



税务快讯

中国发布出口管制法草案征求意见稿



Making another century of impact
德勤百年庆 开创新纪元

商务部近日公布 [《中华人民共和国出口管制法（草案征求意见稿）》](#)

（以下简称“意见稿”），该法案将成为中国贸易管制体系中具备基础地位的法律文件。作为国务院 2017 年立法工作计划的重点项目之一，出口管制法有望于 2017 年底前正式公布。

概述

出口管制法意见稿若获通过，将成为中国在贸易管制领域的第一部综合性法律，对两用物项、军品和核等物项方面的出口管制体系将产生重大影响。该意见稿在扩大现行管制物项范围的同时，也加大了对违法违规行为的执法力度。此外，该意见稿明确引入了黑名单管控、禁运、再出口管制等新的管制措施。因此，未来从事涉及中国产品（或含有中国产品成分的外国产品）出口或再出口业务的企业可能面临更全面的合规性要求。

意见稿要点

- 向外国公民、法人及其他组织提供中国管制物项（包括货物、技术、软件或服务物项，下同）的中国公民、法人及其他组织，或任何从中国境内向境外转移中国管制物项的实体都将受到该法案的影响。
- 适用出口管制措施的对象既包括中国原产物项的出口以及再出口，也包括含有中国管制物项价值达到一定比例的外国产品的出口以及再出口，上述物项包括两用物项、军品、核以及其他与国家安全相关的货物、技术、服务等。
- 出口管制主要通过制定管制清单，实施许可等方式进行，涉及产品、最终用户和用途，以及出口目的地等方面的管制。

- 意见稿也提供了一系列的措施以鼓励合规，包括鼓励企业建立内部合规机制、鼓励行业自律，以及个体有权向国家出口管制主管部门举报涉嫌违法行为。

违反出口管制的法律责任

- 意见稿规定，对于出口经营者的违法行为可处违法经营额 10 倍以下罚款；如果违法经营额不足人民币 5 万元的（约折合 7,366 美元），可处人民币 50 万元（约折合 73,660 美元）以下罚款；有违法所得的，没收违法所得。
- 对于直接负责人和其他直接责任人员可给予警告，并可处人民币 30 万元（约折合 44,196 美元）以下罚款。
- 除此之外，出口经营企业还可能被暂扣或者吊销出口经营企业的专营资格，且其行政处罚等信用信息也会记入全国信用信息共享平台，并同时面临其他的非经济类处罚。严重违法构成犯罪的，会被依法追究刑事责任。

德勤全球出口管理服务团队将持续关注立法进展，并向您提供相关资讯的更新与评述。

作者：

香港

展佩佩

合伙人

+852 2852 6440

sachin@deloitte.com.hk

伦敦

Pablo LeCour

合伙人

+44 20 7303 8903

plecour@deloitte.co.uk

上海

张晓洁

总监

+86 21 6141 1113

dozhang@deloitte.com.cn

伦敦

Tina Carlile

高级经理

+44 20 7007 9512

ticarlile@deloitte.co.uk

大连

赵哲

经理

+86 411 8371 2821

zhedlzhao@deloitte.com.cn

如您有任何问题，请联系德勤团队：

亚太区海关与全球贸易服务卓越服务中心领导人

香港

马伟廉

合伙人

+852 2852 5668

wimarshall@deloitte.com.hk

海关与全球贸易服务全国领导人

香港

展佩佩

合伙人

+852 2852 6440

sachin@deloitte.com.hk

华北区

北京

周翊

合伙人

+86 10 8520 7512

jchow@deloitte.com.cn

华东区

上海

高立群

合伙人

+86 21 6141 1053

ligao@deloitte.com.cn

华南区

广州

张少玲

合伙人

+86 20 2831 1212

jazhang@deloitte.com.cn

华西区

重庆

汤卫东

合伙人

+86 23 8823 1208

ftang@deloitte.com.cn



Deloitte (“德勤”)泛指一家或多家德勤有限公司(即根据英国法律组成的私人担保有限公司,以下称“德勤有限公司”),以及其成员所网络和它们的关联机构。德勤有限公司与其每一家成员所均为具有独立法律地位的法律实体。德勤有限公司(又称“德勤全球”)并不向客户提供服务。请参阅[关于德勤](#)中有关德勤有限公司及其成员所更为详细的描述。

隐私

感谢您对德勤中国服务的关注。德勤中国希望可以继续使用您的个人资料(特别是姓名及联系信息),以向您发送市场和政策最新动态,以及由德勤中国举办、赞助或宣传之研讨会及其他活动的邀请函。如您日后不希望收到由德勤中国发出的信息,请回复电邮并在邮件主题栏中填上“Unsubscribe”。

如欲更新您的个人资料,请[点击](#)此处。

德勤中国泛指德勤·关黄陈方会计师事务所(香港)、德勤·关黄陈方会计师事务所(澳门)、德勤华永会计师事务所(特殊普通合伙)(中国大陆)以及其于香港、澳门及中国大陆从事业务之关联机构。

本通信中所含内容乃一般性信息,任何德勤有限公司、其成员所或它们的关联机构(统称为“德勤网络”)并不因此构成提供任何专业建议或服务。任何德勤网络内的机构均不对任何方因使用本通信而导致的任何损失承担责任。

© 2017 德勤·关黄陈方会计师事务所(香港)、德勤·关黄陈方会计师事务所(澳门)、德勤华永会计师事务所(特殊普通合伙)(中国大陆)版权所有 保留一切权利。

如您日后不希望收到关于该话题的信息,请回复电邮并在邮件主题栏中填上“取消订阅”。

Deloitte.



