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Legal Rules for Foreign Trade and Customs Duty in China (I)

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PRC trading rights

It consists of foreign trading right and domestic trading rights

PRC trading regime opened up in 2004.

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PRC trading rights

Foreign trade rights:

Import-export rights and Declaration rights

Domestic trading (distribution) rights

commission agent, wholesale, retail, and franchise



Rights to make I/E declaration

- 1. FICE
- 2. Production type FIE
- 3. International courier / transportation company
- 4. Professional declaration agency



Registration as foreign trader

the FIE/FICE obtain I/E rights

> By completing the registration procedure as foreign trader

Why register?

> Only foreign trader can apply for customs registration & VAT export refunds



Types of customs registration

FIE/FICE	By obtaining a customs registration	As consignor or consignee
International courier, and transportation company	By obtaining a customs registration	As agent
Professional declaration company	By obtaining a customs registration	As agent

What is consignor or consignee?

- Consignor / Consignee <=> Exporter / Importer (principle)
- Consignor/consignee is one who has completed the registration procedure as foreign trader



Comparison between international courier/ transportation company with declaration company (agent)

- Both provide declaration services to the consignor/consignee
- 2. International courier/transportation co can only declare goods for the consignor or consignee under contract of carriage
- Declaration agent can make customs declarations for anyone who have got the I/E rights





After China's WTO accession		
	Administrative order by MOC	Details of the administrative order
1	Order No. 8 (2004) Effective on 2004.6.1	Chinese government opened up distribution sectors to foreign investors
2	Order No. 9 (2005) Effective on 2005.4.2	Production FIE can import, export & distribute 3rd party goods by expanding scope of business
3	Order No. 76 (2005) Effective on	FIE situated in FTZ and BLP is granted distribution rights to do trading with companies situated outside FTZ/BLP
4	2005.7.13 Order 94 (2005)	MOC delegates its approval
10	Effective on 2006.3.1	authority to provincial governments hinaTax&InvestmentConsultantsLtd

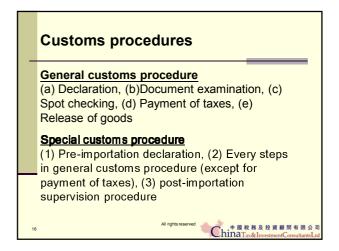
PRC trading rights for FICE 1. Foreign trade right 2. Declaration right 3. Distribution right * All above are subject to scope of business

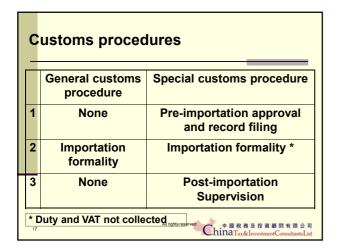


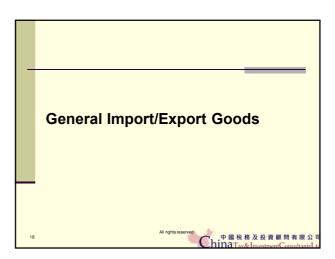




Classification of imported goods under PRC customs law Types of goods Customs procedure General goods Bonded goods Tax-exempt goods Tax-exempt goods Temporarily Import-export goods ChinaTax&levestmentCoroutiansLtd





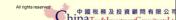


Customs Tariff

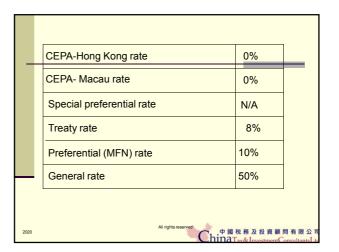
Table contents: Category, HS code, duty

Goods subject to different tariff table and rates, depending on the country of origin.

Example: for a resin based paint product with HS code 32081000, the applicable duty rate can range from 0% to 50%, depending on which table it applies.



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Certificate of Origin

- 1. "Nationality" of the product
- 2. The importing countries use this to impose duty, quantitative restrictions, or other trade measures.
- 3. Rules: wholly obtainable criteria, substantial transformation criteria (either change in HS code or value-added content)

Importer can apply for ruling on country of origin.

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Application for customs pre-shipment commodity classification

■ The consignee can apply for determination on product classification 45 days before shipment arrival day, per order no. 158 (2007) of the General Administration of Customs

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Dutiable value

In general, the customs use the transaction price as dutiable value, which is the adjusted CIF value.

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Dutiable base (transaction price)

excluding

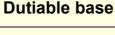
- Labor charges for installation, testing, training, maintenance fees for imported goods, etc;
- 2. Insurance premium and freight charge from port of receipt to inland destination
- 3. Import duty, VAT and consumption tax

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Dutiable base (transaction price)

including

- 1. Import commission;
- 2. Container cost not separable from good
- 3. Packing cost;
- 4. R&D charge and design fee that the importer bears;
- Royalty, re-sale handling fee, use or distribution fee the importer shares with foreign supplier, after importation of the goods.



Administrative Order [2006] 148, General Administration of Customs, China

- > Royalty payment relevant to the imported goods includes:
- (1) Patent products, or for use of patent to make the products;
- (2) For use of trade marks;
- (3) For copyrights;
- (4) For distribution of goods, which requires no further processing before sale.

