

## Tax

Issue P256/2017 – 26 January 2017

# Tax Analysis

## Government Authorities Coordinate to Offer Joint Incentives for Customs Advance Certified Enterprises

In October 2016, authorities from 40 different government departments, including the National Development and Reform Commission (NDRC), the People's Bank of China (PBOC), the General Administration of Customs (GAC), jointly signed a Memorandum of Understanding (MOU) on implementing joint incentives for customs advance certified enterprises (ACEs). The MOU signals the enhancement of China's compliance promotion in the import/export sector, and ACEs will enjoy more preferential treatment offered by various government authorities.

### Background

In the late 1980s, China's customs authorities introduced a classification system for import/export enterprises based on their compliance records. The system has evolved in line with changes in the domestic economy and the needs of businesses. Revised rules that became effective on 1 December 2014 (GAC Order No. 225) conformed China's practices to international standards and categorized enterprises into three types:

- Certified enterprises (including ACEs and General Certified Enterprises (GCEs));
- General Credit Enterprises; and
- Discredited Enterprises.

Each of the above enterprises is subject to different customs administrative measures that are designed to promote compliance. In particular, ACEs can be recognized as Authorized Economic

### Authors:

#### Beijing

Yi Zhou

Partner

Tel: +86 10 8520 7512

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

#### Shanghai

Dolly Zhang

Director

Tel: +86 21 6141 1113

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

#### Beijing

Richard Jiang

Senior Advisor

Tel: +86 10 8512 4140

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

Operators (AEOs) by jurisdictions that have concluded an agreement with China to grant reciprocal preferential customs treatment (e.g. expedited customs clearance with fewer inspections) to AEOs.

The central government has called for coordinated efforts from various government departments. As part of these efforts, government authorities (e.g. the GAC, the State Administration of Taxation (SAT), etc.) have signed 11 MOUs that introduce cross-department initiatives, under which an enterprise with a solid regulatory compliance record with one government department will be eligible for preferential policies from other departments; by contrast, an enterprise with a poor compliance record will be black-listed by all government departments. Three of the MOUs aim to provide joint preferential policies and eight aim to impose coordinated punitive measures on certain enterprises. More MOUs are expected in the future.

### Highlights of MOU on ACEs

#### *Joint preferential policies*

According to the MOU, 40 government authorities will provide 49 preferential policies to ACEs, including the following:

Preferential policies	Relevant authority
<ul style="list-style-type: none"> <li>• "Green channel" for administrative procedures that allow an application to be accepted tentatively even if the application is missing certain information/documents;</li> <li>• Priority in applying for special construction project fund support;</li> <li>• Priority in applying to purchase electricity directly from power plants (rather than from the power distributor);</li> <li>• Reduction in financing costs;</li> <li>• Accelerated handling of formalities when applying for issuing bonds overseas;</li> <li>• Simplified import/export certification procedures in government investment projects; and</li> <li>• Fewer random audits for large projects</li> </ul>	NDRC
<ul style="list-style-type: none"> <li>• Priority processing of administrative formalities (e.g. issuance of a "certificate of production capacity for processing trade enterprises") and reduced processing times</li> </ul>	Ministry of Commerce
<ul style="list-style-type: none"> <li>• Priority in approving loans from banks and financial institutions; and</li> <li>• Inclusion of good credit records in financial credit information databases</li> </ul>	PBOC, Banking Regulatory Commission
<ul style="list-style-type: none"> <li>• Priority in approving establishment of securities firms, fund management firms, futures and insurance companies, etc.; and</li> <li>• Relaxed measures for establishing insurance intermediary institutions</li> </ul>	Security Regulatory Commission, Insurance Regulatory Commission

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](mailto: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](mailto:wmarshall@deloitte.com.hk)

