

Client Alert

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Administrative Sanction in the Field of Customs

Overview

The Indonesian Government has issued a new regulation on administrative sanction in the field of customs, which amends the previous sanction levels. It regulates the sanction for a shortage of payment in import or export duty due to mistakes in declaring customs value. The previous regulation classified the level of shortage into only five layers.

The new regulation updates the penalty applicable on underpaid import or export duty and classifies it into 10 different layers. The new regulation offers a more specific range of sanction level for a shortage of import or export duty paid.

The above provisions are stipulated under Government Regulation No. 39 of 2019 ("GR 39") which revokes Government Regulation No. 28 of 2008 ("GR 28") on the Imposition of Administrative Sanction in the Form of Penalty in the Field of Customs. GR 39 will become effective on 15 July 2019.

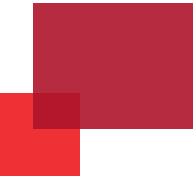
The specific amendments are elaborated below.

Key Changes in the Sanction Imposed

Level of Shortfall	
Old Regulation (GR 28) ¹	New Regulation (GR 39) ²
Shortfall:	Shortfall:
Up to 25%: penalty of 100% of the total shortfall of payment	Up to 50%: penalty of 100% of the total shortfall of payment
Above 25% to 50%: penalty of 200% of the total shortfall of payment	Above 50% to 100%: penalty of 125% of the total shortfall of payment
Above 50% to 75%: penalty of 400% of the total shortfall of payment	Above 100% to 150%: penalty of 150% of the total shortfall of payment
Above 75% to 100%: penalty of 1000% of the total shortfall of payment	Above 150% to 200%: penalty of 175% of the total shortfall of payment
Above 100%: penalty of 1000% of the total shortfall of payment	Above 200% to 250%: penalty of 200% of the total shortfall of payment

¹ Art. 6 of GR 28/2008

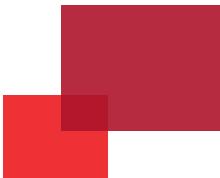
² Art. 1 of GR 39/2019



Level of Shortfall	
Old Regulation (GR 28)¹	New Regulation (GR 39)²
Shortfall:	Shortfall:
-	Above 250% to 300%: penalty of 225% of the total shortfall of payment
-	Above 300% to 350%: penalty of 250% of the total shortfall of payment
-	Above 350% to 400%: penalty of 300% of the total shortfall of payment
-	Above 400% to 450%: penalty of 600% of the total shortfall of payment
-	Above 450%: penalty of 1000% of the total shortfall of payment

*Calculated by dividing the shortfall of import or export duty payment by the amount of import or export duty that has been paid. (e.g., if the import/ export duty payable is 200 and the amount paid is only 50, then the shortfall is 150, and the calculation is: 150 (shortfall of payment) divided by 50 (amount paid) x 100= 300%).

The above sanction levels are imposed for any mistake in accordance with Article 16 paragraph (4), Article 17 paragraph (4), Article 82 paragraph (5) and (6), and Article 86A of the Customs Law. For instance, Article 16 states that if an importer incorrectly declares customs value for the calculation of import duty that causes a shortage of import duty payment, the importer will be subject to a penalty in the range of 100% to 1000% of the shortage of import duty.



Potential Implication for Importers/Exporters

- Even though the range of sanction is still the same (from 100% to 1000%), the change of layers of import/ export duty shortage from five layers to 10 layers is expected to improve fairness in business and improve compliance of importers and exporters.
- This change in layers of import/ export duty shortage can also be seen as the government's incentive for companies that have complied with the prevailing Law.
- This change is also expected to improve compliance of importers and exporters in terms of payment of shortages to the State.
- Importers and exporters must pay close attention to the customs valuation to avoid any mistakes in declaring customs value which cause a shortage of payment, thus resulting in the imposition of the penalty.



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