



Customs Alert:
December 2017

Customs Code of EEU

The Treaty on the EEU Customs Code was signed on 11 April 2017 and, currently, the Treaty is being ratified in EEU member countries. The Treaty on the EEU Customs Code will be enforced from beginning of 2018.

The new EEU Customs Code will enter into force when the Eurasian Economic Commission (EEC) is in receipt of all ratification notices from EEU member countries (Russia, Kazakhstan, Belarus, Armenia and Kyrgyzstan).

The Code of the Republic of Kazakhstan "On customs regulations in the Republic of Kazakhstan" (the "New Customs Code")

The New Customs Code includes the norms of the new EEU Customs Code, and establishes legal relations within the competence of domestic legislation. The main difference between the two Codes and the current legislation is a fundamentally new approach to customs regulation.

Currently, the New Customs Code is signed by the President of the RoK.

Introduction of an electronic customs declaration

The main principle behind the new regulations is automatization of business processes within customs authorities.

The New Customs Code provides for an electronic customs declaration of goods. It will no longer be necessary to attach the supporting documents to the customs declaration. All the required information regarding goods and vehicles as well as the foreign trade transaction will be reflected in the customs declaration. We assume that a paper declaration will still be permissible in certain cases when, for example, technical errors occur.

The new electronic declaration will permit the automatic release of goods without any involvement of the customs authorities.

Even though such supporting documents will not need to be attached, such documents are still required and must be kept in case the customs authorities request them as part of their risk management system.

It is possible that goods will not be released automatically if the risk management system highlights that the supporting documents should be provided and/or a different customs control regime should be applied.

If the documents are not provided within the due date set for the release of goods (which is no later than one business day from the registration date of the customs declaration), the release could be denied by the customs authorities.

Customs authorities' officials may complete the customs declaration

An entity may opt for transit, passenger or vehicle customs declarations to be completed by a customs authority official.

The authorized body must approve the customs declaration (completed by the customs authority official) as well as the details of the customs transactions.

Even though a customs official may complete the form, only the declarant or another party liable for customs declaration shall be liable for the accuracy of the declared information.

Release before submission of customs declaration

The New Customs Code extends the list of goods allowed to be released prior to the submission of the customs declaration to the customs authorities.

In particular, the list covers the following goods:

1. Goods which are subject to priority customs regulations (for instance, goods necessary for the relief of natural disasters, perishable goods, animals, radioactive materials, explosives etc.);
2. Goods imported to realise investment projects;
3. Goods imported by authorized economic operators;
4. Goods declared under the customs procedures for 1) processing on the customs territory 2) the free customs zone 3) free warehouse 4) the temporary import without payment of customs duties and taxes;
5. Goods determined by the Commission.

Please note that the release of goods prior to the submission of the customs declaration is permissible provided that the declarant:

1. files the prescribed application form with the customs authorities;
2. ensures that it pays customs duties, taxes, special anti-dumping, countervailing duties (except in certain cases);
3. provides documents confirming compliance with certain restrictions and limitations.

Customs audit and appeals

Second time inspection

The same customs authority cannot conduct a paper-based customs audit in relation to the same customs declaration and in relation to the same issues more than once. This norm, was initiated by the deputies of the Mazhilis of the Parliament of the RoK with the support of the National Chamber of Entrepreneurs and Deloitte professionals at the discussion stage of the draft Customs Code.

However, a paper-based customs audit can be conducted for the second time if the state authorities believe there is a potential violation of customs legislation.

Recovery of missed deadline for appeal

Under the current Customs Code, temporary disability of the employees of the declarant is the only justification for extending a missed deadline set for filing an appeal. Following discussions on this issue in the Mazhilis, the declarant will now be entitled to indicate any reasonable argument for missing the deadline which must be considered by the authorized body.

Any uncertainties in the law to be considered in favor of the party appealing the notification

The New Customs Code stipulates that all uncertainties and unresolved issues in customs legislation should be considered in favor of the party who appealed the notification regarding the customs audit results as well as the notification on elimination of the violation. This protects the legitimate interests of the declarant.

Preliminary customs audit act

The New Customs Code includes new provisions requiring inspectors to provide a preliminary customs audit act during the review of certain categories of entities (1) large taxpayers; and (2) declarants who have signed investment contracts.

A similar procedure has been already introduced and is being applied during tax inspections.

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How Deloitte can help

The Deloitte Customs Group provides services aimed directly at assisting clients in the understanding and practical application of existing statutory rules and regulations governing the import and export of goods. Another Key element of our services is to enable businesses to avoid the material and reputational risks associated with violating the customs legislation of Eurasian Economic Union and Republic of Kazakhstan. The Customs Group of the Deloitte Legal team provides unique advisory services, such as:

- ▶ Projects associated with the client's needs
- ▶ Audit projects
- ▶ Projects related to mergers and acquisitions



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