

Customs and Global Trade Updates

March & April 2023

This update highlights the following matters:

- ▶ Application of official anti-dumping measures on tables and chairs imported from China and cease anti-dumping investigation on tables and chairs originating from Malaysia
- ▶ Enterprises based in Ho Chi Minh City (HCMC) must register warehouse information before taking goods into a storage warehouse
- ▶ Amend and supplement the Rules of Origin under the ASEAN Trade in Goods Agreement (ATIGA)
- ▶ Supplement Group 2 products and goods under the management of the Ministry of Science and Technology (the MoST)
- ▶ Amend the list of imported and exported goods under the management of Ministry of Information and Technology (the MoIT)
- ▶ Project amending the Law on Special Sales Tax (SST)
- ▶ Project amending the Law on Value Added Tax (VAT)
- ▶ Various Official Letters (OL) issued by the General Department of Customs (GDC), regarding:
 - ▶ Tax policy on goods temporarily exported for re-import under a lease contract
 - ▶ Certificate of Origin (C/O) Form D
 - ▶ Customs inspection on duty refund dossier
 - ▶ Incorrect export customs declaration that originated from a temporary import
 - ▶ HS code declaration in C/O Form B
 - ▶ Changes in HS code when making re-export or re-import customs declarations
 - ▶ C/O of goods imported from Chile
 - ▶ Customs duty treatment applicable to goods re-imported for repair purposes
 - ▶ Minimum power efficiency standard for used products

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Application of official anti-dumping measures on tables and chairs imported from China and cease anti-dumping investigation on tables and chairs originating from Malaysia

On 13 February 2023, the MoIT issued Decision 235/QD-BCT (Decision 235) on the application of anti-dumping measures on tables and chairs imported from China and ceasing anti-dumping investigation on those imported from Malaysia.

The implementation of anti-dumping duty on tables and chairs originated from China is as follows:

- ▶ Tables and chairs classified under HS code: 9401.31.00, 9401.39.00, 9401.41.00, 9401.49.00, 9401.61.00, 9401.69.90, 9401.71.00, 9401.79.90, 9401.80.00, 9403.30.00 from China
- ▶ Official anti-dumping duty rate for tables: 35.2%
- ▶ Official anti-dumping duty rate for chairs: 21.4%
- ▶ Some products are exempted from anti-dumping duty if certain conditions are met.

In parallel, according to investigation agency, since subjected tables and chairs imported from Malaysia are insignificant (account for less than 3% of total importation), the MoIT has decided to end the investigation of anti-dumping on such goods.

Decision 235 enters into force on 13 February 2023 and is effective for 5 years.

Enterprises based in HCMC must register warehouse information before taking goods into a storage warehouse

On 2 March 2023, the Customs Sub-department of Saigon Port Zone 1 issued Decision 1397/TB-KVI on the provision of warehouse information while awaiting specialized inspection results.

From 1 April 2023, while awaiting specialized inspection results, enterprises must register information on the storage location and whether they own the warehouse or simply have a right to use it. This registration task must be completed before enterprises submit the letter to Customs Sub-department on bringing goods to the warehouse.

The registration must be submitted to the Customs Sub-department of Saigon Port Zone 1 via an online portal and include documents proving the ownership or the right of use of the warehouse. This is an one-off registration and to be amended when there is an information update. For detailed guidance, please refer to OL No. 641/KV1-DHHNK dated 22 February 2023 by HCMC Customs Department.

If an enterprise has not registered the information, or the documents submitted do not prove the ownership or the right of use of the warehouse, the Customs Sub-department will not allow the goods to be taken to the enterprise's storage location.

Amend and supplement the Rules of Origin under ATIGA

On 14 February 2023, the MoIT issued Circular 03/2023/TT-BCT (Circular 03) amending some articles in Circular 22/2016/TT-BCT dated 3 October 2016 (Circular 22) on the application of the Rules of Origin under ATIGA. Attached in Circular 03 is the list of Appendices replaced by those issued in Circular 22 previously.

- ▶ Appendix I: Product Specific Rules
- ▶ Appendix II: Substantial transformation criteria for textiles and textile products
- ▶ Appendix III: List of information technology products (ITA products)

Circular 03 enters into force on 1 April 2023.

Supplement Group 2 products and goods under the management of the MoST

On 14 March 2023, the MoST issued Decision 366/QD-BKHCN (Decision 366) to include "stainless steel pipes" into Group 2 products and goods under MoST's management. In particular:

- ▶ HS code: 7306.40.20, 7306.40.90, 7306.61.10, 7306.61.90, 7306.69.10, 7306.69.90
- ▶ Applicable national technical standard (QCVN): QCVN 20:2019/BKHCN and amended 1:2021 QCVN 20:2019/BKHCN
- ▶ Applicable management methods:
 - ▶ State inspection on products' quality after customs clearance
 - ▶ Grounds for state inspection based on certification or assessment results of certification or inspection organizations
 - ▶ The in-charge authorities are the provincial science and technology specialized agency performing functions and responsibility on quality measurement standards

Decision 366 enters into force from the date of issuance.

