

Tax Memo

Customs Update: Unilateral Duty Reductions and Audit Targets

Canadian Government Proposes Sweeping Unilateral Duty Reductions —Comments Sought by November 6, 2009

The Canadian government has announced its intention to unilaterally remove the customs duty on a wide range of imported products. The Department of Finance is seeking comments from stakeholders on a proposal to remove the duty on more than 1,500 specific tariff items. Each tariff item may encompass a broad selection of products. The Department will also consider submissions for the removal of duty on tariff items not on their list.

This proposal, if implemented, could result in unconditional duty-free entry into Canada of products classified in Chapters 25-90 of the Harmonized System, including chemicals, fibres, manufactures of stone, glass and metals, and tools, machinery and equipment. In some cases, the duty rates could end up being phased out over a maximum five-year period.

The deadline for comments, whether in favour of or opposed to this initiative, is **November 6, 2009**. Both importers and producers (who could lose tariff protection as a result of this initiative) would be well advised not to assume that their interests will be addressed without their direct participation in the consultative process.

The PwC Customs team is ready to assist you by developing your submissions, and by representing you in discussions with the Department of Finance.

Audit Priorities for 2009/2010

The Canada Border Services Agency (CBSA) has released its audit priorities for 2009-2010:

1. Targets for valuation audits	<ul style="list-style-type: none">• Plastic household articles
2. Targets for origin audits	<ul style="list-style-type: none">• Vegetable fats and oils• Articles of bedding and similar furnishings• Products of the perfume and toilet water industry• Mattress upholstery• Electric generators
3. Targets for tariff classification audits	<ul style="list-style-type: none">• Magnesium sulfates• Cotton yarn• Copper and articles of copper• Stone and articles of stone• Reclaimed rubber• Furniture parts• Gloves• Soap

Importers that are targeted for audits will receive a notification letter from the CBSA advising them that specific entries have been selected for audit – or a "verification," as the CBSA terms it. Lately, the CBSA has relied more on desk audits, but it is possible that the audit could include an on-site visit. The importer will be asked to respond to a questionnaire or otherwise to provide information, the specific nature of which will depend on the type of audit (valuation, classification or origin) being conducted. The typical deadline for responding is 30 days. Origin audits will involve the person who exported the goods to Canada, although the importer will be informed that an audit is underway.

Care should be exercised when responding to questions and requests for information. Of course, responses must be accurate and complete, and should also clearly respond directly to the question or request. A carefully considered response can avoid confusion and, perhaps, the need for an appeal. It is best practice to thoroughly review any documentation before submitting it to the CBSA to identify all the potential errors and be prepared to deal with them. If the audit finds that the incorrect information was declared to customs, the importer may be required to correct past entries. The *Customs Act* permits the CBSA to require corrections for up to four years after goods have been accounted for, although the actual re-assessment period may be shorter. Any duties and taxes owed as a result of the correction will be assessed interest.

If the auditor determines that the importer had "reason to believe" that the information was incorrect, the importer can be fined for having failed to self-correct the error within the legislative time limits. The fine may be either a fixed-dollar amount per incorrect declaration, or the higher

of a fixed-dollar amount or a percentage of all or a portion of the value of the goods. The penalty amounts increase with repeat offences.

Companies that import the targeted products should consider undertaking their own reviews in advance of an audit. This will prepare them to address issues that might arise during an audit, and, if they complete their review quickly enough, they may be able to avoid penalties by submitting a voluntary disclosure before the audit is initiated.

PricewaterhouseCoopers' Customs Team can assist in performing these pre-audit reviews, and can help you to manage the audit process – and, should it be necessary, to file appeals or protest penalties.

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