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Customs & Global Trade Alert

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Draft Law amending the Customs Law regarding on-the-spot import and export

This alert aims to provide the latest update regarding on-the-spot (OTS) import and export as specified in the draft Law amending the Customs Law No. 54/2014/QH13 (Customs Law)

On 9 April 2025, the Ministry of Finance, through its website, sought public consultation on the draft Law amending the Customs Law. One of the issues that has triggered significant attention from business associations in recent months relates to OTS transactions, which is also addressed in this proposed law.

As you may recall, the current Customs Law lacks a legal framework for OTS transactions. Meanwhile, Decree 08/2015/ND-CP of the Government defines tri-party OTS as “*goods sold between Vietnamese enterprises and foreign organizations or individuals having no presence in Vietnam and designated by the foreign trader to deliver and receive goods with another enterprise in Vietnam*”. The condition of “**having no presence in Vietnam**” has led to complications for both customs authorities and business associations during implementation. There has been also a draft decree to basically abolish such OTS transactions (except for processing activities and import from export processing enterprise) which may disrupt the supply chain of some multinational businesses. Some companies engaging with foreign entities that have a presence in Vietnam have switched to less efficient methods, such as exporting goods to bonded warehouses in Vietnam, or foreign warehouses or neighboring countries before re-importing them into Vietnam, that has resulted in additional costs and inefficiency. That lack of legal basis has also made it difficult for the value added tax (VAT) refund for export companies.

Now the proposed changes in the draft Law define OTS as “*goods delivered and received in Vietnam as designated by foreign entities under contracts for sale, processing, or leasing between Vietnamese enterprises and foreign entities*”. The condition of “**having no presence in Vietnam**” is not specifically included in the draft Law. Although there would be decree by the Government providing further details, this change at the law level appears to be broad and supportive for businesses, and hopefully to support OTS transactions in most of cases.

This amendment to the Customs Law, if approved, which maintains the existing OTS model, represents a critical step toward modernizing Vietnam's customs framework, enhancing operational efficiency and competitiveness in the global market, and attracting increased investments into Vietnam. It might also help resolve the ongoing/current difficulties of the tax authorities over VAT refund for export.



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