

China alert

Tax and regulatory developments

TAX

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FIEs transformed from contract processing factories may continue to enjoy import tax relief

In Brief

- From 1 July 2009 to 30 June 2011, a Foreign Invested Enterprise (FIE) which is transformed from a contract processing factory can enjoy import duty and VAT relief on transferred equipment if such equipment was contributed by a foreign investor to the FIE as registered capital and was imported and provided to the contract processing factory previously without any consideration.

Relevant regulation discussed in this issue:

GAC Announcement [2009] No.62, issued by the General Administration of Customs on 16 September 2009 (Announcement 62).

Background

To encourage foreign investors to transform and upgrade their processing operations in China, the General Administration of Customs (GAC) issued Announcement 62 to grant import duty and VAT relief to FIEs if their registered capital was contributed by their foreign investor by means of equipment, and if this same equipment had been imported and provided to the contract processing factory for production without any consideration.

Content

- During the period from 1 July 2009 to 30 June 2011, an FIE which is transformed from the contract processing factory can enjoy import duty and VAT relief on imported equipment if it satisfies the conditions listed below:
 - Customs approved the contract processing factory to import the equipment on or before 31 December 2008.
 - The equipment was imported before 30 June 2009.
 - The equipment is still within the five-year customs supervision period.

In addition, the equipment should have been provided by the foreign investor to the contract processing factory without any consideration.

- The following points should be borne in mind during the application for the preferential treatment:

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- A qualified FIE may only apply the import taxes relief to its in-charge customs once before 30 June 2011.
 - The value of the equipment declared as registered capital should not exceed its original declared value imported to the contract processing factory.
 - After the equipment is transferred, the contract processing factory should apply to its in-charge customs to de-register the equipment from its logbook.
- For transformations that do not qualify for the above import tax relief, a newly established FIE can apply for customs duty relief only if this new FIE's project falls under *the List of the State Encouraged Industries* or *the Catalogues of Priority Industries for Foreign Investment in the Central-Western Regions (Encouraged Projects)*.

Impact on enterprises

- If contract processing factories qualify for the import tax relief, they should collect the relevant documentation promptly and submit an application to its in-charge customs within the specified timeframe (i.e. before 30 June 2011).
- Otherwise, the FIE may still be able to enjoy import tax relief on transferred equipment if it qualifies as an encouraged project.

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