Amend the List of imported and exported goods under the management of MoIT

The MoIT issued Circular 08/2023/TT-BCT dated 31 March 2023 (Circular 08) amending some articles in the list of imported and exported goods based on its HS code attached in Circular

12/2018/TT-BCT dated 15 June 2018 (Circular 12) and Circular 41/2019/TT-BCT dated 16 December 2019 (Circular 41)

Circular 08 replaces Appendix I and II in Circular 12 with:

- ▶ Appendix I - List of consumables, medical equipment and used vehicles banned from import
- ▶ Appendix II - List of goods temporarily suspended from trading for temporary import, re-export and border-gate transfer

Circular 08 replaces Appendix I, VI and VII in Circular 41 with:

- ▶ Appendix III - The detailed list by HS code for exported paddy and rice
- ▶ Appendix IV - The detailed list by HS code for tobacco ingredients, cigarette paper
- ▶ Appendix V - The detailed list by HS code for machinery and equipment specialized in tobacco

Circular 08 enters into force on 16 May 2023. Please refer to Circular 08 for further information.

Project amending the Law on SST

The Ministry of Finance (the MoF) has submitted to the Government an OL proposing amendments to the SST Law. The amendments focus on introducing new policies to expand the tax base, revise SST rates for several groups of what they consider to be unhealthy, non-environmental friendly products, and amend regulations on products that are subject or not subject to SST.

Accordingly, the draft proposal amending SST Law covers the following main points:

- ▶ Introduce additional products that are subject to SST, including sugary drinks, barley-based and non-alcoholic beverages, new generation tobacco products including their equipment, parts, liquid, and online video game businesses.
- ▶ Amend some products that will not be subject to SST such as cars, aircraft, exported goods returned by foreign parties upon import and transshipment goods.
- ▶ Amend the regulations regarding the tax calculation in the case of single tax and mixed tax calculation method.
- ▶ Amend the regulations on the taxable price of new taxable commodities and services, goods associated with goods rental services.

- ▶ Amend SST rates and the way of implementing tax on some commodities such as wine, beer and environmentally friendly cars.
- ▶ Amend the regulations on SST refunds for gasoline used for biogasoline production, of which SST has not been fully credited; and in case of transferring ownership of an enterprise; enterprise transformation, merger, consolidation, splitting, or liquidation to enhance compatibility with Enterprise Law.

Project amending the Law on VAT

Recently, the MoF has submitted to the Government an OL proposing amendments to the VAT Law influenced by restructuring the State budget's source of collection; expanding the tax base by narrowing items that are VAT exempted or applying preferential VAT and increasing the common tax rate.

Accordingly, the Draft Proposal amending the VAT Law covers the following main points:

- ▶ Remove certain goods and services that are treated as VAT exemption such as fertilizers, machinery & special equipment for agriculture, off-shore fishing vessels, postal services, public telecommunications, and internet services, etc.
- ▶ Add a number of groups of goods and services to the list of goods and services that are exempted from VAT in order to facilitate production activities, reform relevant administrative procedures as well enhance the consistency and synchronization of the legal system.
- ▶ Amend the regulations on taxable prices for groups of goods and services such as real estate, casinos, video games with prizes, betting businesses.
- ▶ Remove groups of goods and services subject to the 5% VAT rate such as cultural activities, exhibitions, gymnastics, sports, performing arts, film production, import, publish and screening movie.
- ▶ Amend the regulations relating to exported services to enhance compliance with international practices.
- ▶ Amend the regulations on creditable input VAT in the case of invalid or missing invoices, conditions for the claiming input VAT.
- ▶ Amend the regulations on a VAT refund for manufacturers, or service providers that are subject to the 5% VAT rate, investment projects, conditional businesses and exported services.
- ▶ Amend the regulations on VAT refunds in the case of transferring business ownership, enterprise transformation, merger, consolidation, splitting, and liquidation.

Some guidances provided in Official Letters of the GDC

No.	Subject	Contents
938/TCHQ-TXNK Dated 6 March 2023	Tax policy on goods temporarily exported for re-import under a lease contract	Automobiles temporarily exported for re-import under a lease contract are not entitled for duty exemption. Accordingly, enterprises must pay export duty (if any) upon the temporary exportation and import duty upon re-importation.
1163/TCHQ-GSQL Dated 15 March 2023	C/O Form D	<ul style="list-style-type: none"> ▶ Member countries will accept the declared HS code 2017 until 31 March 2023 for C/O Form D in the form of paper, e-C/O or self-certificate. Afterward, HS code 2022 must be declared. ▶ In the event the box "Issued Retrospectively" in C/O Form D should have been ticked: <ul style="list-style-type: none"> ▶ If it is an e-C/O: the customs authority will verify and compare with other supporting documents in the import customs dossier. The C/O will be accepted if there is no doubt of the goods' origin. ▶ If it is a paper C/O: the customs authority will not reject it immediately but will send it to the Customs Supervision and Administration Department under the GDC for further verification.
909/TCHQ-TXNK Dated 3 March 2023	Customs inspection on duty refund dossier	<ul style="list-style-type: none"> ▶ For customs refund applications entitled to "duty refund first, customs inspection later", the customs inspection will be conducted based on the risk management principles: <ul style="list-style-type: none"> ▶ Inspection within 10 years from the date of issuing Decision on duty refund during the time the Law on Tax Management 78/2006/QH11 dated 29 November 2006 remains effective. ▶ Inspection within 5 years from the date of issuing Decision on duty refund during the time the Law on Tax Management 38/2019/QH14 dated 13 June 2019 enters into force.

