

Korea's National Assembly Approves 2017 Proposed Amendments to the Customs Law

January 2017

In brief

The National Assembly approved the bills to amend the Korean Customs Law as the customs reform proposals were announced by the Ministry of Strategy and Finance last July. In a subsequent move, the government announced the bills to amend the corresponding Presidential Decrees of the Customs Law in order to set forth details delegated by the amended customs laws which were proclaimed on December 29, 2016. If approved, the amendments will become effective July 1, 2017.

In detail

1. Acceptance of Transfer Pricing Adjustments for Customs Purposes

Amendment (Article 16(1) of the Presidential Decree of the Customs Law)

Before Amendment	After Amendment
Transaction value reflecting post-importation price adjustments was not accepted as appropriate customs value of imported goods	Post-import rectification of the transaction value based on the arm's length price for corporate tax purposes may be accepted through the filing of provisional/final value declarations, provided that certain conditions are met: <ul style="list-style-type: none">(i) Preparation and submission of documentation on planned post-importation adjustments prior to the importation of goods;(ii) Post-importation adjustments are made in accordance with the methods for calculating the arm's length price as stipulated under the Law for the Coordination of International Tax Affairs; and(iii) Actual payment or receipt of money has been made accordingly

2. Observations

It is typical practice for companies engaged in intercompany transactions to make periodic transfer pricing adjustments post-importation to achieve a specific arm's length margin for corporate tax purposes. Under the current Customs Law, the Korea Customs Service ("KCS") does not allow a customs duty refund for downward transfer pricing adjustments whereas attempts are made to make an assessment for upward transfer pricing adjustments.

Under the proposal however, duty refunds for downward transfer pricing adjustments may be granted if certain conditions are met. The amendments are expected to become effective to goods imported from July 1, 2017. Further guidance is expected to be available around March 2017.

We anticipate that this proposal will address a long-awaited need for taxpayers to obtain consistency in the treatment of transfer pricing adjustments for corporate tax and customs purposes. It is important that companies implementing such transfer pricing adjustments be prepared in advance with proper documentation (e.g. transfer pricing policy) to be eligible for amended duties relating to transfer pricing adjustments.

Let's talk

For a deeper discussion of how this issue might affect your business, please contact:

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