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ZOOM IN TRADE

SHINHAN Customs Service Inc.

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Lemon Juice

“
When life gives you lemons,
Make lemonade!
”



Grace Chang

CEO/Customs Consultant

As the spread of coronavirus infections slows, many countries are mitigating risk alerts. In Korea, 'social distance' has been alleviated to 'distancing in daily life', and in the UK, the risk level has been eased from 'Social distancing continues' to 'Gradual relaxation of restrictions'.

However, because of these relaxed practices, the number of confirmed cases of infection continues to fluctuate again. There is also a WHO announcement that the number of confirmed cases in the world will soon exceed 10 million.

Development of vaccines and treatments is underway, but we cannot put everything on hold while waiting for results that are beyond our control. [Now is the time to prepare for living a life with the coronavirus](#), as we do with food poisoning or the flu.

This month's Cover Story is 'Relationship among Usage Tax Rate, Item Classification, and Post management'. Voice From the Field covers 'FTA Customs Support Measures Following the Spread of Covid-19'. Inside Vietnam discusses 'Vietnam News in June'. Customs Trade Related Law Changes is seen in 'Partial Revision of the Notice Regarding the Processing of Tax Payment'. Customs Case is 'Disposition to Reject of the Declared Price and Impose Customs Duties Based on the Transaction Price of Similar Goods'.

[It is said that my existence is determined not by my consciousness](#), but by the relationship with the myriad of things connected with me.* There are countless things connected to me, forming a network in my life. These connections may be with humans and with non-humans. As some networks are newly added and others are deleted, my network is always changing. My existence and my life change accordingly.

In order to live a certain life, we have to choose to become a certain type of person, and to become a certain type of person, we must build certain habits. How our life network will be structured is determined by the everyday habits we choose. It is said that 43% of daily actions are done by habits. [It is also said that human beings are constructed with the habit of excellence as they are determined by repeated actions.](#)

We have learned important habits since childhood; Eating healthy food, keeping table manners, brushing your teeth twice a day, going to bed early and getting up early, going outside and exercising, cleaning up our mess, sharing with others, and so on. These seemingly small acts have accumulated and made our lives.

[However, a new variable has entered the network of our lives.](#) It is a new existence that cannot be controlled by the habits we've previously learned and followed. Despite being non-human, it has a tremendous impact on our lives. It is said that infectious diseases like Covid-19 will be repeated every few years from now on. We have entered a world that has never been experienced before. Our values and lifestyles will also change accordingly.

[When life gives you lemons, make lemonade!](#)

If this has already happened, and if it cannot be avoided, we should take active measures against it. We need to recognize it as a part of our lives and seek ways to live together. [We need to learn new lifestyles and establish new values.](#) If we are given a sour lemon when we want to eat delicious fruit, instead of throwing away the lemon or waiting for other fruits, we can make delicious lemonade.

[Bees make honey out of the water they drink, and snakes make poison out of the water they drink.](#) We need to make sure that the water we drink, the infectious disease that has entered our network, is not poisonous, but rather sweet honey or delicious juice. We should start with faith and hope that it will happen someday, if not now.

We wish your network to be made more beautifully.

Thank you.

* So Young Chung(2018), Nikebooks



Cover Story

Relationship among Usage Tax Rate, Item Classification, and Post management

Usage Tax Rate and Item Classification

According to the Customs and Statistics Integrated Item Classification (HSK), when a product is used for a specific purpose (telecommunications device, semiconductor material, display material, etc.), different HSK may apply even amongst the same products. In addition, the tariff rate of the products for which the purpose is determined is lower than that of other products.

Item classification is done in a comprehensive way using product names, functions and uses. If the product is designed for a specific use, there is no problem with the item classification.

However, if the product can be used for a variety of purposes, the question arises as to whether the product is classified as an HSK for a particular use or as another HSK.



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In order to solve these concerns, Article 83 of the Customs Act stipulates the application of the usage tax rate. The issue lies with whether the item classification or the application of usage tax rate should come first.

