



Customs – Business Conference

7th July 2016, S31 Hotel BKK

ISSUE : Customs Laws and Regulations

Update on Recent Amendments

BY

Mrs. Krittika Panprasert

Director of Legal Affairs Bureau

Thai Customs Department

Examples : What have been amended?

- Timeframe for Post Audit not exceed 5 years after import/export
- Revise the Board of Appeal in many issues
- Interest 1% per month is limited (not beyond the principal debt)
- Amend shorter time for good fall into “unclaimed good”
- Inserting laws for UNCLOS 1982 Compliance
- Extend time for refund over paid tax (from 2 years to 3 years)
- Specified time period to keep goods in FZ/BW and not to applied restrictions/prohibitions until bring that goods to internal consumption
- Insert power of customs officer to seize goods for recover customs debts (as the same provisions specified in Revenue laws)
- Amend the timeframe for customs to collect the deficiency of tax to 10 years applied for all cases (evasion or not intention to pay lesser tax)



Bribes and Rewards & Penalty scheme



What are bribes and rewards?

When to pay? How much?

To Whom they are paid?

How to pay?

The way forwards??

Penalty Scheme ?

The way forwards??



Bribes = Money subject to be paid to the informant
(The informant must not be the official who possesses authorities to arrest and to suppress illegal acts in ordinary under law.)

Rewards = Money subject to be paid to the official who makes arrest or discover a deficit in the collection of duties



* When to pay bribes ?

- © Bribes is subject to be paid to the informant in some customs cases when the case has been terminated and after seized goods have been sold or fine have been paid.



* Conditions

- ◎ The informant must report the official who has the authority to make arrest.
- ◎ That report makes the arrestment succeed.



* When to pay rewards ?

- ◎ Rewards will be paid to the arrester or to the person who helps the official in some customs cases when the case has been terminated and after seized goods has been sold or fine has been paid.



* Conditions

- ◎ That official must have authority to arrest and to suppress illegal acts under law.
- ◎ The commander, the planner, the arrester, the supporter together with any person involved that gives assistance before the arrest are completed.



❑ In case that the commander or the arrester considers that the activities that come after the arrest lead to the success of the arrest, the person who gives assistance also deserves the right to get rewards.



In case that the person, who not an official, give assistances and such assistances lead to the success of the arrest. Then the Director-General shall have the power to order the payment of rewards.



The payment of bribes and rewards in accordance with the offences under Customs Act.

I. Bribes

Section 102 ter. the Director-General shall have the power to order the payment of bribes in the following cases:

- a smuggling offence.
- The importation or exportation of prohibited or restricted goods.
30% of the proceeds of sale of the exhibits shall be paid as bribe to the informant. However, in the case where the exhibits have not been forfeited or cannot be sold, the amount of such payment shall be deducted from the fine.
- For an offence of false declaration, 30% of the fine shall be deducted and paid as bribe to the informant.



II. Rewards

Section 102 ter. the Director-General shall have the power to order the payment of rewards in the following cases:

- A smuggling offence and duty evasion
- The importation or exportation of prohibited or restricted goods

25% of the proceeds of sale of the exhibits shall be deducted and paid as rewards to Customs Officials who involved to the arrest.

However, in the case where the exhibits have not been forfeited or cannot be sold, the amount of such payment shall be deducted from the fine.

In such cases which there is no informant, the amount of such payment shall be up to 30%.

- For an offence of false declaration, 25% of the fine shall be deducted and paid to Customs Officials who involved to the arrest.

In such cases which there is no informant, the amount of such payment shall be 30%.



* *Bribes and Rewards shall not be paid in such cases as follow:*

Bribes

- ⊙ Such evidences of the report cannot be provided.
- ⊙ The success of the arrest has not caused by the informant for the arrest.
- ⊙ Such offences can be found by normality.
- ⊙ The Bribes have previously paid by other Law.

Rewards

- ⊙ Such offences can be found by normality.
- ⊙ The Rewards have previously paid by other Law.



** The Process of inform for the arrest*

- ◎ The informant shall report by himself to the officials who have authority to arrest and to suppress illegal acts under law. In case of emergency, reported by telephone call can be allowed and afterward written report is required.
- ◎ Such officials shall provided a written report (Form no. 306), signature of the informer is required and in case of anonymous, the finger print of the informant is required and a witness to that matter is also requested.
- ◎ Reported by letter or telegraph is acceptable.



* The Process of inform for the arrest (Cont.)

- ⊙ In case of anonymous, the power of attorney to whom may come to collect the bribe is required.
- ⊙ Before the arrest, the official must report to commander in hierarchy with all evidences as to ensure “the report”. The surety, who can be ensured “the report”, must be Customs Officer, Technical Level or Equivalent Level or Head of a Customhouse or Deputy or Administrative officer or Superior Police officer.



- ❑ After the arrest, within 3 days from the date of the arrest, the arrester shall report the result of the arrest with the conclude that specify neither the success of the arrest come form the informant of the arrest or not.



- ❑ When the case have been final and the proceeds of sale of the exhibits have been made or fine have been paid, the official, who have worked on the case, can request for the bribes and/or rewards from Legal Affairs Bureau, Customs Department or designated Bureau.



After Legal Affairs Bureau Office or designated Bureau have been verified the rightness of the document, subsequently, shall give an opinion to Customs department as intended for allowance of the payment of bribes and rewards.



Other suggestion from Customs

- just to give some suggestions

- (1) prevention is better than suppression

- (2) the solution to fight against corruption is

achieved when stopping the causes that lead to corrupt

- (3) even most Customs would like to change

immediately but it is better to proceed gradually to avoid

negative affects to both sides



The Way Forwards

- Rewards
- Reduce a reward payment from 25-30% to 15 % with cap at 5 million baht per case
- Why not revoke???
- Bribes
- No change
- Why???



Penalty Scheme

- Current law
- Smuggling / duty avoidance / prohibition or restriction law avoidance are stipulate in the same Section (27)
- Sharing the same penalty even different action to commit an offence
- Bar the Court to have discretion to sanction the wrongdoer with the different decree of action



New proposals

- Separating offences under current Section 27 into 3 individual Section
- 1. Customs smuggling offence with same penalty as current law
- 2. Customs duty avoidance revising the current sentence to a fine calculated based on unpaid duty + intension
- 3. Prohibition/ restriction law avoidance revising the sentence by applying the sentence as provided in related law that stipulated a prohibition/restriction with a minimum of 3 months imprisonment



How about the status of the amendment ?

- The Council of State have been consider the concept of the amendment already (Step 1 : Approve the concept)
- Now : The Council of State are revising the language as they deem appropriate (Step 2 : Legal Scrubbing)
- After that : the Council of State will consider the whole amendment after passed through Step 1 and Step 2 and decide to accept or not except the whole amendments



Questions & Answer



THANK YOU