

# Tax Analysis

PRC Tax

Authors:

Shanghai

Li Qun Gao  
Partner  
Tel: +86 21 6141 1053  
Email: [ligao@deloitte.com.cn](mailto:ligao@deloitte.com.cn)

Da Wei Song  
Customs Senior Advisor  
Tel: +86 21 6141 1052  
Email: [dawsong@deloitte.com.cn](mailto:dawsong@deloitte.com.cn)

Yong Yi Yang  
Customs Senior Advisor  
Tel: +86 21 6141 1457  
Email: [yonyang@deloitte.com.cn](mailto:yonyang@deloitte.com.cn)

Ava Zhang  
Manager  
Tel: +86 21 6141 1477  
Email: [avzhang@deloitte.com.cn](mailto:avzhang@deloitte.com.cn)

For more information on the subject,  
please contact:

Indirect Tax Services

National Leader

Hong Kong

Sarah Chin  
Partner  
Tel: +852 2852 6440  
Email: [sachin@deloitte.com.hk](mailto:sachin@deloitte.com.hk)

Northern Region

Beijing

Andrew Zhu  
Partner  
Tel: +86 10 8520 7508  
Email: [andzhu@deloitte.com.cn](mailto:andzhu@deloitte.com.cn)

## Customs Steps Up Efforts to Combat Smuggling and Enhance Supervision of Import/Export Activities

An intensified effort to curb smuggling has resulted in the collection of a significant amount of tax by local Chinese Customs offices. For example, Nanjing Customs recently cracked a large smuggling case involving the import of containers of solid waste where the goods were declared under a false name and forged documents, and Shanghai Customs tracked down large amounts of seafood that were imported by companies declaring lower prices, which resulted in lower import duties. These efforts are part of a more rigorous enforcement campaign launched by the General Administration of Customs (“GAC”) at the beginning of 2012. The GAC aims to target smuggling activities throughout the country with a view to safeguarding national economic interests and improving the supervision of import and export trade of key enterprises and key import and export products, and the local Customs offices have responded accordingly. The launch of the initiative demonstrates that Chinese Customs is transitioning from a focus on tax collection to “supervision and tax collection” of imports and exports, which will result in heightened examination and investigation procedures. In particular, the following steps are being taken:

- An increase in the number of inspections;
- An increase in the number of anti-smuggling investigations where enterprises are suspected of smuggling or violating regulations and the immediate transfer of such cases to the anti-smuggling authorities for further investigation (in the past, Customs was more likely to simply collect underpaid customs duties and import/export taxes); and
- An increase in the number and extent of inspections of enterprises categorized as “B” and “C” enterprises and an increase in audits of “A” and “AA” enterprises.<sup>1</sup>

This tax analysis highlights Customs’ efforts and analyzes the potential impact on import and export operations.

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<sup>1</sup> Enterprises are evaluated and classified into five administrative ratings: AA, A, B, C and D. Enterprises with AA or A rating are subject to simplified Customs clearance measures, those with B ratings are subject to regular Customs administration measures and enterprises with ratings of C or D are subject to enhanced supervision.

## Eastern Region

### Shanghai

Li Qun Gao

Partner

Tel: +86 21 6141 1053

Email: [ligao@deloitte.com.cn](mailto:ligao@deloitte.com.cn)

## Southern Region

### Guangzhou

Yi Zhou

Partner

Tel: +86 20 2831 1228

Email: [jchow@deloitte.com.cn](mailto:jchow@deloitte.com.cn)

## Affected industries and enterprises:

The anti-smuggling initiative targets import and export enterprises, with the following sectors subject to intensified scrutiny:

- Mechanical and electronics
- Pharmaceutical chemicals
- Food
- High-end consumer goods
- Apparel

In addition, specified commodities will be the focus of Customs' inspections:

- Products entitled to preferential duties under free trade agreements, China's Closer Economic Partnership Arrangement and China's Economic Cooperation Framework Agreement;
- Products subject to anti-dumping, anti-subsidy and safeguarding measures;
- Products that may violate intellectual property rights;
- Bonded import raw materials and exported finished goods under processing trade relief; and
- Products that pose a high risk of export tax refund fraud (e.g. clothing, plastic and steel products, etc.).

## Analysis and Comments

While previously Customs' supervision focused on enterprises with ratings of B and C, it is now likely that it also will target enterprises with ratings of A and AA.

The closer scrutiny by Customs may increase the potential risk to import/export operations and result in stricter requirements for compliance with import/export declarations and more penalties.

Since import/export declarations and supporting documents are the first documents examined during an inspection, if the information provided is not consistent with the actual import/export situation or not compliant with relevant regulations, Customs is likely to expand its investigation. In our experience, an inconsistency between Customs declaration documents and imported/exported goods is the main reason for an investigation. Many companies, especially those that use customs brokers, do not realize the importance of the import/export declaration and related documentation, and this could result in avoidable issues and investigations.

Although the main purpose of the Customs initiative is aimed at combatting smuggling, given the closer scrutiny -- even for companies that are not engaged in any smuggling activities -- inspections and investigations of import/export activities are likely to increase, with resulting penalties for incompliance. The potential for inspection and investigation is possible in the following situations:

- The import/export pro forma invoice is not consistent with the Customs declaration documents, such as contracts, bills of lading, etc.;
- Supporting documents for the import/export declaration are not in line with the items on the Customs declaration forms; and/or
- The import/export Customs declaration forms and supporting documents are not consistent with the imported/exported goods.

