

ЭКОНОМИКА

Customs Control of Customs Value and its Role in Customs

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Таможенной контроль таможенной стоимости и его роль в таможенном деле

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Аннотация: Контроль таможенной стоимости имеет ключевое значение во время организации таможенного дела. Это либо свидетельствует об эффективной реализации политики, либо свидетельствует об административных проблемах. Следует отметить, что если бизнес будет сотрудничать с государством, то результаты будут гораздо более удовлетворительными и обнадеживающими, ведь сотрудничество всегда более плодотворно в обстановке взаимного доверия.

Ключевые слова: декларирование, таможенная декларация, таможенная стоимость, таможенный контроль, дополнительная проверка, обеспечения исполнения обязанности по уплате таможенных платежей, таможенные платежи

Մաքսային արժեքի հսկողությունը և դրա դերը մաքսային գործում

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Ամփոփագիր. Մաքսային արժեքի հսկողությունն առանցքային նշանակություն ունի մաքսային գործի կազմակերպման փուլում: Այն կա՛մ վկայում է արդյունավետ կերպով դաշտում քաղաքականության իրականացման մասին, կա՛մ էլ ի ցույց է դնում վարչարարական խնդիրները: Պետք է նկատել, որ եթե տնտեսվարողները համագործակցեն պետության հետ, ապա արդյունքները անհամեմատ ավելի զոհացուցիչ և ոգևորող կլինեն, քանի որ փոխվստահության միջավայրում համագործակցությունը միշտ էլ ավելի արգասաբեր է լինում:

Հանգուցաբառեր` հայտարարագրում, մաքսային հայտարարագիր, մաքսային արժեք, մաքսային հսկողություն, լրացուցիչ ստուգում, մաքսային վճարների ապահովում, մաքսային վճարներ:

Foreign trade and customs affairs are closely related. A number of key issues are regulated by the customs authorities, among which are the determination of the customs value and the control over it. Generally, issues related to customs value are "painful" for those who transfer goods across the border [6, pp. 243-244] due to several circumstances. First, mostly the customs value is the basis for

charging duties and fees, sometimes it is important in some provisions related to offenses, for example, in some cases it is the basis for imposing administrative fines [6, pp. 243-244], in other cases it serves as the basis for the formation of customs statistical data, which gives an opportunity to form a certain idea about the volume of foreign trade. It is noticeable that at one hand the customs value has an

economic content, and on the other hand a legal one. [5, p. 1]

From a juridical point of view, the customs value is a subject of public law, [7; 141] and from an economic point of view, it is a base for tax collection. When conducting customs control of the declared customs value during the customs declaration, the customs authorities carry out verification of the accuracy of determining and declaring the customs value of goods (selection and application of the method while determining the customs value of goods, the structure and size of the customs value of goods, documentary confirmation of information about the customs value of goods). Carrying out control, the customs body has the right to request written explanations from the declarant about the factors and circumstances affecting the formation of the price of goods. [1, Article 313]

According to the decision of the EEC Collegium No. 42 dated 27.03.2018, [3] the characteristics of determining as unreliable the customs value of goods and the bases for recognizing information are defined. According to the point 3 of the same decision, while carrying out customs value control, customs authorities use the information about goods that is at their disposal and is mostly comparable with the available information regarding the imported goods, also studying the conditions and circumstances of the transaction, the physical characteristics, quality and reputation of the imported goods. Similar data can be found, for example, by obtained information while using the information resources of customs bodies about transactions with identical or similar goods, goods of the same class or type, stock exchange quotations and indexes, information obtained from price catalogs, etc. The customs authority can also receive mentioned information from the state and/or commercial representations of the EAEU member states located in third countries, state bodies, organizations, transport and insurance companies of the member states, suppliers and manufacturers of imported, identical, similar goods, any by any other method that's not prohibited by the legislation of the member states, included the Internet. In practice, among the features of unreliable determination of the customs value of the goods, we often encounter cases, when information affecting the customs value of the imported goods, contained in the document(s), the information received from the information systems of the customs authorities and (or) the information systems of the state authorities of the member states, and (or) while carrying out control, inconsistencies with the information obtained from other currently disposable sources for the customs authority and (or) in accordance with the legislation of the member states, with the information obtained

in other ways, in comparison with the price of the same or similar goods, while finding a lower price of the imported goods, if those are comparable, or when it was determined in accordance with information about stock market quotations, stock market indexes, auction prices, information obtained from price catalogs.

