

Tax

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Tax Analysis

GAC Issues 2017 Edition of Harmonized System Nomenclature

Authors:

Hong Kong

Sarah Chin

Partner

Tel: +852 2852 6440

Email: sachin@deloitte.com.hk

Shanghai

Liqun Gao

Partner

Tel: +86 21 6141 1053

Email: ligao@deloitte.com.cn

Dolly Zhang

Director

Tel: +86 21 6141 1113

Email: dozhang@deloitte.com.cn

Xiaojing Wu

Senior Advisor

Tel: +86 21 2316 6858

Email: xiaowu@deloitte.com.cn

Patrick Zhu

Senior Advisor

Tel: +86 21 2316 6607

Email: jingzhu@deloitte.com.cn

China's General Administration of Customs (GAC) issued the 2017 edition of the Harmonized System Nomenclature (Bulletin of GAC [2016] No. 48¹, or Bulletin 48) on 2 September 2016. Bulletin 48 becomes effective on 1 January 2017.

Background

The Harmonized System (HS) is a trade tool developed by the World Customs Organization (WCO), and is known as "the common language of international trade." More than 200 countries and Customs or economic unions currently use the HS nomenclature, and more than 98% of global trade is classified based on the HS. The HS is a numerical six-digit multipurpose commodity nomenclature and is mainly used:

- As a basis for customs tariffs;
- As a basis for the rules of origin (e.g. the change of the four-digit heading in the HS is the criteria of origin);
- For the collection of domestic tax (e.g. levying consumption tax on certain imported commodities);
- As a basis for trade negotiations (e.g. the WTO schedules of tariff concessions and the tariff reductions of Information Technology Agreement (ITA) products);
- For monitoring controlled goods (e.g. waste, narcotics, chemical weapons, ozone layer depleting substances); and
- Other applications (e.g. a basis for China's export tax refund rate table).

The WCO generally makes major changes to the HS every five years. For the 2017 edition, the WCO has made a number of changes based on 2012 edition to bring the nomenclature in line with current conditions and growing trends of trade and industrial

¹ See full text in Chinese: <http://www.customs.gov.cn/publish/portal0/tab49661/info817050.htm>

development. China will also implement the 2017 edition from 1 January 2017 and Bulletin 48 is a Chinese version of the amendments adopted by the WCO in the 2017 edition.

Main changes in the 2017 edition²

The 2017 edition of the HS nomenclature contains 242 amendments that cover a wide range of sectors, such as agricultural, chemical, electromechanical, transportation, etc. Examples of products and items affected include the following:

- To address environmental and social concerns, changes have been made to fishery products, bamboo and wood products in order to better monitor and manage such resources.
- New subheadings are included for specific chemicals, hazardous chemicals and persistent organic pollutants controlled under international conventions for the monitoring and control of these products.
- Changes are made to the size criteria for newsprint, light-emitting diode (LED) lamps, multi-component integrated circuits (MCOs), hybrid vehicles and all-electric vehicles, due to advances in technology.
- To adapt to changes in trade practices, certain products are separately identified in existing or new subheadings (e.g. non-alcoholic beer).

Potential impact of changes

The implementation of the 2017 edition of the HS will have an impact on the import and export enterprises in terms of customs classification, tax burden, trade control, compliance, etc. The following table shows some affected goods and how these changes may impact enterprises.

Goods	Amendments	Comments
New energy vehicles	New subheadings are added for pure electric and hybrid electric vehicles	<ul style="list-style-type: none"> • Preferential import tax treatment is granted to encourage the import of key components of new energy cars. However, no preferential duty rate applies to new energy cars, and the current import duty rate on new energy cars remains at 25%, which is the same as that on standard cars. • It is uncertain whether the import duty rate on new energy cars will be reduced after the new edition of HS is implemented. Affected companies may wish to consider lobbying governments to apply for a lower import interim duty rate.

