



China Customs Implement an Advance Valuation Review System for Imported Goods

Regulations discussed in this issue:

- Notice on Promulgation of the Provisional Regulations on the Advance Valuation Review on Import Goods, Shushuifa [2011]No.419, issued by the General Administration of Customs (GAC) on November 29, 2011

Background

The General Administration of Customs promulgated Notice on Promulgation of the Provisional Regulations on Advance Valuation Review on Import Goods, (Circular 419) on 29 November , 2011, requiring all the PRC customs houses to implement an Advance Valuation Review system for imported goods (Advance Valuation Review) by 1 January, 2012.

Below is our analysis and understanding of Circular 419 to help enterprises keep abreast of the main content of the customs Advance Valuation Review system and to make effective use of the system.

Main contents

1. Basic concept of the Advance Valuation Review

The Advance Valuation Review is a process by which an enterprise applies to the customs house in the destination port of its import goods for a review of the dutiable value of such goods before they are declared at the customs for import. When the goods are actually declared for importation, the customs may compute and levy import duty on the previously reviewed dutiable value of the imported goods.

The Provisional Regulations on the Advance Valuation Review on Import Goods are formulated in accordance with the relevant provisions of the Regulations of the People's Republic of China on Import and Export Duties, the Measures of the Customs of the People's Republic of China for the Administration of the Levying of Duties on Import and Export Goods and Measures of the Customs

of the People's Republic of China for the Assessment and Determination of Dutiable Value of Import and Export Goods.

2. The customs department in charge of the Advance Valuation Review

The functional tariff departments of the various customs houses directly under the GAC (including the commodity price information agencies established by the GAC in such customs houses) will be in charge of the Advance Valuation Review in their respective customs district, the specific review of the applicant enterprises' qualification, assessment of the dutiable value of the goods under the Advance Valuation Review and the issuance of the Advance Valuation Review Decision of Import Goods.

3. Qualification for applying for an Advance Valuation Review

The Provisional Regulations on the Advance Valuation Review on Import Goods provide that enterprises that have a Class A or AA status may apply for an Advance Valuation Review.

The competent departments of the customs houses in various districts may set out other conditions for the qualification of the applicants according to the circumstances of their districts. For example, the Qingdao Customs also requires that enterprises may apply for an Advance Valuation Review only when they are the operators or consignees of import goods.

4. The scope of commodities under advance valuation review

The commodities listed in the scope of Advance Valuation Review are mainly the commodities that are difficult for the customs and its functional department to assess and determine their values on site. Each customs house directly under the GAC may set out the scope or conditions of the commodities applicable to Advance Valuation Review according to the circumstances of valuation administration of its customs district.

The Provisional Regulations on the Advance Valuation Review on Import Goods also provide that an Advance Valuation Review mainly applies to the goods imported from offshore while the customs houses in various districts may have discretion to decide whether or not to bring the bonded goods sold domestically under an Advance Valuation Review. So far the Qingdao Customs and the Nanjing Customs have clarified not to put such goods under the Advance Valuation Review.

In addition, these provisional regulations also provide that an Advance Valuation Review does not apply to import goods that are valued using a certain formula.

5. Operational process for an Advance Valuation Review

The enterprise qualifying for an Advance Valuation Review shall submit its written application for an Advance Valuation Review to the customs house in the destination port of its import goods at least 15 days prior to the date of the customs declaration of its import goods, and providing the information of the goods, buyer and seller, transaction, price and other required details. The enterprise shall also provide, together with its submission, copies of contract, invoice, other commercial bills and business communications, description of commodity and market price in connection with the import goods.

After receiving the application, the customs house will review and examine the transaction value of the import goods and if necessary, may request the enterprise to provide further information on the import goods. Where the information provided by the enterprise is found inaccurate or incomplete, the

customs house may revoke its Advance Valuation Review Decision on Import Goods (Advance Valuation Review Decision).

