



Your Right and Opportunity to Reduce Customs Exposure

8 June 2021

KPMG Thailand



本日のアジェンダ

時間	アジェンダ	講師	言語
14:03 -	<ol style="list-style-type: none">1. 自主申告による関税の延滞税の軽減措置2. よく見受けられる関税の問題3. Covid-19による関税の救済措置	Malika	英語
14:33 -	<ol style="list-style-type: none">1. 本日のまとめ2. 関税サービスのご紹介	柴田	日本語
14:48 -	質疑応答 (Q&A)	Malika/柴田	英語/日本語
15:00	終了		



1. Customs' Self Disclosure and Duty Surcharge Reduction Schemes

New Ministerial Regulation re: Temporary Deduction of Customs Duty Surcharge

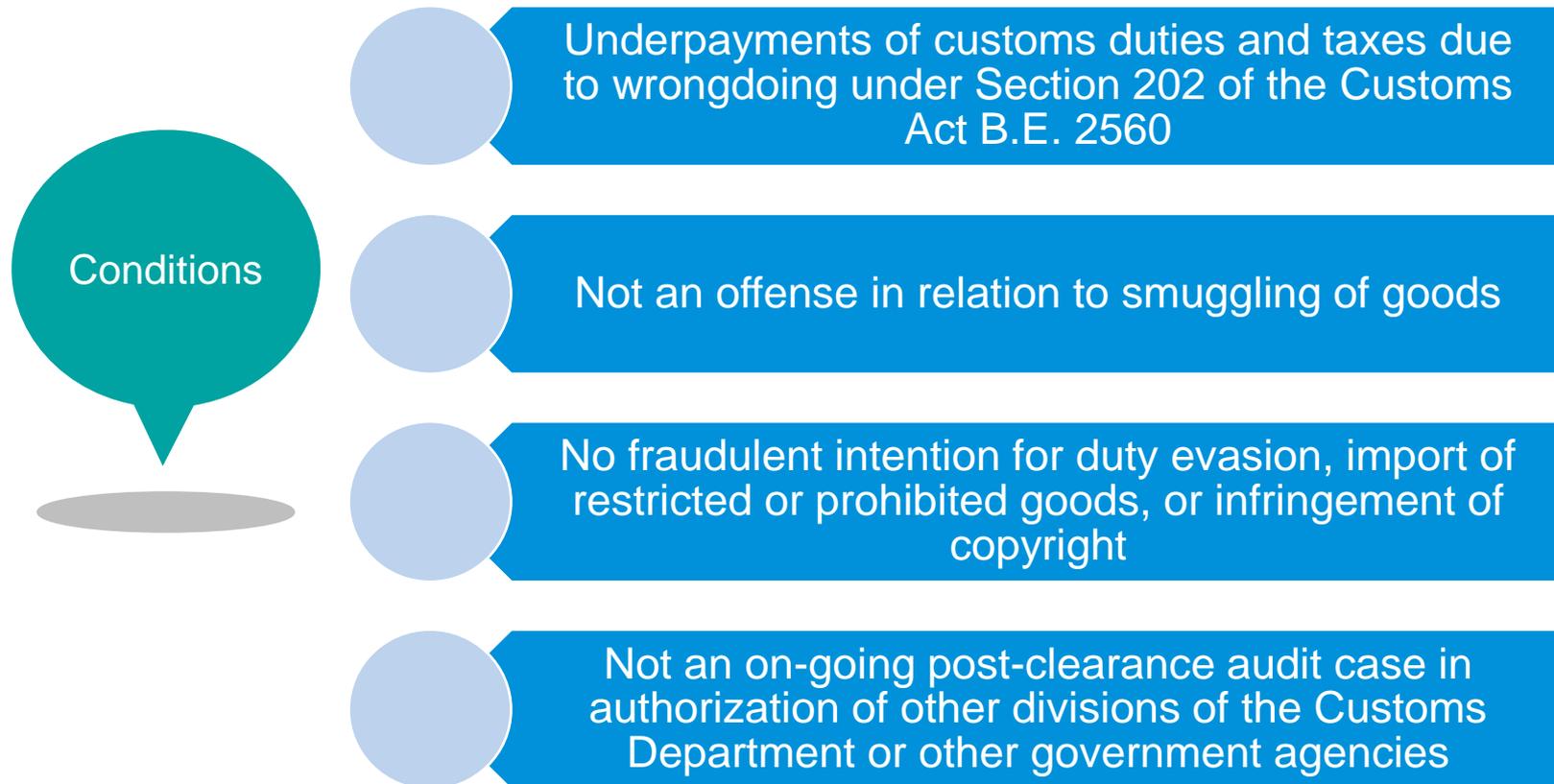
- Following the continuous outbreak of Coronavirus 2019 disease (Covid-19), the Joint Standing Committee on Commerce, Industry and Banking (JSCCIB) has submitted a letter to the Ministry of Finance to propose tax relief measures for business operators affected by the Covid-19 situation. The Ministry of Finance has agreed on the draft ministerial regulation on criteria for reduction in surcharge (No.2) B.E. in order to stipulate additional tax measures to alleviate economic impact of business operators.
- The importer or exporter will be granted a reduced surcharge at the rate of **0.25% per month** calculated on a full or an additional amount of duty to be paid from the day goods have been released from customs custody or the date of exportation until the date of duty payment.
- The current status is the Ministerial Regulation has been published in the Royal Gazette.

