



SEA Customs and Trade Alert Stay informed of changes

Greetings from your SEA Customs and Global Trade Services group.

This newsletter is your reference for practical information on relevant customs issues. We are pleased to enclose for your information the latest Customs and Trade Alert on:

[Thailand: Change of Free Zone Regulations](#)

In order to comply with the MOF Notification on Customs Duty Reduction and Exemption under Section 12 of the Customs Tariff Decree (No.13) published by the Ministry of Finance ("MOF") which came into effect on 20 June 2016, the Customs Department has issued Customs Notification No. 73/2559 ("CN 2016") to repeal and replace Clause 15 of the Customs Notification 63/2555 ("CN 2012") which relates to the rules and procedures for the reduction and exemption of customs duty.

Based on CN 2016, the key changes under the new regulation (CN 2016) and with a comparison to the old regulation (CN 2012) are as follows:

| Issues | CN 2012 (pre change) | CN 2016 (post change) |
|--|---|---|
| For goods manufactured in FZ and sold domestically | | |
| 1. Requirement for goods manufactured in FZ and sold domestically | No specific essential processes are required. | In addition to 40% local content threshold, the essential production processes need to be performed in the free zone in order to enjoy the 0% duty rate. |
| 2. Duty rate to be applied for goods manufactured in FZ and sold domestically | The goods manufactured in a free zone and sold to the domestic market can qualify for a variety of preferential duty rates depending on which FTA the FZ operator elect to apply. | The goods manufactured in a free zone and subsequently sold or consumed domestically can qualify for 0% duty rate, provided relevant conditions are met. |
| For raw material to calculate the local content and other conditions | | |
| 3. The use of raw material to calculate the local content | Allow the use of raw materials imported from countries with which Thailand has free trade agreements (FTAs) including ASEAN countries. | Limit the use of raw materials to only raw materials that originate in Thailand and those imported from ASEAN countries in the calculation of 40% threshold. |
| 4. The certification of certain type of raw materials originating in Thailand to be used in the production process in Free Zone | The certification of products as local raw materials is determined by various government agencies/institutes depending on the type of raw material. | The certification will have to follow customs guidelines and regulations. Customs authorities will have the right to verify that the raw materials are obtained from essential production process i.e. not minimal operation process. |
| 5. Definition of "profit" for the 40% threshold calculation | Profit is allowed to be included in the 40% threshold calculation, but a clear definition of profit was not given. | A definition of profit is given as the Ex-Factory price less production costs under generally accepted accounting principles. |
| 6. The value of raw materials transferred from another free zone | The value of raw materials transferred from different free zone is the ex-factory price at the time the materials are brought into the free zone. | The value of raw materials transferred from another free zone is defined as FOB price at the time the materials are brought into the free zone. |

| For goods imported into FZ and distribute to domestic without change or further process | | |
|--|-----|--|
| 7. The use of a preferential duty rate under FTA for the goods imported into free zone and distribute to domestic without change or further process. | N/A | The goods will be subject to duty exemption or reduction equally to the duty preferential rate obtained under such FTA at the time the goods are imported into Thailand. |

What this means for you

The company should be particularly aware of the impact on the following matters:

- The company should review the assembly or mixing process or other processes in the free zone as to whether it is considered as ‘essential production processes’.
- The company should review the source and the calculation of raw materials as the raw material from outside ASEAN countries (e.g. China, Japan, South Korea etc.) will not qualify as local content and also the value of the raw materials transferred from another Free Zone would need to recalculate.
- For raw materials procured in Thailand, the company should review whether it qualifies under the customs regulations (i.e. they are obtained from essential production process).
- The company may seek for a third party opinion whether the “profit level” should be acceptable from customs perspective.

How can we support

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

- Assessment of existing processes and procedures to identify the impact the new regulations will have on the company’s current operations.
- Advise on any corrective actions that should be taken should any non-qualification be discovered.

Contacts

For more information on the new regulations, or for general advice and support on Customs and Global Trade matters, please contact [Stuart Simons](#) – Tax Partner, (Tel: +66 2676 5700 ext. 5021), or [Sujitra Sukpanich](#) – Senior Manager (ext. 11394), or your usual Customs and Trade contact in Deloitte.

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