

Indonesia Customs Info Special Edition - March 2017 Customs Audit and Litigation

Customs Audit and Litigation

Deloitte has hosted many events for clients on customs audit management. This alert is prepared to serve as a reference to complete the general information that the clients have received from the seminars.

A. Background

The Customs Authority may conduct verification on the level of importers' compliance in the form of a post-clearance audit.

"Customs audit" includes activities to examine financial statements, bookkeeping, notes and documents as the source documents for bookkeeping, letters related to the company's activity including electronic data, letters related to customs activities, and/or inventories, in order to check compliance in fulfilment of the Customs Law.

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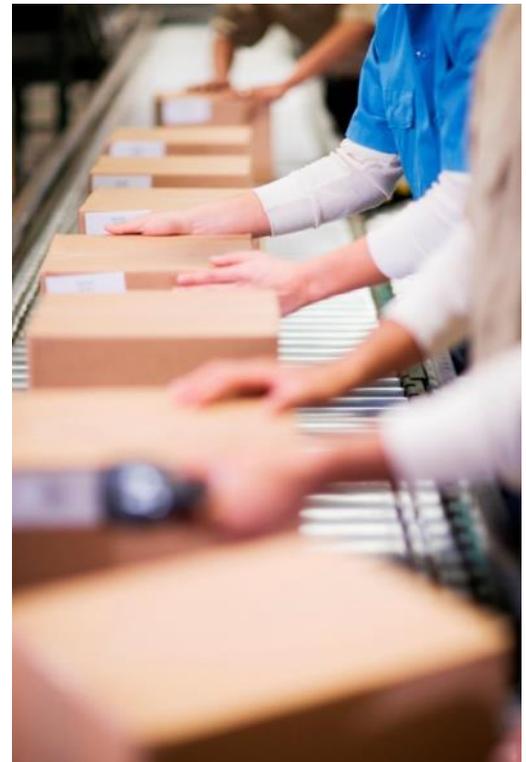
Customs audit is conducted for control purpose as a consequence of the implementation of:

- the self-assessment system;
- the provision on customs valuation based on transaction value;
- facilities on non-collection, non-imposition, exemption, relief, refund or postponement of import duty which may only be supervised and evaluated after the release of imported goods from the customs area.

Customs Audit is not for appraisal purpose or to express an opinion on financial statements. It is only intended to examine the level of compliance with the provisions of the Customs Law.

The request to submit financial statements during Customs Audit is intended to ensure that the bookkeeping presented to the Customs officials is the actual bookkeeping that is used to record business activities as summarized in the financial statements at the end of the period concerned.

The Customs auditor is prohibited to disclose the information collected in the audit to any unauthorized parties.



B. Audit Procedure



¹ 7 (seven) working days for the auditee to provide all the required data; may request extension of the period for a further 3 (three) working days.

² Maximum of 30 (thirty) days to conduct observation fieldwork.

³ Within 7 (seven) working days, which could be extended for another (seven) working days

Common Findings and Potential Risks

Areas of Findings	Common Findings	Risk
Customs Valuation	<p>One common finding for importers is that they incorrectly declare the customs value for the calculation of duty and taxes.</p> <p>The expenses that frequently will be included as part of the dutiable base are:</p> <ul style="list-style-type: none"> • Assist • Royalty and License fee • Proceeds fee • Handling fee <p>In addition, a special relationship between companies which could affect the price is also one of the common findings in customs audit. Any difference between the invoice value and the actual payment to a foreign company is also subject to audit.</p>	<p>An importer that has incorrectly declared the customs value for the calculation of the import duty, leading to underpayment of the import duty, shall be subject to an administrative fine at a minimum of 100% (one hundred percent) up to a maximum of 1000% (one thousand percent) of the underpayment of import duty.</p>
Tariff and Classification	<ul style="list-style-type: none"> • Incorrectly declaring the goods' classification, leading to underpayment of duty and taxes • Incorrectly declaring the goods' duty rate, leading to underpayment of duty and taxes • Rejection of Preferential Certificate of Origin 	<ul style="list-style-type: none"> • An importer that has incorrectly declared the tariff and classification for the calculation of the import duty, leading to underpayment of import duty, shall be subject to settlement of the underpaid import duty. • No penalty will be imposed.
Unreported/unmatched Type and Quantity of Imported Goods	<ul style="list-style-type: none"> • Incorrectly declaring the quantity of imported goods • Incorrectly declaring the type of imported goods 	<p>An importer that incorrectly declares the type and/or quantity of imported goods in the customs declaration, leading to underpayment of import duty, shall be subject to an administrative fine at a minimum of 100% (one hundred percent) up to a maximum of 1000% (one thousand percent) of the underpayment of import duty.</p>

Areas of Findings	Common Findings	Risk
Improper Customs, Trade, and/or Industry Facilities Management	<ul style="list-style-type: none"> Difference (over and/or under) in quantity of goods granted facility Non-compliance with provisions of facility granted 	An importer that does not comply with the provisions on exemption and relief of the import duty by virtue of Customs law shall pay the import duties that should be paid and shall be subject to an administrative fine of a minimum of 100% (one hundred percent) up to a maximum of 500% (five hundred percent) of the import duty that should be paid.

C. Objection and Litigation

Objection

An auditee that has an objection to a Customs Assessment may file a written objection to the DGCE within sixty (60) days from the date of the customs stipulation letter (SPP, SPTNP and/or SPSA). Customs objections may be filed against the following types of assessments:

- Tariff and/or customs valuation;
- Imposition of administrative penalty; and
- Other than tariff and/or classification assessments.

Beforehand, if the underpayment has not been paid, the auditee shall provide a certain guarantee, which must be issued by a treasury bank.

The DGCE must issue its decision within 60 (sixty) calendar days after the properly completed objection request is received. If the DGCE fails to issue the decision within this period, the objection shall be deemed as approved and the guarantee shall be released.

Litigation or Appeal before the Tax Court

The auditee may file an appeal to the Tax Court within sixty (60) days after the date of the stipulation letter (SPKTNP). Beforehand, the underpayment amount shall be fully settled. In addition, any stipulation letter other than SPKTNP (SPP, SPTNP, and SPSA) which has been rejected at the objection level can also be raised for an appeal at the Tax Court.

The hearing process will normally be finished within twelve (12) months. However, in some cases it may be extended up to a further three months.

D. How Deloitte can support in customs audit and litigation

Within the past two years, Deloitte has assisted in a number of Customs audits in a wide range of industries. Deloitte can support importers in the following areas:

- Customs review or customs health check before the auditors come to audit;
- Customs training to company personnel on audit or other specific areas in trade compliance;
- Deloitte offers highly efficient, cost-effective customs and global trade compliance service. With Deloitte's service, companies reduce risk and provide more prompt and transparent reporting. When controversies arise, Deloitte provides audit assistance, representation and litigation before authorities, along with advisory and reports.

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