

## 中国海关出台新企业信用管理暂行办法

为了和国际通行的AEO制度接轨，中国海关总署即将简化对企业的分类，企业分类将由原来五类简化成四类，并且对高信用企业从实行一次性认定转为动态调整。这些变化将直接影响到企业认证标准、认证稽查管理、高信用企业可以享受的通关便利待遇、企业管理水平的要求、新旧制度过渡时期企业分类的继承等问题。因此对于相关进出口企业、尤其是对希望提升企业管理级别以享受AEO便利待遇的企业来说，了解新制度及其影响是非常重要的。

本次新企业分类管理办法主要是为了和国际通行的AEO制度接轨，且统一明确海关给予不同信用等级下企业不同通关待遇，并与即将出台的企业量化认证标准相匹配。与现行《管理办法》相比，《暂行办法》的变化主要有以下几个方面：

### 1 企业分类方法的变化

- 简化企业分类。由原来五类（AA，A，B，C，D）简化成四类（高级认证企业，一般认证企业，一般信用企业，失信企业），进一步对接国际AEO制度，高级认证企业和一般认证企业作为中国海关经认证的经营者（AEO），高级认证企业明确了，除适用一般认证企业管理原则和措施外，AEO互认国家或者地区海关提供的通关便利措施，但一般认证企业尚需要中国海关开展与其他国家或者地区海关的AEO互认，是否在今后也能给予互认AEO企业相应通关便利措施，取决与各国的谈判结果。
- 实施动态调整制度。《暂行办法》第十五条规定，“海关对高级认证企业应当每3年重新认证一次，对一般认证企业不定期重新认证。未通过认证的企业，不再适用认证企业管理，1年内不得再次申请成为认证企业；未通过高级认证但符合一般认证企业标准的，适用一般认证企业管理”。
- 用法律形式明确海关执法中引入中介机构。海关企管部门延续稽查部门的做法，并在《暂行办法》中明确“海关或者申请企业可以委托具有法定资质的社会中介机构对企业进行认证；中介机构认证结果经海关认可的，可以作为认定企业信用状况的参考依据”。
- 明确企业调整所对应的信用等级。当企业名称或海关注册编码发生变更时，海关对企业信用状况的认定结果和管理措施可继续适用或对于解散和新设企业视为首次注册企业。具体分为分立（存续和解散）及合并（新设和吸收）

### 2 进一步明确各类企业的通关待遇

本次《暂行办法》在立法层面保障了认证企业的优惠待遇，也明确了失信企业的监管措施。

- 一般认证企业适用下列管理原则和措施：
  - (1) 较低进出口货物查验率；
  - (2) 简化进出口货物单证审核；
  - (3) 优先办理进出口货物通关手续；
  - (4) 海关总署规定的其他管理原则和措施。
  
- 高级认证企业除适用一般认证企业管理原则和措施外，还适用下列管理措施：
  - (1) 在确定进出口货物的商品归类、海关估价、原产地或者办结其他海关手续前先行办理验放手续；
  - (2) 海关为企业设立协调员；
  - (3) 对从事加工贸易的企业，不实行银行保证金台账制度；
  - (4) AEO 互认国家或者地区海关提供的通关便利措施。
  
- 一般信用企业适用海关下列管理原则和措施：
  - (1) 正常的进出口货物查验率；
  - (2) 正常的进出口货物单证审核；
  - (3) 顺序办理进出口货物通关手续；
  - (4) 海关总署规定的其他管理原则和措施。
  
- 失信企业适用海关下列管理原则和措施：
  - (1) 较高进出口货物查验率；
  - (2) 进出口货物单证重点审核；
  - (3) 加工贸易等环节实施重点监管；
  - (4) 海关总署规定的其他管理原则和措施。

### 3 创新海关管理措施

建立企业信用信息管理系统。《暂行办法》第六条规定：海关应当采集能够反映企业进出口信用状况的下列信息，建立企业信用信息管理系统：

- (1) 企业在海关注册登记信息；
- (2) 企业进出口经营信息；
- (3) AEO互认信息；
- (4) 企业在其他行政管理部门的信息；
- (5) 其他与企业进出口相关的信息。

