Rödl & Partner

Import of Goods into China

FOCUS ON CROSS-BORDER B2C E-COMMERCE

Table of content

The Notice of Tax Policy on Cross-Border Retail E-Commerce issued by the Ministry of Finance, State Administration of Taxation and General Administration of Customs (Cai Guang Shui [2016] No. 18) dated 24 March 2016 has put an end to the previous customs practice where the so-called postal tax was charged on goods imported into the People's Republic of China via B2C e-commerce. The new tax/customs regulations became effective on 8 April 2016.

In the People's Republic of China, which has been the largest trading nation since 2013 and now has also become the biggest online market worldwide, e-commerce records impressive growth every year, which is the result of the state subvention policies. In 2015, e-commerce retail sales was USD 945 billion and experts expect sales of more than USD 1,000 billion by the end of this year.

So far, the import of goods into China has always involved a lot of bureaucracy, lengthy and complex customs procedures, and multiple restrictions on foreign exchange; these circumstances scared off many small enterprises. The new business model for cross-border e-commerce ("cross-border B2C e-commerce") is expected to change this situation: In 2012, the pilot project was initially introduced in 7 cities, including Shanghai and Hangzhou. Ever since the B2C business model was implemented by the Central Customs Authorities in 2014, it has proven to be an established tool and become more widespread: At the beginning of 2016, the pilot project was launched in a further three cities. Thus, the number of pilot project cities authorised to sell cross-border e-commerce services has increased to 10.

Requirement

So far, the "cross-border B2C e-commerce" business model has only applied to selected goods, including foodstuffs (no fresh products), dietary supplements, household appliances and cosmetics. These goods must be supplied from abroad and sold on a customs-supervised e-commerce platform in one of the authorised pilot project cities to Chinese individuals (end customers) who purchase the goods for their own personal and domestic use (sale of consumer goods).

The detailed requirements are as follows:

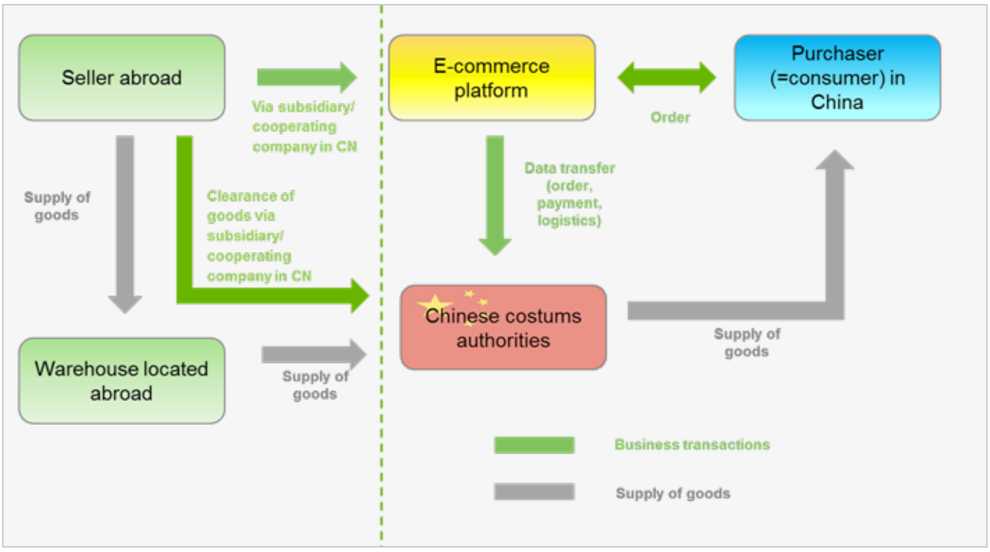
- The goods to be imported must be registered with the customs authorities prior to their import;
- all information relating to a transaction made via the e-commerce platform, including goods, price, name and address of end customers, must be passed on to the customs authorities; and:
- the responsibility for warranty and the liability for the business transactions must be assumed by a Chinese company; such company can be either a subsidiary of the foreign seller or a business partner with whom the seller closely collaborates.

