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

(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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