



Tax News Flash

- Customs

November 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 a recent trend of customs audits

1. Background

A. Series of Defeats in Tax Litigations against Multinational Corporations

In a recent inspection of government administrations conducted by the National Assembly of Korea, the Commissioner of Korea Customs Service, Goh Kwang-hyo addressed concerns over the series of defeats in tax litigations against multinational corporations. He pointed out the difficulties in securing documents in relation to taxations as a key obstacle and indicated the initiation of amendments to *Customs Act* to enhance the effectiveness of securing multinational corporation's tax information especially in connection with transfer pricing of the intercompany transactions.

Although *Customs Act* stipulates a maximum fine of KRW 300 million for delaying or not submitting documents requested by the customs officials, there have been no records of fines imposed for non-submission of data in the past five years. In response, the Commissioner mentioned that conducting special customs investigations as part of sanction measures to address the issue to the multinational corporations.

B. Customs Investigations into Violation of Import License Acquisitions

Customs audits have intensified their scrutiny on compliance, specifically reviewing the acquisition of import licenses in accordance with individual laws and regulations, including *Chemical Substances Management Act*, *Electronic Devices Safety Act*, and *Radio Waves Act*.

Several companies including Korean conglomerates and foreign multinational corporations have been identified for either not obtaining import licenses before filing import declarations or bypassing the import license procedures by utilizing international couriers such as FedEx, DHL, and UPS. In cases where violations are detected during the customs audit phase, the officers notify the cases to the investigation department, and in severe cases, the matter may even be reported to the prosecution for further legal action.

2. KPMG's Comment

A. Series of Defeats in Tax Litigations against Multinational Corporations

Following the Commissioner's statement of strengthened taxation measures for multinational corporations during the parliamentary inspection, it is expected that there will be a prompt initiation of procedures for relevant legal amendments. Considering the existing reporting obligations to tax authorities in corporate income tax, there is a likelihood of introducing a similar system from a customs perspective.

In this scenario, it is expected that reporting obligations will be triggered when transactions with related parties exceed a specific monetary threshold. For instance, companies engaging in transactions of goods and services with foreign-related parties exceeding USD 50 million may become subject to reporting obligations. This threshold is similar to the requirement for companies with transactions surpassing KRW 500 billion to submit BEPS reports by the year-end in the context of corporate income tax.

While many multinational corporations already possess transfer pricing documents from an income tax perspective, different analysis considering the nature of goods, especially HS codes, is essential in the customs context. Unlike previous benchmarking studies that focused on the risks and functions of the entity, customs valuation may require separate benchmarking studies, taking into account the characteristics of the goods involved.

B. Customs Investigations into Violation of Import License Acquisitions

To address the potential risks associated with import license requirements, companies should proactively design and implement robust internal controls over compliance. Given that import licenses from other government agencies are granted based on the 10-digit HSK (Harmonized System of Korea) codes, it is imperative for companies to determine the accurate tariff classification of imported goods in advance. Failure to do so may lead to customs officers alleging incorrect HS codes to circumvent the import license requirements, raising suspicions of intentional misconduct.

Once precise tariff classification is established, companies should proceed to design and implement compliance procedures within their internal control framework. This includes the following procedures. Additionally, regular compliance checks, such as customs health checks, should be conducted to verify the operating effectiveness of these internal controls.

- In accordance with individual laws and regulations, submit the required documents to the relevant agencies before the importation of goods.
- Obtain necessary approvals from the relevant government authorities.
- During the import declaration process, ensure the submission of all required documents to customs authorities without exceptions such as importing through courier services.
- Implement a system for retaining documents for 5 years, aligning with the statute of limitation period of customs duty and import VAT collection.



Key Contacts

Samjong KPMG Transfer Pricing & Customs Service Group



Gil-Won Kang
Head of TAX 6
T. +82-2-2112-0907



Seung-Mok Baek
TP Partner
T. +82-2-2112-0982



Sang-Hoon Kim
TP Partner
T. +82-2-2112-7939



Tai-Joon Kim
TP Partner
T. +82-2-2112-0696



Yong-Jun Yoon
TP Partner
T. +82-2-2112-0277



Tae-Joo Kim
Customs Partner
T. +82-2-2112-7448



Young-Bin Oh
Customs Partner
T. +82-2-2112-0435

home.kpmg/socialmedia



home.kpmg/kr/ko/home/services/tax.html

[Privacy](#) | [Legal](#)

27th Floor, Gangnam Finance Center, 152, Teheran-ro, Gangnam-gu, Seoul, Korea

© 2023 KPMG Samjong Accounting Corp., a Korea Limited Liability Company and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved.

The KPMG name and logo are registered trademarks or trademarks of KPMG International.