

## Customs Flash

### Chinese customs declaration reporting requirements revised

On 17 March 2017, China's General Administration of Customs (GAC) published guidance (Bulletin [2017] No. 13 (Bulletin 13)) that makes significant changes to the customs declaration form information reporting requirements. The new rules, which apply as from 29 March 2017, will affect enterprises' import and export operations. Bulletin 13 modifies and clarifies 12 major customs form reporting areas and further regulates certain declaration requirements for entities located in special customs supervision areas (e.g. bonded zones, export processing zones, etc.)

#### Highlights of Bulletin 13

##### Royalty fee

The 2016 guidance (Bulletin [2016] No. 20 (Bulletin 20)) introduced three new reporting requirements (1) the existence of a 'special relationship' between the parties; (2) the price affected by such special relationship; and (3) the payment of a royalty relating to the imported goods.

With respect to the revised reporting requirements relating to royalty payments:

1. Bulletin 13 revises the requirement that the importer confirm the 'payment of royalties' (from the buyer of the goods to the seller of the goods or other related parties (collectively 'the seller')) to require instead the confirmation of the 'payment of royalties related to the imported goods'. Under the revised requirement, the importer must report whether a royalty fee (which is not included in the import price, and paid or to be paid, directly or indirectly, by the buyer (importer) to the seller) is related to the imported goods.

To correctly fulfil the above reporting requirement, Bulletin 13 effectively requires importers to perform the following assessments:

- Whether the buyer has paid or is to pay, directly or indirectly, a royalty fee to the seller;

- If paid or to be paid, whether the royalty is related to the imported goods based on article 13 of GAC Order [2013] No. 213 (Order 213); and
  - If related, whether such royalty fee is included in the import price declared by the importer (buyer).
2. Bulletin 13 further provides guidance on how to report the royalty fee question. Details can be found in the bulletin in question.
  3. Bulletin 13 specifies that certain goods are exempt from the three new reporting requirements introduced by Bulletin 20. These goods includes export goods, processing trade or bonded supervision goods (except for domestic sales).

Importers that are unable to confirm whether royalties, if paid or to be paid, are related to or included in the import price should carefully consider their reporting options. Importers that fail to accurately declare royalties paid related to imported goods and that are unable to provide sufficient supporting evidence could be viewed as having made a 'false declaration' under a customs audit or investigation, which could carry potential penalties.

In practice, it may be difficult for an importer to prove that a royalty has been embedded in the import price, so affected importers should obtain a professional price assessment and prepare sufficient supporting documentation.

### **Customs declaration in special customs supervision areas**

Goods transferred into or out of special customs supervision areas should be declared by enterprises both inside and outside the area as follows:

- Enterprises within the special customs supervision area should complete the 'registration form'. This includes transfers of goods between two enterprises within the same or in different special areas.
- Enterprises outside the special customs supervision area should complete the 'customs declaration form'.

In some cases, the required registration forms are not properly declared by enterprises. With the enforcement of Bulletin 13, enterprises involved in special customs supervision areas should review their relevant operational procedures and carry out an internal assessment to determine whether modifications are needed.

### **Deloitte views**

Bulletin 13 was promulgated less than one year after the issuance of Bulletin 20; therefore, it is expected that China Customs intends to respond quickly to revise and update the

customs regulations, including the administration of compliance.

With the ongoing reform of customs clearance processes and national integration, China Customs is publishing a series of compliance requirements for importers and exporters. At the same time, Customs is dedicating more resources to risk management and post-clearance investigation. Therefore, enterprises may need to build a more comprehensive compliance framework to deal with customs-related issues.

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