Since the business model applies only to the sale of consumer goods, the value of individual orders has been generally limited to no more than RMB 1,000 (about EUR 140; since 8 April 2016: RMB 2,000/about EUR 280). In respect of the total value of all orders placed by one purchaser, an upper limit of RMB 20,000 (about EUR 2,800) in a year has applied since 8 April.

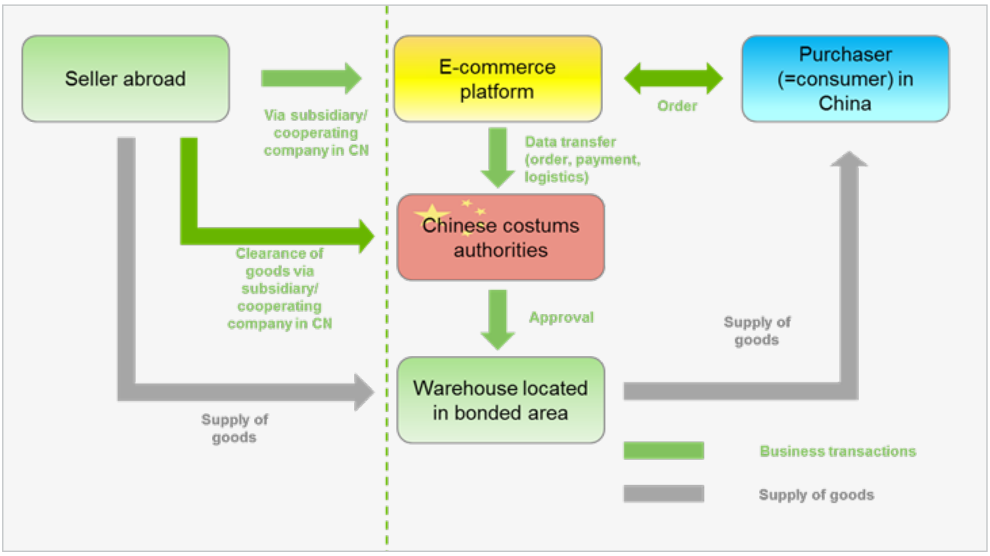
Direct Import & Bonded Import

In terms of structuring, two models come into question, known as direct import and bonded import: With direct import, goods are delivered after completion of the online sale. With bonded import, goods are delivered into a customs warehouse located in free zones/free ports first and customs clearance is performed later.

Direct Import



Bonded Import



Clearance

Before 8 April 2016, cross-border B2C e-commerce goods were not subject to the standard customs tariff but to the so-called "postal tax", which originally had been intended for luggage and private package shipments. Postal tax rates ranged between 10% and 50% of the price of goods; if the customs duty was below RMB 50 it was not collected. Unlike with B2B import transactions, the B2C transactions involve, apart from this tax, neither import VAT (normally charged at 17% or 13% on certain goods such as e.g. books) nor excise duties charged at the rate of up to 30% on certain "luxury goods", such as make-up, alcohol, tobacco, luxury hand watches. Insofar, the B2C model implies some significant tax/customs advantages.

According to the new tax/customs policy for cross-border B2C e-commerce effective since 8 April 2016, where the value of goods is below RMB 2,000 (about EUR 280) in an individual order and the total value of all orders by one purchaser in a year is below RMB 20,000 (about EUR 2,800), a zero-rate customs duty will apply and taxes (import VAT and exercise, in China referred to as consumer tax) will be charged on such goods at the rate of 70% of the regular standards. Also the duty-free threshold applicable so far has been abolished.