Current Duty Surcharge Reduction Scheme of the Self Disclosure Process

- According to Section 22 Paragraph 1 of Customs Act B.E.2560, the duty surcharge of **rate 1% per month** can be collected from the day goods have been released from customs custody or the date of exportation until the date of duty payment.
- However, Section 22 Paragraph 4 of Customs Act B.E.2560 in connection with the Ministerial Regulation RE: Criteria for duty surcharge reduction B.E.2560, dated 13 November 2017, the **duty surcharge can be reduced.**
- After the customs clearance process, eligible business operators who find a duty shortfall by themselves, can submit a request for self-disclosure to the Thai Customs Department in order to correct unintentional underpayments of customs duties and taxes.

Current Self-Disclosure Scheme (One Stop Service)

Eligible business operators can submit a self disclosure to the Customs Department headquarters in order to correct unintentional underpayments of customs duties and taxes.



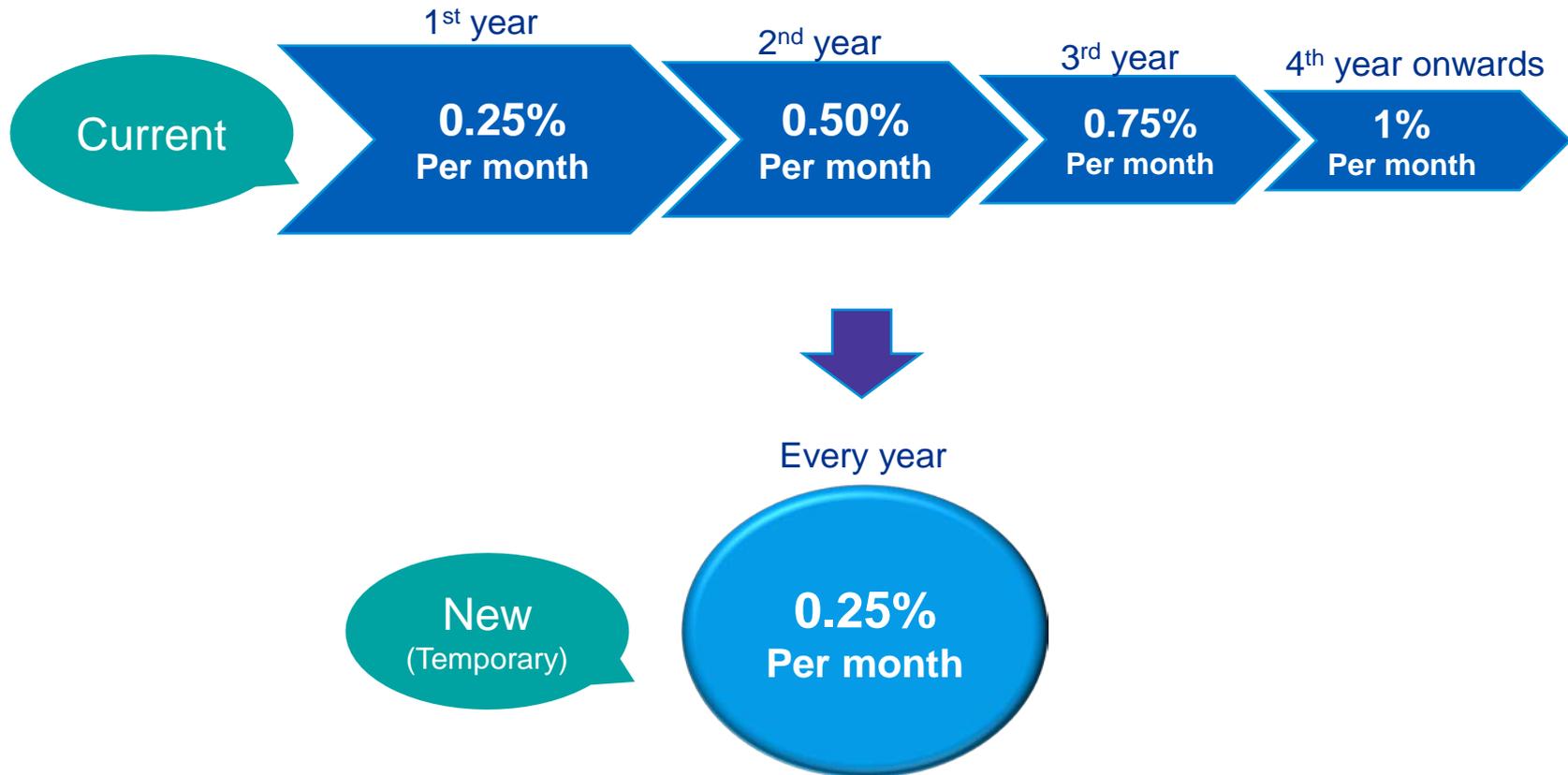
Current Self-Disclosure Scheme (One Stop Service)



- Direct payment of customs duty and other tax shortfall at the Thai Custom Department headquarters (not at different ports of entry)
- Exemption of customs duty penalty
- Reduction on monthly customs surcharge to 0.25%, 0.50% and 0.75% for goods imported within 1, 2 and 3 years respectively

Available period: 1 May 2020 to 30 September 2021

