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CHINA TAX ALERT

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Examination and approval procedures temporarily relaxed for certain processing trade operations in Guangdong

Regulations discussed in this issue:

- *Notice on Reform of Administrative Examination and Approval for the Processing Trade in Guangdong Province (Shangchanhan [2013] No.449, issued on 16 July 2013)*
- *Circular on Bonded Supervision Operation Involved in Reform of Administrative Examination and Approval Procedures in Guangdong Province (GAC Circular [2013] No. 51, issued on 2 Sep 2013)*

Background

On 28 December 2012, the 30th Session of the Standing Committee of the Eleventh National People's Congress (NPC) passed a resolution authorising the State Council to temporarily amend certain administrative examination and approval procedures for the processing trade and the domestic sale of bonded material or finished goods in Guangdong Province for a period of three years.

Until September 2013, the Ministry of Commerce (MOFCOM) and the General Administration of Customs (GAC) has issued the mentioned regulation/notice respectively, to specify the scope and the detailed arrangements of the resolution. Due to this new regulation/notice, processing trade enterprises in Guangdong Province will be subject to simpler and more flexible examination and approval procedures involving Customs and the Bureau of Foreign Trade and Economic Cooperation (BOFTEC).

Main issues

1. Under the revised rules, operating enterprises no longer need to submit a Certificate of Approval for Processing Trade Business to the customs authority, including the Certificate of Approval for Processing Trade Business for Network-Supervision Enterprises and/or the relevant revision certificate, when applying for registration and/or revision of their processing trade handbooks and/or E-books. Prior to this, operating enterprises were first required to obtain the Certificate of Approval for Processing Trade Business from BOFTEC before making a customs application. This change therefore simplifies the whole application procedure for operating enterprises engaged in the processing trade.

2. However, this simplified procedure only applies to processing trade arrangements in which both the operating enterprise and the processing enterprise are located in Guangdong Province. If either of the two parties is not located in Guangdong Province, both parties are still required to follow the previous practice in which the operating enterprise applies for the Certificate of Approval for Processing Trade Business with its in-charge BOFTEC, while the processing enterprise applies for the Production

Capacity Certificate for Processing Trade Enterprises with its own in-charge BOFTEC, pursuant to *Measures of PRC Customs on Administration of Processing Trade Operations in Multiple Cities (GAC Decree No. 74)*. After this, each party can apply for handbook/E-book registration with its own in-charge customs.

3. Under the revised rules, operating enterprises are no longer required to submit the Certificate of Approval for Domestic Sale of Bonded Materials to the customs authority when applying to make domestic sales of bonded materials and finished goods. This is expected to grant operating enterprises increased flexibility in developing their domestic markets, which will lead to greater efficiency due to reduced administrative costs.

KPMG observations

The simplified rules and procedures for applications and approvals relating to processing trade enterprises are likely to improve the overall operational flexibility of such enterprises. Likewise, the changes will increase the capacity of these companies to respond more effectively to market changes and will mitigate the risk of non-compliance.

In the past, operating enterprises had to apply for a Certificate of Approval for Processing Trade Business to cover their customs handbooks or E-books one by one. With these new rules, operating enterprises only need to acquire the Production Capacity Certificate for Processing Trade Enterprises from the relevant BOFTEC prior to applying for customs handbook/E-book registration. Since the validity period of the Production Capacity Certificate for Processing Trade Enterprises is normally one year (generally longer than that of customs handbooks/E-books), operating enterprises can apply for customs handbook/E-book registration more freely within that one year period. The flexibility that comes with the cancellation of the requirement to obtain a Certificate of Approval for Processing Trade Business may also encourage more processing trade companies to locate in Guangdong Province.

Furthermore, as BOFTEC authorities are simplifying their examination and approval procedures, they are likely to re-focus their functions on stricter monitoring of the actual operations and production capacity of the processing enterprises. In this regard, they may specialise in examining the enterprises' energy saving and environmental protection capacities, labour/employment conditions, and use of high technology equipment in terms of viable Key Performance Indicators (KPIs). The authorities are likely to require higher operating standards and technological enhancement, which could push processing trade enterprises to undergo business transformations and upgrade their technologies. Since the details of the examination system and the relevant KPIs have yet to be announced, we would suggest that processing trade companies continue monitoring future developments in this area.

It is worth noting that, according to the Organisation Reform and Function Transformation Scheme of the State Council approved in the First Session of the Twelfth NPC, the government should reduce and decentralise its examination and approval power over various production and operating activities. So far, the State Council has already reduced and decentralised up to 117 administrative examination and approval procedures. Although the new regulations discussed in this article currently apply only to Guangdong Province for a period of three years, we would not discount the possibility of these new practices being formally established or promoted nationwide.

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