

中国海关简化加工贸易审批程序，加强对保税货物的实际监管

中国海关总署近日对加工贸易方面的法规进行了修订，一方面顺应中央政府提出的“简政放权、转变职能”的要求，对加工贸易手册设立、核销、外发加工、深加工结转等各种操作程序进一步进行简化和规范，另一方面也加强了对企业各种加工贸易数据申报和相关货物管理等方面的监管。从事加工贸易业务的企业有必要借此机会评估新的法规体系对它们的日常关务运作产生的影响，并加强自己的贸易合规和内控管理水平。

海关总署在加工贸易方面发布的新规定主要包括：

- 海关总署令第219号，《中华人民共和国海关加工贸易货物监管办法》
- 海关总署公告2014年第21号，关于执行《中华人民共和国海关加工贸易货物监管办法》有关问题的公告
- 海关总署令第218号，《海关总署关于修改部分规章的决定》
- 海关总署令第216号，《海关总署关于废止部分规章的决定》

根据上述规定，中国海关对加工贸易的监管仍然维持了手册设立如实申报、执行完毕据实核销、单耗如实申报、保税和非保税货物分开管理等基本原则，而新的规定主要体现在如下方面：

新变化	旧法规
<p>1. 简化加工贸易审批程序 新规定取消加工贸易手册备案、外发加工、深加工结转、余料结转、核销等方面行政许可审批，改为加工贸易手册设立、外发加工备案、深加工结转申报、余料结转申报、核销申报</p>	<p>经营企业应当向加工企业所在地主管海关办理加工贸易货物备案、核销等审批手续。 经营企业经主管部门批准，可以开展深加工结转、外发加工业务。</p>
<p>2. 取消允许放弃加工贸易货物的做法，但保留了销毁处置</p>	<p>加工贸易企业因故无法内销或者退运而申请放弃边角料、剩余料件、残次品、副产品或者受灾保税货物的，凭企业放弃该批货物的申请和海关受理企业放弃货物的有关单证经海关核实无误后办理核销手续。</p>
<p>3. 对深加工结转的管理要求有所加强 除原有不得办理深加工结转手续的情形之外，还新增明</p>	<p>有下列情形之一的，加工贸易企业不得办理深加工结转手续：</p>

<p>确加工贸易企业未按照海关规定进行收发货的，不得再次办理深加工结转手续。</p> <p>自从2013年中国海关全面推广深加工结转管理系统后，企业必须按照规定期限向海关申报结转申请表、收发货单等相关数据。如果企业不能严格遵守有关系统要求，可能暂时失去办理深加工结转的资格。</p>	<p>(一) 不符合海关监管要求，被海关责令限期整改，在整改期内的；</p> <p>(二) 有逾期未报核手册的；</p> <p>(三) 由于涉嫌走私已经被海关立案调查，尚未结案的。</p>
<p>4.放宽对外发加工的监管程序</p> <p>外发加工由事前审批改为自外发之日起3个工作日内向海关备案。</p> <p>除了全工序外发，海关对开展外发加工的企业不再征收保证金。</p> <p>放宽承揽货物的加工方的范围，允许个人被委托从事外发加工</p>	<p>经营企业经海关批准可以开展外发加工业务。</p> <p>有下列情形之一的，申请开展外发加工业务的企业应当向海关提供相当于外发加工货物应缴税款金额的保证金或者银行保函：（一）外发加工业务跨关区的；</p> <p>（二）全部工序外发加工的；</p> <p>（三）外发加工后的货物不运回直接出口的；</p> <p>（四）申请外发加工的货物未涉案，但经营企业或者承揽企业涉嫌走私、违规，已被海关立案调查、侦查且未审结的。</p>
<p>5.进一步明确了料件串换的管理要求，删除了“因加工出口产品急需”的限制</p>	<p>因加工出口产品急需，经海关核准，经营企业保税料件之间、保税料件与非保税料件之间可以进行串换，但料件串换限于同一企业，并应当遵循同品种、同规格、同数量、不牟利的原则。</p>
<p>6.允许在手册设立和外发加工等环节中使用非银行金融机构保函向海关担保</p>	<p>允许的担保方式为保证金或者银行保函</p>
<p>7.除原有的料件退换外，还新增允许由于加工贸易出口产品售后服务需要而出口未加工保税料件的，可以直接向口岸海关办理报关手续</p>	<p>经营企业进口料件因质量问题、规格型号与合同不符等原因，需返还原供货商进行退换的，可以直接向口岸海关办理报关手续。已经加工的保税进口料件不得进行退换。</p>
<p>8.免除加工贸易企业向海关提交年度生产经营活动报表的义务</p>	<p>加工贸易企业应当按照规定向海关提交上年度企业生产经营活动的年度报表等资料。</p>

