



Customs Alert

Reduction of customs duty surcharges in case of self-disclosure

Introduction

The Ministry of Finance recently introduced a Ministerial Regulation re: Criteria on Duty Surcharge Reduction no. 2 B.E. 2564, *a temporary relief measure* for importers/exporters during the COVID-19 pandemic which was published in the Royal Gazette on 29 May 2021. The regulation encourages importers who unintentionally paid incorrect import duties to self-disclose their error(s) to Customs and voluntarily pay the duty shortfall. In return, the normally applicable duty surcharges will be temporarily reduced and capped at 0.25% per month (currently duty surcharges range from 0.25% - 1% per month depending on when payment is made). The measure will remain in effect from 1 June until 30 September 2021.

What to know?

Companies in Thailand who did not pay or paid deficit import duties/VAT at the time of import, and which are audited afterwards, are at risk of having to pay duty/VAT shortfalls retroactively along with customs fines, VAT penalties and monthly duty/VAT surcharges. Customs would normally audit companies in relation to customs activities up to 5 years back.

However, since the third wave of Covid-19 hit Thailand in April 2021, Customs has limited their audits to avoid placing an undue burden on companies which are already suffering from the pandemic.

Instead, incentives are made available to companies to self-disclose any customs non-compliance with tax exposure. The One-Stop-Service for Additional Duty Payment (One-Stop-Service Program) already allows importers to disclose import duty/VAT shortfalls centrally to Customs Headquarter with a waiver from customs fines. This program still runs until 30 September 2021.

In addition, the newly released Ministerial Regulation on Duty Surcharge Reduction now also limits the monthly duty surcharge to 0.25% of the outstanding duty payable (capped at the total duty shortfall amount) for those

companies making a self-disclosure to Customs and who pay the duty shortfall to Customs within the specified period (i.e., during 1 June 2021 – 30 September 2021). The duty shortfall is calculated monthly on the amount of duty shortfall from the date of import/export until the date of payments (but capped at the total amount of duty shortfall).

What can you do?

The current incentives for self-disclosure are open until 30 September 2021. After that, and if the Covid-19 situation allows it, Customs is expected to increase their audits again.

Therefore, importers and exporters are encouraged to:

- 1 Conduct an internal review of their company's import/export activities to determine whether the company has complied with customs rules and regulations or not and identify potential duty/VAT exposure.
- 2 Consider to self-disclose any non-compliance to Customs and pay outstanding duties within the specified time frame (30 September 2021) in order to be eligible for the temporary duty surcharge reduction (0.25% of duty payable per month) and potential waiver of the duty fine.

Importers/exporters may simultaneously also consider joining the One-stop Service Program to settle all cases of unintentionally underpaid import duty/VAT in one stage with the Customs authorities. Provided that the application and outstanding payments are made within 30 September 2021, duty fines could be waived.

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