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Excise Duty Rate Increase on Tobacco Imports and Exports

As announced in the Government of Canada's Economic Statement on October 30, 2007, there will be an increase in excise duty rates on tobacco products starting January 1, 2008. For tobacco products in the regular domestic market in all provinces and territories, the greatest increase will apply to cigars, which will rise from $16.60 to $18.50 per 1,000 or 11.45 percent. Cigarettes, tobacco sticks, and other manufactured tobacco products will see more moderate rate increases: 3.6, 4.55, and 3.49 percent, respectively.

Furthermore, cigars will effectively receive a full percentage point increase to the additional duty, which will now be the greater of $0.067 per cigar, or 67 percent of the Canadian manufacturer's sale price or of the duty paid value. By its own admission, the Canada Revenue Agency (CRA) realizes that the additional duty would seldom be $0.067 per cigar, as the 67 percent rate would normally be greater.

There will also be increases in excise duty for Canadian manufactured tobacco products destined for export markets. Where production of Canadian manufactured cigarettes, tobacco sticks, and other tobacco products grows by more than 1.5 percent from the previous calendar year and exported, an excise duty rate will be applied in addition to the special duty rate. This excise duty rate does not apply to products delivered to foreign duty free shops or for use as ships' stores.

For more information on excise duty on tobacco products, please contact one of KPMG's Trade and Customs professionals.

More Information?

For more information on any of these subjects, or on any trade or customs issue, please contact one of KPMG's Trade and Customs professionals:

Joseph Brick
National Practice Leader
(416) 777-8413

John Pajek
Senior Manager
(416) 777-8329

Angelos Xilinas
Senior Manager
(604) 691-3479

Visit our Web site:
www.kpmg.ca/tradeandcustoms.ca

e-Mail: kpmgtradecustoms@kpmg.ca

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Trade Matters

TAX

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Canada

In This Issue

New Changes to the Partners In Protection Security Program

The Canada Border Services Agency (CBSA) is modifying the Partners in Protection (PIP) security program as part of its continuing commitment under the Security and Prosperity Partnership. These changes will also make PIP more compatible with the US Customs-Trade Partnership Against Terrorism (C-TPAT) security program.

Proposed program changes include:

- Higher security standards for each sector of the program: highway, rail and marine, importer and exporters, carriers, warehouse operators, couriers and customs brokers
- Site visits for approval purposes
- Revised security profile requirements
- A revised Memorandum of Understanding (MOU)
- Re-assessment every three years

PIP members will be required to adhere to stricter, better defined, and targeted security measures, as well as strengthen their commitment to enhance the security of their supply chain.

The CBSA's goal is to implement the proposed changes by June 2008. Draft security profiles and the draft MOU are now available for review from KPMG.

Transitional provisions for PIP members are also in the process of being developed. The June 2008 deadline may be extended for businesses already enrolled in PIP who want to continue their membership and need to meet the stricter security requirements. The most prevalent change for PIP members is that previous program recommendations will now be "required."

The CBSA will be seeking feedback from PIP members and other stakeholders to ensure Canadian exporting and importing practices are taken into account.

The proposed changes should have minimal impact for KPMG's clients currently enrolled in the PIP program, and for importers that applied for PIP with our assistance, as we applied the C-TPAT standards when registering with the CBSA for participation.

If your company is currently enrolled—or is considering participating—in the PIP security program, KPMG can help identify areas that require improvements in order to meet the program requirements.

AUDIT ▪ TAX ▪ ADVISORY

Electronic Certificates of Origin

The Canada Border Services Agency (CBSA) recently advised that they are now accepting the electronic transmission of Certificates of Origin ("Certificates") in an effort to reduce the use of paper versions. Importers now have three options for electronic transmission of Certificates:

1. The exporter may scan and transmit a Certificate electronically to the importer, provided it was printed and signed with an original cursive signature.
2. A Certificate may be prepared by the importer, maintained electronically and transmitted to the CBSA, if the exporter has provided the importer with a vested power of attorney authorizing the importer to complete the Certificate.
3. This third option allows for an alternative signature to the traditional cursive one, and is being made available to CSA approved importers only. It is the importer's responsibility to ensure the transmission is secure and the Certificate is valid.

