

China Tax Alert

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General Administration of Customs Issued New Enterprise Credit Management Measures Favorable to High Credit Enterprises

Regulations discussed in this issue:

- Measures of the General Administration of Customs of the People's Republic of China for Enterprise Credit Management

Decree No. 237 of GACC

These Measures will come into effect on 1 May 2018.

Background

The General Administration of Customs recently issued Measures of the General Administration of Customs of the People's Republic of China for Enterprise Credit Management (Decree No. 237 of GACC, hereinafter referred to as "the Measures of the Customs for Enterprise Credit Management" or "the New Measures"). The New Measures will come into force on 1 May 2018, by when the Interim Measures of the General Administration of Customs of the People's Republic of China for Enterprise Credit Management (Decree No. 225 of GACC, hereinafter referred to as "the Old Measures") shall be repealed.

The New Measures have been greatly amended and improved. The principle of "facilitating those that act in good faith and in compliance with laws and penalizing those that lose credit and go against laws" is further emphasized to favor high credit enterprises.

Main amendments (by article order):

Main Amendment	Content
Collect enterprise credit status information	Added: 1. Basic information about relevant enterprise personnel; 2. Information about administrative licensing; 3. Information about administrative sanctions and criminal sanctions on enterprises and relevant personnel; 4. Information about implementation of joint incentives and joint sanctions, etc.

Submit enterprise credit annual reports	Added: Submission of annual reports on enterprise credit information
List of enterprises with information anomaly	Added: Some types of enterprises with information anomaly, such as enterprises failing to submit annual reports and enterprises with abnormal business locations. When an enterprise is listed as an enterprise with information anomaly, its credit rating cannot be increased.
Standard on discredited enterprises	Amended: 1. For an enterprise other than customs brokerage services, the following standard is deleted: Enterprises subject to administrative sanctions that amount to RMB100,000 or greater more than twice shall be deemed by the customs as discredited enterprises. 2. For customs brokerage services, the cumulative administrative sanction amount limit is changed from RMB100,000 to RMB 300,000. 3. The enterprises on the list of enterprises with information anomaly and the enterprises on the list of national joint sanctions are deemed as discredited enterprises.
Upgrade from discredited enterprise to general-credit enterprise	Amended: The minimum time taken by a discredited enterprise to upgrade to a general-credit enterprise is changed from 1 year to 2 years.
Termination or suspension of certification	Specified: 1. The customs may terminate the certification if the enterprise is suspected of violating customs regulations. 2. During application for certification, the customs may suspend certification if the enterprise is audited or inspected by the customs. When the suspension exceeds 3 months, the customs shall terminate the certification.
Participation of intermediary agencies	Amended: The original provision in Article 12 stipulating restrictions on social intermediary agencies and requiring approvals of the customs on conclusions made by the agencies is replaced by the following provision: The customs or enterprises may entrust a social intermediary agency to issue professional conclusions on matters concerning enterprise certification.

Measures for general certified enterprise management	Amended: 1. The inspection rate is reduced to below 50% of the average inspection rate of general-credit enterprises. 2. Risk guarantees can be reduced moderately, etc.
Measures for advanced certified enterprise management	Amended: 1. The inspection rate is reduced to below 20% of the average inspection rate of general-credit enterprises. 2. Advanced certified enterprises can apply for exemption of guarantees. 3. The audit and inspection frequency is reduced.
Measures for discredited enterprise management	Amended: 1. A high average inspection rate of over 80% is adopted; 2. Fees for hoisting, shifting, warehousing, etc. shall not be exempted even though an enterprise passes inspections. 3. The consolidated tax collection policies are not applicable. 4. The audit and inspection frequency is increased.
Recognition of self-disclosure	Added: Cases where enterprises take the initiative to disclose their illegal activities and are warned or fined less than RMB 50,000 by the customs are not recorded for credit status consideration.

