

## When is the finalization report at enterprises examined?

**A reader sent a question to the Customs Newspaper about the submission of the finalization report on goods processed and produced for export and the examination on the finalization of the Customs authority with the enterprise. This issue is specifically guided by Dong Nai Customs Department.**



The reader asked: "According to Article 60 of Circular 38/2015 / TT-BTC, at the end of the fiscal year, the processing and export production enterprises shall submit the finalization report under the form 15, 16 to the Customs authority. However, the Circular only stipulates on the submission and examination for the finalization report, but it does not regulate on the finalization.

The Customs authority and enterprises do not finalize with each other and do not examine and reconfirm the accuracy and conformity of all works done by the enterprise in the fiscal year. In contrast, the domestic Tax authority and enterprises finalize with each other. Thus, what does the submission of the finalization report mean when the Customs authority does not finalize with the enterprises, it is really a disadvantage for the enterprises when they submit the finalization report but they are not finalized.

According to the provisions of Clause 2, Article 10 and Clause 2, Article 12 of Decree No. 134/2016/ND-CP, the basis for determination of the duty exemption for goods processed and produced for export has many criteria, in which the Point c stipulates that the imported raw materials, supplies, and components are used for processing or manufacture of the exported products.

The value or quantity of imported raw materials, supplies and components exempt from duty is the actual value or quantity of raw materials, supplies and components used for manufacture of the processed products that are exported in reality and is determined when making a statement of raw materials, supplies and components imported for processing exports in accordance with customs laws.

The taxpayer shall truthfully and exactly declare the value or quantity of raw materials, supplies, and components that are used for the manufacture of the processed products that are imported in reality and granted duty exemption while following customs procedures.

"Therefore, the basis for the duty exemption is the finalization and does not the submission of the finalization report. The enterprise is actually exempted from duty for raw materials and supplies processed and produced for export when it is finalized with Customs authority. So, when will the enterprises be finalized to be exempted duty after submitting the finalization report to the Customs authority?"

In response to this question, the Dong Nai Customs Department provides the following guidance:

On the selection of objects to examine the finalization reports at the head office of the enterprise: Pursuant to Clause 4 of Dispatch No.1501/TCHQ-GSQL dated February 29, 2016, of the General Department of Vietnam Customs regulates:

“...4. Handling for the finalization report:

a) Cases of examination on the finalization reports:

Pursuant to the provisions of Article 41 of Decree No. 08/2015 / ND-CP, Clause 5, Article 60 of Circular No.38/2015/TT-BTC, the Customs Branch which receive the finalization reports will classify enterprises to **apply** the examination measures as per provisions. The cases must be examined the finalization reports include:

a1) The individuals and organizations submit the first finalization reports.

a2) The figures on the finalization reports are unusually different from the System of the Customs authority.

a3) An examination is implemented at the taxpayer’s premises after the decision on a tax refund or tax exemption is issued.

a4) The finalization reports is examined on the basis of risk management and assessment of conformity with the law of the taxpayer.

According to the above provisions, after receiving the finalization report of enterprises, the Customs authority will classify the finalization reports. If the enterprise is subject to be examined the finalization report under the provisions in Points a1, a2, a3 and a4, the Customs authority will examine the finalization report at the head office of the enterprise. Particularly in the case of point a4, the Customs authority will select the object to examine the finalization report based on the criteria on risk management and the assessment of conformity with the law of the enterprises.

In addition, in order to create the most favorable conditions for the enterprises’ production and business as well as to ensure the efficient and accurate examination of the finalization report and avoid to examine many enterprises, the Customs authority will review and select the most suitable object to examine.

Regarding the contents of the finalization report examination at enterprises, the Dong Nai Customs Department guides: Pursuant to Clause 7, Article 59 of the Ministry of Finance’s Circular No. 38/2015/TT-BTC of March 25, 2015 stipulates “Inspection of the use and inventory of materials/supplies, machinery, equipment, and exported goods”.

7. Handling inspection result

a) If the inspection result shows that the use of imported materials/supplies, machinery, and equipment corresponds with manufactured goods to be exported, matches the notification of manufacturing facility and capacity; information, documents, and quantity of goods in inventory (in storage, on the manufacturing lines, semi-finished products, incomplete products, etc.) are consistent with accounting records, documents about exported or imported goods, the figures provided shall be accept, a conclusion shall be given, and the inspection result shall be updated on the System;

b) If the inspection result reveals that the use of imported materials/supplies, machinery, and equipment does not correspond with manufactured goods to be exported, matches the notification of manufacturing facility and capacity; information, documents, and quantity of goods in inventory (in

storage, on the manufacturing lines, semi-finished products, incomplete products, etc.) are not consistent with accounting records, documents about exported or imported goods, the declaration shall be requested to provide explanation.

b.1) If the Customs authority accepts the explanation, Point A of this Clause shall be followed;

b.2) If the Customs authority does not accept the explanation or the declarant does not provide an explanation, the customs authority shall make decisions on tax settlement, impose administrative penalties in accordance with regulations of law on **taxation**, customs, and existing documents, or request a competent person to take actions as prescribed by law.

Basing on the provisions on the inspection of the finalization reports under Article 60 of Circular No. 38/2015/TT-BTC, after finishing the inspection, the Customs authority will make conclusions on the use of the imported materials/supplies, machinery, equipment, and goods of the enterprise in accordance with the above provisions to handle appropriately.

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