



# Tax Newsflash

China

Deloitte Tohmatsu Tax Co.

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## China Customs May Expand Voluntary Disclosure Program Nationwide

China's General Administration of Customs (GAC) is considering the possibility of expanding the pilot Customs voluntary disclosure program (VDP) that has been introduced in certain local Customs offices to apply on a nationwide basis. Guidance may be issued in mid-2016 that would establish a consistent nationwide approach to the VDP.

On 19 June 2015, Deloitte hosted a roundtable discussion in Shanghai on the Customs VDP. During the event, Mr. Yao Weidong, director of the Audit Division of the Shanghai Customs Office, indicated that the GAC has been exploring the possibility of formally introducing a nationwide VDP and he shared relevant information on the potential program with attendees. The current pilot VDP and possible proposals regarding the national VDP are described below.

### (1) Current pilot program

In May 2014, the GAC launched a pilot VDP in 10 Customs offices (e.g. Beijing, Shanghai, Shenzhen, etc). Under the pilot program (the official name of which was "企业自律" ("enterprises self-regulation")), local Customs offices issued guidance to encourage companies in their jurisdictions to conduct self-examinations of their import/export operations and voluntarily

report noncompliance to Customs. In exchange, the company would be eligible for potential relief from penalties associated with the noncompliance, such as a waiver or reduction of penalties or surcharges, an exemption from downgrading of the company's compliance rating or being referred to the Anti-Smuggling Bureau (ASB) for further investigation.

Shanghai Customs issued local guidance in July 2014 (see [Deloitte tax newsflash dated 9 September 2014](#)) to introduce the pilot VDP in the China (Shanghai) Pilot Free Trade Zone (Shanghai PFTZ). Until now, enterprises in the Shanghai PFTZ that are engaged in bonded warehousing and logistics have been covered by the pilot VDP.

### (2) Expansion of pilot and consideration of nationwide roll-out

In May 2015, the GAC expanded the pilot VDP from 10 to 12 local Customs offices (Beijing, Dalian, Gongbei, Hangzhou, Nanjing, Nanning, Qingdao, Shanghai, Shenzhen, Tianjin, Wuhan and Xiamen). The GAC also changed the official name of the program from "self-regulation" to "voluntary disclosure" and requested all other local Customs offices to proactively study and explore the possibility of formally introducing the VDP. All Customs offices other than the 12

specifically identified currently have the discretion to decide whether to participate in the program.

### (3) Outlook on national VDP guidance

#### 1) Issuance of national VDP guidance

The GAC is expected to issue national VDP guidance in mid-2016 to regulate and unify the relevant practice nationwide, which would be consistent with the measures relating to the introduction of VDP included in the draft revisions to China's Customs Audit Rules.

#### 2) Threshold for voluntarily disclosed noncompliance cases to be submitted to ASB

Under existing regulations, a case involving Customs noncompliance must be submitted to the ASB for further investigation by the police if the amount of underpaid tax is RMB 250,000 or more. The threshold is considered too low because taxpayers may be discouraged from reporting their noncompliance to Customs. Therefore, it is anticipated that any national VDP guidance issued by the GAC would increase the threshold for a voluntarily disclosed case of noncompliance and simplify the relevant procedure.

#### 3) Other possible changes

**Tariff classification** - Where a voluntarily reported case of noncompliance involves disputes regarding tariff classification, Customs may adopt a principle of following precedent from previous disputes in determining whether to submit the case to the ASB for further investigation.

**Customs compliance rating** - For a company with the highest Customs compliance rating (i.e. an "advanced certified" company), the existing regulation requires a review and reassessment of the rating every three years. It is anticipated that, under certain circumstances, companies that have voluntarily reported their noncompliance to the Customs during the

three-year period would be exempt from reassessment.

### (4) Deloitte comments

- Disparities in local practices regarding the pilot VDP has led many importers/exporters, particularly multinational companies, to express concerns regarding the VDP to Customs risk management. It appears that China Customs has been aware of this issue and has been making efforts to improve and formulate national guidance, through experience gained from the local pilot VDP and from counterparts in other jurisdictions (e.g. Customs offices in the US and the EU).
- China Customs introduced the VDP to change the traditional Customs administration model and encourage more interaction between Customs authorities and importers/exporters. With further regulation and development of the VDP expected, companies should consider setting up a regular compliance review to facilitate the utilization of the VDP and improve efficiency in developing responses to any queries from Customs.
- The complex Customs technical issues associated with import or export and possible rapid changes to the Customs regulatory environment could present some of the key challenges for companies in utilizing the VDP. Companies should seek professional advice and assistance where necessary.

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