

Customs and Global Trade Updates

May 2022

This update highlights the following matters:

- ▶ Guidance on trade remedies under The Regional Comprehensive Economic Partnership Agreement (RCEP)
- ▶ Approval for the strategy on importation and exportation toward 2030
- ▶ Guidance provided in an Official Letter (OL) of the General Department of Customs (GDC), including:
 - ▶ Customs supervision and inspection of Export Processing Enterprises (EPEs)
 - ▶ Import duty applicable for goods imported under the form of on-the-spot for manufacturing and processing
 - ▶ Type of customs declaration and import duty refund
 - ▶ Customs audits on goods which are imported for combating COVID-19
 - ▶ Tax and duty treatment for goods temporarily imported for processing
- ▶ Applying the new regulations on special consumption tax (SCT) from 1 March 2022
- ▶ Customs procedures on goods exported from a Bonded Warehouse (BW) of an Authorized Economic Operator (AEO)
- ▶ Value Added Tax (VAT) refunds and export duty applicable for imported goods upon re-exportation
- ▶ Guidance on VAT declaration for dutiable goods
- ▶ Certificate of origin for goods subject to anti-dumping tax
- ▶ Tax and duty treatment for goods delivered to an EPE for processing
- ▶ Guidance on C/O Form D issued from 1 May 2022

For other Tax and Law Updates, visit [here](#).

Guidance on trade remedies under the RCEP

On 23 March 2022, the Ministry of Industry and Trade (MoIT) issued Circular 07/2022/TT-BCT providing guidance on the implementation of trade remedies under the RCEP (Circular 07).

Circular 07 outlines the procedures for the investigation and application of anti-dumping measures, countervailing measures and the RCEP transition safeguards measures.

The investigating team of the MoIT will notify a member country at least 7 days prior to issuing a Decision on the investigation of anti-dumping activities on a member country.

Circular 07 takes effective from 8 May 2022.

Please refer to Circular 07 for more details.

Approval for the strategy on importation and exportation toward 2030

The Prime Minister signed Decision 493/QĐ-TTg dated 19 April 2022 approving the strategy for importation and exportation toward 2030. The contents and objectives of the strategy include:

- ▶ Promote production and provide sustainable sources for export activities in agricultural and industrial areas
- ▶ Develop trade markets and ensure sustainable growth in the long run. Particularly, increase export revenue to Europe, America and Asia; increase import revenue from Europe, but decrease import revenue from Asia
- ▶ Enhance the government's management of import-export activities in order to facilitate trade
- ▶ Mobilize resources for export development, upgrade infrastructure and reduce the cost of logistic services
- ▶ Manage and control imports that service production within the domestic market, with a positive trade balance
- ▶ Enhance the role of industrial associations and nuclear enterprises, promote the formation of large scale value chains

Please see Decision 493 for more details.

Guidance provided in official letters of the GDC

No.	Subject	Contents
1305/TCHQ-GSQL Dated 15 April 2022	Customs supervision and inspection of EPEs	<p>In relation to the implementation of Clause 10, Article 1 in Decree 18/2021/ND-CP (Decree 18), the GDC has requested city/provincial customs departments to follow Official letter no. 730/TCHQ-GSQL and take appropriate action for the following cases:</p> <ul style="list-style-type: none"> ▶ EPEs who have not submitted Form 25, Decree 18 regarding the notification of qualification of customs supervision and inspection ▶ EPEs who have already submitted Form 25, Decree 18 but the customs authority have not yet conducted an on-site audit for the confirmation of the qualification. <p>On every Thursday, report the results to the GDC (the Management and Supervision Department) according to Request 31/GS2 dated 8 April 2022.</p>
1320/TCHQ-TXNK Dated 15 April 2022	Tax and duty applicable for goods imported under the form of on-the-spot for manufacturing and processing for export	<p>The GDC responded to proposals of enterprises regarding amending tax and duty treatment applicable for goods imported under the form of on-the-spot import for manufacturing and processing for export, as follows:</p> <ul style="list-style-type: none"> ▶ Article 16 of the Law on import duty and export duty provides that raw materials imported for manufacturing/processing for export are exempt from import duty. There is no specific provision or guidance that goods imported under the form of on-the-spot import between two domestic companies are exempted from import duty. ▶ For goods imported under the form of on-the-spot import for processing/manufacturing purposes: ▶ Current regulations do not provide any specific provisions or guidance for goods imported and exported under the form of on-

