

# How we can help

Our team of customs duty experts will assist your company navigate through the complexities of complying with customs duty obligations. This will allow you to proactively mitigate inherent customs duty non-compliance risks.

To achieve this, KPMG provides the following services:

- Carrying out in-depth customs compliance review
- Assisting you with Post-Clearance Audits
- Assisting to develop imports controls and compliance manuals
- Customs Bonds Cancellations
- Pre-importation rulings
- Tariff classification analysis
- Appeals and refunds

“We are aware that no two client issues are the same. That is why we focus on understanding each client’s challenges and priorities before we tailor our solutions to meet the client’s unique circumstances.”

## Contact us

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# Customs Compliance Reviews

Tax and Regulatory Services catalogue

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## Introduction

While globalisation has increased the volume of international trade, revenues accruing to Revenue Authorities from customs duty have declined. This has necessitated the adoption of procedures by Revenue Authorities that seek to strike a balance between tax collection and trade facilitation.

Consequently, Revenue Authorities globally have adopted new approaches which seek to shift focus from customs compliance at entry points to carrying out post clearance reviews.

Under this approach, Revenue Authorities release a majority of shipments based on the importer declarations and only subject certain high risk consignments to further scrutiny.

## Kenya perspective

Closer home, the Kenya Revenue Authority (KRA) conducts Post-Clearance-Audits (PCAs) with an objective of ascertaining whether businesses subject to customs controls comply fully with all the relevant legislative requirements. PCA is used as a customs control measure to assess the accuracy and authenticity of declarations through the examination of relevant books, records and financial information kept by companies involved in international trade.

Recently, KRA has increased focus on PCAs in a bid to protect the tax base. Many of these audits have generated tax demands running into millions of shillings. It is therefore important for importers to ensure that they are compliant from a customs perspective to forestall any catastrophic impact of the PCAs on their business operations.

PCA focuses on persons involved in the international movement of goods and specific targets include importers (home use, warehouse, exempt), exporters, clearing agents and transit carriers amongst others.

## The customs value chain



### So what does the KRA check during PCAs?

By carrying out PCAs, KRA seeks to check whether all imports entered through self-assessment are accurately declared and that they have been properly valued and classified for customs duty purposes.

For importers who are under special customs schemes, KRA seeks to check whether all the conditions for customs duty drawback, refunds, remissions, rebates and import and export prohibitions and restrictions (license & quotas) are observed.

Finally, the KRA also confirm whether the importer used the correct Customs Processing Codes (CPCs) for purposes of determining the correct customs duty as well as import VAT.



### For proper valuation of goods to be declared, the following costs should be included in customs value:

- Transportation costs of the goods to the port or place of importation into a state except for air freight costs
- Cost of insurance – An estimate of 1.5% of Cost & Freight (CF) value is considered as insurance where the insurance value is not explicitly stated on an invoice
- Loading, unloading and handling charges of the goods to the port or place of entry
- Advance payments made earlier but not reflected in the commercial invoice
- Commissions and brokerage fee except buying commissions
- Royalties and license fees related to goods being valued that the importer must pay as a condition of sale
- Cost of containers which are treated as being one with goods in question
- The value of any part of the proceeds of any subsequent resale, disposal or use of the goods that accrues directly or indirectly to the seller

Failure to take into account the above adjustments as stipulated under Paragraph 9 of the Fourth Schedule to EACCMA, 2004 exposes the importer to assessments, penalties and interest.

In addition, if found to be non-compliant, the KRA will profile the company for pre-clearance reviews on future imports which increases the cost of importation.



## Triggers of Tax Audits

The overriding objective of PCAs is to facilitate faster clearance of goods by shifting from detailed reviews of every custom declaration to risk based examination.

Some triggers for PCAs include:

- Fluctuations in declared values of different consignments of similar products
- Comparison with declared values of similar goods imported by unrelated buyers
- Importers under customs duty remission schemes
- Reputation of clearing agents
- Related party transactions
- Importers of products subject to licenses/royalties
- Importers of sensitive items