KPMG observations

1. The management measures are more favorable to high credit enterprises.

This is the optimal benefit of the New Measures. In the past, most import and export enterprises complained that credit management did not make them feel favored over other enterprises. The New Measures are more specific and clear in preferences to high credit enterprises. For example, for general certified enterprises, the inspection rate is reduced to below 50% of the average inspection rate of general-credit enterprises and their risk guarantees can be reduced moderately; for advanced certified enterprises, that percentage is further reduced to below 20%, and they can apply for exemption of guarantees and be subject to audits and inspections less often. These preferences are highly practical and beneficial than before, which will make import and export enterprises strongly feel favored.

2. The punishment on discredited enterprises becomes severer.

Harsher punishment better drives credit management system setup. The New Measures impose severer punishment on discredited enterprises. For examples, the average inspection rate is set to over 80%; discredited enterprises are not exempted from fees for hoisting, shifting, and warehousing, etc. even though they pass inspections; these enterprises

will be subject to a higher audit and inspection frequency as well as joint sanctions by relevant national departments; and it will take a discredited enterprise 1 more year to upgrade to a general-credit enterprise. These are highly effective measures.

3. The New Measures further clarify regulations on intermediary agencies.

The New Measures represent a decisive step in this regard, as per which the customs or enterprises may entrust social intermediary agencies to issue professional conclusions on matters concerning enterprise certification. The Old Measures, however, stated that the customs or enterprises may entrust qualified intermediary agencies to certify the enterprises, and the certification results approved by the customs may be used as references for determination of enterprise credit status. This simple amendment to accept conclusions from intermediary agencies is a substantial step to promote the professionalization and socialization of certification and makes space at the law and regulation level. Of course, we will maintain attention to and look forward to the detailed implementation regulations, which improve the customs credit management system.

4. Self-disclosure is further recognized and advocated.

The Criteria of Certified Enterprises of the Customs Administration has recognized self-disclosure and set the limit to RMB 30,000. The New Measures specify that an enterprise's illegal activity warned or fined less than RMB 50,000 by the customs after self-disclosure will not be recorded for credit status consideration, a provision with better effect, higher clarity, and greater amount limit. The move to migrate the self-disclosure policy from the Regulation of the People's Republic of China on Customs Inspection to enterprise credit management demonstrates the customs' further recognition of the policy and advocacy of self-regulation of enterprises. Import and export enterprises should keep an eye on this policy and take full advantage of it.

5. Enterprises should submit annual reports as required to avoid anomaly records.

It is reported that the Annual Report of Registration Information on the Customs Declaration Entity (submission of this report for 2017 has been suspended) stipulated in the Provisions of the Customs of the People's Republic of China on the Administration of Registration of Customs Declaration Entities (Decree No. 221 of GACC) will be replaced by the Annual Report on Enterprise Credit Information. Import and export enterprises are hereby informed to prepare the information and submit the report on time after the customs promulgates the specific methods of operation. The information in the report should be clear, accurate and up-to-date, so as to avoid anomaly records. If an enterprise is on the list of enterprises with information anomaly, its credit rating cannot be increased. Anomaly records may be publicized by the customs, resulting in reputation damages. The enterprises stay listed for more than 90 days will be rated as discredited enterprises. Therefore, abnormal records have a series of adverse impacts on enterprises.

Services that KPMG can provide

1. Analyze and interpret customs credit management trends and customs policies and regulations, and provide training on and share information about AEO certification.

2. Assist with upgrade certification and re-certification. We can find out weaknesses and put forward improvement suggestions through multi-angle and comprehensive analysis of enterprises' internal control systems, financial status, and import and export control, and press ahead improvement to meet the customs' certification standard for high credit enterprises.

3. Assess certification conditions and issue professional reports as a professional intermediary agency for enterprises in accordance with the provision of the New Measures, which states that "The customs or enterprises may entrust a social intermediary agency to issue professional conclusions on matters concerning enterprise certification".

4. Provide the annual internal customs audit service. KPMG can help enterprises fully understand their level of conformity with customs requirements by providing the annual internal audit service and offering improvement suggestions.

5. Provide overseas business development advisory services. As AEO mutual recognition develops, KPMG can leverage our global service network to inform enterprises of AEO policies, trade control, regulatory requirements and other information about countries concerned. We can also provide advisory services to facilitate enterprises in going global, advocating "The Belt and Road" policy and expanding overseas business presence.

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