

Indirect tax alert

2011 Japan Tax Reform proposal brings key changes to customs programs and procedures

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(This newsletter is a summary of the Japanese newsletter published on the same topic on 28 January 2011.)

Japan's 2011 tax reform proposal, released on 16 December 2010, includes key changes to certain customs programs and procedures that may impact the amount of customs duties paid by current importers in Japan. The proposed tax reforms will be discussed by the Diet and are expected to be passed before the end of March 2011, with most of the changes effective from 1 April 2011. Please note that the Diet may modify or amend certain items.

The proposal includes significant changes in the following areas:

1. Revision of the Generalized Systems of Preferences (GSP) program
2. Reduction of MFN rates for certain items
3. Extension of customs' assessment period
4. Revision of export procedures and the Authorized Economic Operators (AEO) program

1. Revision of Generalized System of Preferences (GSP) program

GSP is a trade program which aims to assist the economic development of developing countries by providing preferential access to Japanese markets through the application of reduced duty rates on certain products from such developing countries. As the current GSP program is set to expire on 31 March 2011, the reform proposal seeks a ten year extension of the GSP program with the following amendments.

(1) Removal of ceilings for industrial products

Under the current GSP program, ceilings (import volume limits) are stipulated for 1182 industrial products. When imports from GSP beneficiaries exceed the ceiling, the preferential duty rates are suspended until the end of the year, and the higher MFN (Most Favored Nation) rates are applied for the rest of the year.

The reform proposal seeks to remove this ceiling on all industrial items. However, it also proposes to revise the GSP rates on such items. As a result, there will no longer be any limitations on the number of imports that can benefit from the GSP rates; however, the GSP rates will increase for a number of products.

Example:

▶ Sorbitol	3.4% → 10.2%
▶ Handkerchiefs made of cotton	1.28% → 5.36%
▶ Aluminum foil	0% → 6%

(2) Graduation of certain beneficiary countries from the GSP program

Oman, Republic of Trinidad and Tobago, and Barbados were classified as high income economies in World Bank statistics for three consecutive years, and shall no longer be GSP beneficiaries from 1 April 2011.

(3) Exclusion of certain products originating in China, Thailand and Brazil

The reform proposal seeks to revise the current formula for calculating the exclusion of certain products from some beneficiaries from the GSP program. The application of the new formula will result in the exclusion of approximately 100 products of Chinese origin, including agricultural and fishery products, gloves, curtains, umbrellas and toys. Certain products from Thailand and Brazil will also be excluded.

(4) Revision of product coverage

Under the reform proposal, certain goods shall be completely excluded from GSP coverage (from all beneficiary countries) from 1 April 2011.

Example: Products of leather, footwear, jewelry (including imitation jewelry), neckties, ferro-alloys etc.

Please follow the link below for a complete list (Japanese only).

- ▶ Addendum 5-4 of "2011 tax reform proposal"
http://www.cao.go.jp/zei-cho/news/2010/_icsFiles/afieldfile/2010/12/25/221216taikou.pdf

2. Reduction of MFN rates for certain items

Under the reform proposal, MFN rates (i.e., duty rates applicable to WTO member countries) for certain products shall be reduced from 1 April 2011.

Example: Barium nitrate, lingerie, co-axial cable, electric conductors, embroidery etc.

Please follow the link below for a complete list (Japanese only).

- ▶ Addendum 5-5 of "2011 tax reform proposal"
http://www.cao.go.jp/zei-cho/news/2010/___icsFiles/afieldfile/2010/12/25/221216taikou.pdf

3. Extension of customs' assessment period

The reform proposal will extend the period during which an assessment or correction can be made as follows:

	Current	After revision
Period that customs can make an assessment	3 years	5 years
Period that tax payers can request a correction	1 year	5 years

While the assessment period is set to increase to five years, the reform proposal also seeks to increase the transparency of assessments made by customs by requiring customs to provide reasons for the assessments made. The proposal also stipulates that post-entry audit procedures should be legislated.

4. Revisions of export procedures and the Authorized Economic Operators (AEO) program

Under the reform proposal, exporters shall be able to make export declarations before the goods are entered into a bonded area, allowing for a more efficient and speedy export declaration process. Furthermore, under the AEO program, Authorized Customs Brokers and Authorized Manufacturers shall be able to receive export permits without entering the goods into a bonded area. Currently, this is allowed for Authorized Exporters only.

These revisions will become effective from 1 October 2011.

References:

1. "The coming expiration of the current ten-year GSP program," Customs and Tariff Bureau, Ministry of Finance, 17 November 2010
2. "Reference for the major consideration items with regard to FY2011 tax reform proposal," Ministry of Finance, 1 December 2010

Services provided by Ernst and Young

In order to mitigate any potential negative impact of the reform proposal on your business, Ernst & Young can assist companies in the following areas:

Customs planning

Revisions to the GSP program may result in higher customs duty costs for your business. In order to manage such increase in costs, we can assist companies to identify any further customs duties savings opportunities through implementation of customs duty planning such as the following:

- ▶ Utilization of Free Trade Agreements (FTA) and/or Economic Partnership Agreements (EPA)
- ▶ Customs valuation planning
- ▶ Customs classification planning

Customs compliance

The increase in the assessment period to five years may increase the risk of companies receiving higher duty assessments during a post-entry audit. Given the potential risk, companies may wish to review their existing import declaration procedures and if necessary, file for revised declarations to avoid any penalties. In addition, companies may wish to develop, implement, check and reinforce their customs compliance programs through the following:

- ▶ Conducting a customs compliance health check
- ▶ Development of internal customs compliance policies
- ▶ Documentation of customs valuation procedures

For further information and questions about this tax alert, please feel free to contact the below.

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