Summary of the Current VS New (Temporary) Duty Surcharge Reduction for Self-Disclosure Scheme



Timeframe of the Temporary Scheme



Customs' Self Disclosure Process

Through import port(s)

Through One Stop Service channel

1

- Identify the issue and match with related import entries

2

- Contact the customs official at import port(s) or One Stop Service channel

3

- Prepare a letter for submitting to the customs official for clarifying the issue and requesting for self declaration approval

4

- Follow up with the customs official to provide additional clarification or information as necessary

5

- The Customs official issues the order form to the applicant for additional tax payment

VAT Penalty

- Before the enforcement of the Customs Act B.E. 2560 on 13 November 2017, for the self-disclosure, the Customs Department had waived the VAT penalty;
- Due to the change of the law from the Customs Act B.E.2469 to the Customs Act B.E.2560 with unclear interpretation of related regulations, the Customs Department consulted with the Revenue Department to seek for confirmation whether the Customs Department can still waive the VAT penalty according to Clause 1 (1) of the Revenue Department's Order No. Thor.Por. 120/2545;
- Based on the current interpretation of related laws and regulations, Clause 1 (1) of the Revenue Department's Order No. Thor.Por. 120/2545 can apply only if the Customs Department is able to settle the case within one year after the date of relevant importation;

How about in practice???