Where the customs house is satisfied, after review, that the applied value is in compliance with the relevant provisions on the transaction value, it will issue an Advance Valuation Review Decision. The Advance Valuation Review Decision is valid for 90 days only for the goods under application and in special circumstances, may be extended for 30 days with the consent of the customs. The validity period of the Advance Valuation Review Decision for the import goods under long-term contract will be separately determined by the customs taking account of the execution period of the contract.

Where the contract terms for the import goods whose dutiable value has been approved after the Advance Valuation Review process are subject to change due to special reasons, the enterprise in question must reprocess the Advance Valuation Review application with the customs by presenting a written explanation to the customs.

KPMG observations

The Advance Valuation Review on Import Goods is an important step to improve the efficiency of the customs clearance for enterprises; it helps reduce the disputes on the dutiable value of import goods between the taxpayers and the tax levying authority and facilitates trade operation. By applying the Advance Valuation Review, an enterprise may anticipate all the elements to be included into the dutiable price of the goods, estimate the cost of its import and enhance the predictability of its commercial deals.

Though these provisional regulations have clarified the relevant issues, there are a number of issues regarding the practical operation to be further specified and even some breakthrough to be made with respect to, for example:

- The Advance Valuation Review is not specified for the import goods involving royalty payment or related-party transaction
- The application processing time by customs is not specified
- An Advance Valuation Review Decision issued by customs is generally valid only in its customs district. The issue of how to effect such a decision across different customs districts on a unified basis is not clarified.

However, the following issues are noteworthy for enterprises to consider when applying for an Advance Valuation Review:

- Since enterprises with a Class A status may apply for an Advance Valuation Review only, an enterprise needs to consider the much stricter compliance requirements in Class A status when it obtains such status only for applying for Advance Valuation Review
- An enterprise should make an analysis of the pros and cons in applying for an Advance Valuation Review and consider the practical conditions, particularly the import deals involving royalty payment and related-party transactions. It should also review the applicability of its transfer pricing policy from a customs valuation perspective
- A review needs to be made in advance regarding the relevant elements that affect the dutiable value of import goods (such as country of origin and tariff code of commodities) to avoid unexpected issues arising, which may impede the Advance Valuation Review process

- A review needs to be made to ensure the information provided in the application materials is true and complete
- An enterprise should exert enough prudence in applying for an Advance Valuation Review to avoid applications being randomly lodged and approved, but with no goods imported. As a result, its qualification for an Advance Valuation Review application may be revoked by customs
- An enterprise should strengthen its communications with customs, provide required explanations and supplementary materials in a timely manner and correspond to the customs opinions on an Advance Valuation Review
- Currently, the scope of commodities applicable to an Advance Valuation Review is limited. For those commodities not covered in the scope, the enterprise may continue following the existing informal pre-valuation process, such as price registration for automobiles and valuation by formula for mineral products.

An enterprise should communicate with the relevant customs department regarding questions arising during the Advance Valuation Review process or seek third party professionals for technical support so the process is not impeded by insufficient provision of information or poor communication and that the customs compliance risks are not created due to an improper disclosure of information.

KPMG services

The customs valuation is a very technical process and KPMG can provide the following services:

- Desktop analysis of the client's customs valuation risk and the feasibility for applying for an Advance Valuation Review
- Communicate with the relevant customs house to obtain opinions on the client's customs valuation issues
- Assist the client with the submission of the required documents and the processing of necessary formalities for an Advance Valuation Review, price registration or valuation with a certain formula
- Assist the client in valuation negotiation with the customs in charge

Table 1: Developments in formulation or promulgation of the operational procedures for the customs Advance Valuation Review (as at the April 30, 2012, based on open source information)

	promulgated	Under formulation
Beijing	Yes	N/A
Tianjin	No	Yes
Qingdao	Yes	N/A
Dalian	No	Yes
Shanghai	Yes	N/A
Nanking	Yes	N/A
Hangzhou	Yes	N/A
Guangzhou	Yes	N/A

Huangpu	Yes	N/A
Shenzhen	No	Yes
Gongbei	No	Yes
Fuzhou	No	Yes
Xiamen	No	Yes
Chengdu	No	Yes
Chongqing	Yes	N/A

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