国家税务总局发布关于居民企业报告境外投资和所得信息有关问题的公告

38 公告要求中国居民企业和在中国境内设有机构场所并取得与该机构场所实际联系所得的非居民企业定期报告境外投资的状况并按年度申报境外所得。

公告对符合条件的居民企业和非居民企业提到了两项申报义务：

- 1) 成立或参股外国企业、处置已持有的外国企业股份或有表决权股份时的定期境外投资报告义务，提交《居民企业参股外国企业信息报告表》
- 2) 年度境外所得报告义务，提交《受控外国企业信息报告表》

公告内容概述：

申报义务	申报内容	申报时间
<p>境外投资报告义务</p> <ul style="list-style-type: none"> ● 居民企业成立或参股外国企业、处置已持有的外国企业股份或有表决权股份，符合以下情形之一 <ul style="list-style-type: none"> - 在本公告施行之日，居民企业直接或间接持有外国企业股份或有表决权股份达到10%（含）以上 - 在本公告施行之日后，居民企业在被投资外国企业中直接或间接持有的股份或有表决权股份自不足10%的状态改变为达到或超过10%的状态 - 在本公告施行之日后，居民企业在被投资外国企业中直接或间接持有的股份或有表决权股份自达到或超过10%的状态改变为不足10%的状态 	<ul style="list-style-type: none"> ● 《居民企业参股外国企业信息报告表》，具体包括 <ul style="list-style-type: none"> - 报告人信息 - 被投资外国企业信息，报告人所持外国企业的股份比例，外国企业10%以上股份或有表决权股份的其他股东情况，中国居民个人担任外国企业高管或董事情况 - 外国企业股份变动信息 - 报告人声明 	<ul style="list-style-type: none"> ● 企业所得税预缴申报时
<p>境外所得报告义务</p> <ul style="list-style-type: none"> ● 居民企业应按照企业所得税法第四十五条规定，将其控制的境外企业未分配利润中应归属于本企业的部分计入本企业当期收入的 ● 即使居民企业由于其控制的外国企业满足以下条件之一，可免于将外国企业不作分配或减少分配的利润视同股息计入当期收入，也负有本项报告义务： <ul style="list-style-type: none"> - 设立在国家税务总局指定的非低税率国家（地区） - 主要取得积极经营活动所得 - 年度利润总额低于500 万元人民币 	<ul style="list-style-type: none"> ● 《受控外国企业信息报告表》，具体包括 <ul style="list-style-type: none"> - 报告人信息 - 受控外国公司企业信息 - 受控外国企业构成条件 - 持有受控外国企业股份的中国居民股东持股信息（如持股比例、时间等） - 例外适用的三种情形 - 受控外国企业利润分配情况（包括以前年度和本年度视同分配给报告人和<u>其他</u>中国居民股东的股息） - 抵免范围内的外国企业和受控外国企业按照<u>中国会计制度</u>编报的年度<u>独立</u>财务报表 	<ul style="list-style-type: none"> ● 企业所得税年度申报表