#### Northern China Beijing

**Yi Zhou**  
Partner  
Tel: +86 10 8520 7512  
Email: [jchow@deloitte.com.cn](mailto:jchow@deloitte.com.cn)

#### Eastern China Shanghai

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

#### Southern China Guangzhou

**Janet Zhang**  
Partner  
Tel: +86 20 2831 1212  
Email: [jazhang@deloitte.com.cn](mailto:jazhang@deloitte.com.cn)

#### Western China Chongqing

**Frank Tang**  
Partner  
Tel: +86 23 8823 1208  
Email: [ftang@deloitte.com.cn](mailto:ftang@deloitte.com.cn)

Preferential policies	Relevant authority
<ul style="list-style-type: none"> <li>• Priority in obtaining government funding</li> </ul>	Ministry of Finance
<ul style="list-style-type: none"> <li>• Preferential treatment when applying for special VAT invoices (as equivalent to A-category taxpayers);</li> <li>• Green channel for administrative formalities;</li> <li>• Preferential treatment in export VAT refund issues (as equivalent to I-category enterprises); and</li> <li>• Elimination of verification requirement of VAT invoices for VAT general taxpayers</li> </ul>	SAT
<ul style="list-style-type: none"> <li>• Reduction of random inspections for marketing supervision purposes</li> </ul>	State Administration of Industry and Commerce (SAIC)
<ul style="list-style-type: none"> <li>• Fewer port inspections and quarantines; and</li> <li>• Priority in applying for an exemption from the mandatory certificate</li> </ul>	General Administration of Quality and Inspection
<ul style="list-style-type: none"> <li>• Priority treatment for participation in the pilot program to facilitate foreign exchange receipts and payments in trading and investments</li> </ul>	State Administration of Foreign Exchange (SAFE)

### *Information sharing*

Using the existing national credit information sharing platform, the NDRC has set up a new system under which a list of ACEs will be shared among the government departments and will be made available to the public. The NDRC and GAC will be provided with information on a regular basis on preferential policies offered to ACEs by other government departments.

### *Monitoring*

The GAC will continue to monitor the compliance status of enterprises in their import and export activities. Other government authorities can provide feedback to the NDRC and GAC through the national credit information sharing platform about any noncompliance they identify in other areas and propose that the preferential policies be discontinued. The information sharing platform will enable the authorities to ascertain whether an ACE has been noncompliant in other areas, and preferential policies will not be offered to an ACE if it has been black-listed by other government departments as a result of noncompliance.

### *Preferential customs policies available to ACEs*

In addition to the preferential policies offered by various government authorities, the scope of customs preferential treatment for an ACE is expanded. The 10 areas of customs preferential treatment for an ACE in the MOU are as follows:

- Customs clearance before the settlement of certain customs issues (e.g. tariff classification, valuation, country of origin etc.);
- Fewer and less stringent customs inspections;
- Simplified document reviews;
- Priority import/export clearance;
- Assignment of a coordinating official by a local customs office;
- Elimination of cash deposit requirements for conducting processing trade relief;
- Adoption of monthly consolidated filing for import tax purposes;
- Acceptance of a declaration of origin under a relevant free trade agreement;
- Expedited customs treatment by countries participating in the AEO program; and
- Other preferential treatment.

Since China has reciprocal recognition of AEOs for ACEs with the EU, Hong Kong, Korea and Singapore, it is expected that the inspection rates in these jurisdictions will reduce by more than 50% for goods from Chinese ACEs, and the time spent in customs clearance should drop by more than 30% on average. As a result, an ACE will benefit from preferential customs policies, as will a global supply chain involving the ACE.

#### *Classification adopted by various government departments*

Various government authorities have started to adopt a classification approach:

	Customs	Inspection and Quarantine	SAT (general tax)	SAT (export activities)	SAFE	SAIC
Most business friendly administration approach	ACEs	AA	A	I	A	A
Business friendly administration approach	GCEs	A		II		
General administration approach	General Credit Enterprises	B	B	III	B	B
More stringent administration approach	Discredited Enterprises	C	C	IV	C	C
		D	D			D

The cooperation among the government authorities means that a company's ranking in one area will affect its ranking in another. For example, to qualify for a I-category export enterprise, a trading company must be an ACE or a GCE. A discredited enterprise will be classified as a IV-category export enterprise. Companies will need to be aware of their rankings in all relevant areas to ensure eligibility for preferential policies.

#### **Deloitte recommendations**

##### 1. Improve internal control systems and apply for recognition as an ACE

Affected companies should consider applying for ACE status in order to benefit from the preferential policies offer by various government departments. To qualify, a series of conditions as set out in Order 225 must be fulfilled in relation to internal controls, financial status, compliance records and trade security.

##### 2. Conduct regular self-assessments

Even when a company is recognized as an ACE, it still should conduct regular self-assessments to be sure that it remains in compliance. A company will be downgraded if certain noncompliance factors are identified, and that information will be publicly available for five years. An ACE must be recertified every three years and a GCE will be subject to a recertification on a random basis.

##### 3. Take remedial measures where necessary

When a company is downgraded to general credit enterprise or discredited enterprise status, it should conduct a thorough analysis to develop a remedial action plan and communicate with the relevant authorities to demonstrate its willingness and capability to recover its compliance rating.