VAT Penalty Refund

The Revenue Department's Order No.Thor.Por. 81/2542 Re: Criteria for Waiver or Reduction of Penalty or Surcharge on Income Tax, Value Added Tax, and Specific Business Tax under Sections 22, 26, 67ter, 89, and 91/21(6) of the Revenue Code

- A person liable to penalty under Section 89 of the Revenue Code can submit a written request and indicate reasons for waiver or reduction to the Thai Revenue Department (“TRD”)
- The TRD may consider to reduce or exempt the penalty in case the person has no intention to avoid the tax and cooperate with the audit/examination
- The payment of VAT penalty under Section 89(3) of the Revenue Code shall be reduced to 20% or 50% of VAT penalty depending on the case and who authorizes the reduction

What you need to be aware of

Need to request the TRD directly

Subject to TRD's discretion

May subject to TRD's tax audit

Summary of customs exposures based on Diff Schemes

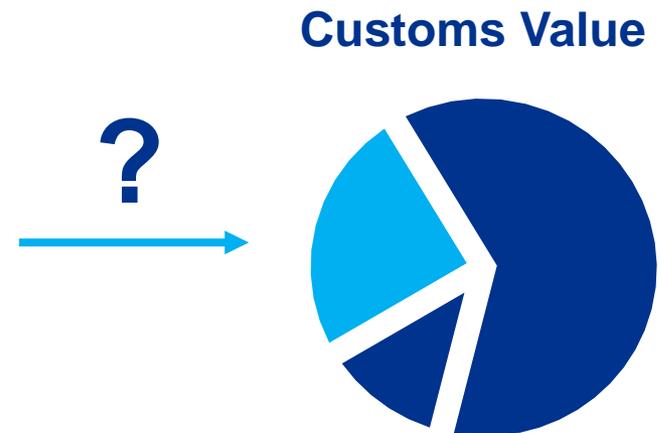
Scheme	Duty shortfall	Duty surcharge	Duty penalty	VAT shortfall	VAT surcharge	VAT penalty*
General case (Audit case)	√	1% Per month	√	√	√	√
Self disclosure from June 2021 until September 30, 2021	√	0.25% Per month	-	√	√	√
Self disclosure after September 30, 2021, onwards	√	1 st year 0.25% Per month	-	√	√	√
		2 nd year 0.50% Per month				
		3 rd year 0.75% Per month				
		4 th Year onwards 1% Per month				



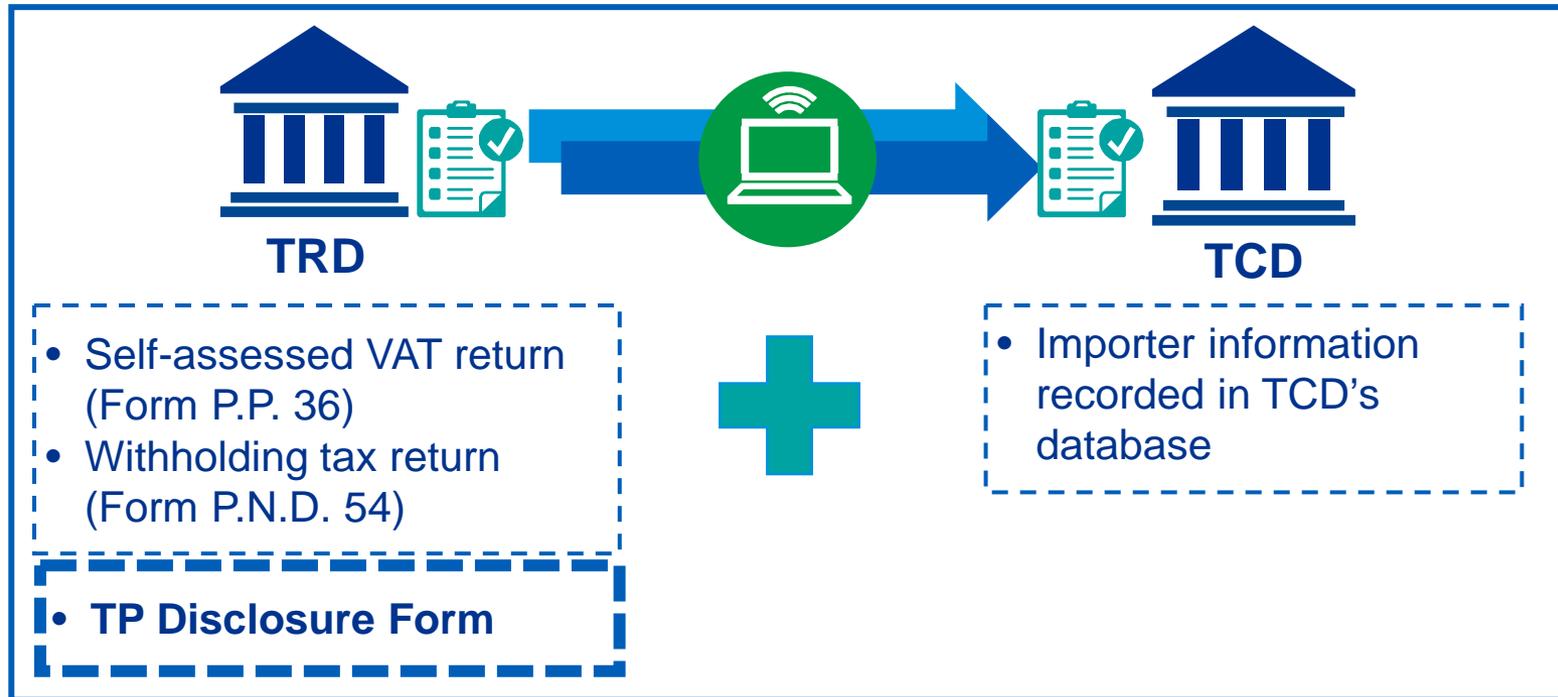
2. Common Customs issues which the business may have