For more information, please contact:

Asia Pacific Indirect Tax & Customs Services Leader

Hong Kong

Sarah Chin

Partner

Tel: +852 2852 6440

Email: sachin@deloitte.com.hk

Asia Pacific Customs & Global Trade Centre of Excellence Leader

Hong Kong

William Marshall

Partner

Tel: +852 2852 5668

Email: wmarshall@deloitte.com.hk

Northern China

Beijing

Yi Zhou

Partner

Tel: +86 10 8520 7512

Email: jchow@deloitte.com.cn

Eastern China

Shanghai

Liquan Gao

Partner

Tel: +86 21 6141 1053

Email: ligao@deloitte.com.cn

Southern China

Guangzhou

Janet Zhang

Partner

Tel: +86 20 2831 1212

Email: jazhang@deloitte.com.cn

Western China

Chongqing

Frank Tang

Partner

Tel: +86 23 8823 1208

Email: ftang@deloitte.com.cn

² quoted from WCO website: <http://www.wcoomd.org/>

Goods	Amendments	Comments
MCOs	An interpretive note is added to confirm that MCOs should be considered "integrated circuits (IC)" (which are under the heading 85.42) for Customs classification purposes	<ul style="list-style-type: none"> • According to prevailing practice, MCOs generally are classified as components of the goods for which the MCOs are used. Therefore, MCOs may be classified under various HS codes, which are likely to result in misclassification and disputes. • As from 1 January 2017, all MCOs can be classified as ICs under the heading 85.42, resulting in fewer disputes and an easier customs clearance procedure. • It is worth noting that, unlike other IC goods under the heading 85.42 that enjoy a zero tariff, MCOs still bear non-zero tariff rates according to the ITA, although the tariff gradually will reduce.
LED bulbs (tubes)	New subheading is added	<ul style="list-style-type: none"> • Customs practice is inconsistent concerning the classification of LED bulbs (tubes). Some classify the goods under the heading 85.43, while others under 94.05. The new subheading will standardize the practice. • The import duty rate and export VAT refund rate still are uncertain so affected companies should monitor developments.
Mixed or unmixed immunological products	New subheadings are added	<ul style="list-style-type: none"> • The new subheadings clarify the scope of immunological products and will standardize practice, resulting in fewer disputes and an easier Customs clearance procedure. • According to prevailing practice, immunological products may be classified under the subheading 3002.10 and enjoys a zero tariff. It is anticipated that the zero tariff will continue to apply to these products. Affected companies should monitor developments.
Ethylene- α -olefin copolymers, having a specific gravity of less than 0.94 (including linearity low density polyethylene)	New subheading is added	<ul style="list-style-type: none"> • Linearity low density polyethylene, as one of the ethylene-α-olefin copolymers, has been widely used in the manufacturing of thin films, wires and cables due to its superior property. The customs classification for this product varies in different countries. China has required this product to be classified under the subheading 3901.9020, but the US classifies it under 39011050.10. • The new subheading should standardize practice among countries. Affected plastics companies should monitor the import duty and export VAT refund rates for the product after the new subheading is introduced.

Recommendations

Given that the HS is subject to a significant amendment only once every five years, the changes will have a lasting impact on enterprises. Enterprises that are engaged in the import and export businesses of the relevant goods should understand the impact of the changes, and make any adjustments, as needed. For example,

- For goods where new subheadings are added in the 2017 edition, affected enterprises should monitor any possible changes in the import duty rates or export VAT refund rates and evaluate the potential impacts.
- Potentially affected enterprises should examine whether changes have been made to the tariff codes of their products and notify the relevant internal and external departments as soon as possible.
- Enterprises that use global trade automation systems should update the tariff numbers and information.
- The adjustment of tariff codes often leads to challenges by the Customs authorities about enterprises' previous declaration of tariff numbers. Enterprises should examine the codes that currently are used and take appropriate steps to inform the relevant Customs departments.
- Enterprises may be able to use the pre-classification mechanism of commodities and communicate proactively with the Customs authorities to manage risk in advance and mitigate compliance risks.
- The new edition of the HS nomenclature may give rise to some tariff saving opportunities, so affected enterprises should take the steps necessary to benefit from tariff reductions, but ensure compliance.