If you would like more information about these new options for importers, please contact one of our Trade and Customs professionals.

2008 NAFTA Certificates of Origin

Now is the time to ensure that the 2008 NAFTA Certificates of Origin have been obtained from your domestic and foreign vendors. It is also imperative that they are reviewed for accuracy and completeness.

NAFTA verification audits are on the rise and penalties for non-compliance can be severe. Penalties could range from $100 to $25,000 depending on the type and frequency of non-compliance.

If you would like assistance in obtaining your NAFTA Certificates of Origin, or in reviewing them to ensure the description, tariff classification, and preference criteria have been properly declared, please contact one of KPMG's Trade and Customs professionals.

Compliance Management

Now that Section 32.2 of the *Customs Act* has further clarified what constitutes "reason to believe" a declaration, it is becoming increasingly apparent that importers and exporters must have a compliance management process in place to mitigate unforeseen customs duty, tax, and penalty assessments.

A key component in this process is to develop a customs compliance manual that sets out compliance procedures to meet the Canada Border Services Agency (CBSA) requirements. This manual, when endorsed by all personnel with import and export responsibility, can help an importer avoid a negative audit assessment and costly monetary penalties.

Specific areas in the manual should include:

- Corporate governance
- Valuation, tariff classification and origin (NAFTA)
- Record keeping requirements
- Export compliance
- Review and correction procedures
- Instructions to vendors and customs brokers

KPMG's experience indicates that there must be participation by all areas within the company to be successful in implementing a good solid compliance management program. This includes senior management, purchasing, receiving, finance, tax, accounts payable, and the customs department.

SIMA Updates

Oil and Gas Well Casings

Pursuant to section 42 of the *Special Import Measures Act* (SIMA), the Canadian International Trade Tribunal the "Tribunal" has initiated an inquiry to determine whether the dumping and subsidizing of seamless carbon or alloy steel oil and gas well casings has caused injury or retardation or are threatening to cause injury, and to determine such other matters as the Tribunal is required to determine under that section.

These casings are defined as:

- Plain end, beveled, threaded or threaded and coupled, heat-treated, or non-heat-treated
- Meet American Petroleum Institute specification 5CT, with an outside diameter not exceeding 11.75 inches (298.5 mm), in all grades, including proprietary grades
- Originate in, or are exported from, the People's Republic of China

Carbon Steel Pipe Nipples and Adaptor Fittings

On October 31, 2007, the Tribunal gave notice that it will, pursuant to subsection 76.03(3) of the *Special Import Measures Act* (SIMA), initiate an expiry review of its finding made on July 16, 2003 (Inquiry No. NQ-2002-004), and amended on June 8, 2007 (Interim Review No. RD-2006-006). This review includes carbon steel pipe nipples and adaptor fittings, in nominal diameters up to and including 6 inches or the metric equivalents, that originate in, or are exported from, the People's Republic of China.

Reducing Your Import Duty

Are you still paying duty on products imported into Canada? Importers should be aware that the Canada Border Services Agency (CBSA) has numerous programs available to importers which may reduce or eliminate import duty.

Some examples of these programs are:

Duty Drawback Program*

Under certain circumstances, imported goods subsequently exported from Canada may be entitled to a refund of customs duties, anti-dumping and countervailing duties, or excise taxes (other than GST) paid at the time of import.

Duties Relief Program*

This program relieves the payment of duties at the time of import when the imported goods are intended for ultimate export.

Obsolete or Surplus Goods

In accordance with section 110 of the *Customs Tariff*, the obsolete or surplus goods program refunds duties paid when the imported goods become obsolete, or are considered surplus and are destroyed under the supervision of a customs officer. This program only applies to goods that have not been used in Canada.

Chapter 99 of the *Customs Tariff*

The end-use tariff items in Chapter 99 reduce or eliminate the regular duty rates applied to imported goods, provided the product meets the specific or end-use condition described in the tariff item.

Canadian Goods Abroad

Section 101 of the *Customs Tariff* is the authority and describes the conditions for obtaining partial duties relief on Canadian goods returned to Canada after being exported for repairs, equipment additions, or work done outside Canada.

For more details on these programs, please contact one of KPMG's Trade and Customs professionals.

* There are some restrictions on the amount of duty relieved under these programs depending on the individual circumstances.