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Customs valuation

If necessary, Customs will adopt the following valuation method, in that order:

- transaction price of same goods sold to China from the same exporting country:
- transaction price of similar goods sold to China from the same exporting country;

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Customs valuation

- Cost plus profit, transportation and insurance expenses incurred in exporting country;
- 4. Resale price in China (after deducting taxes, transport and insurance expenses)
- 5. Other reasonable valuation method

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Computation of import duty and domestic taxes

Example: lipstick imported from Japan (HS code 33041000), USD100 CIF, import VAT 17%, consumption tax 30%, the amount of total duty and taxes are given below:

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Computation of import duty and domestic taxes

1	Duty = CIF x rate	(US\$100*7) x 10% # = RMB70
2	VAT = (CIF + duty + CT) x 17%	(700+70 + 330) ## 17% = RMB187
3	Duty + CT + VAT = total duty & tax	70 + 330 + 187 = RMB587

Computation of import duty and domestic taxes

Consumption tax (CT) computation:

Composite value = (CIF + duty) / (1 - CT rate) Composite value = (700+70) / (1-30%) = 1,100

CT = Composite value x CT rate 1,100 X 30% = 330

Duty computation

- Value-based duty amount will vary with following:
- 1. applicable tariff table
- 2. HS code
- 3. dutiable base
- 4. applicable rate
- 5. applicable exchange rate

Applicable duty rate

Duty rate that applies on the day customs accept import declaration

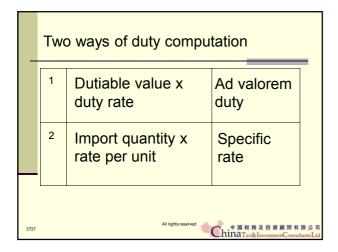
The "duty rate" on the day when the means of transportation declares entry into China, if customs has approved preshipment import declaration.

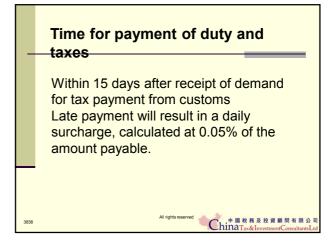
Applicable exchange rate

Customs shall adopt the base exchange rate on the Wednesday of 3rd week in preceding month as per PROC announcement, with reference to the day of applicable duty rate in that month.

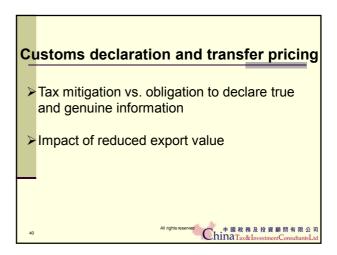
Computation of import duty and VAT (general I/E goods)

- Import duty rate: the date the Chinese customs accept the declaration for the import goods
- Date of exchange rate: the date for the applicable duty rate
- 3. Exchange rate: the base rate the PBOC announces on the Wednesday in the third week of the preceding month

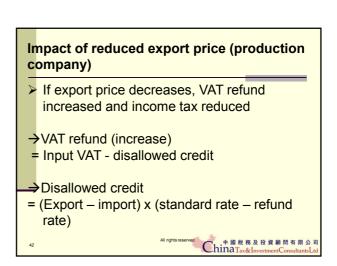




Different components between accounting cost and customs valuation 1. Customs valuation includes payment for use of intangibles and IP rights 2. Customs valuation excludes payment for import duty and VAT, and provision of services (installation and testing charges, etc) 3. Adopting different exchange rate



Impact of reduced export price (FICE) Only profit decreases, with no impact on VAT rebate amount Amount of VAT rebate = Purchase amount x VAT rebate rate



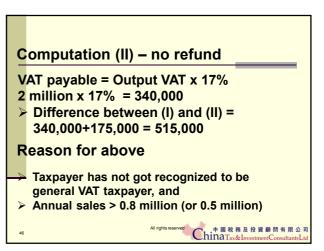
1. The goods it buys for purpose of export should not fall outside the scope of its business 2. The exporter should be a general taxpayer 3. The exporter needs to submit the application for export rebates within 180 days of the export declaration and produce prescribed documents to the tax bureau

4. If the exporter cannot do so, all the export sales

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are deemed to be local sales

VAT refund computation				
	Production enterprise	Commercial enterprise (FICE)		
Computation base	FOB value for export	Input VAT paid		
Method	Exempt-offset- refund (ECR)	Pay-first-and- refund-later		
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Export tax Export duty will impose on goods that will do harm to the environment protection, and the production of which consumes a lot of energy.

Exporter can obtain refund from the customs within 1 year from tax payment day under following circumstances: 1. Goods, for which import duty has been paid, returned to overseas sellers for quality reasons

Refund of duty

Exporter can obtain refund from the customs within 1 year from tax payment under following circumstances:

2. Goods, for which export duty has been paid and VAT export refund has been repaid, returned by oversea buyer due to quality or specification reasons.

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Refund of duty

 Short shipment of bulk cargo in respect of which duty is already paid, carrier or insurance company has agreed to pay compensation, taxpayer has not applied for refund of import or export duty.

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Refund of duty

4. Import/export goods, in respect of which consignor, carrier or insurance company has agreed to pay compensation for imperfection, poor quality, wrong specification or other situations, taxpayer has not applied for duty refunds.





Thank you alfred@china-tax.net www.china-tax.net

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