1. Customs Valuation Risk

- The related party transactions are one of the key focused areas for post-clearance audit conducted by the Thai Customs Department.
- Intercompany payments or payments on intercompany agreements may be included in the customs value.



1. Customs Valuation Risk – TP Disclosure Form



If the TCD suspects the related party transactions, the TCD will scrutinize whether the related party transactions have an impact on customs value of imported goods.

2. Tariff Classification Risk

Purpose of tariff code

- Import duty and VAT payment on goods
- Tariff code for preferential duty rate utilization under FTA

Tariff Code



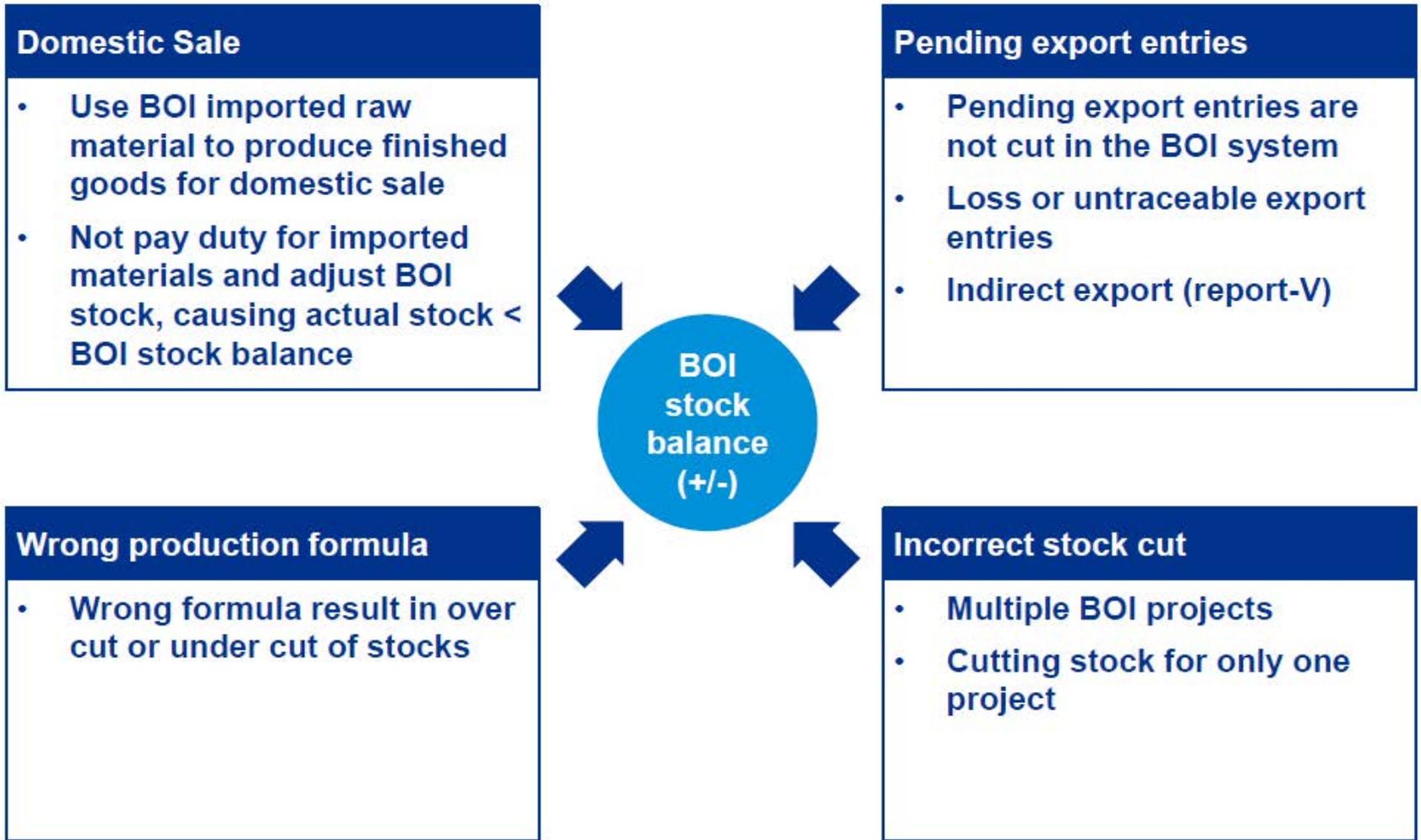
Clock

9101.11.00	9102.11.00	9103.10.00	9104.00.10	9105.11.00	9106.10.00
9101.19.00	9102.12.00	9103.90.00	9104.00.90	9105.19.00	9106.90.10
9101.21.00	9102.19.00			9105.21.00	9106.90.90
9101.29.00	9102.21.00			9105.29.00	
9101.91.00	9102.29.00			9105.91.10	
9101.99.00	9102.91.00			9105.91.90	
	9102.99.00			9105.99.10	
				9105.99.90	

Tariff Rate



3. BOI stock discrepancy



4. Free Trade Agreements

