China Tax Alert

Issue 14, March 2016

China's New Import Tax Polices for Cross-border E-commerce worth the attention of the whole industry

Regulations discussed in this issue:

- Circular of the Ministry of Finance, General Administration of Customs and State Administration of Taxation on the Tax Policy for Cross-border E-commerce Retail Imports (Cai Guan Shui [2016] No. 18), effective on and from 8 April 2016
- Circular of the Customs Tariff Commission of the State Council on Issues Pertaining to the Adjustment of Import tax for Imported Articles (Shui Wei Hui [2016] No. 2) effective on and from 8 April 2016

Background

In order to create a fair market environment and facilitate the sound development of cross-border e-commerce retail imports, the Ministry of Finance, General Administration of Customs and State Administration of Taxation jointly issued the Circular of the Ministry of Finance, General Administration of Customs and State Administration of Taxation on the Tax Policy for Cross-border E-commerce Retail Imports (Cai Guan Shui [2016] No. 18) on 24 March 2016 to adjust the tax policy for cross-border e-commerce retail (business to customer, or B2C) imports. In addition to the cross-border e-commerce channel for retail imports, there exist other channels for importing personal articles in China. Therefore, in order to improve the policy of import tax on imported articles, the Customs Tariff Commission of the State Council issued the Circular of the Customs Tariff Commission of the State Council on Issues Pertaining to the Adjustment of Import tax for Imported Articles (Shui Wei Hui [2016] No. 2) on 16 March 2016 to revise the classification of imported articles and to adjust corresponding import tax rates of imported articles. The two circulars will take effect on and from 8 April 2016.

Highlights

1. Imported cross-border e-commerce retail goods will be subject to import tariff, as well as import VAT and consumption tax, which are imposed on the general imported goods. Individuals (referring to "domestic residents" in the Announcement of the General Administration of Customs [2014] No. 56) purchasing such goods are taxpayers; the actual transaction prices (including retail prices, shipping cost and insurance premiums) are dutiable values;

2. The limit for a single transaction of imported cross-border e-commerce retail goods is RMB 2,000, and the limit for an individual's yearly transactions is RMB 20,000. The interim tariff rate of 0% is applied to cross-border e-commerce retail goods imported within the limit; import VAT and consumption tax will no longer be exempt and will be levied temporarily at 70% of statutory taxable amounts. A transaction that exceeds the limit for a single transaction and the limit for an individual's yearly transactions when added to the individual's previous transactions, and a single item of inseparable goods with a dutiable value of over RMB 2,000 will be levied in full as general trade;

3. An individual can apply for tax refunds if imported cross-border e-ecommerce retail goods are returned within 30 days after customs release; the individual's total transaction volume of the year will be adjusted accordingly;

4. Adjustments are also made to import tax rates of imported articles, which are to be divided into three categories (Category I, II and III) corresponding to tax rates of 15%, 30% and 60%.

Category I: Books and newspapers, publications, audio and video materials for educational use; computers, video cameras, digital cameras and other IT products; food and beverages; gold and silver; furniture; toys, gaming products, and festive and other recreational products;

Category II: Sporting goods (excluding golf balls and clubs), fishing tools; textiles and their manufactured goods; TV cameras and other electrical appliances; bicycles; other goods not included in Category I and III;

Category III: Alcohol and tobacco; valuable accessories, jewelry and gemstones; golf balls and clubs; luxury watches; cosmetics.

KPMG observations

Imported cross-border e-commerce retail goods and non-trade personal articles clearly defined

According to Circular [2016] No. 18, imported cross-border e-commerce retail goods are levied as general goods for tariff and import VAT and consumption tax. Prior to the effective date of the Circular, such goods are taxed with reference to the tax rate of personal articles and postal items. According to relevant provisions of the Customs Law of the People's Republic of China and Regulations of the People's Republic of China on Import and Export Duties, the tax rate of personal articles and postal items only applies to imported articles/items that do not exceed a reasonable amount for personal usage and are often of a non-trade nature.

Clarification of relevant comprehensive tax policies beneficial for the long-term development of the industry

Ever since the State Council issued the Guiding Opinions of the General Office of the State Council on Promoting the Healthy and Rapid Development of Cross-border E-commerce (Guo Ban Fa [2015] No. 46) , cross-border e-commerce has seen exponential growth. However, due to impacts of an immature and unsustainable tax system, a number of large enterprises have been taking a wait-and-see attitude. The issuance of the two Circulars are providing a clear tax rate structure for import tax on cross-border e-commerce imports and imported articles, and are helpful in eliminating major obstacles which impair the development of the industry. This is paving way for large enterprises to make medium and long-term decision and laying a solid foundation for the long-term development of the industry.

Adjustments to the comprehensive tax rate structure for import tax beneficial for growing a fair business environment

After the two Circulars take effect, there will be smaller room for taking advantage of tax rate differences among the import tax rates for general trade, cross-border ecommerce retail imports and imported articles. This may lead enterprises to focus on business operation and the formulation of long-term strategies, and reduce the distorting impact of short-term arrangements induced by tax burden differences on the industry;

In addition, the two Circulars will increase the comprehensive tax burden for cross-border e-commerce retail imports and imported articles, which can reduce current policies' negative impact on domestic retail business and general trade import business, creating a fair business environment.

Inevitable adjustments to the industry of cross-border e-commerce imports

The rapid growth of the cross-border e-commerce business in recent years bred impetuous and blind expansion within the ecological chain of cross-border e-commerce. Many enterprises focus on short-term advantages from tax differences for profits. The issuance of the two Circulars will dilute such advantages, and is set to reshuffle the industry.

Unclear aspects still worth the attention of enterprises in the short term

- The List of Imported Cross-border e-commerce Retail Goods has not been released yet. This directly affects pre-determination of business scope;

- A negative list system is not yet introduced into the examination and approval process. Enterprises still need to face uncertainty in early-stage planning;

- Specific quality inspection, control and quarantine regulations have not been issued yet, which may force some retailers of personal care products (such as food and cosmetics) to continue their wait-and-see attitude.

KPMG recommendations

- As major obstacles of early planning for cross-border e-commerce import projects have been basically eliminated, enterprises planning to engage in the cross-border e-commerce business can initiate specific research;

- Import projects currently in progress should evaluate the impact of the new policies effective on and from 8 April, and make timely adjustments to their operating strategies;

- Individual consumers shopping on overseas web store should stay informed about the impact of the new policies on cross-border online shopping, especially the possible impact of the adjustments made by customs to personal articles and postal items;

- Given the presence of quite a few uncertainties, relevant entities and individuals should keep abreast of the evolvement of the issue, and may seek assistance from professional firms if necessary.

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