



## 税务快讯

### 中国发布对美加征关税排除程序实施细节

国务院关税税则委员会（简称“税委会”）已启动中国对美加征关税商品排除工作，申报系统已于2019年5月31日开通。申请人目前可以登陆关税政策研究中心网站（<https://gszx.mof.gov.cn>）提交加征关税排除申请。为便于填报排除申请，相关部门同时颁布了《对美加征关税商品排除申请填报说明》（以下简称《填报说明》）。

#### 政策背景

根据税委会公告[2019] 2号，中国试行开展对美加征关税商品排除工作。对排除清单内商品，自清单实施之日起一年内不再加征中国为反制美国301措施所加征的关税；具备条件的，已加征的税款予以退还。对于有关排除申请的理由，政府部门可能会关注商品替代来源面临困难，加征关税对申请主体造成严重经济损失，以及对相关行业造成重大负面结构性影响等因素（详情请参见5月15日发布的[德勤税务快讯](#)）。

#### 《填报说明》要点

随着第一批商品的排除申请时间窗口开启（即自2019年6月3日起接受申请，2019年7月5日截止），《填报说明》为申请排除工作提供了更多指引。

#### 申请填报

申请排除一个税则号列（以下称税号，8位，下同）商品填报一份表格。同一个税号商品，企业已经向行业协（商）会提交信息，且已由行业协（商）会汇总填报的，企业不能重复填报。

#### 填报信息

根据《填报说明》，申请人需提供的信息资料包括：

- a. 申请主体基本信息
  - 统一社会信用代码
  - 主营业务范围等
- b. 商品基本信息
  - 申请排除的商品
  - 所属税号
  - 商品用途
- c. 近 3 年进口情况（即 2017-2019 年）
  - 各年进口该商品总数量和总金额
  - 各年从美国进口该商品的数量、金额
  - 各年从其他国家、地区（可填进口金额前 5 位）进口该商品的数量、金额
  - 各年进口金额前 5 位的报关单（不足 5 份按实际单数上传）
- d. 企业影响
  - 至 2019 年 3 月 31 日已缴纳的加征关税税额
  - 加征关税对企业生产经营的影响（人均工资、税前利润、生产成本为选填项）
  - 企业在行业内的代表性（选填项）
- e. 排除理由
  - 申请排除商品的可替代性
  - 以事实和数据说明申请排除理由

### **后续流程**

申请主体提交排除申请后将进行预审；一旦预审通过，申请主体不可再修改填报信息。申请主体可登录申报系统查询申报状态。

税委会将对有效申请进行审核，按程序制定、公布排除清单。

### **德勤观察**

#### **排除申请商品颗粒度**

申请主体在排除申请商品的颗粒度方面具备选择权，即可选择排除某一税则编码下的全部商品，也可选择仅排除该税号下的部分商品。

以 8 位税则编码为 9001.1000 的单模光纤（G652D）为例，申请主体可以选择对该税则编码下的所有商品申请排除，也可仅对该税则编码下的部分商品申请排除。若仅对该税则编码下的部分商品申请排除，申请主体可以按该 8 位税则编码下的 10 位税则编码产品（如 9001.1000.01）进行申请；在 10 位税则编码不能准确描述所需排除商品的情况下，申请主体可以填写形态及理化等指标明确、海关能现场辨别的商品。

#### **排除申请主体**

申请主体可分为两大类：一家企业可以自身名义单独进行排除申请，根据自身情况提供相关信息，并对排除理由作出解释和说明。对于造成行业内普遍性影响的商品，也可以考虑由相关行业协（商）会作为申请主体，协（商）会可以在申请中填报相关行业内多家企业的信息。

## 商品排除理由

《填报说明》要求申请主体提供加征关税对企业生产经营的影响，并以事实和数据说明排除的理由。值得注意的是，申请主体在填报信息时须对以下问题作出回应，并填写理由：

- 申请排除的商品是否无法从美国以外国家或地区进口或由国内来源替代；
- 对该申请排除的商品加征关税是否对申请主体造成严重经济损害；
- 对该申请排除的商品加征关税是否对相关行业造成重大负面结构性影响（包括对行业发展、技术进步、就业、环保等方面的影响）或带来严重社会后果。

由于中国系首次试行该类排除政策，有关部门将如何对相关的排除理由进行评估与审核仍有待进一步明确。

## 建议

考虑到中美贸易摩擦的进展，建议受加征关税影响的在华企业、协会等利益相关者密切关注未来动态，积极考虑是否启动申请排除以减轻加征关税对其供应链的影响，相关措施具体包括：

- 梳理企业的经营情况以及行业的整体数据，评估加征关税对企业及整个行业的全面影响；
- 评估进口商品的情况，选择适当的申请排除方式（例如由企业自行申请还是通过行业协会申请，以及按税号还是按具体产品申请等）；
- 根据企业在行业中的情况和定位，分析和讨论排除原因，为论述排除相关商品的必要性和合理性提供强有力的依据。

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## Tax Newsflash

### China released more details on retaliation tariff exclusion processes

On 31 May 2019, the Chinese government officially launched the website (<https://gszx.mof.gov.cn>) for China's exclusion process application for the additional tariff on U.S. products. Applicants can now log onto the website to apply for the exclusion from the additional tariff to be applied. Guidance was also published to facilitate the application.