13 FTAs in effect for ASEAN-X and Thailand-X, covering 18 countries:

- ASEAN (9 countries): ATIGA (AFTA)
- Australia: TAFTA, AANZFTA
- Chile: Thailand-Chile FTA
- China: ACFTA
- Hong Kong: AHKFTA
- India: TIFTA, AIFTA
- Japan: JTEPA, AJCEP
- New Zealand: TNZCEP, AANZFTA
- Peru: Thai-Peru FTA (Early Harvest)
- South Korea: AKFTA

To be concluded:

- RCEP (ASEAN, China, Japan, South Korea, India, Australia, New Zealand)

What the importer and exporter should be aware of about FTAs?

- Different FTAs have different conditions.
- Some business transactions are not applicable for FTAs.
- Rely on exporter to apply for certificate of origin (C/O).
- Customs risk is on the importer if the C/O is not qualified.

5. Import License

Control Authorities

- FDA
- TISI
- DFT
- Ministry of Industry (MOI)

Goods subject to import license

- Diagnosis reagents, medical devices
- UPS, exhaust pipe, tire, refrigerator
- Coffee beans, antiques goods, dual-use goods
- Hazardous substance eg. Phenolic Resin

Medical reagent washing solution

- Medical reagent washing solution is subject to FDA's import license.

