



## 税务快讯

### 对美加征排除现新机 市场化采购排除有望提速

2020 年 2 月 18 日，国务院关税税则委员会（“税委会”）发布公告（税委会公告[2020]2 号），开展对美加征关税商品市场化采购排除工作，支持企业基于商业化考虑从美国进口商品。自 2020 年 3 月 2 日起，税委会将接受国内企业申请，逐一审核，对符合条件、按市场化和商业化原则自美采购的进口商品，在一定期限内不再加征我对美 301 措施反制关税。

与之前的对美加征关税商品排除相比，此次推行的市场化排除在进口主体、商品进口金额方面更具针对性，即申请获批后，不加征关税措施仅适用于申请企业核准金额范围内进口的自美采购商品；非申请主体进口的相同商品，或是申请企业超出核准金额范围的进口商品，均不适用不加征关税措施。

#### 公告要点

此次市场化采购立足于市场需求，支持企业按市场化和商业化原则自主开展自美采购和进口，为中美第一阶段经贸协议的实施创造条件。

自 2019 年年中以来，中国已依据税委会公告[2019]2 号开展了两批对美加征关税商品排除，并分两次公布了第一批排除对美加征关税商品排除清单共 22 项商品。在已开展排除工作基础上，市场化排除进一步优化了申请和审核程序。与之前的排除工作相比，市场化排除的主要区别体现在以下方面：

|      | 税委会公告[2019]2 号                | 税委会公告[2020]2 号<br>(市场化排除) |
|------|-------------------------------|---------------------------|
| 申请主体 | 从事相关商品进口、生产或使用的在华企业或其行业协会（商）会 | 拟签订合同自美采购并进口相关商品的中国境内企业   |
| 排除对象 | 所有进口排除清单内自美采购商品（不限进口主体与金额）    | 申请企业核准金额范围内进口的自美采购商品      |

|                  |  |  |
|------------------|--|--|
| <b>排除结果</b>      | <ul style="list-style-type: none"> <li>对排除清单内商品，自排除清单实施之日起一年内，不再加征对美 301 措施反制关税；</li> <li>具备条件的，退还已加征关税</li> </ul>                                       | <ul style="list-style-type: none"> <li>自核准之日起一年内，进口核准金额范围内的商品不再加征对美 301 措施反制关税；</li> <li>超出部分不予排除，需自行承担加征关税；</li> <li>核准前已加征关税不予退还</li> </ul>  |
| <b>可申请排除商品范围</b> | <p><b>第一批：</b>500 亿美元进口商品（税委会公告[2018]5 号所附“清单一”、税委会公告[2018]7 号所附“清单二”）；</p> <p><b>第二批：</b>600 亿美元进口商品（税委会公告[2018]6 号附件 1-4）</p> <p>不包括已停止或已暂停加征关税的商品</p> | <ul style="list-style-type: none"> <li>《可申请排除商品清单》中 696 项商品；</li> <li>对清单外商品，申请主体可提出增列商品，申请排除对美 301 措施反制关税；</li> <li>对已出台和今后经批准出台的进口减免税政策项下自美进口商品，以及快件渠道进口商品，自动予以排除并免于申请；纳入对美加征关税商品排除清单、在排除期限内的商品，也无需进行申请</li> </ul> |
| <b>申请方式和时间</b>   | <p>财政部关税政策研究中心网站<br/>http://gszx.mof.gov.cn</p> <p><b>第一批：</b>2019 年 6 月 3 日至 7 月 5 日<br/><b>第二批：</b>2019 年 9 月 2 日至 10 月 18 日</p>                       | <p>财政部关税政策研究中心网站<br/>http://gszx.mof.gov.cn</p> <p>2020 年 3 月 2 日起接受申请</p>   |
| <b>申请填报要求</b>    | <p>以事实和数据说明申请理由：</p> <ul style="list-style-type: none"> <li>寻求商品替代来源面临的困难；</li> <li>对申请主体造成严重经济损失；</li> <li>对相关行业造成重大负面结构性影响或带来严重社会后果</li> </ul>         | <ul style="list-style-type: none"> <li>完整填写商品税则号列、采购计划金额等排除申请信息；</li> <li>申请排除商品清单外商品的，还需填报加征关税对申请主体影响等必要说明</li> </ul>   |
| <b>审核与结果告知</b>   | <p>税委会组织审核，开展调研，听取相关专家、协会、部门意见，并按程序制定、公布排除清单</p>   | <p>税委会组织审核，并通过排除申报系统等方式，及时将排除申请结果通知申请主体</p>  |
| <b>进口申报要求</b>    | <p>无特殊要求</p>   | <p>通过排除申报系统提交自我声明并领取排除编号，并在报关单上填写排除编号</p>  |