New Regulations	Previous Regulations
<p>1. Simplified approval formalities for processing trade Bonded goods outsourcing, factory transfer, residual material carry-over, and other administrative approvals pertinent to handbook approval will be replaced by handbook set-up, bonded goods outsourcing filing, factory transfer declaration, residual material carry-over declaration and other verifications.</p>	<p>A business enterprise shall complete the formalities for set up, cancellation and verification of the processing trade goods manual with the Customs in charge at the location of the processing enterprise. Business enterprises that have received approval from the relevant department can carry out factory transfer and outsourced processing business.</p>
<p>2. The approval procedure for “giving up” bonded goods has been cancelled, while that of destroying bonded goods under customs supervision remains in place.</p>	<p>Residual material, leftover material, defective goods and affected bonded goods that cannot be used or returned can be cancelled after verification by local customs, who will carefully review the application to “give up” goods submitted by the business enterprise</p>
<p>3. Management requirements regarding factory transfer will be strengthened In addition to the originally disallowed factory transfer circumstances, a new provision stipulates that if the company does not receive or deliver goods in accordance with procedures required by customs, it will not be allowed to apply for factory transfer. Since GAC implemented a factory transfer management system nationwide in 2013, companies are required to declare their factory transfer application forms, goods delivery and receipt information to Customs within the prescribed time limit. If the company does not follow the rules, it may be disqualified from applying for factory transfer, at least temporarily.</p>	<p>Under any of the following circumstances, a processing trade enterprise shall not complete deep processing carry-over formalities: (1) the processing trade enterprise failed to comply with Customs regulatory requirements and has been ordered by Customs to correct its mistakes within a stipulated period, which has not yet expired; (2) the processing trade enterprise failed to submit its handbooks for verification within the stipulated period; or (3) the processing trade enterprise is under investigation by Customs for alleged smuggling and the case is pending.</p>
<p>4. Supervisory procedures for bonded goods outsourcing have been eased Bonded goods outsourcing registrations should be filed with Customs within three working days after the commencement of outsourcing. Companies will no longer have to pay a deposit unless they outsource an entire manufacturing process for their goods. The amendment supersedes the previous regulation and is intended to allow domestic companies, and even individuals without customs registration, to legally act as contracted processors in the outsourcing of more labour-intensive operations that require less sophisticated manufacturing equipment.</p>	<p>Subject to approval by Customs, business enterprises may conduct outsourced processing operations. Under any of the following circumstances, the business enterprise applying to conduct outsourced processing operations shall provide a security deposit of an amount equivalent to the tax amount payable or a bank letter of guarantee for outsourced processing goods to Customs: (1) The outsourced processing activities span different Customs regions; (2) The entire workflow is outsourced; (3) The goods are not shipped back to China and are exported directly upon outsourced processing; or (4) The goods under the application for outsourced processing are not embroiled in a lawsuit, but the business enterprise or the contracting enterprise is alleged of smuggling or</p>

	violating the regulations, and is subject to case filing and investigation by Customs, or is under criminal investigation and the case has not been concluded.
5. The supervisory requirements for the interchange of bonded and/or non-bonded materials have been further standardised. Restrictions that limit material interchange to situations in which it is “urgently required to process export goods orders” has been removed	Upon Customs approval, business enterprises that are urgently required to process export goods orders may swap between bonded materials, or between bonded materials and non-bonded materials, provided that the swapped materials belong to the same enterprise, and the swapping shall comply with the principles of same product type, same specifications, same quantity and non-profit.
6. Letters of guarantee issued by non-bank financial institutions as a legal means of collateral in the procedure of handbook setting and bonded goods outsourcing is allowed	Only letters of guarantee issued by banks or deposits are allowed
7. The direct export of bonded raw materials imported via Customs handbook for after-sales service is allowed	Where there is a need to return imported materials to the original supplier due to quality defects or variance in specifications and model number against the specifications and model number in the contract, or if there is a need to export unprocessed bonded materials due to after-sales services for exports under processing trade, the business enterprise may complete Customs declaration formalities directly with Customs. Bonded imported materials that have undergone processing shall not be exchanged.
8. Processing trade companies are exempted from submitting annual reports of operating activities	Processing trade companies should submit annual reports of operating activities to Customs according to the corresponding regulations.

Announcement of State Administration of Taxation on Issues Relating to the Information on Outbound Investment and Related Income Reported by Resident Enterprises

Announcement No. 38 requires regular reporting of outbound investments and annual reporting of income earned overseas. The reporting requirements apply to PRC tax resident enterprises, as well as those non-PRC tax residents that have an establishment or a place of business in China and derive income that is effectively connected with such establishment or place of business.

The Announcement mentions two major reporting obligations for qualified PRC tax residents and non-PRC tax residents.