《暂行办法》第七条规定：海关应当在保护国家秘密、商业秘密和个人隐私的前提下，公示企业下列信用信息：

- (1) 企业在海关注册登记信息；
- (2) 海关对企业信用状况的认定结果；
- (3) 企业行政处罚信息；
- (4) 其他应当公示的企业信息。

## 沪港通税收政策出台

2014年11月14日，财政部、国家税务总局（“税务总局”）和中国证券监督管理委员会（“证监会”）联合公布了财税[2014] 81号（“81号文”），对沪港股票市场交易互联互通机制试点（“沪港通”）的税收政策做出明确规定。81号文规定，对香港市场投资者通过沪港通投资上交所上市A股取得的转让差价所得暂免征收企业所得税、营业税和个人所得税。同时对内地投资者通过沪港通投资香港联交所上市股票取得的转让差价所得，中国应依照现行规定征税。81号文自2014年11月17日起执行。

对于通过沪港通在沪港两地市场投资取得所得的中国税影响，详见文后附表。

### 附表

所得类型	中国税影响
<b>1. 沪股通 - 香港市场投资者（包括企业和个人）</b>	
投资上交所上市A股取得的转让差价所得	<ul style="list-style-type: none"> <li>• 暂免征收个人所得税和企业所得税</li> <li>• 暂免征收营业税</li> <li>• 卖方缴纳证券（股票）交易印花税</li> </ul>
通过投资上交所上市A股取得的股息红利所得	<ul style="list-style-type: none"> <li>• 按照10%的税率代扣代缴所得税。分配股息红利的上市公司负有扣缴义务。</li> <li>• 对于股息的收款人所在国与中国签订的税收协定股息红利所得税率低于10%的，可以向上市公司主管税务机关提出享受协定待遇和退税的申请。</li> </ul>
<b>2a. 港股通 - 内地企业投资者</b>	
投资香港联交所上市股票取得的转让差价所得	<ul style="list-style-type: none"> <li>• 征收企业所得税</li> <li>• 按现行营业税政策规定征、免税</li> </ul>
通过投资香港联交所上市股票取得的股息红利所得	<ul style="list-style-type: none"> <li>• 通常情况下应征企业所得税，但是内地居民企业连续持有H股满12个月取得的股息红利所得，依法免征企业所得税。</li> <li>• 内地企业投资者应自行申报缴纳企业所得税。</li> </ul>
<b>2b. 港股通 - 内地个人投资者</b>	
投资香港联交所上市股票取得的转让差价所得	<ul style="list-style-type: none"> <li>• 自2014年11月17日起至2017年11月16日止，暂免征收个人所得税。</li> <li>• 按现行政策规定暂免征收营业税。</li> </ul>
通过投资香港联交所上市股票取得的股息红利所得	<ul style="list-style-type: none"> <li>• 股息红利按照20%的税率计征个人所得税。H股公司应就其股息红利分配代扣个人所得税，中国证券登记结算有限公司应就非H股上市公司分配的股息红利分配代扣个人所得税。</li> <li>• 内地证券投资基金的股息红利所得按照上述规定计征个人所得税。</li> </ul>



*reassessment on Generally Certified Enterprises on a random basis. Generally Certified Enterprises who fail the reassessment, will lose their General Certification and will not be allowed to apply for certification within one year. Advanced Certified Enterprises who fail the advanced assessment but pass the general assessment would be subject to the management of Generally Certified Enterprises”.*

- Allow the involvement of agencies in customs administrative procedures. The Provisional Measures state that “Customs or enterprises can entrust qualified agencies to perform the customs assessment. The results can be taken as references for the credit assessment once recognised by Customs”.
- Clarify the credit rating treatment for enterprises in the case of registration information changes, merger and acquisition (“M&A”). Under the circumstances where enterprises change their company name or the Customs registration numbers, the previous customs assessments of enterprises’ credit status and management measures should remain unchanged. On the other hand, as for the newly established enterprises as a result of the M&A, they should be regarded as the first-time-registered enterprises for the credit rating assessment purposes.

## **II. Clarify treatments of customs clearance for enterprises of different classification**

The Provisional Measures grants CEs preferential treatment during the Customs clearance and clarifies the supervision measures for discredited enterprises.