If the same item has a different tariff rate according to its use, it is a function of the usage tax rate that a lower tax rate to be applied.

Devices that have various uses according to technology standardization



Battery chargers that charge smartphones have 8 or 6 pins because the charging section is largely divided into Apple, Samsung, and LG. These chargers were originally designed to charge smartphones, but since, they're also able to charge digital cameras, LED lights, handheld fans, and earphones. The standardization of charger pins has broadened the range of use. The issue was whether to apply this charger as a charger for smartphones and to apply a low tax rate by applying the usage tax rate of Article 83 of the Customs Act, or to classify it as other HSK since it can be used for various purposes besides charging smartphones.

HSK	Product	Tariff
8504.40-3010	Battery charger for automatic data processing equipment	0%(for telecommunication equipment) device and its unit and telecommunication
8504.40-3090	Other battery charger	8%

Usage tax rate-Special application of item classification and post management

The purpose of the usage tax rate, which is that a lower tax rate can be applied when used for a specific use, is to support the industry for that use. Therefore, if the importer uses the product for specific purposes, it is reasonable to deviate from the basic principle and apply the special application when classifying items.

A post-management system for products subject to the usage tax rate is implemented to prevent the use for other purposes after import when a taxpayer applies for a usage tax rate for a certain purpose.

That is, the importer applies for a usage tax rate on the condition for a specific use, and if it is used for another use, the post management system monitors the use so that a high tax rate can be collected afterwards. In the case of the smartphone charger, if the purpose is to use for charging a smartphone, an application of lower tax rate (application of usage tax rate) is possible.

What happens if the importer sells the product for a specific purpose and the end consumer uses it for another purpose? As in the case of a smartphone charger, if the importer sells it for charging of a smartphone but a consumer uses it as a digital camera charger, the tax authorities may have some concerns that the product may be used for other purposes. Would the tax authority deny the usage tax rate application since the post-management may not be done properly? Or will it be taxed because it is used for other purposes when implementing post-management?

These judgments will be judged after considering all the factors such as the purpose of legislation, the content of the law, correlations, and market conditions.

Smartphones are used by most people, while digital cameras are not. Even if the same charger can be used, the actual usable range is limited. It is not the main purpose to determine whether smartphone chargers are used for other items such as hand held fans and earphones.

Therefore, even if there are some cases where the purpose is different for the application of the usage tax rate, if the main use is applicable, a lower tax rate is applied. When the product is used for a different purpose after the import, a higher tax rate can be applied with limited purpose.

In order to enjoy the advantages of the usage tax rate

It is not easy to establish clear and consistent principles for usage tax rate, item classification, and post management due to the following factors: the intended use by the importer and the actual use by the consumer after import may vary, the fact that the classification of items may vary due to technological advancement and standardization of specifications, and the fact the post-management for the usage tax rate applied products are not easy.

Despite the changes in the industry and the products, the purpose of selecting the goods subject to the usage tax rate should be comprehensively applied and flexible laws should be applied to continue to enjoy the advantages of the usage tax rate.

Usage tax rate due to the fact that the intended use by the importer and the use used by the consumer after import may vary, the fact that the classification of items may vary due to technological advancement and standardization of specifications -Item classification-It is a reality that it is not easy to establish clear and consistent principles for post-management.

Despite the changes in the industry and the products, the purpose of selecting goods subject to the usage tax rate should be comprehensively applied, and flexible laws should be applied to continue to enjoy the advantages of the usage tax rate.



FTA News

FTA Customs Support Measures Following the Spread of Covid-19

FTA utilization difficulties

Due to many countries' containment measures and restrictions of entry into Korea to stop the spread of COVID-19, the movement of people and materials between countries continues to be difficult. Exporters and importers who want to apply the FTA also have difficulties in receiving the certificate of origin, or experience delays in sending the original document to the other country due to the temporary closure of the other country's Certificate of Origin issuing agency. The Korea Customs Service has made a temporary support plan to resolve such difficulties in using the FTA.



