

Customs Clearance News

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Shanghai Xinhai Customs Broker Co.,LTD

Special Issue on Import and Export Customs Compliance

/ The Main Types of Violations by Import and Export Enterprises and the Legal Consequences

/ Policy Dividends for Honest and Law-Abiding Enterprises--Voluntary Disclosure

/ Guidelines for Enterprise Risk Control and Compliance

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Xinhai Customs Service Team

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Part-01

The Main Types of Violations by Import and Export Enterprises and the Legal Consequences

/ Tax-Related Violations

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/ Certificate-Related and Procedure-Related Violations



A Typical Case

From January 1, 2020 to July 2, 2021, Company A imported a total of 20 batches of high-purity cathode copper for general trade, paid a brand license fee of RMB 590,572, but failed to declare to the customs within 30 days after payment, and failed to pay taxes of RMB 76,774.35.

Penalty result: The above facts have constituted a violation of customs supervision. In accordance with the provisions of Article 86 (3) of the Customs Law of the People's Republic of China and Article 15 (4) of the Regulations on the Implementation of Administrative Penalties by the Customs of the People's Republic of China, the parties are subject to the following administrative penalties: a fine of RMB 46,000.

《The Regulations on the Implementation of Administrative Penalties by the Customs of the People's Republic of China》

Where the names of import and export goods, list of tariff codes, quantities, specifications, prices, mode of trade, place of origin, place of departure, place of arrival, final destination or other items that should be declared are not declared or are falsely declared, they shall be punished in accordance with the following provisions respectively. If there are any illegal gains, the illegal gains shall be confiscated

(one) If the accuracy of customs statistics is affected, a warning shall be given or a fine of not less than 1,000 yuan but not more than 10,000 yuan shall be imposed

—————

(four) If the collection of state tax is affected, a fine of not less than 30% but not more than twice the amount of tax evaded shall be imposed;

The Main Types of Violations by Import and Export Enterprises

–Inspection-Related Violations



Inspection-Related Risks

- (one) Goods Listed in the Catalogue of Goods Under Legal Inspection;
- (two) Imported Waste and Second-Hand Mechanical and Electrical Products;
- (three) Performance Inspection and Use Appraisal of Packaging Containers for Export Dangerous Goods;
- (four) Inbound and Outbound Containers;
- (five) Animals and Plants, Animal and Plant Products and Other Quarantine Objects Inbound, Outbound or In Transit;
- (six) Containers, Packages and Bedding Materials for Carrying Animals and Plants, Their Products and Other Quarantine Objects; Entry of Animal and Plant Packaging, Bedding Materials;

《Regulations for the Implementation of the Import and Export Commodity Inspection Law》

Article 45 Where the consignee, consignor, agent for inspection of import and export commodities, or the exit and entry express delivery enterprises, or the inspection personnel of import and export commodities fail to provide the true information of import and export commodities, and failed to obtain the relevant documents from the exit and entry inspection and quarantine authorities, or refuse to submit inspection of import and export commodities subject to statutory inspection and evade inspection of import and export commodities, The entry-exit inspection and quarantine organ shall confiscate the illegal gains and impose a fine of not less than 5% but not more than 20% of the value of the commodity.



Import of Catalyst containing potassium permanganate needs to provide import license of dual-use items and technology

On May 18, 2021, the parties entrusted ***** Freight Agency Co., LTD., to declare to the Customs in general trade the imported goods with the description of catalyst classified in HS 3815900000. After customs inspection, it was found that the ingredients of the goods contained potassium permanganate, which belonged to precursor chemicals, but the import license for dual-use items and technologies was not submitted when the parties declared; The goods are valued at RMB 146,278.26.