公告提供的[可申请排除商品清单](#)内的 696 项商品可以直接申请市场化采购排除，清单商品主要包括：

|                      | 税则编码数量 | 商品举例   |
|----------------------|--------|--|
| <b>第一批 500 亿美元清单</b> | 140    | 牛肉，猪肉，虾，黄大豆等其他农产品；医疗、外科或兽医 X 射线应用设备；柴油，燃料，石油和其他能源产品；钢铁和铝废碎料；聚乙烯，聚丙烯和其他塑料制品等          |
| <b>第二批 600 亿美元清单</b> | 543    | 聚光灯，探照灯，电感和电容测试仪（带记录装置）；质谱仪，液相色谱或气相色谱；液晶显示板，相机镜头，路由器，无线耳机；不锈钢无缝锅炉管，不同截面尺寸的原木；胰岛素及其盐等 |
| <b>第三批 750 亿美元清单</b> | 111*   | 海豹油胶囊；头孢克罗及其盐；原油等  |

\*第三批加征关税商品清单包含部分第一批或第二批清单商品

## 评论

自 2020 年 1 月 15 日中美正式签署第一阶段经贸协议以来，两国经贸关系逐步缓和，中美双方各自采取了一系列降低关税的举措。此次排除政策的出台将支持企业按市场化和商业化原则自主开展自美采购和进口，为中美第一阶段经贸协议有关扩大贸易条款的实施创造条件。市场化采购排除将促进品质高、价格竞争力强的美国商品进口，以满足国内市场需要。

由于此次市场化采购排除工作系首次开展，企业关注的一些问题目前仍待明确。举例而言，如何定义“市场化和商业化原则”，关联方进口采购是否符合该原则；公告中所称“自美采购”仅指直接从美国供应商采购美国商品，还是适用于所有形式的采购美国原产商品（包括转口贸易等）。预计相关部门在3月2日之前将提供进一步指引，相关企业应持续关注动态。

## 建议

市场化采购排除依申请批准，受到对美301措施反制关税影响的企业，尤其是未申请加征关税排除的企业、第一二批加征关税商品排除申请尚未批准企业，应该抓住此次机会，积极申请市场化采购排除，降低进口成本：

- 对于进口商品已列入市场化采购《可申请排除清单》的企业，建议重新复核原有进口计划，根据市场化采购排除申请要求，及时向税委会进行申请；
- 对于进口商品未列入此次《可申请排除清单》的企业，建议按照关税排除申请要求，搜集相关说明材料，申请增列商品的申请；
- 在持续关注政策动态和下一步执行指引的同时，由于市场化采购排除依申请进行，并以采购计划、进口合同作为依据，企业可以着手准备或复核对美采购计划，完善采购合同（如溢装商品的处理条款），合理预计采购金额，为排除申请做好准备，争取“早申请、早审批、早获益”；
- 目前第二批加征关税商品排除清单尚未发布，企业仍应持续跟进排除申请情况，积极向相关部门反映自身诉求，寻求加征关税排除以及退税；同时，也可以积极参与市场化排除的申请；
- 由于对美加征关税和排除工作基于商品编码和原产地，企业需主动复核商品编码和原产地准确性，确保遵循合规要求，防范海关风险。

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## Tax Newsflash

### New exclusion process for US goods subject to retaliatory tariffs

On 18 February 2020, China's Tariff Committee of the State Council (CTCSC) announced a new market-based exclusion process on US goods subject to retaliatory tariffs (Bulletin [2020] No. 2). The new process, which will be available as from 2 March 2020, is part of the implementation of the Phase One trade agreement to increase imports of US-origin goods.

The new market-based exclusion process differs from the existing general exclusion process in that it is based on an importer's specific commercial transaction, as opposed to the general exclusion process, which exempts a group of identified products for all importers.

For enterprises that did not submit exclusion applications under the general exclusion process (or those that have submitted but not yet obtained approvals), this new exclusion process provides another opportunity to obtain an exclusion. Once an importer's application for exclusion is approved under the new process, no retaliatory tariffs will be imposed on the importer's approved goods (subject to a certain time period and amount limitations).

#### Comparison of exclusion processes

The table below compares aspects of the general exclusion process (Bulletin [2019] No. 2) and the new market-based exclusion process (Bulletin [2020] No. 2):

|                   | General exclusion process  | Market-based exclusion process                                |
|-------------------|--|---|
| <b>Applicants</b> | Enterprises in China (or their trade or business associations) engaged in the importation, | Enterprises in China that purchase and import eligible goods. |