Tax Newsflash

Significant Changes to Chinese Export Control Laws



Making another century of impact
德勤百年庆 开创新纪元

The People's Republic of China's Ministry of Commerce has released for public comment a draft Export Control Law that substantially overhauls China's current trade controls system. As one of the top priorities for China's 2017 legislative agenda, we anticipate the law will be promulgated by the end of 2017.

Summary

The draft Export Control Law, if adopted, will be China's first comprehensive law in this area and will significantly change China's export control regime for dual-use, military, and nuclear items. The Law both broadens the scope of current controls and strengthens enforcement for more serious violations and non-compliance. The Law will also introduce new controls such as sanctions, embargoes, and re-export controls. Thus, businesses involved in the export or re-export of Chinese products or items incorporating Chinese products will be subject to more comprehensive compliance requirements.

Key areas for consideration

- Affected entities include any China-based entity (companies, individuals, or otherwise) or entity dealing with Chinese-controlled goods, technology, or software.
- New controls include the export and re-export of Chinese-origin or foreign-made items with Chinese components (that meet *de minimis* thresholds), including dual-use, military, and nuclear related goods, technology and services.
- The new Chinese control regime will consist of control lists, licenses, product controls, end-use controls, end users controls, and destination controls.
- The current proposed text incorporates measures to encourage compliance including internal compliance

mechanisms, industrial self-discipline, and a right for individuals to inform authorities of suspected violations.

Penalties

- Violations could result in an administrative penalty up to 10 times the illegal business revenue or a fine up to RMB 500,000 (USD 73,660) could be imposed if the illegal business revenue is less than RMB 50,000 (USD 7,366). Any illegal income could be subject to confiscation.
- Personal liability for those directly responsible could include fines up to RMB 300,000 (USD 44,196).
- Businesses also risk suspension or revocation of export privileges and licenses, being negatively marked in China's social credit system, and other non-financial penalties. More serious cases risk criminal charges.

Deloitte's Global Export Controls Network will be commenting on this rule and will continue to be involved as the legislation evolves.

Authors:

Hong Kong

Sarah Chin

Partner

+852 2852 6440

sachin@deloitte.com.hk

London

Pablo LeCour

Partner

+44 20 7303 8903

plecour@deloitte.co.uk

Shanghai

Dolly Zhang

Director

+86 21 6141 1113

dozhang@deloitte.com.cn

London

Tina Carlile

Senior Manager

+44 20 7007 9512

ticarlile@deloitte.co.uk

Dalian

Zhe Zhao

Manager

+86 411 8371 2821

zhedlzhao@deloitte.com.cn

If you have any questions, please contact:

Asia Pacific Customs & Global Trade

Centre of Excellence Leader

Hong Kong

William Marshall

Partner

+852 2852 5668

wimarshall@deloitte.com.hk

Customs & Global Trade National Leader

Hong Kong

Sarah Chin

Partner

+852 2852 6440

sachin@deloitte.com.hk

**Northern China
Beijing
Yi Zhou**

Partner
+86 10 8520 7512
jchow@deloitte.com.cn

**Eastern China
Shanghai
Liqun Gao**

Partner
+86 21 6141 1053
ligao@deloitte.com.cn

**Southern China
Guangzhou
Janet Zhang**

Partner
+86 20 2831 1212
jazhang@deloitte.com.cn

**Western China
Chongqing
Frank Tang**

Partner
+86 23 8823 1208
ftang@deloitte.com.cn



Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee ("DTTL"), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as "Deloitte Global") does not provide services to clients. Please see [About Deloitte](#) for a more detailed description of DTTL and its member firms.

Privacy

Thank you for your interest in Deloitte China services. Deloitte China would like to continue to use your personal information (in particular name and contact details) for the purpose of sending you marketing and regulatory updates, invitations to seminars and other events organized, sponsored or promoted by Deloitte China. If you do not wish to receive further communications from Deloitte China, please send a return email to the sender with the word "Unsubscribe" in the subject line.

If you would like to update your personal information, please click [here](#).

Deloitte China refers to Deloitte Touche Tohmatsu in Hong Kong, Deloitte Touche Tohmatsu in Macau, Deloitte Touche Tohmatsu Certified Public Accountants LLP in the Chinese Mainland and their respective affiliates practising in Hong Kong, Macau and the Chinese Mainland.

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited, its member firms, or their related entities (collectively the "Deloitte Network") is by means of this communication, rendering professional advice or services. None of the Deloitte Network shall be responsible for any loss whatsoever sustained by any person who relies on this communication.

© 2017 Deloitte Touche Tohmatsu in Hong Kong, Deloitte Touche Tohmatsu in Macau, and Deloitte Touche Tohmatsu Certified Public Accountants LLP in the Chinese Mainland. All rights reserved.

To no longer receive emails about this topic please send a return email to the sender with the word "Unsubscribe" in the subject line.