#### 4. Leverage information technology to improve efficiency of the internal control system

Affected businesses should consider using information technology to monitor their financial and business performance, identify any weaknesses in the existing system and control the risk of noncompliance. A sound information system to enable a company to effectively track the business and import/export activities is a prerequisite for a company to be recognized as an ACE.

#### 5. Seek assistance from professional firms

According to Order 225, Customs or the applicant can engage a qualified professional firm to conduct an assessment on whether the applicant qualifies for ACE status. The assessment report issued by the firm may be taken into account when customs determines the classification of the applicant.

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#### Beijing

**Andrew Zhu**  
Partner  
Tel: +86 10 8520 7508  
Fax: +86 10 8518 1326  
Email: [andzhu@deloitte.com.cn](mailto: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](mailto:ftang@deloitte.com.cn)  
[tonzhang@deloitte.com.cn](mailto: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](mailto:ftang@deloitte.com.cn)  
[tonzhang@deloitte.com.cn](mailto:tonzhang@deloitte.com.cn)

#### Dalian

**Bill Bai**  
Partner  
Tel: +86 411 8371 2816  
Fax: +86 411 8360 3297  
Email: [billbai@deloitte.com.cn](mailto:billbai@deloitte.com.cn)

#### Guangzhou

**Victor Li**  
Partner  
Tel: +86 20 8396 9228  
Fax: +86 20 3888 0121  
Email: [vicli@deloitte.com.cn](mailto: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](mailto:qilu@deloitte.com.cn)  
[fhe@deloitte.com.cn](mailto:fhe@deloitte.com.cn)

#### About the Deloitte China National Tax Technical Centre

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#### National Tax Technical Centre

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

#### National Leader

**Ryan Chang**  
Partner  
Tel: +852 2852 6768  
Fax: +852 2851 8005  
Email: [ryanchang@deloitte.com](mailto:ryanchang@deloitte.com)

#### Southern China (Hong Kong)

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

#### Harbin

**Jihou Xu**  
Partner  
Tel: +86 451 8586 0060  
Fax: +86 451 8586 0056  
Email: [jihxu@deloitte.com.cn](mailto:jihxu@deloitte.com.cn)

#### Hong Kong

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

#### Jinan

**Beth Jiang**  
Partner  
Tel: +86 531 8518 1058  
Fax: +86 531 8518 1068  
Email: [betjiang@deloitte.com.cn](mailto:betjiang@deloitte.com.cn)

#### Macau

**Raymond Tang**  
Partner  
Tel: +853 2871 2998  
Fax: +853 2871 3033  
Email: [raytang@deloitte.com.hk](mailto: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](mailto:frakxu@deloitte.com.cn)  
[roshu@deloitte.com.cn](mailto:roshu@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)

#### Shenyang

**Jihou Xu**  
Partner  
Tel: +86 24 6785 4068  
Fax: +86 24 6785 4067  
Email: [jihxu@deloitte.com.cn](mailto:jihxu@deloitte.com.cn)

#### Shenzhen

**Victor Li**  
Partner  
Tel: +86 755 3353 8113  
Fax: +86 755 8246 3222  
Email: [vicli@deloitte.com.cn](mailto: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](mailto:mliang@deloitte.com.cn)  
[kguan@deloitte.com.cn](mailto:kguan@deloitte.com.cn)

#### Tianjin

**Jason Su**  
Partner  
Tel: +86 22 2320 6680  
Fax: +86 22 2320 6699  
Email: [jassu@deloitte.com.cn](mailto: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](mailto:juszhu@deloitte.com.cn)  
[gzhong@deloitte.com.cn](mailto: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](mailto:jichung@deloitte.com.cn)  
[chwu@deloitte.com.cn](mailto:chwu@deloitte.com.cn)

#### Northern China

**Julie Zhang**  
Partner  
Tel: +86 10 8520 7511  
Fax: +86 10 8518 1326  
Email: [juliezhang@deloitte.com.cn](mailto: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](mailto:gercheung@deloitte.com.cn)

#### Eastern China

**Kevin Zhu**  
Director  
Tel: +86 21 6141 1262  
Fax: +86 21 6335 0003  
Email: [kzhu@deloitte.com.cn](mailto:kzhu@deloitte.com.cn)

#### Western China

**Tony Zhang**  
Partner  
Tel: +86 23 8823 1216  
Fax: +86 23 8859 9188  
Email: [tonzhang@deloitte.com.cn](mailto: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 [wanluk@deloitte.com.hk](mailto:wanluk@deloitte.com.hk) or by fax to +852 2541 1911.

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