

## ***Philippines Update: Audits and Disclosures***

Under the implementation of the Customs Modernization and Tariff Act, the Department of Finance has implemented post clearance audit functions for the Bureau of Customs (BOC), as well as a prior disclosure program.

### **Post Clearance Audit**

**WHO:** The Trade Information and Risk Analysis Office and Compliance Assessment Office of a Post Clearance Audit group will jointly conduct customs audits. Such audits could be on:

- importers,
- beneficial or true owners of imported goods,
- customs brokers, agents, and locators,
- all other parties engaged in the customs clearance and processing functions.

The selection criteria for any company to undergo PCA include things like total customs revenue, duty rates, track record of company and industry and risk assessment, amongst others.

**WHAT:** The audit will review operations and documentation. All records that are required to be kept by law in relation to import and export related activities, as well as other records that the auditors will come across, can be reviewed as part of the audit. The auditors will expect such records to be easily available or accessible.

**HOW:** Following target identification, the BOC Commissioner will issue an Audit Notification Letter. The audit itself must start within 60 days from issuing the notification, and be completed within 120 days. Audit results can be contested following specified procedures and timeframes. Penalties are manifold, and include monetary fines, cancellation of accreditation, waiver of rights etc.

### **Prior Disclosure Program**

**WHAT:** The Prior Disclosure Program authorizes the BOC Commissioner to accept and consider prior disclosure by importers of errors and omissions in goods declarations resulting in deficiency in duties and taxes on past importations as a potential mitigating factor in determining penalties.

**HOW:** Any importer may submit a disclosure with or without receiving an audit notification, although limited penalties may apply in case of the latter. The requirements include submission of an application form indicating the errors and payment of deficient amounts of duties, taxes and penalties, if applicable. Failure to do so will result to its non-acceptance or disapproval of application; A disclosure is not possible for any goods declarations that are the subject of pending cases with any other customs office; covered by cases already filed and pending in courts; and fraudulent.

### **Our views**

Although the new rules provide certainty on audit approach, coverage and their parameters in selecting an audit participants, as well as, the policy on prior disclosure program, they extend the coverage of audit examination not only to importers but also to other parties involved in the import transaction like customs brokers and beneficiaries of imported goods. All such companies should ensure that supportive import records are kept as required, conduct regular self- assessments to evaluate their customs compliance, and consider a timely disclosure to mitigate penalties if errors are uncovered. For a more extensive evaluation, [click here](#).

### ***Let's talk***

If you would like further advice in relation to the topic outlined above or a deeper discussion of how this issue might affect your business, please contact:

**Paul Sumner**

Partner

Office: +66 2 344 1305

Email: paul.sumner@pwc.com

**Luningning M Pizarra**

Manager

Office: +63 (2) 459 2005

Email: luningning.m.pizarra@ph.pwc.com



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