

Regulations of the PRC on Customs Audit

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Chapter I — General Provisions

Article 1 — These Regulations are formulated in accordance with the Customs Law of the People's Republic of China for the purpose of establishing and improving the customs audit system, strengthening customs supervision and administration, maintaining normal economic order, safeguarding state tax revenue, and promoting trade facilitation.

Article 2 — For the purposes of these Regulations, "customs audit" means the verification, by the customs authorities, of the account books, accounting vouchers, customs declaration documents and other relevant materials of the audited party, and of the relevant imported and exported goods, and the supervision of the authenticity and legality of the import and export activities of the audited party, within three years from the date of release of the imported or exported goods, or within the customs supervision period for bonded goods or goods imported with duty reduction or exemption and within three years thereafter.

Article 3 — The customs authorities shall conduct customs audits in respect of the following enterprises and entities directly related to import and export activities:

- (1) enterprises and entities engaged in foreign trade;
- (2) enterprises engaged in external processing trade;
- (3) enterprises operating bonded business;
- (4) enterprises and entities using goods imported with duty reduction or exemption;
- (5) customs declaration enterprises;
- (6) consignees and consignors of imported and exported goods; and
- (7) other enterprises and entities directly related to import and export activities as prescribed by the General Administration of Customs.

Article 4 — In performing their customs audit duties, the customs authorities and their officers shall be objective and fair, seek truth from facts, be honest and devoted to their duties, keep confidential the trade secrets of the audited party, and shall not abuse their powers, engage in malpractice for personal gain, or neglect their duties.

Article 5 — Enterprises and entities directly related to import and export activities shall cooperate with the customs authorities in conducting customs audits, provide the account books, accounting vouchers, customs declaration documents and other relevant materials, and shall not refuse, delay, conceal or obstruct the customs audit.

Chapter II — Management of Account Books, Vouchers and Other Relevant Materials

Article 6 — Enterprises and entities directly related to import and export activities shall, in accordance with the Accounting Law of the People's Republic of China and other relevant laws and administrative regulations, establish and maintain account books, accounting vouchers and other relevant materials that truthfully record and reflect their production, business, import and export activities and financial receipts and expenditures.

Article 7 — The account books, accounting vouchers and other relevant materials of enterprises and entities directly related to import and export activities shall be retained for not less than three years from the date of release of the imported or exported goods; in the case of bonded goods or goods imported with duty reduction or exemption, the retention period shall be not less than three years after the expiry of the customs supervision period.

Article 8 — The account books, accounting vouchers and other relevant materials shall be true, complete and standardized. Enterprises and entities directly related to import and export activities shall not forge, alter, conceal or destroy the account books, accounting vouchers and other relevant materials.

Article 9 — Enterprises and entities directly related to import and export activities shall, in accordance with the relevant provisions, keep their account books, accounting vouchers, customs declaration documents and other relevant materials in a standardized manner and make them available for inspection by the customs authorities.

Article 10 — Where account books, accounting vouchers and other relevant materials are stored in electronic form, the audited party shall ensure that the electronic data are true, complete and accurate, and shall provide the customs authorities with the technical conditions and means necessary for reading and verifying such data.

Chapter III — Implementation of Customs Audit

Article 11 — The customs authorities shall, when conducting a customs audit, assign two or more customs officers to carry out the audit, present a written customs audit notice, and inform the audited party of the rights and obligations it enjoys.

Article 12 — Customs officers shall, when conducting a customs audit, present their customs work certificates.

Article 13 — The customs authorities may, when conducting a customs audit, exercise the following powers:

- (1) to consult, duplicate, inspect and verify the account books, accounting vouchers, customs declaration documents and other relevant materials of the audited party;
- (2) to enter and inspect the production and business premises of the audited party and the relevant imported and exported goods;
- (3) to inquire of the legal representative, the principal person in charge and other relevant personnel of the audited party concerning matters related to its import and export activities;
- (4) to make inquiries, through financial institutions, concerning the deposits and remittances of the audited party that are related to its import and export activities; and
- (5) to seal up the account books, accounting vouchers, customs declaration documents, other relevant materials, or goods that are or are suspected of being involved in violations.

Article 14 — Where the customs authorities inquire of the legal representative, the principal person in charge or other relevant personnel of the audited party, the persons so inquired shall cooperate and give truthful answers.

Article 15 — Financial institutions shall cooperate with the customs authorities in making inquiries concerning the deposits and remittances of the audited party that are related to its import and export activities.

Article 16 — Where the audited party considers that a customs officer has a relationship with it or with the matters under audit such that the fair performance of duties may be affected, it may apply for the recusal of that officer.

Article 17 — Customs officers shall keep confidential the trade secrets and business information of the audited party that come to their knowledge in the course of a customs audit.

Article 18 — The customs authorities shall, upon completion of a customs audit, produce a customs audit report and submit it to the audited party for comments. The audited party shall, within the prescribed time limit, return the report together with its written comments.

Article 19 — The audited party shall, within the prescribed time limit, cooperate in confirming the facts and materials set out in the customs audit report; where it has objections, it shall state them in writing, and the customs authorities shall conduct a review.

Article 20 — The customs authorities shall not, in the course of a customs audit, impede the normal production and business activities of the audited party.

Article 21 — Where the audited party is under investigation for a suspected violation of customs supervision provisions, or where its account books, accounting vouchers, customs declaration documents or other relevant materials are sealed up, the customs authorities shall handle the matter in accordance with the relevant laws and regulations.

Chapter IV — Handling of the Results of Customs Audit

Article 22 — Where the customs authorities, upon audit, find that the import and export activities of the audited party comply with the law and that the relevant duties and taxes have been paid in full and on time, they shall conclude the audit in accordance with the relevant provisions.

Article 23 — Where the customs authorities, upon audit, find that the audited party has underpaid or failed to pay duties or other taxes, they shall collect or recover the duties or taxes in accordance with the law and may impose a late-payment surcharge in accordance with the relevant provisions.

Article 24 — Where the customs authorities, upon audit, find that the audited party has committed an act in violation of customs supervision provisions or other relevant laws or administrative regulations, they shall handle the matter in accordance with the law; where a crime is suspected, the case shall be transferred to the judicial authorities for handling in accordance with the law.

Article 25 — Where the audited party has paid duties or other taxes in excess, the customs authorities shall, after verification, refund the overpaid amount in accordance with the relevant provisions.

Chapter V — Legal Liability

Article 26 — Where an enterprise or entity directly related to import and export activities refuses to provide, conceals, forges or destroys account books, accounting vouchers, customs declaration documents or other relevant materials, or refuses, delays or obstructs the customs audit, the customs authorities shall order it to make corrections and may impose a fine in accordance with the relevant provisions; where a crime is constituted, criminal liability shall be pursued in accordance with the law.

Article 27 — Where a customs officer, in the course of a customs audit, abuses his or her powers, engages in malpractice for personal gain, neglects his or her duties, or divulges the trade secrets of the audited party, he or she shall be subject to administrative sanctions in accordance with the law; where a crime is constituted, criminal liability shall be pursued in accordance with the law.

Article 28 — Where the audited party refuses to accept an administrative penalty decision made by the customs authorities, it may apply for administrative reconsideration or institute an administrative lawsuit in accordance with the law.

Chapter VI — Supplementary Provisions

Article 29 — The customs audit of bonded goods and goods imported with duty reduction or exemption shall be governed by these Regulations and the relevant provisions of the State.

Article 30 — These Regulations shall come into force as of June 1, 1997.

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