Regulations of the People's Republic of China on the Implementation of Customs Administrative Penalties

Article 15 Where the descriptions of import and export goods, HS codes, quantities, specifications, prices, mode of trade, country of origin, place of departure, place of arrival, final destination or other items that should be declared are not declared or are falsely declared, the related parties shall be punished in accordance with the following provisions respectively. If there are any illegal gains, the illegal gains shall be confiscated

(one) If the accuracy of customs statistics is affected, a warning shall be given or a fine of not less than 1,000 yuan but not more than 10,000 yuan shall be imposed;

(three) If the Administration of national license certificates is affected, a fine of not less than 5% but not more than 30% of the value of goods shall be imposed ;

Lower the Credit Rating of Enterprises



Fine

Certificate-Rated: a fine of not less than 5% but not more than 30% of the value of goods shall be imposed;
Tax-Related Violations: a fine of not less than 30% but not more than twice the amount of tax evaded shall be imposed, or 10%-50% of the declared value;



Overdue Tax and Overdue Fine

According to Article 60 of The Customs Law, obligors of import and export goods shall pay duty within 15 days after the Customs issues the letter of duty payment. Overdue fines shall be levied by the Customs if overdue payment occurs.



Pursuing Duty within 3 years

According to Article 26 of Customs Duty Regulation, after duty has been paid for import or export goods, it is found that duty has been underlevied or evaded, the customs shall, within one year from the date of payment of duty or the release of the goods, collect supplementary taxes from the consignee or consignor or their agent. Where the consignee or consignor or their agents violate the provisions and cause undercollection or omission of collection, the Customs may pursue the collection within three years.

Part-02

Policy Dividends for Honest and Law-Abiding Enterprises --Voluntary Disclosure

The voluntary disclosure system is a law-abiding and fault-tolerant mechanism given by the customs to enterprises, and its purpose is to guide and encourage enterprises to strengthen self-discipline management, so that compliant enterprises can enjoy the policy dividend of honesty and law-abiding

Decree 670 By the State Council

Higher level Law for voluntary disclosure : Decision of The State Council on Amending the Regulations of the People's Republic of China on Customs Inspection (Decree No. 670 of The State Council).

01

03

Announcement No.61 of 2016 by General Administration of China Customs

The announcement clarifies the voluntary disclosure system of legal instruments: Announcement on the publication of the format of legal instruments involved in the Implementation Measures of the Customs Inspection Regulations of the People's Republic of China Announcement No. 61 of 2016.

Voluntary disclosure

02

04

Decree No. 230 by The General Administration of China Customs

The voluntary disclosure system is officially clarified: "Implementation Measures of the Customs Inspection Regulations of the People's Republic of China", Order No. 230 of the General Administration of Customs.

Announcement No.127 of 2023 by General Administration of China Customs

The announcement clarifies the handling basis: General Administration of Customs 2019 Announcement No. 161 (repealed), General Administration of Customs 2022 Announcement No. 54 (repealed) General Administration of Customs 2023 Announcement No. 127 (being implemented) "Announcement on Handling Matters Related to the Voluntary Disclosure of Violations".

The act of voluntary disclosure and being punished by the customs with a warning or a fine of less than 1 million yuan shall not be included in the record of the credit status of the enterprise identified by the Customs.



**Reduction and Exemption of
Administrative Penalty**



**Reduction and Exemption of
Overdue Fines**



**Not Affecting the Enterprise
Credit Rating**

Applicable Circumstances of Voluntary Disclosure without Penalty (Announcement 127)



Tax-Related Violations

- (1) Voluntary disclosure to the Customs within 6 months from the date of the act.
- (2) Voluntary disclosure to the Customs more than 6 months, within 2 years from the date of the act, a fine of less than 1 million yuan or less than 30% the amount of tax evaded shall be imposed.



Tax-Refunded –Related Violations

- (1) Voluntary disclosure to the Customs within 6 months from the date of the act.
- (2) Voluntary disclosure to the Customs more than 6 months, within 2 years from the date of the act, a fine of less than 1.



Unit Consumption

The actual unit consumption of the processing trade enterprise is lower than the declared consumption due to the improvement of the process, the inaccurate declaration of the proportion of non-bonded materials and parts, etc., and the remaining materials, semi-finished products and finished products generated have not been disposed of, or have been re-exported through the processing trade.



