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## Post Clearance Audit Regulation

February 2018

Since enforcement of the Customs Act B.E. 2560 on 13 November 2017, the Thai Customs Department has been gradually issuing secondary legislations and/or regulations to be applicable under this new Customs Act. Customs Notification No. 171/2560, RE: Post Clearance Audit at Places of Business ("Notification,") is one among such regulations.

The Customs Department never published any official regulations related to the post customs audit. We were then, familiar with the customs audit practices that there is no time limitation for their audit process and uncertainty what next steps could be. It is believed that Notification, effective 27 November 2017, will provide efficiency, transparency and fairness during the customs audit process.

This edition discusses interesting aspects of this Notification.

### 1. Customs Officer's Authority

Customs Officers can enter into places of business of the following business operator:

- (1) importer or exporter;
- (2) courier of the goods acting for an importer or exporter;
- (3) representative of an importer or exporter of a courier; and
- (4) those related to importation or exportation

Moreover, Customs Officers can require the accounts, documents, evidences and other data related to goods that going through the Customs Clearance process or already get through the Customs Clearance process, including other things related to importation or exportation goods of a business operator for audition's purpose.

### 2. Post Customs Audit

A business operator can expect a post customs audit at their commercial premises after receiving the relevant notification letter from the Customs Department.

According to the Notification, the Customs Department, under normal circumstances, would issue a notification letter no less than 10 days prior to the intended date of entry to the premises. At least three Customs Officers will enter the premises, one of whom will be a Customs academician from the Customs Department.

Customs Officers, according to the Notification, must finish the audit within 10 business days of their entry. This period may be extended only three times, for periods of no more than 10 business days per extension. The maximum total timeframe should not be more than 40 business days.

From the date of entry to the premises until the completion, if no Customs offence has been committed or where there is no evidence of the same, Customs Officers will make a memorandum for a business operator as an evidence. Customs Officers will then close the customs audit process.

However, if there are any suspicions or any evidences that a Customs offence may have been committed by a business operator, Customs Officers may audit the required documents, accounts, etc. within the timeframe of entering into a place of business's day.

If such audit cannot be completed within the day mentioned above, a Customs Officer may seal required data in a box with Gor Sor Gor's paper and sign together with a business operator, such box will be kept at Customs Office. A Customs Officer must open such box within 15 days, such timeframe may extend for another 15 days. If 30 days' timeframe is end, a Customs Officer may set a team and open such box in front of Police Officers.

After open a data's box, Customs Officers must audit all required documents, accounts, data etc. within 90 days, such timeframe may extend by the approval of a commander for not more than 2 times, provided 90 days for each time. The maximum timeframe on this process should not be more than 270 days (around 9 months). After a limited period is end, Customs Officers must issue an assessment letter within 7 days from the date of completion of a customs audit, if he or she discover any offence.

## Author's Note:



*This Notification provides us our rights, process and timeframe of a Customs Officers for a post clearance audit. A related entrepreneur on a business that related to importation or exportation shall learn the Notification, in order to know what should be happened during the audit process of a Customs Officer. Please note that, this Notification is exclusive from a Customs Investigation, the Customs Department issues the separate notification for a Customs Investigation.*

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*Note: Dherakupt International Law Office Ltd., has changed its name from DRK to DRKI. E-mail and website domains are @drkilaw.com (e.g. Monchai\_v@drkilaw.com) and www.drkilaw.com.*