To ensure that import and export activities are carried out smoothly and to mitigate the risk of Customs' inspections/investigations, enterprises should review their import/export declaration documents in advance to discover and correct any inaccuracies and/or noncompliance with Customs' rules. Special attention should be paid to the accuracy and completeness of the following items declared to Customs:

- HS code of imported/exported goods;
- Customs valuation of imported/exported goods; and
- Country of origin of imported/exported goods.

The Deloitte Indirect Tax team has considerable experience with compliance reviews of import/export declarations and documents. For more information or advice, please contact our Deloitte Indirect Tax team.

Note: Contents discussed in this Tax Analysis pertains to Deloitte Indirect Tax Services.

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#### Beijing

Kevin Ng  
Partner  
Tel: +86 10 8520 7501  
Fax: +86 10 8518 7501  
Email: [keving@deloitte.com.cn](mailto:keving@deloitte.com.cn)

#### Hong Kong SAR

Sarah Chin  
Partner  
Tel: +852 2852 6440  
Fax: +852 2520 6205  
Email: [sachin@deloitte.com.hk](mailto:sachin@deloitte.com.hk)

#### Shenzhen

Constant Tse  
Partner  
Tel: +86 755 3353 8777  
Fax: +86 755 8246 3222  
Email: [contse@deloitte.com.cn](mailto:contse@deloitte.com.cn)

#### Chongqing

Claude Gong  
Partner  
Tel: +86 23 6310 6206  
Fax: +86 23 6310 6170  
Email: [clgong@deloitte.com.cn](mailto:clgong@deloitte.com.cn)

#### Jinan

Eunice Kuo  
Partner  
Tel: +86 531 8518 1058  
Fax: +86 531 8518 1068  
Email: [eunicekuo@deloitte.com.cn](mailto:eunicekuo@deloitte.com.cn)

#### Suzhou

Frank Xu / Maria Liang  
Partner  
Tel: +86 512 6289 1318 / 1328  
Fax: +86 512 6762 3338  
Email: [frakxu@deloitte.com.cn](mailto:frakxu@deloitte.com.cn)  
[mliang@deloitte.com.cn](mailto:mliang@deloitte.com.cn)

#### Dalian

Frank Tang  
Partner  
Tel: +86 411 8371 2888  
Fax: +86 411 8360 3297  
Email: [ftang@deloitte.com.cn](mailto:ftang@deloitte.com.cn)

#### Macau SAR

Quin Va  
Partner  
Tel: +853 8898 8833  
Fax: +853 2871 3033  
Email: [quiva@deloitte.com.hk](mailto:quiva@deloitte.com.hk)

#### Tianjin

Jason Wu  
Partner  
Tel: +86 22 2320 6680  
Fax: +86 22 2320 6699  
Email: [jassu@deloitte.com.cn](mailto:jassu@deloitte.com.cn)

#### Guangzhou

Constant Tse  
Partner  
Tel: +86 20 8396 9228  
Fax: +86 20 3888 0121  
Email: [contse@deloitte.com.cn](mailto:contse@deloitte.com.cn)

#### Nanjing

Frank Xu  
Partner  
Tel: +86 25 5791 5208  
Fax: +86 25 8691 8776  
Email: [frakxu@deloitte.com.cn](mailto:frakxu@deloitte.com.cn)

#### Wuhan

Justin Zhu  
Partner  
Tel: +86 27 8526 6618  
Fax: +86 27 8526 7032  
Email: [juszhu@deloitte.com.cn](mailto:juszhu@deloitte.com.cn)

#### Hangzhou

Qiang Lu  
Partner  
Tel: +86 571 2811 1901  
Fax: +86 571 2811 1904  
Email: [qilu@deloitte.com.cn](mailto:qilu@deloitte.com.cn)

#### Shanghai

Eunice Kuo  
Partner  
Tel: +86 21 6141 1308  
Fax: +86 21 6335 0003  
Email: [eunicekuo@deloitte.com.cn](mailto:eunicekuo@deloitte.com.cn)

#### Xiamen

Lynch Jiang  
Partner  
Tel: +86 592 2107 298  
Fax: +86 592 2107 259  
Email: [ljiang@deloitte.com.cn](mailto:ljiang@deloitte.com.cn)

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#### National Tax Technical Centre

E-mail: [ntc@deloitte.com.cn](mailto:ntc@deloitte.com.cn)

#### Eastern Region

Leonard Khaw  
National Leader & Partner  
Tel: +86 21 6141 1498  
Fax: +86 21 6335 0003  
Email: [lkhaw@deloitte.com.cn](mailto:lkhaw@deloitte.com.cn)

#### Northern Region

Angela Zhang  
Partner  
Tel: +86 10 8520 7526  
Fax: +86 10 8518 1326  
Email: [angelazhang@deloitte.com.cn](mailto:angelazhang@deloitte.com.cn)

#### Southern Region

Davy Yun  
Partner  
Tel: +852 2852 6538  
Fax: +852 2520 6205  
Email: [dyun@deloitte.com.hk](mailto:dyun@deloitte.com.hk)

If you prefer to receive future issues by soft copy or update us with your new correspondence details, please notify Wandy Luk by either email at [wanluk@deloitte.com.hk](mailto:wanluk@deloitte.com.hk) or by fax to +852 2541 1911.

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