UPS (uninterrupted power supply)

- Import UPS into Thailand for domestic sale requires TISI license prior to importation

No import license: Imprisonment ≤ 10 years and/or fine ≤ THB 500,000 and the court may order to forfeit the goods (Section 244 of the Customs Act B.E. 2560)

How KPMG can help

- **For companies which have never conducted an internal customs compliance review:**

We can assist in conducting a customs health check to identify potential customs issues and provide recommendations on how to solve them. Our analysis will include the possibility for the voluntary disclosure of issues to the Customs Department.

- **For companies which have already identified their customs non-compliance issues:**

We can assist in estimating the level of exposures and in voluntarily disclosing cases to Customs. By disclosing the issues through the Customs Department's One Stop Service program, companies can not only enjoy the benefit of an import duty surcharge reduction but also an import duty penalty exemption.



3. COVID-19's tax relief measure launched by the Customs

Customs Covid-19 Relief Measures

	Measure	Initially validity	Extension
1	Exemption of import duty for mask products and raw materials used to produce masks	Until 20 Sep 2020	Cabinet resolution extends to 30 Sep 2021
2	Duty exemption of goods imported for treating, diagnosing, or preventing COVID-19 disease	Until 30 Sep 2020	31 Mar 2022
3	Facilitating customs clearances for import of donation goods	From 25 Mar 2020 onwards	-
4	Extend the period for re-export of goods temporarily imported under Part IV	From 19 Mar 2020 onwards	-
5	Extend the period for storing goods in the Bonded Warehouse, Customs Free Zone, and IEAT Free Zone	From 19 Mar 2020 onwards	Under consideration
6	Allow transit and transshipment of imported goods of more than 30 days in case there is justifiable reason arose from the impact of Covid-19	30 Sep 2020	Under consideration
7	Exemption of import duty for imported machinery (146 items)	31 Dec 2020	Under consideration
8	Allow the use of scanned/ copied of Certificate of Origin in customs clearance	30 Sep 2020	30 Sep 2021

NEW: Customs Covid-19 Relief Measures

	Measure	Initial validity
1	Reduction of duty surcharge to the rate of 0.25%	Until 30 Sep 2021
2	Extend the period of production and export under Section 29 duty drawback (aka 19bis)	Goods imported during 1 Jan 2020 - 31 May 2021
3	Extend the period for claiming the duty drawback under Section 29 (aka 19bis)	Goods exported during 1 Jan 2020 - 31 May 2021
4	Waiving the annual fee for Customs Free Zone/ Bonded Warehouse for year 2021.	Year 2021



本日のまとめ

関税・VATのペナルティ

種類	要因	税目	金額	備考
ペナルティ	過少申告	輸入関税	不足税額の50%~400%	交渉により 軽減される 場合もある
		輸入VAT	不足税額の100%	
	無申告 (密輸・ハンドキャリー)	輸入関税	(輸入物品の関税評価額 + 輸入関税 + 輸入VAT) × 400%	
		輸入VAT	不足税額の100%	
	輸入規制品に関する 違反	輸入関税	500,000バーツ以下のペナルティ	
	虚偽申告・書類偽造	輸入関税	500,000バーツ以下のペナルティ	
延滞税	納付遅延	輸入関税	不足税額 × 1% / 月 (不足税額の100%が限度)	交渉でも軽 減されない
		輸入VAT	不足税額 × 1.5% / 月 (不足税額の100%が限度)	

関税・VATのペナルティ（自主修正による軽減措置）

種類	要因	税目	21年9月30日までの 自主修正	21年10月1日以降の 自主修正	原則 (税務調査による場合)
ペナルティ	過少申告	輸入関税	なし	なし	50%~400%
		輸入VAT	最大で100%	最大で100%	100%
延滞税	過少申告による 納付遅延	輸入関税	0.25% / 月 (100%が限度)	輸入日から 1年以内：0.25% / 月 1年超2年以内：0.50% / 月 2年超3年以内：0.75% / 月 3年超：1% / 月 (100%が限度)	1% / 月 (100%が限度)
		輸入VAT	1.5% / 月 (100%が限度)		
ペナルティ	無申告 (密輸・ハンドキャリー)	輸入関税	(輸入物品の関税評価額 + 輸入関税 + 輸入VAT) × 400%		
		輸入VAT	100%		
	輸入規制品に関する 違反	輸入関税	500,000バーツ以下のペナルティ		
	虚偽申告・書類偽造	輸入関税	500,000バーツ以下のペナルティ		
延滞税	上記の理由による 納付遅延	輸入関税	1% / 月 (100%が限度)		
		輸入VAT	1.5% / 月 (100%が限度)		