No.	Subject	Contents
		<ul style="list-style-type: none"> ▶ For customs refund applications subject to "customs inspection first, duty refund later", it is a part of the information and data collection process to form a basis for selection of targets under specialized customs inspection. As such, these customs dossiers are also under the scope of a customs-specialized inspection. ▶ For customs refund applications entitled to "duty refund first, customs inspection later" of prioritized enterprises, the Decisions on customs audit or inspection will be issued by the relevant provincial customs department. Before that, they must be reported to the Post-clearance Customs Audit Department under the GDC on the customs dossier and inspection plan for further review and inspection decision.
<p>556/TCHQ-GSQL</p> <p>Dated 9 February 2023</p>	<p>Incorrect export customs type which originated from temporary import</p>	<ul style="list-style-type: none"> ▶ If there is evidence to determine goods exported under customs declaration type H21, which were temporarily imported previously, the customs authorities, based on the working minutes, shall liquidate the temporary import customs declarations and handle the violations. ▶ If there is not enough evidence, the customs authority will require enterprises to re-export the exact imported goods. If such goods are not re-exported, enterprises are required to change the usage purpose and are subject to violations of customs regulations.
<p>40/XNK-XXHH</p> <p>Dated 10 February 2023</p>	<p>The HS code declared in C/O Form B</p>	<ul style="list-style-type: none"> ▶ The MoIT is in the progress of revising Product Specific Rules from using HS code 2017 to adopt HS code 2022 in accordance with the List of exported and imported goods under Circular 31/2022/TT-BTC dated 8 June 2022 (Circular 31). ▶ The issuance of C/O Form B still complies with Circular 05/2018/TT-BCT dated 8 April 2018, based on HS code 2017. ▶ In case there is a difference and at the request of the importer, the HS code 2022 shall be

No.	Subject	Contents
		added in C/O, but it is not considered as a basis for C/O issuance. The customs declarants are responsible for the accuracy of the declared HS code.
824/TCHQ-GSQL Dated 27 February 2023	Change in HS code when making re-export or re-import customs declarations	<ul style="list-style-type: none"> ▶ If re-export or re-import customs declarations cannot be made due to a change in HS code 2022 according to the List in Circular 31 in comparison to HS code declared in the temporary export or temporary import customs declarations which obtained clearance before 30 December 2022, the customs authorities will provide guidance to perform paper customs declarations. ▶ If the customs authority adjusts the "re-exported/ re-imported quantity" on the original temporary import/ temporary export declaration, then records of re-exported and re-imported goods would be monitored off-system.
897/TCHQ-GSQL Dated 2 March 2023	C/O for goods imported from Chile	<ul style="list-style-type: none"> ▶ Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) applicable for Chile entered into force on 21 February 2023. ▶ The Vietnam Government has not issued a Decree on preferential import tariff applicable for goods imported from Chile under CPTPP. ▶ Chile applies the self-certificate of origin issued by the exporter. The assessment of such documents is carried out following the guidance in Circular 03/2019/TT-BCT dated 22 November 2019 issued by the MoIT and Circular 62/2019/TT-BTC dated 5 September 2019 issued by the MoF.
349/TCHQ-TXNK Dated 18 January 2023	Duty treatment for goods re-imported for repair purposes	<ul style="list-style-type: none"> ▶ In the case of re-import of exported goods that are subject to duty exemption for repair, recycling purposes then returned to overseas customers (the primary buyer), the customs authorities will handle the duty exemption during the customs clearance, not issue a decision on non-collection of customs duty and

No.	Subject	Contents
		<p>make an instruction to declare customs declaration under type G13.</p> <ul style="list-style-type: none"> ▶ In the case of re-import of exported goods for repair, recycling purposes which are then exported to a third country or into a non-tariff zone <ul style="list-style-type: none"> ▶ If the enterprise has fulfilled the tax liabilities for the original export customs declarations but has not claimed the duty refund by the time of re-importing the goods, the customs authority will issue a decision on non-collection of customs duty upon re-exportation. The enterprise can claim the export duty refund then. ▶ If an enterprise had fulfilled tax liabilities for the original export customs declarations and claimed a duty refund when the goods were re-imported, upon re-exportation, they have to pay export duty.
<p>1077/BCT-TKLN Dated 2 March 2023</p>	<p>Minimum power efficiency standard for used products</p>	<ul style="list-style-type: none"> ▶ For energy-consuming vehicles and equipment under the management of MoIT, the result of testing on power efficiency in compliance with Circular 36/2016/TT-BCT dated 28 December 2016 on energy labeling is applied for brand-new products. ▶ For those which are used, the testing result is only applied for a particular shipment and is not allowed to be re-applied for other similar shipments.

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