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MOF Revises Regulations on Customs Procedures

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Approved By:

Mark Dries

Prepared By:

Michael Ward & Thu M. Pham

Report Highlights:

This report outlines some specific points of the Circular 38/2015/TT-BTC issued by the Ministry of Finance on March 25, 2015 promulgating customs procedures, customs supervision and inspection, export tax, import tax, and tax administration applied to exported and imported goods. Specific emphasis is given in this report to customs procedures of imported food and agricultural products which are subject to quarantine and food safety inspection at border checkpoints. The Circular entered into force on April, 1, 2015.

Summary:

Vietnam's National Assembly promulgated the new Law on Customs 54/2014/QH13, which entered into force on January 1, 2015. Accordingly, goods which are live animals, plants, or hard to be preserved or other special goods shall be prioritized for customs inspection. Importers shall conduct the customs declaration before the date that the commodities arrive at the border checkpoint or within thirty (30) days from the date on which the commodities arrive at the border checkpoint. This signifies a regulatory loosening, compared with previous regulations, which only allowed declarers (importers or customs brokers) to make changes to the declaration form before the physical goods inspection.

This report outlines some specific articles of Circular 38/2015/TT-BTC, issued by the Ministry of Finance on March 25, 2015, promulgating customs procedures, customs supervision and inspection, export tax, import tax, and tax administration applied to exported and imported goods with regard to food and agricultural products. Circular 38/2015 implements some parts of Vietnam's new Law on Customs and replaces the Circular 128/2013/TT-BTC and several related regulations issued in accordance with the old Law on Customs. Circular 38/2015 entered into force on April 1, 2015.

It should be noted that according to the Law on Customs 2014, customs declaration shall be made electronically, except that customs declarants may fill in paper in some cases as prescribed in Decree 8/2015 dated January 21, 2015 promulgating implementation of Law on Customs in detail regarding customs procedures, customs supervision and inspection.

To accelerate the customs clearance procedure once the shipment arrives at the destination port, importers may request the customs authority to determine the HS code, origin, and customs value of the imports in advance. Article 7 of Circular 38/2015 stipulates the documentation requirements for application of prior determination of HS code, origin, and customs value. Within 30 working days of receipt of the sufficient application, the General Director of the General Department of Customs shall issue the written announcement about the results of its pre-determination of HS codes, origin and customs value of goods. The results of this pre-determination of HS codes, origin and customs value of goods shall be the basis for customs declaration according to the customs procedures. The written announcement about the pre-determination results shall be valid within 3 years from the date of issuance. In particular, the written announcement about the results of the pre-determination of price level shall become effective for the shipment of which price level is pre-determined and for shipments after.

Article 16, Number 2 of this Circular stipulates the documentation requirements that comprise the Customs Dossier (Appendix II promulgated with this Circular), and the application requesting customs clearance of an imported consignment of goods. The exporter is required to send a number of original documents for inclusion in the Customs Dossier, including: 1) a commercial invoice; 2) bill of lading or equivalent transportation document; 3) Certificate of Origin or Self-Certification of Origin in the following cases: a) the goods are imported from a country that has a preferential trade agreement with Vietnam, b) the goods threaten social safety, public health or environmental safety, and c) the goods are imported from countries for which Vietnam applies an anti-dumping or countervailing duty, safeguard tax, anti-discrimination tax, or taxes applied within a tariff-rate quota. Additional documents, originating with the importer are also required to be included in the dossier.

Articles 24 and 25 of this Circular regulate the determination of the Harmonized Tariff Schedule Code (HS Code), import tariff rate, and customs value (declared value). In some cases the declared value will be questioned by the Department of Customs and importers may ask the exporter for additional documents to support the declared value. Customs or the importer may also request a consultation (face-to-face) meeting with customs to seek resolution on the declared value or other matters.

Article 28 of this Circular regulates the customs inspection process which includes a review of export licenses, import licenses, and the results of inspection by specialized agencies, such as inspection bodies under the Ministry of Health (MOH), Ministry of Agriculture and Rural Development (MARD), and Ministry of Industry and Trade (MOIT). As most imported food and agricultural products are subject to both food safety inspection and animal or plant quarantine inspection, customs authorities shall verify the import license (if any) and the inspection results or notice of exemption from inspection sent by the specialized agency (MOH, MARD, or MOIT) or directly submitted to customs authorities by the importers.

Article 32 of this Circular regulates the requirements for storage of imported goods which are subject to quarantine or food safety inspection as follows:

Goods subject to quarantine

Quarantine (plant or animal health inspection) shall be carried out at the checkpoint. In case the quarantine authority permits the goods to be moved to an inland quarantine location, as prescribed by law, the customs authority shall consider permitting the goods owner to move goods to the quarantine location according to the confirmation of the quarantine authority on the Certificate of Quarantine

Registration or the Note of Provisional Plant Quarantine Results (for plant-derived goods) or the Goods Transport Note (for aquaculture products) or other documents issued by the quarantine authority.

Goods subject to quality inspection and food safety inspection

Inspections shall be carried out at the checkpoint; if goods are moved to another location for inspection as requested by the specialized agency or the declarant wishes to put their goods into storage, the declarant shall make a written request. The Director of the Sub-Department of Customs where the customs declaration is registered shall consider permitting goods to be put into storage at an inland clearance depot (ICD), bonded warehouse, tax-suspension warehouse, concentrated inspection places for exported or imported goods under the supervision of customs authorities, specialized inspection places, or the declarant's warehouse/depot.

Goods subject to both quarantine and food safety inspection

Procedures for putting goods into storage are similar to those for imported goods subject to quarantine.

Handling result of inspection by a specialized agency

If the inspection result indicates that goods satisfy import requirements, the Sub-Department of Customs at the checkpoint shall determine customs clearance of goods.

It should be noted that the goods owner or the customs declarants are legally responsible for the transport and preservation, and maintaining the quality of the goods at the quarantine location and should only use or sell goods after there is a conclusion that the goods satisfy import requirements.

Section 4, Articles 35 to 39 outlines the basis and method of total import tax calculation and indicate the official exchange used in the calculation of import taxes.

Article 107 and 108 stipulate the criteria for conditional import tax exemption. Accordingly, imported goods for scientific research, education and training, samples from foreign entities, and gifts may be eligible for import tax exemption. The guidelines for the application of tax exemption are outlined in Article 108.

Should U.S. exporters have any questions or need clarification concerning Vietnamese Customs regulations as they apply to U.S. food and agricultural products, please contact:

aghamoi@fas.usda.gov.

The full Circular 38/2015/TT-BTC in Vietnamese is available at:

[http://congbao.chinhphu.vn/noi-dung-van-ban-so-38_2015_TT-BTC-\(18955\)](http://congbao.chinhphu.vn/noi-dung-van-ban-so-38_2015_TT-BTC-(18955))

The un-official translation of the Circular 38/2015/TT-BTC is available at:

http://vasep.com.vn/Uploads/image/Ta-Van-Ha/file/38_2015_TT-BTC_250315_CP_EN.doc

The un-official translation of Law on Customs 2014 is available at:

http://www.itpc.gov.vn/investors/how_to_invest/law/Law_on_Customs_2014/mldocument_view/?set_language=en