



# Tax News Flash

## - Customs

January 2023

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 recent Customs related news in Korea

### 1. Denying the application of the preferential tariff due to the exporter's failure to submit data [Tax Tribunal 2022KWAN0006, October 14, 2022]

#### 1) Facts

The importer imported goods by applying a 0% preferential tariff under the Korea-US FTA. Korea Customs Service (KCS) conducted an origin verification and requested the importer to submit the data that proves the origin of raw materials. The importer submitted the affidavit, datasheet, manufacturing process, and certificate of origin by receiving them from the exporter, but it only describes the specification of the finished goods, factory address, and production process of the finished product, and details related to the supply of raw materials, or the origin of raw materials are not shown. Even though KCS directly requested to the exporter the data related to the origin of raw materials, the exporter failed to submit the relevant data within the deadline. Accordingly, KCS denied the application of a 0% preferential tariff and imposes customs duties, VAT, and penalties.

#### 2) Issue

- Whether it is valid to deny the application of the preferential tariff under the Korea-US FTA
- Whether it is valid to reject the request for a penalty exemption
- Whether it is valid to reject the request for the issuance of the corrected tax invoice

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### 3) Decision

The Tax Tribunal concluded that the denial of the application of the Korea-US FTA is valid since the documents submitted by the importer and exporter were not sufficient to prove the origin of raw materials. Besides, the importer's request to exempt the penalty and to issue a corrected import tax invoice was rejected because the importer appears to have neglected its duty to verify the country of origin. The importer doesn't try to confirm the country of origin before importing the goods at issue, and it is not enough to trust documents, such as a certificate of origin prepared by the exporter, as it is.

## 2. Denying the application of the preferential tariff due to the failure of the satisfying requirements under the Korea-China FTA [Tax Tribunal 2022KWAN0114, October 18, 2022]

### 1) Facts

The importer applied the preferential tariff under Korea-China FTA by submitting a non-preferential certificate of origin, not a certificate of origin according to the form prescribed by the Korea-China FTA. At the time of import declaration, Customs accepted the application of the preferential tariff. However, Customs conducted the origin verification a few years later and collected the customs duties, VAT, and penalty by denying the preferential tariff since the importer did not submit the certificate of origin in the form prescribed by the Korea-China FTA.

### 2) Issue

- Whether it is valid to exclude the application of the preferential tariff under the Korea-China FTA on the ground that they did not have a valid certificate of origin

### 3) Decision

The importer insisted that it is unfair to point out these errors at a time when the importer is no longer able to apply the preferential tariff retrospectively (one a year after import declaration) even though Customs accepted the preferential tariff application at the time of import declaration. However, Korea Customs processed the customs clearance without detailed review for the efficiency of customs clearance, and the appropriateness of customs clearance is reviewed later through origin verification or customs audit. Accordingly, the Tax Tribunal concluded that it is valid to collect the customs duties, VAT, and penalty since the importer failed to present the legitimate certificate of origin at the time of importation regardless of the Customs' acceptance.



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