for approval if the required goods are not substantial.</p> |

C. DUTY CONCESSION SCHEME FOR AVIATION TRANSPORT DEVELOPMENT- APPLICATION FORMAT:

1. Details of Applicant:

- Name of applicant company/organization
- Address: Location, Postal Address, Email Address, Telephone/Facsimile
- Name of the contact person/position.
- Background: Nature of Main Business of applicant organization, when established, product(s), service, markets and number of employees.

2. Details of Project:

- Description of the Main Business under the Project, (Include aviation service, how service will be marketed and price for marketing the service).
- Location of the Project (if different from above)
- Background: How will the proposed developments improve aviation transportation.
- Project Justification: What the project will achieve in relation to the company's objectives.
- Estimated total cost of Project.
- Funding Details.
- Full details of company's officers, shareholders and registered offices.
- Full names of principals/directors, addresses, bank and other financial references, previous background, experience in aviation transport operations.
- Terms and conditions for workers (salaries, wages, any provisions for amenities and housing of the workers, number of locals and other workers intended to be employed and description of duties.

3. Benefits of the Economy – how the project will contribute to the economy? Such as number of employment opportunities to be created, new or existing route, income & export earnings etc.

4. Timing – When the project will start and how long will it take.

5. Details of Assistance Applied for: Duty Concession (please list all raw materials to be imported under this assistance – refer table 1)

6. Additional & Supporting Information:

- Lease Agreement
- Architectural Plan – Proper Drawing
- Environmental Impact Assessment (EIA) / Development Consent Approval
- Disaster Mitigation / Management Plan
- Confirmation of Financial Package

Please address all applications to the CEO, Ministry of Commerce, Industry and Labour

Table 1: List of Goods

| Item Description | H S (Tariff) Code | Quantity | Cost per Unit | Total Cost |
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