Interim Measures on the Administration of Cross-Border E-Commerce Retail Imports of the PRC

Dan Young Business Consultancy — www.danyoungcpa.com

Unofficial English translation prepared for reference only. The official Chinese text prevails.

Contents

Table of Contents 1

Chapter I — General Provisions 1

Chapter II — Access and Registration of Retail Import Enterprises 2

Chapter III — Customs Clearance and Supervision 2

Chapter IV — Taxation and Tariff Policy 3

Chapter V — Quality and Safety Supervision 3

Chapter VI — Supplementary Provisions 4

Issued jointly by the Ministry of Commerce, National Development and Reform Commission, Ministry of Finance, General Administration of Customs, State Administration of Taxation, and State Administration for Market Regulation on November 21, 2018

Effective: January 1, 2019

Table of Contents

- Chapter I — General Provisions
- Chapter II — Access and Registration of Retail Import Enterprises
- Chapter III — Customs Clearance and Supervision
- Chapter IV — Taxation and Tariff Policy
- Chapter V — Quality and Safety Supervision
- Chapter VI — Supplementary Provisions

Chapter I — General Provisions

Article 1 — These Measures are enacted for the purposes of regulating the administration of cross-border e-commerce retail imports, promoting the healthy and orderly development of cross-border e-commerce, protecting the legitimate rights and interests of consumers, and maintaining national security and social and public interests.

Article 2 — "Cross-border e-commerce retail imports" (hereinafter referred to as "retail imports") referred to in these Measures means the import of commodities by consumers within the territory of China through cross-border e-commerce platforms connected to the customs network, with the commodities delivered directly from abroad.

Source: https://www.danyoungcpa.com/interim-measures-cross-border-ecommerce-retail-imports-prc-2018/

Article 3 — These Measures apply to retail imports conducted through cities designated by the State Council as comprehensive pilot zones for cross-border e-commerce.

Article 4 — The administration of retail imports shall adhere to the principles of government regulation, enterprise primary responsibility, industry self-regulation, and social supervision.

Article 5 — The Ministry of Commerce shall be the lead coordinating department, and together with relevant departments such as the National Development and Reform Commission, the Ministry of Finance, the General Administration of Customs, the State Administration of Taxation, and the State Administration for Market Regulation, shall establish a working mechanism for the administration of cross-border e-commerce retail imports and coordinate the resolution of major issues.

Chapter II — Access and Registration of Retail Import Enterprises

Article 6 — Cross-border e-commerce platform enterprises, cross-border e-commerce enterprises within China, payment enterprises, logistics enterprises, and customs declaration enterprises involved in retail import activities shall register with the customs authority in accordance with the relevant provisions and handle matters such as information registration, tax payment, and customs declaration.

Article 7 — Cross-border e-commerce platform enterprises shall fulfill the following obligations: (1) register with the customs authority and provide truthful information such as enterprise name, unified social credit code, website domain name, and contact information; (2) establish a mechanism for managing the access of cross-border e-commerce enterprises and commodities on the platform; (3) examine the identity information of consumers who place orders, and prevent the use of false identity information; (4) establish a system for handling consumer rights and interests protection, and properly handle consumer complaints and disputes; (5) cooperate with regulatory authorities in supervision and provide relevant data and information in accordance with the law; (6) other obligations provided for by laws and regulations.

Article 8 — Cross-border e-commerce enterprises shall fulfill the following obligations: (1) register with the customs authority and provide truthful enterprise information; (2) assume primary responsibility for the quality and safety of commodities; (3) entrust an enterprise registered with the customs authority to handle customs declaration and payment of taxes and fees; (4) establish a commodity quality and safety risk prevention and control mechanism, and a mechanism for recalling defective commodities; (5) protect the personal information of consumers and shall not sell, illegally provide, or disclose it; (6) remind consumers in advance of consumption-related civil and commercial legal risks before the conclusion of the order contract; (7) other obligations provided for by laws and regulations.

Article 9 — Logistics enterprises shall truthfully transmit logistics information such as logistics waybill number, commodity name, and transaction amount to the customs authority, and the logistics information shall be traceable throughout the entire process.

Article 10 — Payment enterprises shall truthfully transmit payment information such as the payer, payee, and payment amount to the customs authority.

Chapter III — Customs Clearance and Supervision

Article 11 — Retail imported commodities shall be cleared through customs in accordance with the personal article supervision mode. Consumption shall be limited to personal use, and such commodities shall not be resold into the domestic market.

Article 12 — The customs clearance of retail imported commodities shall adopt a management mode combining "list management" and "transaction limit management."