No.	Subject	Contents
		<p>the-spot import between two domestic enterprises.</p> <ul style="list-style-type: none"> ▶ There are differences between goods imported under the form of on-the-spot import for toll-manufacturing and those for contract manufacturing: ▶ For goods imported for toll-manufacturing: import duty is exempted. ▶ For goods imported for contract manufacturing: goods purchased from another domestic company under the form of on-the-spot import are not exempted from import duty. <p>In this case when finished goods which are produced from the above inputs are exported overseas or into the free trade zone, import tax and duty corresponding to materials constituted in the exported finished goods will be refunded.</p>
<p>1201/TCHQ-TXNK Dated 7 April 2022</p>	<p>Type of customs declaration and import duty refund</p>	<p>For goods that are imported and then are re-exported:</p> <ul style="list-style-type: none"> ▶ If upon re-exportation, the enterprise declares B11 export customs declaration on which information of respective import customs declaration (which were declared to import goods previously) is not fully declared, then B11 export customs declaration will be classified into an appropriate lane (red, yellow or green) based on a risk assessment. ▶ If the enterprise declare B13 export customs declaration on which information of import customs declaration (which were declared to import goods previously) is fully declared, the customs authority conducts physical check of

No.	Subject	Contents
		<p>goods. If the customs authority determines that goods declared on B13 export customs declaration are the imported goods which are not used or undergone any processing, import tax and duty paid at the importation stage will be refunded.</p>
<p>1175/TCHQ-TXNK Dated 5 April 2022</p>	<p>Review and conduct customs audit on goods imported for combating COVID-19</p>	<p>To enhance customs management and supervision, the GDC requests city/provincial customs departments to:</p> <ul style="list-style-type: none"> ▶ Review all shipments imported for serving the fight against COVID-19 for which import duty and import VAT exemptions apply during the customs clearance process, including: review import entities, scope, conditions, documents and procedures for import tax and duty exemption, import tax and duty non-collection. <p>Based on that review the customs authorities evaluate the risk level and conduct post-customs-clearance audits on suspicious cases.</p> <ul style="list-style-type: none"> ▶ Proactively coordinate with the provincial Tax Department and local market management team to ensure imported goods are used in accordance with the purposes declared on the import customs declaration. <p>If goods are not used correctly or sold to domestic companies, it is necessary to make additional customs declarations to change the usage purpose and pay applicable import tax and duties.</p> <p>If no additional customs declaration for changing the usage purpose is made, and tax and duty are not paid, the customs authorities will impose administrative penalties on the enterprise.</p> <p>Inspection results shall be reported to the GDC by 30 June 2022.</p>

No.	Subject	Contents
1272/TCHQ-TXNK Dated 13 April 2022	Tax and duty treatments on goods temporarily imported for processing	<p>The GDC answered questions relating to machinery and equipment (M&E) temporarily imported for processing purposes.</p> <ul style="list-style-type: none"> ▶ Customs procedures will be carried out in accordance with Article 62 and Article 64 of Circular 38/2015/TT-BTC dated 25 March 2015 amended by Circular 39/2018/TT-BTC. <p>Accordingly, processors have the right to hire, borrow M&E from a Party who has a processing contract with the processor. After importation, the M&E must be kept inside the production area of the processor. If such M&E is stored outside the production area, it is necessary to submit a written notification to the customs authority for consideration and approval.</p> <ul style="list-style-type: none"> ▶ Tax and duty treatment: If M&E is imported temporarily for processing purposes, such M&E will be exempted from import duty and import VAT. If such M&E is transferred to another company without notification to the customs authority and the transfer of M&E is not stated in the processing contract, the processor is required to make additional customs declarations and pay any import tax and duty and administrative penalties. <p>If the processor does not make an additional customs declaration, the customs authority will impose tax and duty and administrative penalties.</p>
859/TCHQ-TXNK Dated 15 March 2020	Applying the new regulations on the SCT from 1 March 2022	<p>The GDC has requested city/provincial customs departments to:</p> <ul style="list-style-type: none"> ▶ Apply SCT rates in accordance with the new regulations on SCT from 1 March 2022

No.	Subject	Contents
		<ul style="list-style-type: none"> ▶ Propagate and disseminate new regulations on the SCT to relevant organizations and individuals ▶ Instructs customs declarants to use the correct code TB235, TB245, TB255, TB265 to declare SCT for battery-powered electric cars from 1 March 2022.
943/TCHQ-GSQL Dated 22 March 2022	Customs procedures on goods exported from a bonded warehouse of an AEO	<p>Upon releasing goods from a bonded warehouse, the owner of the bonded warehouse is responsible for making a record which must be retained and submitted to the customs authority if required.</p> <p>Upon the AEO registering an export customs declaration via e-customs system, the owner of the bonded warehouse will make a stock-out receipt corresponding to the export customs declaration made by the AEO on the e-customs system.</p> <p>The quantity of goods recorded must be equal to quantity of goods declared on the export customs declaration and the stock-out receipt in the e-customs system.</p>
975/TCHQ-TXNK Dated 23 March 2022	VAT refunds and export duty applicable for imported goods upon re-exportation	<p>The GDC provides its guidance for imported goods that are re-exported as follows:</p> <ul style="list-style-type: none"> ▶ Regarding VAT: if goods are imported, but then are re-exported abroad, import VAT paid at the importation stage will be refundable. <p>Local tax authorities will be responsible for crediting or refunding VAT paid at the importation stage in accordance with regulations.</p> <ul style="list-style-type: none"> ▶ Regarding export duty and import duty: if the imported goods have not been used or undergone any processing, upon the re-exportation (with export customs declaration type B13), export duty is exempt while import duty paid at the importation state is refunded.

