



Tax News Flash

- Customs

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Samjong KPMG provides readers Customs related recent local issues and trends. This newsletter is a monthly publication of Samjong KPMG. If you need more detailed explanation, please feel free to contact Key contacts.



The following is a recent amendment to customs legislation in Korea.

1. Background

Article 33 of the Korea Customs Act stipulates the method of determining the customs value by deduction from the domestic selling price, which we refer to as the “Method 4”. In case of applying “Method 4”, customs authorities determine the customs value of imported goods by calculating “comparable ratio” corresponding to the profit or general expenses of the comparable company and deducting it from the price at which the goods are resold in Korea after importation.

In several cases where the Korea Customs Service has collected applying “Method 4”, importers have filed appeals on the grounds that the comparable companies selected in the process of determining the “comparable ratio” are significantly less comparable to the imported goods, and the courts have mostly sided with the importers on the grounds of errors in the process of calculating the “comparable ratio”.

In response, Korea Customs Service issued an administrative notice to amend the “Notice of Customs Valuation Operation (hereinafter referred to as the “Notice”) to improve the procedure for calculation the “comparable ratio” when determining the customs value applying the “Method 4” pursuant to Article 33 of the Customs Act and to specify the cases in which the “Method 4” cannot be applied.

2. Amendment Summary

(1) Cases in which the “Method 4” cannot be applied

- Provides that if the importer is unable to calculate the ratio of the importer’s profit & general expenses (“importer’s ratio”), “Method 4” may not be applied by using “comparable ratio” calculated by Customs

(2) Improvement of the procedure for calculation of “importer’s ratio” & “comparable ratio”

- Specifically stipulates the criteria for determining the product group to be calculated and the procedure for determining HS Code of comparable items
- Removes the limits on the number of comparable companies per stage of comparable companies’ selection
- Stipulates transaction amount criteria to ensure that comparable companies with similar import amounts to the importer are selected
- Prescribes a formula for calculating the “importer’s ratio” based on sales and cost of goods sold for each category of imported goods subject to “Method 4”
- Rationalizes the procedure for selecting comparable companies by fiscal year of importation

3. KPMG’s comment

The amendment is expected to have the effect of preventing the unreasonable application of the “Method 4” for taxation purposes in the future and to ensure that the “Method 4” are applied in accordance with the improved procedures and is also expected to increase the number of cases where the “Method 4” cannot be applied, and determination of customs value based on reasonable Standards (“Method 6”) is used.

When there is a customs value issue in a customs audit, the best scenario is to make customs authorities accept the transaction value (“Method 1”), however if customs authorities deny the application of “Method 1”, which uses the transaction value as the customs value, “Method 4” is the most common alternative valuation method. In this case, it may be advantageous for importers to consider the “Method 6-4”, which is a flexible application of the “Method 4”, to minimize the risk of additional customs duties and penalties.



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