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POST-CLEARANCE AUDIT SYSTEM IN CHINA CUSTOMS

With the compliance with the national legislation and international rules, present Customs performance has to seek new administrative measures in order to solve the contradictory problems resulting from the fast clearance and effective control. In the light of current practice of other Customs, China Customs has realized that the administrative methods must be changed from the single “cargo control” to the combination of “trader control” and “cargo control” in order to realize the effective control and operation. One of the learning result is the establishment of post-clearance audit system, which marks the change of main administrative control in the way of maintaining market rules and orders, together with providing public service much better, other than the direct interfere with the traders and market.

The system of China Customs post clearance audit established in 1994. Now, Investigation Bureau of General Customs Administration is mainly responsible for audit, which consists of audit division and trade investigation division under it. There are also specific audit agencies and professional staff total 1700 in customs branches across the country.

1. The basic concept of post clearance audit

Post clearance audit means the checking and auditing made by the Customs on the account books, account vouchers, Customs declaration forms and other relevant data and related import and export goods within 3 years from the date of the release of import and export goods or within the period of Customs supervision and control over bonded goods and goods imported with duty reduction or duty exemption, to verify the authenticity and legality of the import and export activities of the person being audited.

2. The purpose of post clearance audit

The direct purpose is to verify the authenticity and legality of the import and export activities of the person being audited.

The basic purpose of post clearance audit is to strengthen Customs supervision and control, normalize import and export order, maintain the legal rights and interests of the persons concerned, safeguard the state revenue and promote foreign trade.

3. Laws and regulations supporting audit function

Customs Laws of the People’s Republic of China;

Regulations for Imposing Administrative Penalties under the Customs Law of

the People's Republic of China;

Rules of the Customs of the People's Republic of China for External Audit;

Import and Export Tariff Regulations of the People's Republic of China;

Accounting Law of the People's Republic of China.

4. Basic operation of post clearance audit

4.1 The scope of the auditees:

The Customs carries out post clearance audit on the following enterprises and units directly related to import and export activities:

Enterprises and units engaged in foreign trade;

Enterprises engaged in foreign processing trade;

Enterprises engaged in Customs bonded business;

Enterprises and units using or dealing with goods entitled to the treatment of duty reduction or exemption;

Enterprises engaged in the business of Customs brokerage;

Other enterprises and units engaged in business directly related to import and export as defined by the Customs General Administration.

4.2 The content of post clearance audit

Import and export license;

Payment of duty and fees;

Bonded goods including import, disposal, warehouse, transportation, process, sales, exhibition and re-export);

Usage and management of reduction and exemption goods

Customs broker's operational situation;

Usage and management of goods in transit and temporary import;

Other activities regarding to import and export.

4.3 Basic operation of post clearance audit

Basic procedures: As a new customs performance system, post-clearance audit is composed with audit preparation, implementation, disposition and appraisal.

Preparation. According to the risk clues upon the risk analysis and trade investigation, we are able to identify the enterprises and commodities, understand the enterprises' detailed situation of import and export, operation modes and characteristics, relative commodity knowledge, and breach record, make specific implementation measures, including human resource deployment and equipment.

Implementation. Customs conducts the examination of the truth and legislation of cargo and relative documents, together with the examination of establishment of enterprise internal control system and its working procedures. Case investigation, one of the specific procedures, focuses on the investigation and evidence- obtaining of the suspicious enterprises.

Disposition. It mainly deals with those problems found in the audit implementation and in case investigation, including remedy within limited period, tax payment, administrative penalty, certification penalty and submitting to the anti-smuggling branches for further investigation.

Appraisal. Customs conducts appraisal to the risk clues accuracy, enterprise compliance situation, relative policies and Customs administration situation in order to enhance the audit quality.

4.4 The period of audit:

Customs conduct the post clearance audit within 3 years from the date of the release of import and export goods or within the period of Customs supervision and control over bonded goods and goods imported with duty reduction or duty exemption.

5. The rights and obligations

5.1 The right of Customs

For the implementation of Customs external auditing, the Customs is vested with the following powers:

to examine and make copies of contracts, accounts and other related material. Such as invoices, book accounts, bills, records, documents, business letters and cables, audio and video products and other materials related to the inward and outward goods and articles;

to enter the Auditee's manufactory, business premises and storage area so as to inspect the manufacturing and business operations as well as goods related to import and export activities.

to inquire the Auditee's representatives, mayor executives and relative employees about business operation or other questions related to import and export activities;

Where any possibility is detected of transferring, concealing, falsifying or destroying relevant account books, documents or other relevant data, the Customs shall, with the approval of the Customs commissioner, temporarily seal off the above-mentioned evidence (without affecting any normal manufacturing and business activities of the auditee).

to gain access, with the approval of the customs commissioner, to the Auditee's banking account at commercial banks or other financial institution for necessary inquiry or survey.

to claim the auditees set up accounting books, account vouchers, account statements and other account papers in accordance with relevant laws and administrative regulations.

to claim the auditees record and represent the import and export transactions authentically, accurately and completely.

to claim the auditees maintain the account book, document and material related to import and export activities according to the related laws, regulations and so on.