No.	Subject	Contents
		The procedures for import duty refund and procedures for export duty exemption shall be carried out in accordance with regulations.
964/TCHQ-TXNK Dated 23 March 2022	Guidance on VAT declaration for dutiable goods	The GDC provided its guidance on VAT applicable for household electronic devices. Accordingly, if imported goods are household electronic devices, such goods should fall within Point III, Part B, Appendix III of Decree No. 15/2022/ND-CP, hence, VAT at the rate of 10% is applicable.
996/TCHQ-GSQL Dated 24 March 2022	Certificate of origin for goods which are subject to anti-dumping tax	<p>For goods on which trade remedies are imposed, the customs procedures must comply with the relevant Decisions on the application of anti-dumping tax issued by the MoIT.</p> <p>If in the Decision, the MoIT allows for the submission of a certificate of origin issued in accordance with the current Free Trade Agreements (FTAs), the customs authority will accept the certificate of origin and grant customs clearance in accordance with the regulations.</p>
966/TCHQ-TXNK Dated 23 March 2022	Tax and duty treatment for goods delivered to an EPE for processing	<p>The GDC provided its guidance for cases where a domestic enterprise imports materials for manufacturing/processing for re-export, but delivers such imported materials or semi-finished products which are produced from such imported materials to an EPE for processing, as follows:</p> <ul style="list-style-type: none"> ▶ Customs procedures: the domestic enterprise must carry out customs procedures set out for goods delivered aboard for processing. ▶ Tax and duty treatment on the processed goods upon importation into the domestic market: the domestic enterprise is required to declare and

No.	Subject	Contents
		<p>pay import tax and duty for the processed goods upon importing from the EPE.</p> <p>The customs value should include the processing fee, the value of raw materials used for the processing supplied by an EPE and the adjustments (if any). The customs value does not include the value of materials that are delivered by a domestic enterprise to an EPE for processing.</p>
<p>1568/TCHQ-GSQL</p> <p>Dated 4 May 2022</p>	<p>Guidance on C/O Form D issued from 1 May 2022</p>	<p>For C/O Form D issued from 1 May 2022, the GDC provided the following guidance for city/provincial customs departments:</p> <ul style="list-style-type: none"> ▶ If C/O Form D is issued after the exportation date (instead of 3 days after the exportation date), it must have a tick saying “issued retroactively” ▶ C/O Form D must include one original and two duplicates. The provision that the duplicate is made in carbon paper has been removed. Accordingly, a C/O Form D which is printed in A4 paper will be accepted ▶ Certain contents on the back page of C/O Form D have been amended or removed.

Contacts

Hanoi Office

Huong Vu | Tax partner
EY Consulting Vietnam Joint Stock Company
huong.vu@vn.ey.com

Khanh Vu Phu Nguyen | Director
EY Consulting Vietnam Joint Stock Company
khanh.vu.phu.nguyen@vn.ey.com

Japanese Business Services (JBS)

Takaaki Nishikawa | Director
Ernst & Young Vietnam Limited
takaaki.nishikawa@vn.ey.com

Korean Business Services (KBS)

Kyung Hoon Han | Director
Ernst & Young Vietnam Limited
kyung.hoon.han@vn.ey.com

Ho Chi Minh City Office

Robert King | Tax Leader, Vietnam, Laos, and Cambodia
EY Consulting Vietnam Joint Stock Company
robert.m.king@vn.ey.com

Anh Tuan Thach
Partner | Tax Consulting
EY Consulting Vietnam Joint Stock Company
anh.tuan.thach@vn.ey.com

Japanese Business Services (JBS)

Takahisa Onose | Partner
Ernst & Young Vietnam Limited
takahisa.onose@vn.ey.com

Korean Business Services (KBS)

Phil Choi | Partner
Ernst & Young Vietnam Limited
phil.choi@vn.ey.com

China Overseas Investment Network

Owen Tsao | Director
Ernst & Young Vietnam Limited
owen.tsao@vn.ey.com

EY | Building a better working world

EY exists to build a better working world, helping to create long term value for clients, people and society and build trust in the capital markets.

Enabled by data and technology, diverse EY teams in over 150 countries provide trust through assurance and help clients grow, transform and operate.

Working across assurance, consulting, law, strategy, tax and transaction, EY teams ask better questions to find new answers for the complex issues facing our world today.

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. Information about how EY collects and uses personal data and a description of the rights individuals have under data protection legislation are available via ey.com/privacy. EY member firms do not practice law where prohibited by local laws. For more information about our organization, please visit ey.com

© 2022 EY Consulting Vietnam Joint Stock Company. All Right Reserved.

APAC No. 16070601

ED None

This material has been prepared for general information purposes only and is not intended to be relied upon as accounting, tax, legal or other professional advice. Please refer to your advisors for specific advice.

ey.com/en_vn