

HOW TO SURVIVE A POST-CLEARANCE CUSTOMS AUDIT

(10 SHORT TIPS)

Before the audit:

1. Call the customs officer and ask what is the specific purpose of the audit. Ask him for the reasons. Often officers will be rather vague about the reasons for starting an audit, but sometimes they explain what exactly they are going to check. That makes it easier to prepare for the audit.
 - Make sure that you have all the relevant information available, and that it is all up to date.
 - Do you have a copy of all the licenses?
 - Are all Binding Tariff Rulings (BTI's) available.
 - Do you have copies of all contracts with your forwarding agents?

During the audit:

2. Present bite-size information, which means well ordered and structured. All information that is presented messy, is by nature perceived as less trustworthy and gives - perhaps untrue – a poor impression of the quality of the administration.
3. Only give information that is requested. Be alert on the friendly chit-chat conversation at the end of the audit. You may, without purpose, reveal additional information or raise questions that require a further audit by customs or perhaps another office.
4. Do not provide an overload of information. Restrict to the years for which the officer asked for, and restrict to the information that is asked for.
5. Do not let the officer wander through your offices alone, and here and there, pose questions to employees. Instead, appoint one person of your staff, as the contact person for the officer, who will be the one and only spokesperson for the customs officer, and who accompanies the customs officer wherever he goes during the audit.
6. Refrain from unnecessary announcements, such as about perhaps the poor condition of the administration in the past; difficulties in finding good staff; what the competition is doing; how bad your forwarder works. All such remarks may also invoke further audits.
7. Most certainly do not make any promises that you cannot keep. For example, that you will have the figures ready tomorrow, when you are not sure that you actually have the figures ready tomorrow. Any failure to keep a promise will most likely give a negative impression on the quality of the company's administration.
8. Do not provide copies of email or correspondence until the officer specifically asks for a certain letter or email, and then still, before you provide a copy, ask the auditor why he requires that information. If you provide copies of documents to the customs officer, always make a double copy so that you know exactly what documents he obtained from you.

After the audit:

9. If you do not agree with the conclusions of the officer, or with a demand for the retrospective collection of duty, appeal against the demand in due time; by that I mean, not too late, but certainly also not too early.
10. If you also get a penalty, you may consider to appeal against the penalty. Discuss with your attorney about the possibilities and chances to appeal against the penalty and possible alternative remedies..

ADDITIONAL POINTS TO KEEP IN MIND IN ORDER TO AVOID DIFFICULTIES

- ✓ Make sure that you know exactly what the administrative requirements are that apply to the **customs warehouse licenses** that you have. The stock records must be as accurate and detailed so that you are able to quickly assess if the import duties, as well as the time upon which the duties are payable, can easily be derived from the books and records of the company. If for example, you make use of a license for temporary admission, you can check if you are able to demonstrate the re-export or other allowable disposals. In order to get a good idea of the actual status, I always recommend to have this checked by another employee, than the employee who is responsible for the records on a daily basis, because otherwise the employee will be checking his own work.
- ✓ Make sure, and this is important, that there are no misunderstandings about the **classification of the goods**, and thus the applicable tariff. Start simple! For example by making someone in your company as responsible for the proper classification of goods. Subsequently, make sure that you have Binding Tariff Rulings for your best selling items. Numerous are the examples, where customs were able to issue large demand for the retrospective collection of duty, that could simply have been avoided.
- ✓ Did you check for the necessity of **import or export licenses** for your products? Pay attention to goods that are for 'dual use'. These are goods that are normally used in plain civil purposes, but that may *de facto* also be used in the production of weapons.
- ✓ Have the goods been customs cleared for the correct **customs value**? What is the basis for determining the customs value, and is that indeed the last sale for export to the EU? If the buyer and seller in that transaction are related, you should be cautious. Also check on additional payments to manufacturers or companies related to the manufacturer of which your forwarding agent may not know of, because he using only the commercial invoice that accompanies the consignment. Are there separate payments for the right on further distribution or product guarantees. The importer almost always relies on his forwarding agent to calculate the correct customs value, but the forwarder may not have a clear view on all payments between buyer and seller. That is sufficient reason to occasionally check if the correct customs value has been declared.
- ✓ Is the indicated **origin** of the products correct? Another simple thing to check is if the commodity code on the Certificates of Origin matches (COO) matches with the commodity codes that have been reported in the import declarations. Are you familiar with the specific origin requirement for your best selling items? Check it!

For more information, please send an email to info@customs-attorney.com or call + 31 (0)10 - 467 22 52