



Customs Alert

September 2016

Rules Governing Free Zone Participation Amended

Thailand's Customs Department issued regulations which became effective on 19 June 2016 that amend the requirements and procedures for companies operating in a free zone (FZ) to obtain a reduction in, or exemption from, customs duty. The regulations (Customs Notification No. 73/2559 ("CN 2016")), which repeal and replace Clause 15 of Customs Notification 63/2555 ("CN 2012"), were issued to comply with the Notification on Customs Duty Reduction and Exemption under Section 12 of the Customs Tariff Decree (No.13) published by the Ministry of Finance and that became effective on 20 June 2016.

The key changes under the new regulations as compared with the previous regulations are as follows:

Issues	Old rules	New rules
Goods manufactured in FZ and sold on the domestic market		
1. Manufacturing requirements	No specific essential processes were required	In addition to meeting the 40% local content threshold, the essential production processes must be carried out in the FZ to enjoy the 0% duty rate
2. Duty rate applicable to goods manufactured in an FZ	Goods manufactured in an FZ and sold on the domestic market could qualify for a variety of preferential duty rates, depending on the provisions of an applicable free trade agreement (FTA)	Goods manufactured in a FZ and subsequently sold or consumed on the domestic market can qualify for a 0% duty rate, provided the relevant conditions are fulfilled
Raw materials used to calculate local content and other conditions		
3. Qualifying raw materials	Raw materials imported from countries with which Thailand concluded an FTA, including ASEAN countries, could be taken into account	Only raw materials that originate in Thailand and those imported from ASEAN countries in the calculation of 40% threshold

4. Certification of raw materials originating in Thailand to be used in the production process	The certification of products as “local raw materials” was determined by various government agencies/ institutions, depending on the type of materials	The certification of raw materials must comply with customs guidelines and regulations. The customs authorities have the right to verify that the raw materials are obtained from essential production process, i.e. not from minimal operation processes
5. Definition of “profit” for calculation of the 40% threshold	Profit could be included in the 40% threshold calculation, but there was no clear definition of profit	Profit is defined as the ex-factory price, less production costs under generally accepted accounting principles
6. Value of raw materials transferred from another FZ	The value of raw materials transferred from another FZ was the ex-factory price at the time the materials were brought into the new FZ	The value of raw materials transferred from another FZ is defined as the FOB price at the time the materials are brought into the FZ
Goods imported into an FZ and distributed on the domestic market without change or further processing		
7. Applicability of preferential duty rates	N/A	The goods will be subject to a duty exemption or reduction equal to the preferential rate available under a relevant FTA at the time the goods are imported into Thailand

What this means for you

Affected companies should take steps to ensure they are in compliance with the new rules and, therefore, able to benefit from reduced customs duties:

- Review the assembly or mixing process or other processes in the FZ to determine whether the processes qualify as “essential production processes.”
- Review the source and calculation of raw materials since raw materials originating from outside the ASEAN countries (e.g. China, Japan, Korea (ROK), etc.) will not qualify as local content and determine and recalculate the value of raw materials transferred from another FZ.

- Determine whether raw materials procured in Thailand qualify under the customs regulations, i.e. whether they are obtained from essential production processes.
- If necessary, obtain an opinion from a third party as to whether the “profit level” is acceptable from a customs perspective.

How can we support

Deloitte's Southeast Asia Customs & Global Trade Services team has dedicated specialists who are able to assist you and your company in the following areas:

- Assessment of existing processes and procedures to identify the impact of the new regulations on the company's current operations.
- Provide advice on any action that may need to be taken if any deficiencies are uncovered.

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