Affecting Customs Statistics

The act of affecting accuracy of Customs statistics voluntary disclosure to Customs of the case with value less than 10 million yuan within the same month of the violation, or voluntary disclosure to Customs of the case with value less than 5 million yuan within 3 months after the violation.

Applicable Circumstances of Voluntary Disclosure without Penalty (Announcement 127)



Supervision Order

Voluntary disclosure of declarations that affect the order of Customs supervision



Procedure-Related Violations

Voluntary disclosure of procedural violations listed in Article 18 of the Customs Penalties Regulations



Inspection-Related Violations

Voluntary disclosure of violations affecting Customs regulations on inspection and quarantine operations



Article 18 of the Regulations on the Implementation of Administrative Penalties

Article 18 of the Regulations of the People's Republic of China on the Implementation of Customs Administrative Penalties shall be applied to cases that do not affect the State's prohibitions on entry and exit administration, export tax refund administration, tax collection and licensing administration.

Acceptance by Customs

Submit a voluntary disclosure application on site or through "Internet +" submit a voluntary disclosure application

Determination of Customs

The Customs will determine whether it is a voluntary disclosure:

1. whether the materials are complete
2. whether the customs has mastered the relevant clues.

Verification of Customs

Written form, field verification, auditing.

Handling of Customs

According to the actual situation::

1. to collect an overdue duty
2. to transfer to other department to implement penalty
3. Other disposal

Do All Reports Count As Voluntary Disclosure? ---No



01

Exclusion one

The Customs has already clues of violations before reporting;

02

Exclusion two

Before reporting, the Customs has informed the related party to carry out the inspection;

03

Exclusion three

The contents of the report are seriously inaccurate or conceal other violations;

A Typical Case—An Inaccurate Declaration of Price



A typical case

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Penalty

The above facts constitute a violation of customs regulations. In accordance with the provisions of Article 86 (3) of the Customs Law of the People's Republic of China and Article 15 (4) of the Regulations on the Implementation of Administrative Penalties by the Customs of the People's Republic of China, the parties are subject to the following administrative penalties: a fine of RMB 46,000.

Comments

The goods imported by Company A involved customs taxable royalties, but they did not declare within the time limit stipulated by the Customs, resulting in tax evasion, which was verified and punished by the customs.

Voluntary Disclosure

The enterprise pays overdue duties, exempt from penalties and overdue fines. It enables enterprise to

**save 46,000
yuan in fines.**

A typical case

From November 2019 to May 2020, Company A declared 33 batches of cyanoacetamide worth 15.8 million yuan to Customs B in the general trade mode, and the declared HS number is 29241990.90 (export tax refund rate is 13%).

Penalty

Company A's alleged false declaration affected the national export tax refund, resulting in an additional tax refund of about 700,000 yuan. The Customs intends to impose a fine of 550,000 yuan on Company A in accordance with Article 15 (5) of the Regulations on the Implementation of Customs Administrative Penalties.

Comments

Company A should have classified cyanoacetamide in HS number 29269090.90 (export tax rebate rate of 9%). Its alleged false declaration affected the national export tax refund.

Voluntary Disclosure

The company pays back overdue duties and is exempted from penalty to

**save the company
550,000 yuan in
fines.**

Part-03

Guidelines for Enterprise Risk Control and Compliance



Self-Management

Establishing a customs compliance system within the enterprise, conducting regular internal audit and self-examination, performing compliance control in advance.



Strict Self-Discipline

In normal operation, enterprises should pay attention to process management, organize the declaration business regularly so as to discover the declaration errors in time, and exercise self-restraint to grasp compliance control.



Partners

Enterprises should raise the threshold of cooperative business partners and look for highly qualified business partners such as AEO enterprises to reach a win-win cooperation.



Making Up After the Fact

After the discovery of violations, enterprise should promptly makes Voluntary disclosure to the Customs.

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Thanks for Watching

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