

New Circular to Amend CO Procedure

Ministry of Finance has released circular No. 62/2019/TT-BTC to amend & supplement circular 38/2018/TT-BTC about Origin of imported/ exported goods.

On Sep. 05 2019, MOF has released circular 62/2019/TT-BTC to amend circular 38/2018/TT-BTC. Some significant rules about Certificate of Origin have been changed as below:

- **About how to deal with a CO whose HS Code is different with HS code of that good in importing CDS:**

In case the description of imported good in CO and in import CDS and actual imported good are same and customs office defines that the good is eligible for origin criteria, customs office can accept the import CO.

In case the description of imported good in CO is different with good's description in CDS and actual good, and customs office can prove that the imported good is different with the good described in CO, customs office can decline the import CO.

In case the description of good in CO and in import CDS are same and same with actual good, and customs office cannot find the evidence that the imported goods are eligible to origin criteria, they have to implement origin verification (regulated in article 19 & 21 of circular 38/2018/TT-BTC).

- **About CO declaration**

If declarants have CO at the time of importation but don't declare CO No. and date, customs office will decline the CO.

If the declarants don't have CO at the time of importation, and don't apply for late submission, customs office will decline the CO.

If the declarants have already apply for late submission, then apply CO later than the regulated deadline, customs office will decline the CO.

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• About CPTPP CO

Declarant can submit a Certificate of origin which was issued by competent authority of exporting country or by the exporter/ manufacturer.

Declarant can apply for late submission then submit the original CO within 12 months after the CDS registration day to enjoy the preferential import tax.

A CO can be applied for many same shipments if the application time is shown in the CO and it is not more than 12 months. The total quantity of imported goods for all shipment can be shown in a CO or not. If the total quantity of imported goods is shown, customs office has to follow up the CO for each time of importation and deduct the imported quantity each time.

A CO with a commercial invoice issued by a country which is not CPTPP member is acceptable.

Customs office will reject the CO in these cases:

- + They can prove that the good is not eligible to preferential tax requirements
- + They verify the origin of good but didn't have enough information to verify the origin of goods.
- + After 180 days from the day customs office requests for CO verification, the exporter/ manufacturer/ competent authority in exporting country does not reply to the request or to give the origin information.
- + After 30 days after receiving origin verification request, exporter/ manufacturer/ competent authority in exporting country don't send a reply for confirmation of origin verification or Declination of origin verification. In case the application of preferential tax is rejected, customs office has to inform the reason to importer by an Official Letter.

Import/ Export CDS registered from Jan. 14 2019 to the day before this circular entry into force can enjoy origin regulation of CPTPP and preferential import, export tax of CPTPP in case it satisfies all relevant requirements.

The Conditions of Temporarily Import – Re Export Activities for The Purpose of Trading Should Be Tighten

Ministry of Finance (MOF) suggested Ministry of Industry and Trade (MOIT) to tighten the conditions of temporarily import – re export activities for the purpose of trading.

According to MOF, there're some types of used goods, such as: Plastic package, plastic cover, etc. which have same characteristic as scraps. MOF has suggested MOIT to include these goods into Category of scraps which are permitted to be temporarily imported – re exported for the purpose of trading.

Besides, MOIT also regulated in clause 1 of article 13 of decree 69/2018/ND-CP that: for goods which are not allowed to be traded and used in Vietnam yet, trader has to apply for license to temporarily import and re-export the goods for trading, MOF suggest MOIT to release the Category of goods which are not allowed to be traded and used in Vietnam yet that need MOIT's license.

MOF also suggested MOIT to consider management policy for borrowed, rented machinery, equipment, mold which are temporarily imported then re-exported in order to only importer who signed in the borrowing or renting contract can use those goods for the right purpose, and they are not allowed to lease the goods to other entities.

Prime minister has also request MOIT to co-operate with MOF to review, inspect bonded warehouse activities, decrease the list of goods which can be temporarily imported then re-exported for trading and to follow up and supervision the process of the goods from importing time to re-exporting time.

How to Declare Customs Value in Special Cases

New circular 60/2019/TT-BTC about customs value has instructed how to define customs value of some special cases

- **For goods whose purpose of uses are changed.**

If the goods are re-purposed to be destroyed, customs value is the declared value.

If the goods are re-purposed to be sold to domestic market, Customs value is the selling price. If customs office has evidence to prove that the value is not appropriate, they can re-define the customs value of goods.

- **If the goods are imported without a sales contract.**

There're some kinds of goods can be imported without a sales contract or a commercial invoice such as: goods which are delivered by express, by post. Customs values of these goods are declared value. Even though, if customs office can prove the customs value is not appropriate, they can define and impose the customs value again.

- **Goods which are rented or borrowed.**

In case the good is rented, customs value is the value that importer has to pay to the exporter and other fees they have to pay to deliver the good to first border gate of importation.

In case the good is borrowed, customs value is the fees that borrower has to pay to deliver the good to first border gate of importation.

Even though, if customs office can prove the customs value is not appropriate, they can define and impose the customs value again.