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Beijing

Andrew Zhu
Partner
Tel: +86 10 8520 7508
Fax: +86 10 8518 1326
Email: andzhu@deloitte.com.cn

Chengdu

Frank Tang / Tony Zhang
Partner
Tel: +86 28 6789 8188
Fax: +86 28 6500 5161
Email: ftang@deloitte.com.cn
tonzhang@deloitte.com.cn

Chongqing

Frank Tang / Tony Zhang
Partner
Tel: +86 23 8823 1208 / 1216
Fax: +86 23 8859 9188
Email: ftang@deloitte.com.cn
tonzhang@deloitte.com.cn

Dalian

Bill Bai
Partner
Tel: +86 411 8371 2816
Fax: +86 411 8360 3297
Email: billbai@deloitte.com.cn

Guangzhou

Victor Li
Partner
Tel: +86 20 8396 9228
Fax: +86 20 3888 0121
Email: vicli@deloitte.com.cn

Hangzhou

Qiang Lu / Fei He
Partner / Director
Tel: +86 571 2811 1901
Fax: +86 571 2811 1904
Email: qilu@deloitte.com.cn
fhe@deloitte.com.cn

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National Tax Technical Centre

Email: ntc@deloitte.com.cn

National Leader

Ryan Chang
Partner
Tel: +852 2852 6768
Fax: +852 2851 8005
Email: ryanchang@deloitte.com

Southern China (Hong Kong)

Davy Yun
Partner
Tel: +852 2852 6538
Fax: +852 2520 6205
Email: dyun@deloitte.com.hk

Harbin

Jihou Xu
Partner
Tel: +86 451 8586 0060
Fax: +86 451 8586 0056
Email: jihxu@deloitte.com.cn

Hong Kong

Sarah Chin
Partner
Tel: +852 2852 6440
Fax: +852 2520 6205
Email: sachin@deloitte.com.hk

Jinan

Beth Jiang
Partner
Tel: +86 531 8518 1058
Fax: +86 531 8518 1068
Email: betjiang@deloitte.com.cn

Macau

Raymond Tang
Partner
Tel: +853 2871 2998
Fax: +853 2871 3033
Email: raytang@deloitte.com.hk

Nanjing

Frank Xu / Rosemary Hu
Partner
Tel: +86 25 5791 5208 / 6129
Fax: +86 25 8691 8776
Email: frakxu@deloitte.com.cn
roshu@deloitte.com.cn

Shanghai

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

Northern China

Julie Zhang
Partner
Tel: +86 10 8520 7511
Fax: +86 10 8518 1326
Email: juliezhang@deloitte.com.cn

Southern China (Mainland/Macau)

German Cheung
Director
Tel: +86 20 2831 1369
Fax: +86 20 3888 0121
Email: gercheung@deloitte.com.cn

Shenyang

Jihou Xu
Partner
Tel: +86 24 6785 4068
Fax: +86 24 6785 4067
Email: jihxu@deloitte.com.cn

Shenzhen

Victor Li
Partner
Tel: +86 755 3353 8113
Fax: +86 755 8246 3222
Email: vicli@deloitte.com.cn

Suzhou

Maria Liang / Kelly Guan
Partner
Tel: +86 512 6289 1328 / 1297
Fax: +86 512 6762 3338
Email: mliang@deloitte.com.cn
kguan@deloitte.com.cn

Tianjin

Jason Su
Partner
Tel: +86 22 2320 6680
Fax: +86 22 2320 6699
Email: jassu@deloitte.com.cn

Wuhan

Justin Zhu / Gary Zhong
Partner
Tel: +86 27 8526 6618
Fax: +86 27 6885 0745
Email: juszhu@deloitte.com.cn
gzhong@deloitte.com.cn

Xiamen

Jim Chung / Charles Wu
Partner / Director
Tel: +86 592 2107 298 / 055
Fax: +86 592 2107 259
Email: jichung@deloitte.com.cn
chwu@deloitte.com.cn

Eastern China

Kevin Zhu
Director
Tel: +86 21 6141 1262
Fax: +86 21 6335 0003
Email: kzhu@deloitte.com.cn

Western China

Tony Zhang
Partner
Tel: +86 23 8823 1216
Fax: +86 23 8859 9188
Email: tonzhang@deloitte.com.cn

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 wanyluk@deloitte.com.hk or by fax to +852 2541 1911.

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