

Client Alert

April 2016

Law on Export and Import Duties 2016

On 06 April 2016, the National Assembly passed Law on Export and Import duties 2016, which shall take effect on 1 September 2016. As one of the four key issues of customs modernization, Law on Export and Import Duties 2016 is expected to establish a more competitive business environment in Vietnam under the context of accelerating roadmap for duty elimination following Vietnam's commitments in international trade treaties.

To such extent, the new law supplements new regulations on customs duty, duty exemptions and time limits for duty payment. Certain key developments under Law on Export and Import duties 2016 are as follows:

1 Duty exemption applicable to a larger number of imports and exports

The new Law grants duty exemption to 23 types of goods, which is significantly higher than those under the current regulations. In particular, pursuant to Law on Export and Import duties 2016, notable additional goods under such exemption include:

- Raw material, supplies and accessories imported for export production under contract manufacturing, which are currently entitled to 275-day duty deferral;
- Goods for temporary import/export for following purposes:
 - Machines and equipment for repairing marine vessels and airplanes: Under current regulations, only spare parts and accessories of temporary import/export are entitled to duty exemption. The new Law expands duty exemption to also cover the machines and equipment of temporary import/exports;
 - Temporary imports/exports for repair and warranty;
 - Goods for trading business of temporary import/export (bank guarantee or deposit required);
- Fertilizer, pesticide which have not been domestically produced, subject to necessity appraisal of line ministries;
- Goods for non-commercial purpose including: samples, photos, films, alternative models for samples, advertising publication in small quantities;

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- Goods are not domestically produced, which are imported directly for educational purposes.

Law on Export and Import duties 2016 also eliminates exemption for imports as fixed assets of investment projects of official development assistance (ODA) capital sources;

2 Duty refund in the event of wrong declaration

Under the current regulations, wrong declaration may be entitled to duty refund if such wrong declaration is conducted within 365 days from the date of detection. This regulation accommodates the possibility of refunding the overpaid duty if such wrong declaration is detected within 365 days since the customs declaration. Nonetheless, the new Law has abolished this regulation. As such, taxpayers will no longer have chance to claim the overpaid duty if such mistakes are made by themselves.

3 Time limits for duty payment

Privileged enterprises (under **Authorized Economic Operators Scheme**) are entitled to a grace period of up to 40 days in comparison with other taxpayers. As such, instead of paying duties before goods release, privileged enterprises may make payment no later than the 10th day of the month following the month of goods release or clearance.

4 Anti-dumping duty, countervailing duty, safeguard duty

The new law supplements a Chapter to clarify application of the above-mentioned duties. The Ministry of Industry and Trade is the decision maker, and Ministry of Finance decides relating protocols, including declaration, collection, payment, refund of such duties.

Countervailing duty and anti-dumping duty shall be applied for up to five years from effective date. For safeguard duty, the duration will not exceed four years inclusive of the temporary period . Where necessary, these periods may be extended.

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