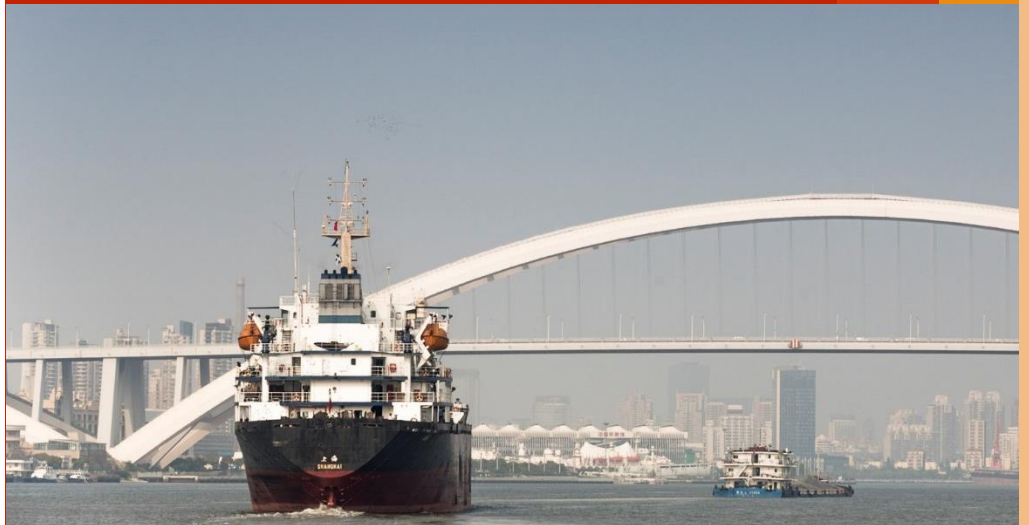


New Trade Compliance Requirements – Dutiable Royalties Declaration Formalities

Customs and Trade Alert
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Overview

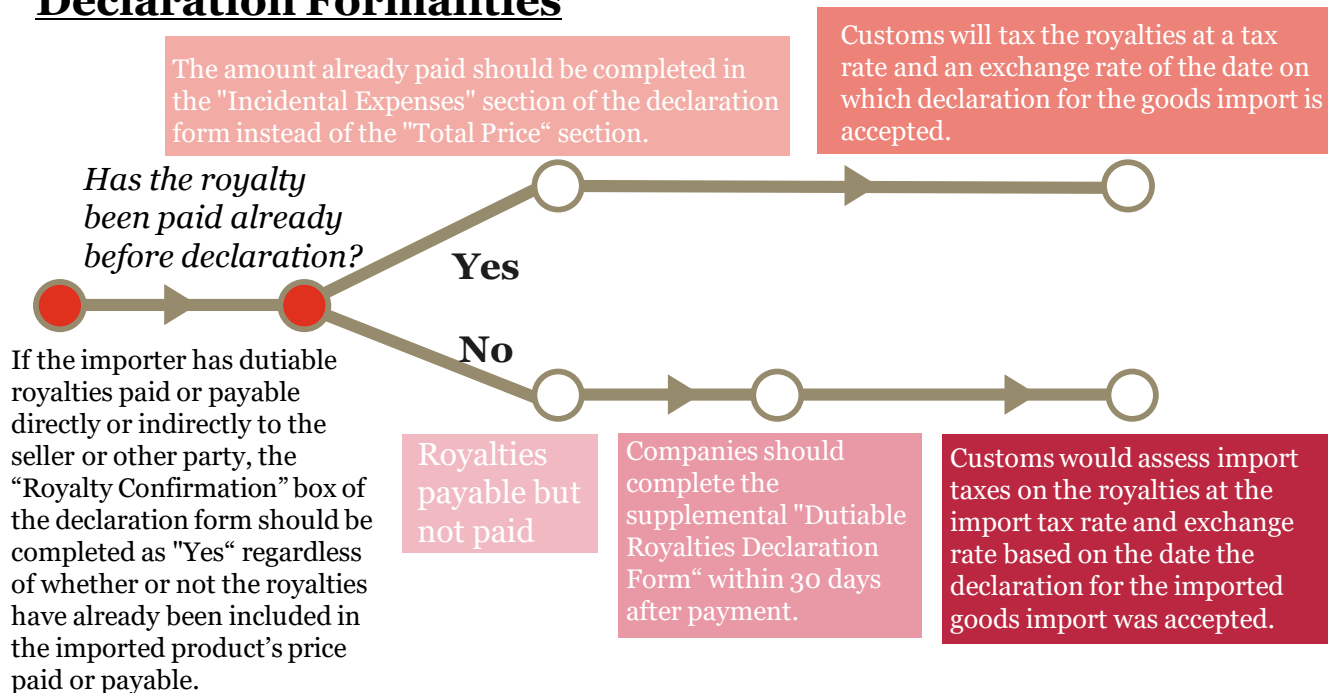
General Administration of Customs (“GAC”) issued Announcement [2019] No. 58 on 27 Mar 2019 providing details on the declaration requirements for royalties.

This announcement clarifies how customs declarations should be completed under different scenarios and specifies other requirements including time limits, assessment elements and late-payment charges, etc.

Importers should pay attention to this announcement and ensure compliance with these new requirements in relation to their royalty arrangements in order to avoid penalties from the violation of these new rules.