- Preferential treatment to granted for GCE include:
  - i. A relatively low inspection rate on import/export goods
  - ii. Simplified document review of import/export goods
  - iii. Prioritised clearance treatment of import/export goods
  - iv. Other administrative principles and treatments announced by the GAC
- On top of the preferential treatment applied to GCEs, ACEs shall enjoy the following administrative measures:
  - i. Advanced release of import/export goods before the completion of customs clearance procedures, such as goods classification, valuation, country of origin, etc.
  - ii. Assignment of a dedicated liaison officer for the enterprises
  - iii. Bank deposit account system would not be required for enterprises engaged in processing trade
  - iv. Preferential clearance benefits in countries that have signed AEO Mutual Recognition Arrangements with China
- Management principles and measures for regular credit enterprises will include:
  - i. An average inspection rate on its import/export of goods
  - ii. General document review of its import/export operations
  - iii. A sequential, chronological clearance procedure for the import/export of goods
  - iv. Other administrative principles and treatments announced by the GAC

- Finally, the management principles and measures for discredited enterprises will be as follows:
  - i. A relatively high inspection rate on its import/export of goods
  - ii. Intensive document review of its import/export operations
  - iii. Key supervision on processing trade and other businesses
  - iv. Other administrative principles and treatments announced by the GAC

### **III. An innovation in customs management measures**

- The Article 6 of the Provisional Measures states that the Customs shall collect the following information which would reflect the credit levels of enterprises that would help in establishing how the credit management system applies to them:
  - i. Registration information with the Customs
  - ii. Information on import/export operation
  - iii. AEO mutual recognition information
  - iv. Information in other administrative departments
  - v. Other information related to trading business
  
- The Article 7 of the Provisional Measures reads that the Customs shall, under the condition of that state secrets, confidential business information and personal privacy are protected, publish the following credit information of enterprises:
  - i. Registration information with the Customs
  - ii. Customs assessment of the enterprises' credit status
  - iii. Administrative penalty information
  - iv. Other information that shall be published

### **China's taxation rule on Shanghai-Hong Kong Stock Connect**

On 14 November 2014, the Ministry of Finance, the State Administration of Taxation and China Securities Regulatory Commission jointly released Caishui [2014] No.81 (Notice 81), on the China taxation rules in relation to the Shanghai-Hong Kong Stock Connect (Stock Connect). Under Notice 81, Corporate Income Tax (CIT), Business Tax (BT), and Individual Income Tax (IIT) will be temporarily exempted on gains derived by foreign investors on the trading of A shares through the Stock Connect.

For income derived by Mainland China investors from investing in shares listed in Hong Kong through the Stock Connect, the China tax implications shall generally follow the current Chinese tax regulations. The effective date of Notice 81 is 17 November 2014.

For more details of the China tax implications on income derived by investors through Stock Connect in mutual markets, please refer to the Appendix attached.



Appendix

Income	China tax implications
1. Northbound trading link – both foreign corporate investors and individual investors	
Gains from the transfer of eligible A shares	<ul style="list-style-type: none"> <li>● Temporarily exempt from IIT / CIT</li> <li>● Temporarily exempt from BT</li> <li>● Stamp Duty on the seller</li> </ul>
Dividend income from eligible A shares	<ul style="list-style-type: none"> <li>● Dividends will be subject to 10% withholding tax and the listed company distributing the dividends has the withholding obligation.</li> <li>● If the recipient is entitled to a lower treaty rate, it can apply to the in-charge tax bureau of the payor for a refund.</li> </ul>
2a. Southbound trading link – Mainland China corporate investors	
Gains from the transfer of eligible shares listed in HK	<ul style="list-style-type: none"> <li>● Subject to CIT</li> <li>● Will be taxed or exempted in accordance with the current BT regulations.</li> </ul>
Dividend income from eligible shares listed in HK	<ul style="list-style-type: none"> <li>● Generally subject to CIT, except for dividends from H shares which the Mainland China corporate investor held for no less than 12 months which will be exempted from CIT.</li> <li>● Mainland China corporate investors should make self-declaration and settle the tax payable.</li> </ul>
2b. Southbound trading link – Mainland China individual investors	
Gains from the transfer of eligible shares listed in HK	<ul style="list-style-type: none"> <li>● Temporarily exempt from IIT for the period from 17 November 2014 till 16 November 2017.</li> <li>● Temporarily exempt from BT in accordance with the current regulation.</li> </ul>
Dividend income from eligible shares listed in HK	<ul style="list-style-type: none"> <li>● Dividends will be subject to IIT of 20%. H share company has to withhold IIT in regards to its dividend distribution, whereas China Securities Depository and Clearing Corporation has to withhold IIT for dividends from non-H shares.</li> <li>● Dividends paid to Mainland China securities investment fund shall follow the same IIT treatment as above.</li> </ul>

*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.deanpcpa.com.cn](http://www.deanpcpa.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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