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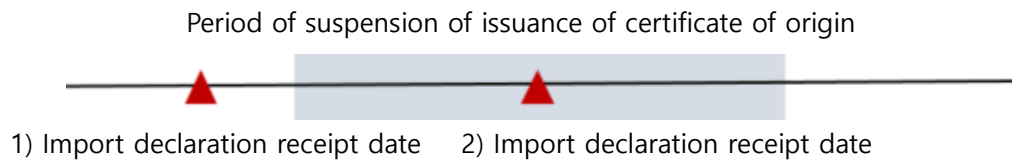
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Import: FTA preferential customs clearance without certificate of origin

Application of FTA agreement tariff

The following customs clearance measures are provided for each company that does not receive a certificate of origin from an FTA partner country at the time of receipt of an import declaration.



Import declaration receipt date (point of time)	Customs clearance support measures	Contents
① If the import declaration is received before the issuance suspension period of the certificate of origin	Application period Extension for ex-post application	If the application period for ex-post application (one year from the date of receipt of the import declaration) is expired during the issuance suspension period of the certificate of origin, the application period for ex-post application is extended up to one year.
② When the import declaration is received during the issuance suspension period of the certificate of origin	The payment deadline is extended.	Since the customs payment deadline for import declaration is extended to a maximum of 1 year, it is possible to apply for post-application of agreement tariff when the issuance of the certificate of origin resumes (within 1 year from the date of receipt of the import declaration)

General preference agreement applied

In addition, if the certificate of origin prescribed by the general preferential agreement such as the Asia-Pacific Trade Agreement (APTA) is not issued during the issuance suspension period of the certificate of origin, the product can be taken out before the import declaration is received in the state when payment of customs duties is deferred. The agreement tariff can be applied by submitting a certificate of origin within 30 days from the date of issuance of the certificate of origin of the partner country is resumed.

Export: Copy of certificate of origin of some countries is accepted.

Among the Korea-ASEAN FTA and the Korea-India CEPA partner countries that adopted the agency certification method, the following four countries took the suggestion of the Korea Customs Service to allow a temporary copy of the certificate of origin.

Country	Reply Content
Singapore	- Korean issued C/O copy accepted
Malaysia	- C/O copy is allowed within the period of domestic blockade - Submit original C/O within 14 days from the date of release of containment
Thailand	- C/O copies accepted for all FTAs from 4/16 to 9/30 - Original copy must be submitted within 30 days after the copy is submitted, and a 30-day extension is possible
India	- In the absence of C/O, a preferential application is possible as a provisional notification method based on the consent of the importer - C/O copy is allowed through provisional report, and a preferential application is possible even without a C/O copy

* China and Indonesia are excluded because it is not necessary to submit the C/O due to the EODES implementation for those countries.

For more detailed information on FTA customs support measures, please visit <https://www.customs.go.kr/ftaportalkor>. Customs Service operates the support center for COVID-19 related customs clearance in Seoul and Incheon offices.



Inside Vietnam

Vietnam News in June

Customs and customs clearance procedures for temporarily imported manufacturing equipment from Korea to Vietnam under a lease agreement

Government tax for import

1. Customs

In accordance with the Import and Export Tax Act (No.107/2016/QH13), goods imported into the domestic market from overseas, non-tariff zones such as EPE and tax-suspension warehouses are subject to customs duties. . However, if the goods are temporarily imported under Article 16 of the same Act or re-imported within a certain period after temporary export (excluding machinery, equipment, tools, and transportation means that have been granted temporary import for investment projects, construction, and manufacturing), they are exempt from import duties.

Therefore, when machinery and equipment are leased and imported from non-tariff areas such as Korea or EPE for manufacturing, they are subject to customs duties in accordance with Article 16 of the Customs Exemption Exceptions of Export and Import Tax Law.