GAC Announcement Outlines

Declaration Formalities



Filing Requirements

Royalties already Paid Before Declaration

If the royalty has already been paid before declaration, the amount paid should be completed in the "Incidental Expenses" section of the declaration form instead of the "Total Price" section.

Payable Royalties at the Time of Declaration

1. For "Trade Mode", complete "Subsequent Import Taxation of Royalties" (code 9500)
2. For "Commodity Name", fill in the name of imported goods, and for "Commodity Code", fill in the relevant HS code of the imported goods.
3. For "Quantity", fill in "0.1".
4. For "Total Price", fill in the amount of dutiable royalties payable.
5. For "Gross Weight" and "Net Weight", fill in "1".

Late Tax Payment Charges

If a taxpayer fails to complete the "royalty confirmation" box in the declaration in accordance with this announcement and lead to under-payment or evasion of taxes, Customs may impose a late tax payment charge of 0.05% per day on the amount of taxes under-paid or evaded counting from the date of the initial import tax payment for the related goods or the date Customs released the goods to the date the violation is identified by Customs.

If the taxpayer reported a royalty in the imported goods declaration form, but failed to complete the supplemental royalty declaration within the time limit in accordance with this announcement, Customs may impose a late payment charge of 0.05% per day based on the amount of import taxes under-paid or evaded counting from the due date to the date when the taxpayer submitted the royalty declaration formalities or the date Customs identifies the violation.

PwC Observations

- GAC Announcement [2019] No. 58 provides companies clarifications on a number of dutiable royalties declaration specifics reducing some of the previous issues/risks on various previously ambiguous items (such as when to fill in incidental charges, etc.).
- With a new trade mode “Subsequent Import Taxation of Royalties” (code: 9500) created in GAC Announcement [2019] No. 20, and the details of the dutiable royalty declaration formalities and filing requirements provided in Announcement [2019] No. 58, these developments should benefit companies with a more consistent approach, especially to those company that have multiple domestic subsidiaries or import via various ports in China.
- The Announcement clearly requires importers to pay more attention and better compliance management on dutiable royalties. It clearly stipulates that late payment charges and administrative penalties could be imposed on violations.

Potential Declaration Challenges

1. According to the royalty confirmation requirements in the previous GAC Announcement [2019] No. 18, when the importer is unable to confirm the dutiability of the royalty, the importer should nonetheless complete “yes” to the confirm that there is a royalty payment/payable. However, in this new GAC Announcement [2019] No. 58, it stipulates that importers should complete the royalty question with “Yes” when there is a dutiable royalty. In that sense, import taxes on the royalty would likely be presumed by Customs and imposed automatically when the answer to the royalty confirmation is positive under the new announcement. Hence, importers should first assess the dutiability of any royalty and have a clear position on the dutiable position of the royalty prior to completing import declaration forms.
2. For the dutiable royalties that have already been paid prior to the import of the relevant goods, if the royalty payment is only related to part of the imported goods, importers may need to distinguish the goods with the royalty and declare these goods separately so that the royalty reported in ‘Incidental Expenses’ of the declarations could be correctly apportioned to the customs value of the goods with appropriate import tax rates applied.
3. If the imported goods involving dutiable royalties are of very different types, specifications and/or customs classifications, the importer should assign appropriate dutiable royalties to the different goods upon submission of the supplemental royalty declaration under the trade mode “9500”. With different specification, classifications, etc., the applicable duty rates, statistical information, etc. could be different and therefore accurate assignment and reporting of the royalty in the supplemental declaration would be important, and sometimes multiple customs declarations may be required so as to ensure accurate reporting and covering of all the related imported goods involving the dutiable royalties.

PwC's Value

More prior preparations may be required on royalty declarations due to the new requirements under the GAC Announcement [2019] No. 58, companies are advisable to:

- Analyse the dutiability of any royalties, licence fees and non-trade payments as soon as possible if their dutiable nature is uncertain.
- Fully understand the declaration requirements under the royalty declaration trade mode “9500” in order to avoid any declaration errors and have advance align with Customs, where applicable, on issues such as dutiable nature of the royalties, etc.
- Importers with dutiable royalties should improve cross departmental information exchanges (e.g. customs service, logistics, finance, tax departments, etc.) to ensure appropriate declarations would be performed imely in order to avoid late payment charges or potential administrative penalties from Customs.

PwC's Worldtrade Management Services could provide assistance in the following aspects:

Assess whether a royalty is dutiable and help companies communicate with Customs to reach an agreement on the dutiability of royalty and apportionment approach.



01

Review calculations or apportionment methods for royalties aligned with Customs and come up with a proper declaration method to fulfil the requirements of GAC.

02



03

Advise on preparing declarations in advance for companies that need to declare royalties under the “9500” trade mode, identify problems and difficulties, and propose suggestions.

04



Assist in reporting any problems or difficulties excontered in the declaration of royalties to local customs or GAC, and facilitate discussions to identify solutions.



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PwC's Customs & Worldtrade Practice

Customs and worldtrade in China is complex, but with the right approach is manageable. A planned and structured approach results in cost savings, higher levels of compliance and fewer unwanted surprises during an audit. PricewaterhouseCoopers' specialists within our Greater China customs and international trade practice provide a wide range of advice and services related to creating value, ensuring compliance, and managing risk in relation to the movement of goods into and out of China.

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