

# China alert

## Tax and regulatory developments

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## Customs publishes temporary regulation for conservatory measures and enforcement measures

### In Brief

- The General Administration of Customs (GAC) has clarified conservatory measures and enforcement measures that will be imposed under certain circumstances to ensure collection of customs duties.

### Relevant regulation discussed in this issue:

*Temporary Regulation for Conservatory Measures and Enforcement Measures, GAC Order No. 184, published on 19 August 2009.*

### Conditions for conservatory measures

If there are indications that a taxpayer may attempt to transfer or hide dutiable goods or other assets, Customs may require the taxpayer to provide collateral. In the event that the taxpayer is unable to provide collateral, Customs may, with the approval of the director of the provincial Customs, or, upon the provincial Customs' authorisation, the director of its subordinate Customs, take conservatory measures.

### Conservatory measures

Conservatory measures include the following:

(1) Notifying in writing any banks or other financial institutions where the taxpayer responsible for paying the duties has an account to suspend payment to the taxpayer of a value equal to the duties due. If the duties are not paid within 15 days of the issuance of the duty payment notification, Customs should instruct the financial institutions to deduct the duties due from the account that has been frozen.

(2) Detaining goods or other assets that belong to the taxpayer of a value equal to the duties due. If the duties are not paid within 15 days of the issuance of the duty payment notification, Customs shall sell off the goods or other assets under detention to offset the duties due, notifying the taxpayer in writing of this action.

### Conditions for enforcement measures

If the Customs duties are not paid within three months of the due date, Customs may, with the approval of the director of the provincial Customs, or, upon the provincial Customs' authorisation, the director of its subordinate Customs, take enforcement measures.

## Contact us:

### Beijing/Shenyang

Khoonming Ho  
Tel. +86 (10) 8508 7082  
[khoonming.ho@kpmg.com.cn](mailto:khoonming.ho@kpmg.com.cn)

### Qingdao

Vincent Pang  
Tel. +86 (532) 8907 1728  
[vincent.pang2@kpmg.com.cn](mailto:vincent.pang2@kpmg.com.cn)

### Shanghai/Nanjing

Chris Ho  
Tel. +86 (21) 2212 3406  
[chris.ho@kpmg.com.cn](mailto:chris.ho@kpmg.com.cn)

### Hangzhou

Martin Ng  
Tel. +86 (571) 2803 8081  
[martin.ng@kpmg.com.cn](mailto:martin.ng@kpmg.com.cn)

### Chengdu

Anthony Chau  
Tel. +86 (28) 8673 3916  
[anthony.chau@kpmg.com.cn](mailto:anthony.chau@kpmg.com.cn)

### Guangzhou

Bolivia Cheung  
Tel. +86 (20) 3813 8710  
[bolivia.cheung@kpmg.com.cn](mailto:bolivia.cheung@kpmg.com.cn)

### Fuzhou

Lilly Li  
Tel. +86 (591) 8833 1118  
[lilly.li@kpmg.com.cn](mailto:lilly.li@kpmg.com.cn)

### Shenzhen

Eileen Sun  
Tel. + 86 (755) 2547 1188  
[eileen.gh.sun@kpmg.com.cn](mailto:eileen.gh.sun@kpmg.com.cn)

### Hong Kong

Peter Kung  
Tel. +852 2826 8080  
[peter.kung@kpmg.com.hk](mailto:peter.kung@kpmg.com.hk)

## Enforcement measures

Enforcement measures should be taken in the following sequence:

(1) A written request should be sent to banks or other financial institutions to deduct the amount of duties due from the entity's deposits.

(2) The dutiable goods should be sold off to offset the duties.

(3) Goods or other assets equal to the value of the duties should be detained and sold off to offset the duties.

When carrying out the enforcement measures, Customs shall also collect a fee for late payment.

## Taxpayer rights

- Customs should give the taxpayer adequate notice.
- If the taxpayer disagrees with the conservatory measures or enforcement measures, it may apply for an administrative review or lodge an administrative appeal.

## By Cheng Dong, Senior Manager

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