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2. Taxable price: Calculated based on the rent, the price differs depending on whether the rent is paid or not. (Governing Law: Circular no. 60/2019/TT-BTC Article 9)
 - Paid rental goods: the actual payment the tenant has to make according to the lease agreement and other costs the tenant must pay at the first port of entry under the agreement. (e.g. fare and insurance premiums paid by the importer under the terms of Incoterms)
 - Free rental goods: the cost the tenant must pay at the first port of entry under the lease agreement
3. Value Added Tax: Non-targeted. (Governing Law: Circular 219/2013/TT-BTC Article 4)
4. Customs Refund: when re-exported to overseas or non-tariff areas, Customs refund is made based on the remaining value calculated according to the used or stored period in Vietnam. (If there is no remaining value, customs duty refund is not possible. (Governing law: Import Export tax law 107/2016/QH13))

Export/Import customs clearance procedure

Export Destination	Necessary Documents	Re-export Fulfillment Period	Import Declaration Type	Re-export Declaration Type
Overseas	- Import declaration	Subject to rental agreement	G12**	G22***
Non-tariff zone (tax-suspension warehouse)	- Contract, invoice, packing list, BL - One set of original copy of import license (when required by relevant laws and regulations)			
Non-tariff zone (tax-suspension zone excluded)	- Invoice, packing list ※ Domestic importers*: Invoice, packing list, and approved export declaration			

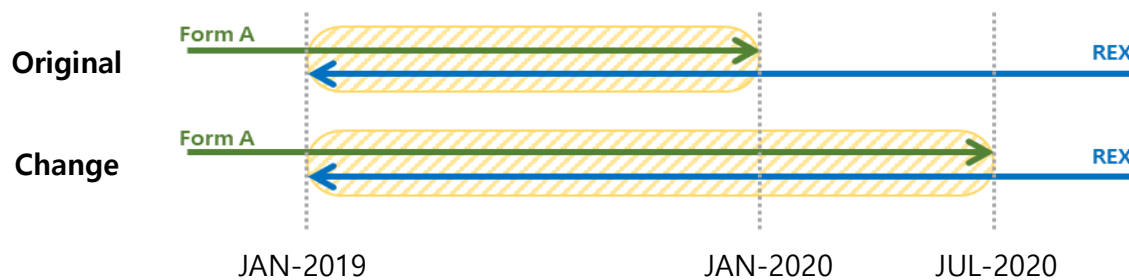
- * When importing from EPE into Korea, the EPE company first declares the export, and the domestic company should declare the import in the same manner as the corresponding export declaration information.
- ** When importing machinery and equipment, construction equipment, and molds from overseas or free trade areas to Vietnam for manufacturing, construction, project implementation and testing.
- *** When the machinery and equipment declared for import as G12 are temporarily imported, the rental period expires or the project is closed, and they are re-exported.

EU, Vietnam GSP C/O complete conversion to voluntary issuance from July 1, 2020

In order to receive GSP benefits for goods exported from Vietnam to the EU, Norway and Switzerland, a certificate of origin must be submitted to the importing country. Starting in the second half of 2020, there is a change in the origin verification method to receive these GSP benefits, so companies that export from Vietnam to the EU, Norway, and Switzerland and want to receive GSP benefits need to prepare in advance.

Previously, in order to receive GSP benefits for goods exported from Vietnam to EU, Norway, and Switzerland, only form A, issued by VCCI or MOIT, was recognized as the certificate of origin. However, from January 2019, the REX system was adopted so either the issuance from the agency or voluntary issuance of form A can be chosen. From July 2020, the issuance of form A by the agency is completely stopped and the origin verification is possible only through the voluntary issuance.

Originally, from January to December 2019, after the grace period that recognized both the issuance from the agency or the voluntary issuance of Form A, it was planned to begin voluntary issuances from January 2020. However, upon request by the department of industry and trade in Vietnam, agency issuance is possible until June 30, 2020. Therefore, from July 1, 2020, the proof of origin and GSP application can only be made through voluntary issuance.



Voluntary issuing is a method of proving the country of origin by entering the specified phrase for country of origin in the commercial document. In the case the total amount exceeds 6,000 Euros, only the party who is given the REX number can enter the phrase for country of origin.