- The periodical foreign investment reporting obligation when PRC tax residents establish or participate in foreign companies or sell shares or voting shares in foreign companies. Resident Enterprise’s Statement for Participation in Foreign Enterprises is required.
- Annual reporting obligation in relation to foreign-earned income. Statement of Controlled Foreign Enterprises is required.

Main Content in the Announcement:

Reporting Obligation	Reporting Items	Reporting Time
<p>Reporting obligation for outbound investment</p> <ul style="list-style-type: none"> • A PRC tax resident that establishes or participates in foreign companies or sells shares or voting shares in foreign companies shall fulfill the reporting obligations, if one or more of the following conditions are met: <ul style="list-style-type: none"> - On the effective date of the Announcement, a PRC tax resident enterprise directly or indirectly holds 10% or more shares or voting shares in foreign companies - After the effective date of the Announcement, the shares in the invested foreign companies directly or indirectly held by a PRC tax resident enterprise increases from less than 10% to 10% or more than 10% - After the effective date of the Announcement, the shareholding in the invested foreign companies directly or indirectly held by a PRC tax resident enterprise decreases from 10% or more than 10% to less than 10% 	<ul style="list-style-type: none"> • Resident Enterprise’s Statement for Participation in Foreign Enterprises, including: <ul style="list-style-type: none"> - Reporter’s basic information - The invested foreign companies’ information, shareholding portion held by the reporter in the invested foreign companies, other shareholders of the that hold 10% or more shares or voting shares in the invested foreign companies, any Chinese resident individuals that serve as senior executives or directors in the invested foreign companies - Changes of shareholding in invested foreign companies - Reporter’s statement 	<ul style="list-style-type: none"> • When taxpayers declare the advance payment of the corporate income tax
<p>Reporting obligation for foreign-sourced income</p> <ul style="list-style-type: none"> • In accordance with Article 45 of the PRC CIT Law, a PRC tax residents shall include an amount equal to its effective interest in its controlled foreign enterprise’s undistributed or under-distributed profits as a “deemed” dividend in their computation of PRC taxable income in the current tax period • Even if a PRC tax resident can be exempted from including the undistributed or under-distributed profits of its controlled foreign enterprise as a “deemed” dividend income under the following circumstances, it is still required to fulfill the reporting obligation: <ul style="list-style-type: none"> - The controlled foreign company is located in a non-low jurisdiction designated by the State Administration of Taxation - The income of the controlled foreign company is marjorly generated from active business activities - The annual profit of the controlled foreign 	<ul style="list-style-type: none"> • Statement of Controlled Foreign Enterprises, including: <ul style="list-style-type: none"> - Reporter’s basic information - Information of controlled foreign companies - Applicable reason for constitution of a controlled foreign company - Shareholding information of the PRC shareholder in its controlled foreign companies (such as shareholding ratio, shareholding period, etc.) - The three exceptional scenarios for controlled foreign companies - Profits distribution of the controlled foreign companies (including “deemed” dividends that should have been distributed to the Reporter or other PRC shareholders during historical and current tax years) • The invested foreign companies 	<ul style="list-style-type: none"> • When taxpayers submit annual corporate tax income return

company is lower than RMB5 million	and controlled foreign companies which are within the PRC foreign tax credit scope should prepare separate annual financial statements in accordance with PRC GAAP	
<ul style="list-style-type: none"> Note: Non-PRC residents that have an establishment or a place of business in China and derive income from outside China which is effectively connected with such establishment or place of business are also applicable to the above reporting obligations 		<ul style="list-style-type: none"> During tax inspections (such as tax assessments, tax audits and special tax adjustments)

The newsletter is merely provided to our clients and those who have interest in our business for reference. We'll do our best to ensure the accuracy of the information in the newsletter. We have to remind you that the content in the newsletter is abstracted from relevant documents, and therefore in practice the original documents should be used for reference. Meanwhile, we welcome all of you to consult professionals in our firm regarding the information in the newsletter, and also welcome all of you visit our website www.dean CPA.com.cn. We will render affordable and value-added services to our clients. If there is a discrepancy between Chinese and English versions, Chinese version will prevail.

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