Currently, one of the major problems in the customs is the tendency of declarants to reduce the customs value of imported goods. Thus, unscrupulous businessmen, try to avoid from customs fees and present an indicator that is lower than the actual customs value in the form of a lower and unrealistic invoice value and (or) customs value by underrepresenting additional expenses or not presenting them at all. Abovementioned indicates both, presence of unscrupulous businessmen, an ineffective and insufficiently targeted customs administration. It is important to note that both pre-release and post-release monitoring are carried out to ensure improved administration. If necessary, customs authorities have right to request additional information and documents from the declarant, which must be submitted within the specified period, and may also carry out additional verification of information that has not been properly verified within the framework of the case. [8, p. 5]

Customs authorities invest all their potential, expecting effective administration; nevertheless it's noticeable that customs service faces some problems preventing it from provision of a highly effective administration. In particular, the businessman submits only a part of the required documents and information and/or information about similar goods in the data base of customs doesn't exist (to compare customs values). Due to the continuous changes in the field the risk of faults occurrence is high, and we should not ignore the gaps in the legislative field. Depending on personal motives of businessmen, there is another problem associated with the provision of false customs value with both higher and lower versions of the true value. [5, p. 5] Sometimes in documentation businessmen are able to find provisions that bypass the legislation, justifying the presented customs value indicators from the point of view of the legal framework.

The SRC RA is taking a number of steps, in order to come up with a new and more effective customs administration, and within the framework of the reforms launched regarding this, the declaration process is continuously improved and simplified. Procedures for declaration of customs value and determination methods have been revised in order to increase the efficiency of customs control. In 2022 by changing the features of customs value control from May 1, SRC RA urges economic subjects to submit declarations using the transaction

value (1st) method of determining customs value, and in case of submission using another method, to provide grounds on the basis of which information the declaration was made. It's still important to declare reliable information which has documentary justification, but those are presented to the customs authorities only when the customs declaration is selected through the "Yellow" or "Red" procedures of customs control by the automatic risk management system, so being qualified as risky. In this case, the declarant is already obliged to submit to the customs authorities at least an invoice, documents about payment for imported goods or information about its delay [10]. In that case, an official of customs authorities, having jurisdiction over the declaration of the above-mentioned goods, carries out document control in accordance with the risk management system based on the instructions for the implementation of formed risk reduction measures [2].

Economic subjects need to remember that all information related to the customs value in declarations must be documented and may later, during the post-release control phase, be requested by the customs authorities. In other words, with this step, the actual declaration process was shortened, but the possibility of further monitoring was not excluded either.

Currently, still being in the transitional stage of using fully electronic declaration, risky-considered customs declarations, are being submitted by the declarants to the customs authority for customs control with their accompanying documents. Later, after certain software settings, the declarants can submit the documents completely in online form. In this case, the direct contact of the controlling body and the entity making the declaration is completely excluded, which in turn reduces the risks in the field.

In order to justify the application of the selected method of determining the customs value according to the transaction value of imported goods and for the information credibility verification submitted during the customs control, the customs authorities may request from the declarants additional documents substantiating the transaction value, in accordance with Articles 313, 325, 326 of the Customs Code of the EAEU [1] and Decision of the EEC Collegium No. 42 dated 27.03.2018 [3]. Basically, as documents justifying the customs value are required, price lists of the manufacturer and the seller, documents justifying the payment for the goods, export declaration, documents on accounting for the goods or other similar goods in the accounting, data about brands, models and articles if available, technical specifications and either a proof about being non-correlated, or, otherwise, about the absence of its effect. These documents can justify

the presented customs value in a unique way. In particular, let's mention that with price lists we get an idea about the product's market prices and sales conditions.