The tables below present an overview on and a comparison between customs regimes before and after the amendment:

Before 8 April 2016:

Goods (The list is not complete)	**B2C cross-border e-commerce**	**B2B traditional business models involving intermediaries**		
	Customs duty* ("postal tax")	Standard customs tariff	Import VAT	Excise (consumer tax)
Books; food; beverage	10%	8-20%	Normally 17% (13% on certain goods, such as e.g. books)	Up to 30% on certain "luxury goods", such as e.g. make-up, alcohol, tobacco, luxury hand watches
Textiles; watches; electronic equipment;	20%	10-23%		
Golf balls/clubs; luxury hand watches (from RMB 10,000.00)	30%	10-23%		
Cosmetics (Including skin and hair care, make-up etc.)	50%	2-18%		

*Customs that fall below RMB 50 are not collected.

Since 8 April 2016:

<table>
<tr><th rowspan="2">Goods (The list is not complete)</th><th>B2C cross-border e-commerce</th><th colspan="5">B2B traditional business models involving intermediaries</th></tr>
<tr><th>Customs duty *</th><th>Import VAT</th><th>Excise (consumer tax)</th><th>Customs</th><th>Import VAT</th><th>Excise (consumer tax)</th></tr>
<tr><td>Below the threshold (RMB 2,000 for individual orders; RMB 20,000 p.a. for individual purchasers)</td><td>0</td><td>70% import VAT (normally 11.9%, 9.1%, as the case may be)</td><td>70% excise duty</td><td rowspan="2">Standard customs tariff</td><td rowspan="2">Normally 17% (13% on certain goods, such as e.g. books)</td><td rowspan="2">Up to 30%</td></tr>
<tr><td>Above the threshold mentioned above</td><td colspan="3">The same as with B2B.</td></tr>
</table>

*No duty-free threshold.

Advantages of the B2C business model as compared to B2B wholesale import

Compared to the traditional wholesale imports (B2B import), the B2C business model has the advantage (apart from more favourable customs tariffs) that the data transfer to the customs-supervised platforms considerably expedites and simplifies the customs clearance procedure. In addition, the customs procedure applicable to the e-commerce B2C-model involves fewer import formalities, such as e.g. the import license or the obligation of product labelling in Chinese etc. Sellers can benefit from the simplified procedure that the B2C business model offers also in terms of foreign exchange.

Difficulties and restrictions in implementation

The main difficulty in implementing the business model lies in developing a customs-supervised e-commerce platform where the data relating to online transactions would be passed on directly to the customs authorities. The project cities have determined differing requirements regarding the manner in which cross-border e-commerce services are performed. In Shanghai, e.g., traders may basically use only the official platform (www.kjt.com), i.e. the seller opens an "e-shop" on the platform, where everything is structured uniformly – from the description of goods to the conclusion and execution of the contract. In other cities, however, e.g. Hangzhou, traders are basically allowed to set up their own websites. But such websites won't be normally certified unless a Chinese company registers as the publisher and operator of the website and assumes liability for its content and the business transactions carried out via this website.

The aspect of legal certainty gives rise to more doubts: The B2C business model is a pilot project that is constantly being expanded and further developed as new legal and administrative regulations are introduced every day and their practical implementation changes. This causes uncertainties as regards both the legal structure and the official/practical implementation.

Outlook

Currently, the cross-border B2C business model is promoted through multiple incentives offered by the Chinese government and local administrative agencies in order to satisfy the steadily increasing demand for foreign goods on the Chinese market. It is the attempt to offer an attractive alternative to foreign imports, in particular to business models such as private imports (C2C) and import of goods by fulfilment houses, whose operations are not regulated by the law and have been de facto "tolerated" by the customs authorities so far, but have been frequently subject to restrictive measures.

A business venture into the Middle Kingdom will pay off for all parties involved. But the ample opportunities go hand in hand with multiple challenges. Once the administrative hurdles are overtaken, a market of 1.5 billion consumers seeking high-quality products from almost all consumer goods sectors will open up where sellers of “made in Germany” products will be able to score very high points.

Contact

In Germany:
Stuttgart

Dr. Yanlin Xiang
Attorney-at-law

+49 (711) 78 19 14-472
yanlin.xiang@roedl.de

In China:
Shanghai

Vivian Yao
Certified Tax Advisor (China)

+86 (21) 61 63 – 52 00
vivian.yao@roedl.pro