自主修正申告プロセス

対象物品を輸入した税関

関税局本部

1

問題点の精査と関連する輸入書類の整備

2

対象物品を輸入した税関もしくは関税局本部に連絡

3

問題点と自主修正を行うことの承認申請レターを関税局に提出

4

関税局の要求に応じて追加書類を提出

5

関税局が納税者に対して納税通知書を発行

よく見受けられる関税の問題（関税評価額）

関税評価額

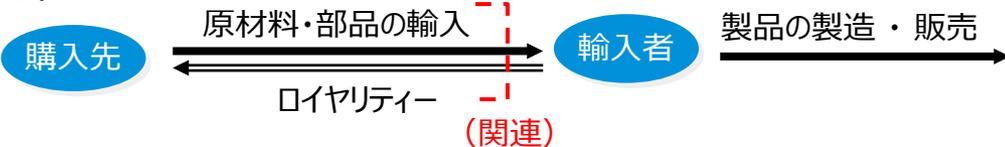
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輸入代金（CIF）

+

輸入品に係る付随費用

（輸入物品とは別請求）

項目	内容
容器	輸入品と一体と取扱われるトレーなどの容器の費用
補助品	輸入品に組み込まれたソフトウェアや部品等の費用
手数料	輸入品の輸入の条件として支払う仲介料・コミッションなどの費用
金型費	輸入品（完成品）の製造に要した金型費用
設計費	輸入品（機械や金型など）に係る開発・設計・企画・図面などの費用
ロイヤリティ	輸入品（原材料・部品、完成品）に関連して購入先に支払うロイヤリティやブランド使用料 
移転価格調整	年度末に行われた移転価格調整（追加請求）で輸入品に係るもの

※ 関連者取引明細書 (TP Disclosure Form)、VATの自主納付申告書 (PP.36)、海外向け支払の源泉税の申告書 (PND.54)などにより、以前より関税局が海外取引に係る情報を入手しやすくなっている。

よく見受けられる関税の問題（その他）

関税の問題	補足
<p>誤ったタリフコードの使用</p>	<ul style="list-style-type: none"> • ある日突然、関税局からタリフコードの誤りを指摘される可能性あり • 判断が難しいものは関税局からタリフ・ルーリングの取得や専門家を活用するのが望ましい
<p>BOIやEEIの輸入税の 免税恩典利用上の不備</p>	<div style="display: flex; justify-content: space-around;"> <div style="text-align: center;"> <p>BOIのケース</p> </div> <div style="text-align: center;"> <p>EEIのケース</p> </div> </div>
<p>FTAの利用上の不備</p>	<ul style="list-style-type: none"> • 原産地証明の適切な管理と原産地基準の充足可否の確認
<p>輸入規制品の輸入</p>	<p>例えば、以下のものを輸入許可（ライセンス）なしに輸入した場合、ペナルティが課される</p> <ul style="list-style-type: none"> • 食品・医薬品・医療器具など（FDA） • 鉄鋼製品・タイヤ・家電など（TISI） • 特殊な化学品など（DFT）



関税サービスの ご紹介

関税サービスのご紹介

- 自主修正プログラムによる自主修正手続のサポート
- 関税ヘルスチェック（自主修正手続きサポートを含む）

Custom Health-check

Import / export
compliance

BOI / EEI
Compliance

Intercompany
transaction review

- 関税アドバイザー

Custom Advisory

Tariff
review

Import
License

BOI / EEI

FTA
Supply chain

Free Zone

Custom
Audit

Custom
Dispute

**ご参加頂きありがとうございました。
退出後、簡単なアンケートにご協力をお願いします。**

Thank you