Even if proving the country of origin method is changed to a voluntary issuance, accurate verification of origin and determination of origin are essential, as there may be verification by the importing country at any time regarding the adequacy of origin determination.

In addition, the REX number must be prepared in advance as it involves applying to the EU Commission site, receiving the number from the commission, and obtaining the approval from the Vietnam Chamber of Commerce (VCCI).



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Customs Trade Related Law Changes

Partial Revision of the Notice Regarding the Processing of Tax Payment

Reason for revision

- When voluntary payment of deficit tax using tax help information is made, to support voluntary sincerity tax payment, and to make the payment more convenient, the revision or correction of the report can be made at one customs office.
- Determine the matters necessary for enforcement in accordance with the revision to the 「Customs Act」 and 「Special Act on Refunds, such as Customs Duty on Raw Materials for Export」, and make improvements and supplements to the deficiency of the current system.(Integrate additional tax and the penalty that are derived from the delinquent period and the type of deficit tax as additional tax for payment delay (Customs Act) and add provision target for export refund. (Special Exchange Act))



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Main Content

Enhancement of convenience on tax payment for companies that voluntarily pay deficit taxes by checking errors in tax returns. (Article 10, paragraph 2, paragraph 3)

- When the taxpayer receives information on the ① tax error or ② the correction application from the customs officer* and wants to check the errors and voluntarily pay the deficit tax, the submission of the correction request and the revision report to one customs officer is allowed.

* For taxpayers who have filed tax returns with multiple customs offices and received the notification of correction request from one or more customs officers.

Revisions to the 「Customs Act」 and 「Special Act on Refund of Customs, etc. for Raw Materials for Export. (hereinafter referred as “Special Act on Refund”)

- The additional tax and the penalty that are calculated according to the delinquent period and the type of the deficit tax are integrated into the delayed payment tax (Customs Act 41, 42), Reflect. (Article 1, Article 10 (4), Article 19 (4), Article 31, Article 49 (1), Article 53-2 (1) 1, Attached Form No. 1, Attached Form No. 4)

- With regard to the revision of the procedure for applying for the additional tax exemption and correction interest exemption (Customs Act §42-2), change the application form. (Attachment No. 12 form).

(For some cases, when applying for additional tax exemption, the application process is simplified by adding the tax exemption code to the 'Approval (application) for Tax Return Correction Form' without submitting an additional tax exemption form.

- If there is an amount to be collected by the head customs officer due to excessive refunds, cover the amount with the refund made by export, and collect or refund only the difference (Special Law §16④) Reflected. (draft Article 53-2 (1) 2 B)

Improvement and supplementation of inadequacies in miscellaneous system operations.

- Accepting the Supreme Court ruling* (2015 Supreme 5216, etc.) and revising related provisions. (Article 31)
 - * A deficit tax was collected, but there was a reason for the refund, and ultimately there is no deficit tax to the main tax, the additional tax for declaring underpayment or delaying payment is excluded from the taxation notification.

- Clarification of the scope of refund for goods exported in their original condition and waste goods replaced by exports that are different from the contract details. (Article 31, Article 35)
 - * If only some of the imported goods are exported or scrapped, only customs duties that are corresponding to that part are refunded.

- Other text corrections. (Article 10 (2) and (3), Article 19 (3))

Effective date

May 8, 2020



Customs Case

Disposition to Reject of the Declared Price and Impose Customs Duties Based on the Transaction Price of Similar Goods [Tax tribunal 2019 0064 (2020.04.16)]

Issue

The disposition that rejected the declared price of an item of issue and determined the customs duty based on the transaction price of a similar item.

Background

Company A imported perilla (hereinafter referred as the disputed item) from an issue seller located in China, reported it at the price per ton as the transaction price of the disputed item, and received approval to export prior to the import declaration from the disposition authority.