5.2 The obligations of Customs dealing with post clearance audit

Fairly enforcement, protect the sound rights of the auditee.

Abide by the legal procedures in handling post clearance audit generally, the Customs shall form audit teams, serve the paper advices of audit on the enterprises and units directly relating to the imports and exports 3 days prior to the performance of audit. Under special circumstances, upon the approval of Customs commissioner, the Customs may be entitled to effect such audit without informing the auditees in advance, but shall serve the paper advices on the spot. The audit team shall not less than 2 auditors. Auditors shall produce their auditor's certificates while making auditing the enterprises and units concerned.

Occupation avoidance.

Inform the audited with the result of auditing in time.

Upon conclusion of an audit, the Customs auditing team shall send the Customs an audit report after solicit the auditee's opinion.

A written letter of opinion of the auditee shall reach the Customs within 7 days effective from the receipt of the audit report. The Customs shall, within 30 days from the receipt of the audit report, arrive at an audit conclusion, a copy of which is to be delivered to the auditee.

5.3 Rights of the auditees

Rights of being notified

Rights of statement and appeal

Rights of asking for national compensation

Rights of requesting Customs to exercise its authority according to legal procedures

5.4 The obligations of the auditees

The auditees shall set up accounting books, account vouchers, account statements and other account papers in accordance with relevant laws and administrative regulations, and ensure their authenticity, accuracy and completion.

The auditees should maintain the account book, document and material related to import and export activities according to the related laws, regulations and so on.

The auditees should accept the audit, and provide to the Customs the relevant account books, bills and other papers concerned, should not refuse, delay, transfer, conceal, counterfeit, destroy the relevant material.

During the Customs examination and duplication of the auditee's account books, documents and other relevant data, or during the Customs inspection of the auditee's manufacturing and business premises and storage area, the presence of the auditee's legal representative, major executives or other special representatives is mandatory, who shall, in conformity with the Customs requirements, make a list of account books, open the storage, remove the goods or unpacked the goods.

6. Main working methods

Combination of risk-analysis and post clearance audit. Based on risk-analysis, Customs audit agencies completely apply ideology of "risk-oriented post clearance audit". Customs select high risk enterprises and commodities for specific audit through collection and analysis of risk data with regard to import and export enterprises operation conditions as well. In a way, customs can improve the accuracy and effectiveness of audit.

Combination of regular audit and specific audit. Regular audit means that customs perform audit according to plans, emphasis on the routine management of enterprises. Specific audit focus on finding and dealing with problems by conducting oriented audit to certain enterprise after risk analysis. With combination of above-mentioned measures, we can enhance the overall control of enterprises.

Combination of audit and enterprise regularization. Customs audit is the effective measures for normalizing the enterprises behavior regarding to import and export. The final objective of audit is improve the enterprises compliance. Customs can help enterprises to comply with laws and regulations with reliance through finding and solving problems, teaching lessons and adjusting compliance level.

7. Methods and measures of normalizing enterprises

Compulsory book-keeping obligation is established.

Obligation is made regarding keep accounting materials and import and export documentation properly.

Auditees shall submit accounting procedures and materials about import and export to Customs periodically.

By introduction of risk control regime, Customs can normalize enterprises activities through enterprises compliance level.

The enterprises with breaches are subject to the Customs control. Customs reserve the right to penalize the enterprises which fail to rectify the breaches within the limit period.

8. The vision of China Customs post clearance audit

The system of China Customs post clearance audit hasn't a long history, but such an advanced mode of Customs control has exerted great impact and showed enormous potential. It has made great achievements in regulating the import & export behavior of enterprises, preventing and striking the illegal smuggling activities, and protecting the national taxation.

The system of Customs post clearance audit is keeping evolving and progressing. In order to gradually establish the so called "four in one, consisting of risk analysis, enterprises auditing, trade investigation, enterprises management" new mode of Customs post clearance audit, we need to comply with the modern Customs system, to coordinate with the other Customs affairs, to integrate with the general international practices. The Chinese characterized Customs post clearance audit system should take the risk analysis as guidance, take enterprises auditing and management as means, and take the regulating import and export behavior of enterprises as target.