|  |  |   |
|--|--|---|
|  | <p>production, or use of eligible goods.</p> <p>Once goods are approved for exclusion based on an enterprise's or industry's application, all enterprises benefit from the exclusion of the approved goods (i.e., no further enterprises are required to submit an application to exclude such goods).</p>   |   |
| <b>Scope</b>                                     | <p>All eligible goods, which consist of goods from List 1 (USD 50 billion) and List 2 (USD 60 billion).</p> <p>Where the government eliminates or suspends additional tariffs on the relevant goods, no exclusion application is necessary.</p>  | <p>All eligible goods (see table below); applicants may apply to the CTCSC to request the addition of goods to the list.</p> <p>If the relevant goods are subject to duty-free regimes or imported using certain express courier services, the goods will be automatically excluded from any additional tariffs and no exclusion application is necessary.</p> <p>If the relevant goods have been excluded under the general exclusion process, no additional tariffs would be imposed and no exclusion application is necessary.</p> |
| <b>Effects</b>                                   | <p>For goods approved for exclusion (regardless of importers and import amounts):</p> <ul style="list-style-type: none"> <li>Starting from the date the exclusion comes into effect, the retaliatory tariffs will not be applicable for one year.</li> <li>If qualified, the retaliatory tariffs already imposed and collected can be refunded.</li> </ul>                             | <p>For an approved applicant:</p> <ul style="list-style-type: none"> <li>Starting from the date the exclusion comes into effect (as specified for the applicant), the retaliatory tariffs on the applicant's approved goods (subject to limitations on amount) will not be applicable for one year.</li> <li>Any imported goods above the threshold will be subject to the retaliatory tariffs.</li> <li>No refund will be allowed for retaliatory tariffs imposed before the exclusion comes into effect.</li> </ul>                 |
| <b>Application process and timing</b>            | <p>Online application : <a href="http://gszx.mof.gov.cn">http://gszx.mof.gov.cn</a><br/> List 1: 3 June to 5 July 2019<br/> List 2: 2 September to 18 October 2019</p> <p>The government has not started yet the application process for goods from List 3 (USD 75 billion).</p>   | <p>Online application : <a href="http://gszx.mof.gov.cn">http://gszx.mof.gov.cn</a><br/> Beginning 2 March 2020 (with no end date specified)</p>  |
| <b>Required information</b>                      | <p>Facts and data with respect to the following:</p> <ul style="list-style-type: none"> <li>Difficulties in identifying alternative sources of goods;</li> <li>Serious economic damage to the applicant caused by additional tariffs; and</li> <li>Major negative structural impacts on related industries or serious social consequences caused by the additional tariffs.</li> </ul> | <ul style="list-style-type: none"> <li>The HS code of the relevant goods and information with respect to the purchase plans; and</li> <li>Explanations of the effects of the additional tariffs on the applicant where the applicant wishes to add relevant goods to the eligible goods list.</li> </ul>  |
| <b>Review procedure and results notification</b> | <p>The CTCSC will review the applications, collect comments from experts and relevant trade unions/government authorities, and determine and</p>   | <p>The CTCSC will review the applications and notify each applicant of the final results through the online application system.</p>   |

|                                       |   |   |
|---------------------------------------|---|---|
|                                       | publish the exclusion list in due course. |   |
| <b>Import declaration requirement</b> | No special requirement                    | An approved applicant must submit a self-declaration through the online application system and obtain a special code, which must be included on the customs declaration form when the applicant imports the relevant goods. |

The goods eligible for the market-based exclusion process consist of 696 HS code items and are summarized in table below:

| <b>Corresponding list</b>      | <b>Number of HS code items</b> | <b>Main goods covered</b>  |
|--------------------------------|--------------------------------|--|
| <b>List 1 (USD 50 billion)</b> | 140                            | Beef, pork, shrimp, beans, and other agriculture products; medical, surgical, or veterinary x-ray equipment; diesel, fuel, oil, and other energy products; steel and aluminium scrap; and polyethylene, polypropylene, and other plastics.   |
| <b>List 2 (USD 60 billion)</b> | 543                            | Spotlight, searchlight, inductance, and capacitance tester with recording device; mass spectrometer, liquid, or gas chromatography; LCD display board, camera lenses, routers, wireless headphones; stainless steel seamless boiler tube, logs with different cross-sections; and insulin and its salts. |
| <b>List 3 (USD 75 billion)</b> | 111                            | Seal oil capsules; cefaclor and its salts; and petroleum oils (some HS code items in List 3 are also in Lists 1 and 2).  |

## Comments

There has been a gradual easing of the trade tensions since China and the US signed the Phase One trade agreement on 15 January 2020, with both sides announcing trade measures to reduce the additional tariffs. The new market-based exclusion process is expected to increase the imports of certain high-quality US products with competitive prices to fulfill the demands in the Chinese market.

Some issues in relation to the new market-based exclusion process may need to be further clarified. For example, as the new exclusion process aims to promote imports according to market-oriented and commercial principles, how would the government authorities look at imports between related parties when reviewing the applications? Would imports of US-origin goods from non-US suppliers (e.g., entrepot trades) be eligible for the exclusion? Businesses should monitor any further guidance released by the government and also should consider the following action steps:

- *Enterprises whose goods already have been included on the list of eligible goods:* Review their existing import plans and apply to the CTCSC under the new exclusion process in a timely manner.
- *Enterprises whose goods have not been included on the eligible goods list:* Apply to the CTCSC for inclusion of the goods on the list and begin collecting the relevant supporting documentation to justify the inclusion.

- *Enterprises that have submitted exclusion applications under the general exclusion process but still are awaiting approval:* Apply for exclusions under the new exclusion process.
- *Enterprises that wish to apply for exclusions under the new exclusion process:* Begin to prepare for the new rules, for example, by assessing import plans to provide the best estimation of the monthly purchase amount, examining relevant contract terms, and reviewing customs classifications and country-of-origin status to ensure the relevant goods are classified correctly and of US origin.

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