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According to the results of the customs investigation of the disputed item, the Disposal Service found the declared price to be significantly lower than the transaction price of the similar goods, and it was confirmed that the data submitted by Company A did not vindicate any doubts about the accuracy or truthfulness of the declared price. The declared price was rejected and the customs duty was determined on the disputed item based on the transaction price of the similar goods in accordance with Article 32 of the Customs Act, 2019.2.18. Tariffs were amended and notified to Company A.

Court Decision

Issue	Company A's opinion	Disposal Office Comments
<p>Considerable difference between the reported price and the transaction price of similar item</p>	<ul style="list-style-type: none"> • Chinese perilla has a considerable price difference depending on local trading condition, terms, and quality. Company A purchased it at the current price according to the difference in transaction timing and quality, and reported it as the transaction price. • Although Company A submitted an explanation with the purchase receipt from the seller at issue, the inland transportation data, and the issued seller's tax increase data¹, the Disposal Authority rejected the declared price without reviewing it. 	<ul style="list-style-type: none"> • The transaction price of an item at issue is only 65.7% to 80.5% of the weighted average price of the similar item, and only 70.7% to 81.7% of the lowest transaction price of the similar item. • Profits of Chinese exporters are about 4.7% of local prices, while "profits and taxes" of sellers at issue are 0.9% to 1.2% of transaction prices, which is one-fifth of Chinese exporters. • It is unusual for the "profit and tax" of sellers at issue to be constant even though the transaction price of the item at issue changes rapidly, and company A did not provide any explanation about it.

<p>Reasonable suspicion about the declared price</p>	<ul style="list-style-type: none"> • The disposition agency has an opinion that there is a reasonable suspicion on the transaction price of the disputed item based on the issue seller's profit stated in the cost statement of the disputed item. However the profit rate of the item is determined by the seller, and the profits of other perilla exporters in China also vary. • Chinese exporters try to export a lot, even at a low profit level, and make up for their profits through export tax deduction². 	<ul style="list-style-type: none"> • Company A claims that the seller at issue can replenish profits through the refund of the increased taxes, but since it is a system for all exporters in China, the claim that the issue seller has little profit due to the export decline is less convincing. • The terms and conditions of the price of the item at issue are OOO, and the standard of export declining is OOO, and the difference is OOO dollars per ton by the sea freight. However, the shipping cost differs from OOO \$ per ton in the cost statement of the item at issue. The seller explains the difference that is the sea freight as port costs and procedures and it does not make sense. • For the above two reasons, there is still reasonable doubt to question the accuracy of the declared price of the disputed issue.
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¹ a distribution tax item in China and similar to Korea's concept of VAT. Exported products are subject to the refund of increased tax paid on raw and subsidiary materials according to the prescribed tax rate.

² China's refund tax refund system

Tax Judge's Decision

Since the price difference occurs due to differences in the trading timing and quality of the perilla (disputed item) transaction, Company A claims that it is not feasible the declared price of the disputed item is low compared to the transaction price of similar goods. Also it is argued that the declared price of the disputed item should be recognized since from the purchase history in China to export data as well as the export declining data of the issue seller have been submitted.

However, even if the transaction date of the disputed item in China and the time when it is exported to Korea are similar, the transaction price of Class A may be lower than that of Class B according to the data submitted by Company A. Since the increased tax equivalent to 5% of the export price was reimbursed, the 'profit and tax' of the issued seller in the cost statement was only around 1%, even though the tax increase in China was more than 5%. In light of the fact that it was difficult to accept the issue of selling the disputed item to Company A at a price that even domestic taxes could not be recovered. Company A did not submit an objective explanation for such reasonable doubts. The Agency dismissed the declared price of the item at issue and decided the taxable price of the disputed item based on the transaction price of the similar item.

Commentary

It is necessary to check the quality of the disputed item because Company A can recognize that the price is low at the time of customs clearance. In addition, since the disputed item is imported from China, a high tax rate (36%) applies. If it is distributed at a low price, the margin generated in the distribution process may be huge. Therefore, in order to be approved for the declared price, Company A needs to actively explain based on the quality-related data and the price data.

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