The export declaration gives an opportunity to make sure that the products exported from the supplier country, and the one imported to our country are the same by all means. The role of payment is self-evident. Accounting documents provide an opportunity to understand how close the sales prices of the imported goods are to market prices and as a result, what kind of documented cost additions there are. The physic-technical characteristics and marking of the cargo obviously affect the formation of its price. It is obvious that interdependence can have a direct impact on price formation.

The foreign language documents justifying the customs value, guided by the provisions of Article 80, Clause 7 and Article 340, Clause 5 of the Customs Code of the EAEU [1], are required to be submitted with Armenian translations, made in accordance with the law. It is noteworthy, that requested documents must be submitted in one set (simultaneously) according to each request. [1, Article 325] In particular, if the customs body has discovered features of the customs value being unreliable, and the entrepreneur insists on the use of the 1-st method chosen by him, then control of the customs value starting before the release (additional control) is carried out. As an alternative to additional control, customs authorities propose another method selection, based on the principle of exclusion of previous ones. The control of the customs value can be carried out either before the release of the goods, or during the specified maximum period after the release, in the case of providing provision of customs payments in the amount of the positive difference arising from the customs fees. The latter is designed to reduce the declaration process and the release time of imported goods. The possibility of providing provision of customs payments was introduced within the framework of the EAEU, which on one hand excludes the underpayment of customs fees in the event of any problem being discovered, and on the other hand, it gives the entrepreneur the opportunity to sell the product on the market without stopping the sales or production chain until the existing disagreements are clarified. Provision of customs payments can be presented in four ways: freezing of money funds, bank guarantee, guarantee and property pledge. [1; Article 63] The documents and (or) information requested by the customs authority to complete the inspection may be submitted by the declarant after the release of the goods within a period not exceeding 60 calendar days from the date of registration of the customs

declaration. The inspection of the submitted package by the customs officials is completed no later than 30 calendar days from the date of submission of the requested documents and/or information, and in case of non-submission, on the day of expiry of the 60-day period. [1, Article 325] In the case of failure to provide payment security, the inspection is carried out until the release, combined with the extension of the release dates. In case of failure to submit the documents within the specified period, the customs control ends with the decision of the customs body to make changes and/or additions to the customs declaration till the release, and a deadline is set for implementing the proposed changes. After the deadline, if it becomes clear that the declarant has not completed those customs requirement, then the release of the customs declaration is rejected according to Articles 125 and 325 of the Customs Code of the EAEU [1].

Already in 2019, this practice was circulating, and it got large volumes in 2020, the volumes increased by almost 4 times compared to the previous year. According to the averaged data, about 100 inspections are carried out annually.

Mostly, the experience proves, that the suspicions are justified, but there are also cases, when the business completely dispels all doubts in terms of documents and justifies the customs value presented by him. Based on averaged data, it can be noted that 20-30 percent of transactions are accepted as a result of the inspection. However, it should be noted that sometimes the business subjects unnecessarily prolong the process, in particular, the organization has no intention to submit any document, but demands an inspection and provides security. After the expiration of the set period, the customs body completes the inspection and based on the decision of the EEC Board No. 289 dated 10.12.2013 [4], makes changes and/or additions to the declaration. It turns out that in this case administrative resources are unnecessarily wasted. In particular, before the release, the declarant had the obligation to carry out that action, and after the release, it is already on the customs bodies. In addition, there are cases when the declarant, who exhibits similar behavior, expresses the desire for a check to be carried out for a number of declarations. Despite the fact that it's obvious to the customs body that there is a high probability that the organization will not provide any justification for

the next declaration, nevertheless, because of not having any legislative leverage, the customs official is forced to start the control again. We think it would be right to legislatively set any restraining mechanism or administrative responsibility in order to burden the administrative body unnecessarily.

In case of disagreement with the results of the inspection, business apply to the Appeals Commission of the Tax and Customs Authorities of the RA SRC and (or) to the Administrative Court.

Summarizing the paper, it can be noted that customs value control has a key point in the management of customs affairs. It either testifies the effective implementation of the policy in the field, or it shows the administrative problems. It should be noted that if businessmen cooperate with the state, the results will be much more satisfying and encouraging, because cooperation in an environment of mutual trust and that always has a positive impacts.

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