Customs & Global Trade Alert

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Key updates on customs administrative penalties under Decree 169/2026/ND-CP

This alert highlights the key incremental changes introduced under Decree 169/2026/ND-CP on administrative penalties in the customs sector. Decree 169/2026/ND-CP replaces Decree 128/2020/ND-CP[1] and Decree 102/2021/ND-CP[2] amending Decree 128/2020/ND-CP, and will take effect from 1 July 2026.

On 15 May 2026, the Government issued Decree 169/2026/ND-CP (Decree 169) regulating administrative penalties in the customs sector. Decree 169/ND-CP will take effect from 1 July 2026, upon which Decree 128/2020/ND-CP and Decree 102/2021/ND-CP will cease to apply. This alert highlights three notable updates under Decree 169 as follows:

1. Expansion of cases exempt from administrative penalties

Administrative penalties shall not be imposed in the following additional circumstances:

- Amendment or supplementation of the customs finalization report within 60 days from the submission date and prior to the issuance of any inspection decision.
- Amendment of customs value within the prescribed timeline, including cases where:
  - The final price was not available at the time of declaration.
  - Additional payments arise after the declaration.
  - Valuation elements were not yet determinable at the time of declaration.
- Amendment of customs declarations within the prescribed timeline for goods subject to agreed quantity or commercial grade tolerances, provided that:
  - The excess quantity remains within the permitted tolerance.
  - The adjustment has been approved by the competent authority.
- Incorrect declarations regarding quantity, goods description, type, quality, customs value, origin or harmonized system (HS) code of imported goods subject to taxation, provided that such discrepancies do not affect the amount of payable tax.

[1] Decree No. 128/2020/ND-CP dated 19 October 2020 issued by the Government on administrative penalties for customs violations, effective from 10 December 2020.

[2] Decree No. 102/2021/ND-CP dated 16 November 2021 issued by the Government amending and supplementing a number of provisions of Decrees in the fields of taxation and customs, effective from 1 January 2022.

2. Clarification of tax evasion triggers

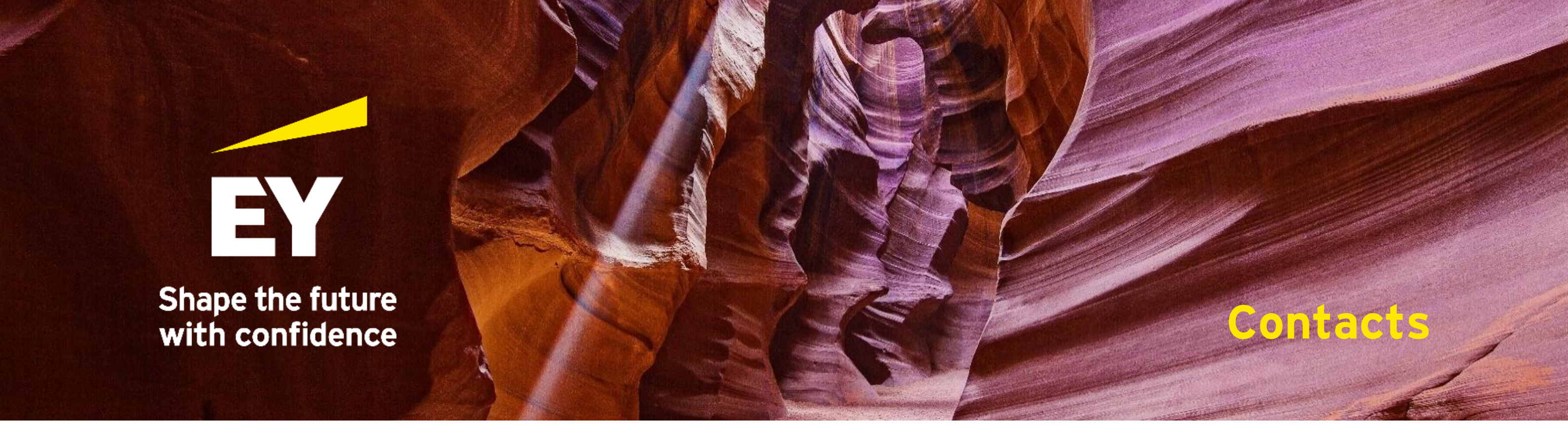
Decree 169 clarifies that tax evasion, in respect of the violation of "incorrect declaration of HS code, tariff rate or duty rate for goods that have already been guided by the Ministry of Finance or the customs authority in accordance with regulations", may be determined where an enterprise fails to comply with prior guidance issued by competent authorities, including:

- Official written guidance issued by the Ministry of Finance
- A customs notice on analysis or classification or an advance ruling issued by the competent customs authority
- A prior tax assessment decision or administrative penalty decision issued by customs authorities in relation to the same goods

3. Introduction of additional penalty exposures

Decree 169 introduces penalties for several additional compliance breaches, including:

- Late submission of quarterly reports by Authorized Economic Operators (AEOs)
- Late notification of the use of goods entitled to preferential import duty treatment under Chapter 98
- Late notification of subcontracting facilities to customs authority
- Failure to notify actual consumption norms of exported products on an annual basis
- Importation of goods without a certificate of origin (C/O), where such document is required under regulations for control of safety, social or environmental risks



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