

# China Tax Alert

Issue 26, December 2018

## New Cross-Border E-commerce Policy Was Issued, Good News For The Sector

### Regulations discussed

#### In this issue:

[Notice on Work Relating to Improved Regulation of Cross-border E-commerce Retail Importation \(Shang Cai Fa \[2018\] No. 486\)](#)

[Notice on Improving Tax Policies for Cross-border E-commerce Retail Importation \(Cai Guan Shui \[2018\] No. 49\)](#)

[Announcement on Adjustment of List of Goods under Cross-border E-commerce Retail Importation](#)

### Background

The State Council decided to improve the current policy for cross-border e-commerce retail importation and expand the scope of application at a recent executive meeting. The relevant government authorities subsequently issued new supporting rules to adjust the regulations on cross-border e-commerce retail importation. More measures conducive to the growth of the sector have been introduced while the new regulatory requirements have been clarified. The new policy will come into effect on 1 January 2019. In this article, KPMG will introduce the relevant regulations and present a brief analysis of the opportunities it will bring to the cross-border e-commerce sector.

### What the new policy is about

#### Applicability clarified

Under the transitional provisions introduced since May 2016, retail imports through cross-border e-commerce channels are regulated as "personal articles on a temporary basis". As a result, the rights and responsibilities of the parties involved are not clearly defined. Expectations regarding the policy are in flux. The new policy makes it clear that cross-border e-commerce retail importation will be regulated as "imported articles for personal use". The transitional period which has lasted two and a half years is now coming to an end, setting the stage for alignment with the E-Commerce Law.

#### Rights and responsibilities defined

The responsibilities of the parties involved in cross-border e-commerce retail importation, including cross-border e-commerce enterprises and platforms, domestic service providers, consumers and government departments, have been clearly defined under the new policy to ensure that they can regulate their conduct and that the new policy can be implemented successfully. With clearly defined responsibilities, the interests of the parties can be better protected, creating conditions for the sector to develop in a regulated and healthy manner.

## **Higher limit and more taxable items added**

The changes are listed below:

Items compared	Before 1 January 2019	After 1 January 2019
Single transaction limit	RMB 2,000	<b>RMB 5,000</b>
Annual transaction limit	RMB 20,000	<b>RMB 26,000</b>
A commodity whose value exceeds the single transaction limit but does not exceed the annual transaction limit	Regulated as general trade	<b>Subject to tax at the rate applicable to goods imported through cross-border e-commerce channels</b>
A commodity whose value exceeds the annual transaction limit	Regulated as general trade	Regulated as general trade
Number of taxable items in the list	1258 taxable items	<b>63 new taxable items for which there is a huge demand are added, bringing the total number to 1321</b>

It is noteworthy that under the new policy, “a commodity whose value exceeds the limit for a single transaction but does not exceed the annual transaction limit” will be subject to tax at the rate applicable to goods imported through cross-border e-commerce channels. Though the tax levied remains unchanged compared to the expiring policy, the complex procedures and regulatory requirements to which general trade is subject will no longer apply to cross-border e-commerce retail importation. It will encourage consumers to purchase expensive consumer goods, thus contributing to further upgrading consumption in China.

### **Alignment with AEO certification**

Enterprises engaged in cross-border e-commerce retail importation will be included in the customs credit management system. Differentiated customs clearance and management measures will be implemented according to credit ratings. The efficiency with which an enterprise's imported goods are cleared will depend largely on its credit rating assigned in the customs credit management system. The average inspection rate of enterprises with high credit ratings is less than 20% of the average inspection rate of those with low credit ratings.

### **Expanded scope**

In addition to the fifteen cities chosen for the pilot project, 22 new cities have been included in the scope to further improve the geographic layout and to better satisfy the public's demand for imported goods.

### **Relaxed regulatory requirements**

The new policy makes it clear that cross-border e-commerce retail imports will be regulated as imported goods for personal use. Licenses and approvals, registration or filing requirements applicable to first-time importers will not be enforced for cross-border e-commerce retail imports. This will serve as the basis for specific regulatory requirements and is also what industry players are most concerned about.

### **More rigorous regulatory requirements**

Participants need to comply with stricter regulatory requirements under the new policy. For example, enterprises that engage in producing or transmitting false “three documents” information or facilitate reselling in breach of the rules will be subject to penalties; where the case amounts to a criminal offense, the offender will be prosecuted for criminal liability

according to the law. Illegal use of other citizens' identity information to engage in cross-border e-commerce retail importation will be handled as smuggling. In addition, reselling of goods purchased for personal use is forbidden.

### **KPMG Observations**

The cross-border e-commerce sector has met consumers' fast-growing and increasingly diversified demands. Their interests are at stake as the new policy will have a big impact on the development of the sector.

#### **The transitional period coming to an end**

Retail imports through cross-border e-commerce channels will be "regulated as imported goods for personal use" instead of "personal articles on a temporary basis". The change in the regulatory approach will be a long-term provision, which is conducive to the creation of a stable policy environment. Cross-border e-commerce enterprises will be in a good position to make long-term business plans. The new policy will support the cross-border e-commerce sector, promote its development in a healthy and regulated manner and maintain a fair market environment.

#### **Benefits for consumers**

With the annual transaction limit raised and more taxable items added into the list, consumers can buy more high-end goods through cross-border e-commerce retail importation. Cross-border e-commerce operators can expand their activities while more choices will be available for consumers.

#### **The practice of consumers purchasing on cross-border e-commerce platforms and picking up their items in brick-and-mortar stores**

The practice of consumers purchasing on cross-border e-commerce platforms and picking up their items in brick-and-mortar stores that is carried out outside special zones is "forbidden in principle" under the new policy. In fact, cross-border e-commerce operators and consumers have been looking forward to showrooms and store pickup outside the bonded zone. The new policy has left room for special cases to be discussed. The criteria for exceptions and the regulatory approach remain to be further explored.

#### **Compliance**

Though the new policy is good news, cross-border e-commerce enterprises and platforms, domestic service providers, consumers and other parties should attach greater importance to compliance, fully understand the requirements they are expected to comply with in their business activities, and fulfill their duties and responsibilities.

KPMG follows closely developments in the cross-border e-commerce sector, and has accumulated a wealth of experience in macroeconomic policy, cross-border e-commerce and customs-related matters. We can provide the following services for our clients to help them grasp at opportunities and achieve steady growth:

- Assistance in establishing cross-border e-commerce enterprises, operational advisory and tax analysis.
- Special assistance for imported goods classification, price review, customs clearance.
- Compliance check review and optimization recommendations.
- Assistance in application for AEO certification and recertification.

An aerial photograph of a coastal road running parallel to a vibrant turquoise sea. The road is dark asphalt with white dashed lines, curving along a rocky shoreline. The water is a deep turquoise color with darker, shadowed areas. The surrounding land is a mix of green vegetation and rocky terrain.

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