#### Background

According to the Announcement [2019] No. 2 of China's Tariff Committee of the State Council (CTCSC), China introduced an exclusion process, as a trial, for the U.S. origin products subject to additional tariff. The exclusion process needs to be applied for and, if successful, the additional tariff on approved goods will not be applied for one year, with a possible refund of retaliation tariff already paid. To determine whether to grant an exclusion, the government may consider certain factors, e.g. whether the goods is available from countries or regions other than the U.S., whether the additional duties would cause severe economic harm to the applicant, and/or whether the particular goods is strategic for certain industries (see [Deloitte tax newsflash](#) on 15 May for more information).

#### New guidance

Since applicants can now submit exclusion applications for the first batch of goods (note: the application period is from 3 June to 5 July 2019), China released more guidance on the application.

#### ***Application forms***

An applicant must submit one application form for each 8-digit HS code item for which it applies for exclusion.

If the same HS code item has already been applied for by an industry/business association which has consolidated an enterprise's relevant information in the association's application, the enterprise is not allowed to submit its application separately.

## **Information requirement**

The following information is required to be provided:

- a. Basic information relating to the applicant
  - The unified social credit code; and
  - Business scope
- b. Information relating to the goods
  - Name;
  - 8-digit HS code; and
  - Usage
- c. Import data for 2017, 2018 and 2019
  - Total amount and quantity of the goods imported for each year;
  - Total amount and quantity of the goods imported from the U.S. for each year;
  - Total amount and quantity of the goods imported from the top five non-U.S. countries and regions for each year; and
  - Copies of customs declaration forms of the goods with top five import amounts for each year
- d. Impact on businesses
  - The total amount of additional tariffs paid as of 31 March 2019;
  - The impact of imposing additional tariffs on the production and operation (e.g. per capita wages, pre-tax profits and production costs); and
  - representativeness of the applicant in the industry (which is an optional item)
- e. Reasons for exclusion
  - Substitutability of the goods; and
  - Facts and data to support the exclusion

## **Application process**

After the application is submitted through the website, the application will be subject to a preliminary review by the government authorities; when the review is completed, no changes can be made. The status of the exclusion application can be checked online by the applicant.

The CTCSC will examine the application, to form and announce the exclusion list.

## **Observations**

### ***Goods for which the exclusion applies***

One 8-digit HS code may still cover multiple goods. An applicant may choose to apply for exclusion for *all* the goods under an 8-digit HS code, or only some of them.

Taking a single mode fiber (G652D) as an example, whose 8-digit HS code is 9001.1000. According to the applicant's business decision, it may apply for exclusion for all the goods under the HS code of 9001.1000, or only some of the goods under the code.

If the applicant wishes to apply for exclusion for some of the goods under 9001.1000, it may provide a corresponding 10-digit HS code (e.g. 9001.1000.01) of the goods for which the exclusion would apply for; alternatively, if there is no such 10-digit HS code available, the applicant may provide the specific information of the goods (e.g. the shape, relevant physical or chemical parameters, etc.) so that such goods could be identified.

### ***Applicants***

A single enterprise can be the applicant to submit the application by itself with its own information. Alternatively, the business/industry association of which the enterprise is a member can also be the applicant to submit the application.

Where a business/industry association acts as the applicant, it may collect information of multiple relevant enterprises and consolidate them into the application. This approach may be more suitable for goods whose additional tariff would impact the whole sector.

### ***Reasons for exclusion***

The applicant is required to provide the information of the impact of the additional tariff and present the rationale of the exclusion with facts and supporting data. Specifically, the applicant must answer certain questions when filling out the application form through the website, such as:

- If there is no alternative source of goods available from non-U.S. countries/regions or domestic manufacturers;
- If the imposition of additional tariffs would cause severe economic damages to the applicant; and
- If the imposition of additional tariffs would bring significant negative impacts on associated industries (e.g. slowing down the development and technology advancement, and resulting other negative impacts on the employment and environment).

As the exclusion process is new, there is no precedence to understand how the government authorities would consider the relevant factors in developing their opinions.

### **Recommendations**

Considering the evolving China-U.S. trade measures, importers and relevant stakeholders affected by the additional tariff are recommended to closely monitor further development, and consider leveraging the exclusion policy to manage tariff expenses and mitigate the impact on supply chain, in specific which shall include:-

- Sort out the business situations of the enterprises, as well as the data of the whole industry, and evaluate the holistic impact of the additional tariffs on enterprises and the industry;
- Comprehensively assess the import products' situation, select appropriate approach to apply for the exclusion, (e.g. to apply for exclusion through industries/business

association or by the enterprise itself, to apply for exclusion for all the goods under a 8-digit HS code or only some of them); and

- Analyse and brainstorm on the exclusion reasons based on the enterprise's situation and position in the sector, develop strong grounds on the necessity and rationale of the exclusion.

Deloitte's Global Trade Advisory specialists are part of a global network of professionals who can provide specialized assistance to companies in global trade matters. We can support with visibility derived through Deloitte's Global Trade Radar data analytics tool to identify the potential impact and develop the solution to the additional tariff to the businesses.

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