

The General Administration of Customs of China (“GAC”) adopted new measures for determining duty values at the end of 2013. The two new decrees (Decrees No. 211 and No. 213) will become effective on February 1, 2014. Presenting significant changes to China’s customs valuation measures, the two decrees will replace existing Decree No. 148 on valuation of imported and exported goods, which has been in effect since 2006.

Among the most significant changes presented by the new rules is one providing that the valuation of bonded goods for domestic sale (i.e. Decree No. 211) will in the future be treated separately from imported and exported goods under general trade models (i.e. Decree No. 213). The valuation measures under Decree No. 148 have been generally maintained in Decree No. 213 (though with slight changes and clarifications), whereas Decree No. 211 addresses the valuation of bonded goods in domestic sales (including domestic sales of bonded raw materials or finished goods by contract manufacturing entities, toll manufacturing entities, entities in free trade zones, bonded zones, or other regions under Customs supervision). Decree No. 211 does not include many procedural rules, and the procedures of Decree No. 213 will not be applicable. Therefore, further clarification is needed from GAC on whether those procedural rules (e.g. the valuation query, consulting, etc.) under general trade will be applicable to domestic sales of bonded goods.

Another significant change is that Decree No. 213 adds in its Article 18 that “if the circumstances of the sale are examined to be consistent with general business practices, Customs may determine that the special relationship does not influence the transaction value of the imported goods”. That language indicates that GAC has adopted the “circumstances of sale” test, a widely recognized customs valuation principle under which the “transaction value” among related parties may be accepted as the dutiable value if relevant documentation is in place affirming that the pricing is consistent with general commercial practices.

The two new decrees are likely to impact companies involved in the distribution of imported and exported goods for related parties, as well as to those entities with domestic sales of bonded materials.

We welcome any questions or comments you may have on these changes.

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