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BIZ INSIGHT

Moving goods? So what's your tariff classification strategy?

All items imported into or exported out of Thailand must be assigned a tariff classification code from the Thai Customs tariff schedule. Assigning a suitable and correct tariff classification code to products is important as it determines many things - including whether your products would be eligible for preferential duty rates or whether anti-dumping duties apply.

The tariff classification of products is complex and requires a thorough understanding of products as well as a good understanding of the complex classification rules of the Thai tariff schedule, as well as the local interpretation of these rules by Customs. Typically, challenges to the classification code arise at two points with respect to imported goods in Thailand: either during the clearance process at the port of entry, or during a post-clearance audit or investigation.

When goods arrive at the port, Customs officers usually focus on the general description of the goods (size, model, etc), quantity (the number of items or cartons), and the tariff classification of imported goods. If the declared classification codes are not considered to be significantly "odd", Thai Customs would normally not challenge the declared codes, especially where the duty rate is low or exempted (zero per cent).

However, the risk of Customs challenges on the classification codes is higher during a post-clearance audit or investigation. During these audits or investigations, Customs would have prepared and obtained detailed information and/or evidence on the imported goods to consider any possible challenge on the declared codes.

There may be a number of factors or reasons for Customs to challenge the tariff classification codes of companies. For example, companies using different classification codes for the same products, or companies that have changed their classification code of products over time to benefit from lower duty rates, may be more likely to be examined by Customs.

Also, based on their own internal risk-management profiling, Customs could decide to focus on a specific "sensitive" industry or specific targeted products that either attract high duty rates or could potentially fall under different classification codes.

Declaring the wrong classification code could lead to a charge of making a false customs declaration. Where the false declaration would result in a duty shortfall (that is, the correct classification code attracts a higher duty rate than the one declared), this could be deemed as a false declaration to evade customs duties, and is subject to severe penalties in Thailand.

So what kind of strategies can (or maybe should) companies implement to mitigate the risks of these penalties?

First of all, companies need to start taking the tariff classification of their products more seriously. Many companies either don't have expertise in this field or don't have in-house resources and would typically rely on their brokers or logistics providers to assign the classification codes of their products. However, relying on brokers or forwarders may not be good enough. At the end of the day, even where the customs broker or forwarder prepares and submits the customs declaration, the importer of record (that is, the company) remains responsible for any wrong tariff classification.

One strategy could be to hire an in-house classification expert or team to ensure consistency and minimise errors on tariff classification. Another strategy, which is more or less a growing trend for larger companies, is to outsource their classification operations fully to a third party that offers this specific service. When compared with in-house resources, outsourcing a company's classification operation offers some significant additional benefits. These generally include lower cost, dedicated experienced classification professionals, the ability for companies to reduce headcount and to be flexible with workload volume, and project management support to larger-volume projects.

Second, companies should consider using available (advance) tariff rulings where possible. Thai Customs allows companies to ask them for an advance tariff ruling for future imports. Once issued, the advance ruling would be valid for one year from the date of issuance and this would give companies a level of certainty that the correct classification code had been used for the goods.

Third, where it appears that previous shipments have been declared incorrectly, it would be important and wise to put in place proper strategies to reduce the possibility of future challenges from Customs as well as further duty exposures. These strategies could include proactively disclosing the incorrectly declared classification code to Customs. Especially where the correct code attracts a higher duty rate, a self-disclosure could substantially reduce the duty exposure, as Customs would typically not impose penalties under a self-disclosure (Customs would normally impose penalties in cases where the mis-declaration was found during a post-clearance audit).

Whether hiring a dedicated internal classification expert or outsourcing your classification operations would work for your company depends on many factors. However, it is clear that not having any tariff classification strategy and waiting for Customs to challenge your classification codes may be very risky, and your company might end up paying heavy fines. With the right tariff classification strategy for your company, you might be in a better position to lower these risks of non-compliance as well as reduce the possibility of penalties in the future.

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