Customs Value Updates for Japan and South Korea

April 9, 2013

In brief

- In Japan, a recent change to the customs valuation law may disallow the use of transaction value in a sale from an overseas vendor to a non resident importer as the customs value.
- In South Korea, the Korean Customs Service ("KCS") has intensified its audit activities against multinational companies with related party pricing.

In detail

Japan - Changes to the customs value law for non-resident importers

In Japan, a Bill for Partial Amendment of the Customs Tariff Act ("the "Bill") took effect on April 1, 2013. The Bill revised Article 4 of the Customs Tariff Act, which set out principals for determining customs value, by inserting a new provision that appears to disallow the use of the sales price to an entity that does not have an establishment in Japan as the basis for customs value. Most commonly, this type of transaction occurs where an overseas vendor sells to a non resident buyer, neither of them resident in Japan. Thus, Japan Customs will now have legal basis to reject such sales prices as transaction values for customs valuation purposes, even when the buyer in such a transaction acts as the importer by appointing a Customs Affairs Representative ("CAR") under article 95 of the Japanese Customs Law.

We will continue to monitor and report on the practical interpretation and implementation of this new development in the Japanese customs value law. In the meantime, non-resident importers importing into Japan should review their customs valuation methodologies and make the necessary changes to remain compliant with the law. Switching to another customs appraisement method or a change in the underlying business model may be appropriate.

Although it is unlikely that any importation would be interrupted as an immediate result of this change of law, there is the possibility that some Customs officials may start questioning the customs values declared by non-resident importers. In addition, any subsequent Customs audit may challenge the customs value of a company which is based on sales prices to non-resident importers, with any negative findings being applied retroactively.

South Korea - KCS intensifies audit activities against multinational companies with related party pricing

The Korean Customs Service ("KCS") announced on February 6, 2013 that it would conduct extensive audits against multinational companies that import parts or equipment from related parties overseas. The efforts will target approximately 130 multinational companies with high import volumes and/or duty rates. The number of targeted companies is remarkably high, considering that the typical number of companies being audited annually is about 70 - 80.

To conduct these audits, KCS expanded and reorganized the number of audit teams from six (31 people) to ten (51 people). In particular, the Seoul Customs Office and Busan Customs Office (two of the main customs offices) decided to establish a 'Task Force for Related Party Transactions' in order to focus on multinational companies. This demonstrates that KCS is taking steps to regularly monitor import price trends and to discover high risk multinational companies in an attempt to conduct thorough audits.

There are about 5,000 multinational companies that are doing business in Korea. Among these companies, those having an average import value of USD 50 million or more are subject to an audit. In 2012, KCS conducted audits on 80 multinational companies, assessing additional duties of KRW 60 billion.

This recent announcement by the KCS provides Korean companies the opportunity to proactively review its related party pricing - and make any necessary changes - prior to potentially being audited.

Let's talk

For a deeper discussion of how this issue might affect your business, please contact:

Customs & International Trade

Domenick Gambardella, *New York*
(646) 471-3791
domenick.gambardella@us.pwc.com

Anthony Tennariello, *New York*
(646) 471-4087
anthony.tennariello@us.pwc.com

Maytee Pereira, *New York*
(646) 471-0810
maytee.pereira@us.pwc.com

Craig Pinkerton, *Los Angeles*
(213) 356-6037
craig.j.pinkerton@us.pwc.com

Dennis Forhart, *Seattle*
(206) 398-3179
dennis.forhart@us.pwc.com

Mathew S Mermigousis, *New York*
(646) 471-2371
mathew.s.mermigousis@us.pwc.com

Mark Bolling, *San Jose*
(408) 817-5894
mark.a.bolling@us.pwc.com