

China Tax Alert

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Measures favorable to foreign trade introduced: Examination and approval procedures for processing trade operations to be abolished nationwide

Regulations discussed in this issue:

- The Ministry of Commerce and General Administration of Customs Announcement [2016] No. 45 - *Announcement on Abolishing Examination and Approval Procedures for Processing Trade Operations and Establishing a Sound In-process and Post-process Regulatory Mechanism* was issued on 25 August 2016 and will come into effect on 1 September 2016.

Background

The Ministry of Commerce ("MOFCOM") and General Administration of Customs ("GAC") jointly issued Announcement [2016] No. 45 in order to abolish the examination and approval procedures for processing trade operations and establish a sound in-process and post-process regulatory mechanism nationwide. The General office of MOFCOM subsequently issued *Notice on Follow-up Work for Abolishing Examination and Approval Procedures for Processing Trade Operations* [Shang Ban Mao Han (2016) No. 720] on 26 August to further specify and explain the *Certificate of Operating Condition and Production Capacity of Processing Trade Enterprises* ("Production Capacity Certificate"). The reform to streamline administrative examination and approval procedures for bonded operations under Customs supervision back in 2013 in Guangdong provided practical experience and a basis for the implementation of this announcement.

In this issue of China Tax Alert, we will clarify and analyse the main contents of the Announcement [2016] No. 45 issued by MOFCOM and GAC ("Announcement No. 45"), the comparisons with the examination and approval system reform in 2013 and potential effects on relevant enterprises, and summarise key issues and offer suggestions for business enterprises engaging in import and export operations.

What the Announcements are about

The key point of Announcement No. 45 is to abolish the examination and approval procedures for processing trade operations and establish a sound in-process and post-process regulatory mechanism nationwide, so as to comply with the State Council's reform of the administrative examination and approval system. The main contents of the announcement include:

- Abolishing the examination and approval procedures of processing trade contracts, as well as the examination and approval procedures for the domestic sale of materials and parts imported tax free for use in processing trade or finished goods from processing trade conducted by departments in charge of commercial affairs;

- Departments in charge of commercial affairs at all levels no longer issue *Approval for Processing Trade Operations, Approval for Processing Trade Operations of Enterprises under Networking Supervision, Approval for Domestic Sale of Materials and Parts Imported Tax Free for Use in Processing Trade and Approval for Non-priced Equipment for Use in Processing Trade*;
- Administrative committees of customs special supervision zones no longer issue *Approval for Processing Trade Operations in Export Processing Zones and Approval for Transfer of Goods for Reprocessing in Export Processing Zones*;
- Departments in charge of commercial affairs at all levels and administrative committees of customs special supervision zones issue *Certificate of Operating Condition and Production Capacity of Processing Trade Enterprises*, which is required in the procedures that the enterprises need to complete to establish or change the Processing Trade Manual (Ledger).

According to Shang Ban Mao Han (2016) No. 720, departments in charge of commercial affairs at all levels and administrative committees of customs special supervision zones will issue new Production Capacity Certificates from 1 September 2016 onwards, and Production Capacity Certificates issued prior to 1 September will remain valid until they expire. In addition, the new version of Processing Trade Enterprises Operating Condition and Production Capacity Certification System will be applied across the country.

KPMG Observations

Announcement No. 45 will facilitate the development of processing trade and help enterprises simplify compliance procedures. KPMG observations and opinions regarding the announcement are summarised as below:

- Compared with the previous reform in 2013 in Guangdong, the latest examination and approval system reform not only covers a wider region, i.e. the whole country, but also increases the number of examination and approval items to be abolished, which include not only *Approval for Processing Trade Operations, Approval for Processing Trade Operations of Enterprises under Networking Supervision and Approval for Domestic Sale of Materials and Parts Imported Tax Free for Use in Processing Trade* that are included in the previous reform, but also *Approval for Non-priced Equipment for Use in Processing Trade* and relevant certificates issued by administrative committees of customs special supervision zones; in addition, Announcement No. 45 stresses that the in-process and post-process regulatory mechanism should be enhanced, and requires the departments responsible for the issuance of Production Capacity Certificates to rigorously implement the established procedures to examine the operating condition and production capacity of processing trade enterprises;
- The simplification of examination and approval procedures greatly facilitates business operations, by which enterprises only need to acquire a Production Capacity Certificate and operate by laws and regulations to engage in processing trade operations, instead of having to acquire approval for each operation, thus saving time and human resources in dealing with the examination and approval procedures; in addition, the in-process and post-process regulation requires enterprises to maintain ongoing compliance, which will contribute to the healthy operation of the processing trade business.
- The form, structure and contents of the new Production Capacity Certificate are greatly simplified compared with the old one. Specifically speaking, R&D and technical capacity information is no longer required; contents such as import and export value in

processing trade, reason for domestic sale and balance of foreign exchange trading are deleted from “Business result of previous year”; contents such as warehousing and production staff and equipment investment of previous year are deleted from “Production capacity”; the validity is “until 31 January next year”, instead of “within one year from the date of declaration”;

- Compared with the old Production Capacity Certificate, the new version further specifies and refines the main contents. For example, for imported and exported goods, the “type of goods” is changed to the “code, name, volume and value of materials and parts”; “number of staff engaged in processing trade operation” is added to staff information; for annual production capacity, the processing range and production scale are detailed into product name, code, volume and unit, and “main production equipment information” is added; in addition, the new version lays more stress on compliance with other departments and adds “Certifications by relevant departments” to evaluate applicants’ compliance in respect to environmental protection, firefighting, production safety, foreign exchange and inspection and quarantine.

KPMG Commentary

Announcement No. 45 complies with the trend of simplifying administrative procedures and delegating powers to lower levels, and streamlines procedures and lowers costs of compliance, thereby facilitating stable development of the processing trade industry. Going forward, the enterprises need to focus on the following issues:

- The application of relevant approvals. Though the reform abolishes the examination and approval procedures for a substantial amount of basic approvals, the Production Capacity Certificate is still needed and has become even more important. Enterprises should note the differences between the new and old certificates, ascertain whether they can comply with requirements of the new certificate and verify the validity of the old certificates on hand.
- Changes in requirements for the submitting of processing trade application forms. As Customs grants electronic books for processing trade based on the approval of processing trade operations and attached lists, the abolishment of certain approvals will result in changes in documents required by Customs for the application of electronic books. In addition, Customs will be directly responsible for the examination and approval procedures on non-priced equipment, but related requirements are yet to be clarified.
- Changes in how departments in charge of commercial affairs and administrative committees of customs special supervision zones manage processing trade enterprises. As departments in charge of commercial affairs and administrative committees of customs special supervision zones are responsible for issuing Production Capacity Certificates to qualified enterprises based on the rigorous implementation of the examination system on processing trade enterprises’ operating conditions and production capacity, processing trade enterprises should pay attention to the examination of production capacity conducted by these departments and committees, as well as policies enacted for the management of the processing trade industry.

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