Article 13 — The list of cross-border e-commerce retail import commodities shall be determined by the Ministry of Commerce, the Ministry of Finance, and the General Administration of Customs, together with

Source: https://www.danyoungcpa.com/interim-measures-cross-border-ecommerce-retail-imports-prc-2018/

relevant departments, and adjusted in a timely manner based on development needs.

Article 14 — A single transaction limit and an annual transaction limit shall be set for retail imports. The specific limit standards shall be published by the Ministry of Finance, together with relevant departments, based on economic and social development.

Article 15 — The cumulative amount of a single retail import transaction completed by a consumer shall not exceed the single transaction limit. If the single transaction limit is exceeded within one order, the order shall be imported and cleared through customs according to the general trade mode.

Article 16 — The customs authority shall conduct risk analysis on cross-border e-commerce retail import commodities and implement differentiated customs clearance management based on the results of the risk analysis.

Article 17 — Cross-border e-commerce enterprises shall store information such as orders, payment, and logistics for a period of no less than three years from the date of customs clearance of the commodities, for future reference.

Chapter IV — Taxation and Tariff Policy

Article 18 — Import duties, import value-added tax, and consumption tax shall be collected on cross-border e-commerce retail import commodities in accordance with the law. Taxpayers shall be the consumers who purchase such commodities.

Article 19 — For retail import commodities within the transaction limit, the tariff rate shall be temporarily set at zero percent, and the import value-added tax and consumption tax shall be collected at 70 percent of the statutory tax payable.

Article 20 — For a single retail import transaction that exceeds the single transaction limit, or the cumulative annual transaction that exceeds the annual transaction limit, the commodities shall be imported and cleared through customs according to the general trade mode, and full taxes shall be collected.

Article 21 — Cross-border e-commerce platform enterprises, logistics enterprises, or customs declaration enterprises, as the withholding agents for taxes, shall fulfill their obligations to withhold and remit taxes and fees in accordance with the law, and truthfully declare to the customs authority.

Article 22 — Commodities returned due to quality or specification issues within 30 days from the date of customs clearance of the retail imports may be exempted from the tax already collected, and the corresponding transaction amount shall be adjusted.

Chapter V — Quality and Safety Supervision

Article 23 — Cross-border e-commerce retail import commodities shall comply with the mandatory standards or technical specifications of the country of origin or region. If there are different requirements between the mandatory standards or technical specifications of the country of origin and China, relevant laws and regulations shall apply.

Article 24 — Relevant government departments shall, in accordance with their respective responsibilities, conduct supervision and random inspections of retail import commodities, and promptly issue public warnings regarding the relevant risks.

Article 25 — Cross-border e-commerce enterprises shall establish a commodity quality traceability mechanism, so that the quality and safety information of commodities is traceable, responsible entities are identifiable, and the cause of problems is ascertainable.

Article 26 — Cross-border e-commerce enterprises shall promptly recall commodities that have quality and safety defects or do not meet the mandatory standards, and assume corresponding legal liability.

Source: https://www.danyoungcpa.com/interim-measures-cross-border-ecommerce-retail-imports-prc-2018/

Article 27 — Consumers enjoy the rights of information, choice, and fair trade in cross-border e-commerce retail imports in accordance with the law. Cross-border e-commerce enterprises shall inform consumers of the relevant product information, risk warnings, and after-sales service information in a conspicuous manner on the website.

Article 28 — Government departments shall establish a credit evaluation system for cross-border e-commerce retail imports, include cross-border e-commerce enterprises in the credit management of imports and exports, and implement joint incentives and disciplinary measures.

Chapter VI — Supplementary Provisions

Article 29 — Matters not covered by these Measures shall be governed by the Electronic Commerce Law of the People's Republic of China, the Customs Law of the People's Republic of China, the Law of the People's Republic of China on the Administration of Tax Collection, and other relevant laws and regulations.

Article 30 — These Measures shall be subject to interpretation by the Ministry of Commerce, together with the General Administration of Customs and other relevant departments.

Article 31 — These Measures shall come into force on January 1, 2019, and shall remain in effect until December 31, 2024, after which they shall be revised or renewed in accordance with the development of cross-border e-commerce.

Disclaimer: This English translation is provided for reference and informational purposes only. It is not an official translation and shall not be relied upon as legally authoritative. The original Chinese text jointly issued by MOFCOM, NDRC, MOF, GAC, SAT, and SAMR shall prevail in all legal matters. Dan Young Business Consultancy makes no warranty as to the accuracy or completeness of this translation and disclaims all liability for any loss or damage arising from reliance on it. For legal advice regarding cross-border e-commerce in China, please consult a qualified PRC legal professional.