



Lao People's Democratic Republic
Peace Independence Democracy Unity Prosperity

Ministry of Finance
Customs Department

No.04170/LCD
Vientiane Capital, dated on February 5, 2013

Director General of Customs Guidance on the Implementation of Post Clearance Audit (PCA)

- Pursuant to the Customs Law No. 04/NA, dated December 20, 2011; and
- Pursuant to the Agreement on Organization and Customs Operation No. 2498/MOF, dated October 15, 2007.
- Pursuant to the Finance Minister's Agreement on the Establishment of Post Clearance Audit Division (PCA) No. 0094/MOF, dated April 14, 2003.

The Director-General of Customs Issues the Guidance:

1. Objective

This guidance is issued to designate the regulations, procedures and methods of post clearance audit; it aims at managing and implementing the regulations effectively, facilitating trade and ensuring the effective, proper and timely manner of revenue collection.

This Guidance also provides the methodology of auditing as follows: planning the targeting of companies or traders to be audited, nominating the Customs officers to conduct the audit including the arrangement of documents, coordinating and cooperating and other restrictions which the auditors need to avoid.

Customs officers can use this guidance within their actual auditing work to ensure uniform implementation nationwide.

2. General Explanation

2.1 Post clearance audit is a systematic Customs control mechanism to implement the procedures and regulations in order to ensure that information and data provided in the Customs declaration form is true and correct through the auditing, investigation and examination of documents, relevant books, records, business systems and commercial data kept at companies, traders' premises or Customs Department. The auditing can be conducted after the release of imported goods in accordance with the Customs Law.

2.2 Traders or persons involving in trade means the traders who carry out their business as Customs declarants and may include the importer, exporter, Customs broker, carrier (transport operator), warehousing operator, Customs Duty Free Shop operator and other similar persons.

- 2.3 Documentary check consists of Customs declaration form, supporting documents, sale contract and other related contracts which the traders or importers provide to Customs, including records, accounting and data in a computer systems.
- 2.4 Authorized Economic Operator (AEO) is an agency that carries out its business which includes producers, exporters, importers, transport operators, Customs brokers who are certified and facilitated on Customs formalities at the border for importation and exportation from Customs officers of the contracting party.

3. Implementation of PCA

- 3.1 The creation of planning for conducting PCA is in order to determine clearly targeted traders or companies for auditing. The targeted traders to be audited include exporters, importers, Customs brokers, transport operators, Customs warehousing operators, duty-free shop operators who are considered high risk when providing information on a Customs declaration form as such HS code, Customs valuation, certificate of origin, tariff rate and others.
- 3.2 The PCA Division, PCA Unit of five Regional Customs Offices should collect and analyze the information and data in Customs declaration forms as declared by traders for importation and exportation. The creation of planning and targeting the persons to be audited should also be based on risk management principles. The planning for conducting PCA should clearly define quarterly auditing, yearly auditing, duration (time), budget, number of auditors and venue for auditing, audit processing, audit evaluation and audit expectation.
- 3.3 The planning for audit created by the PCA Division, PCA Unit of Regional Customs Offices is to be submitted to the higher officials for consideration and approval of the planning and in order to avoid any and other difficulties that may affect traders and businesses.
- 3.4 The quarterly and yearly planning for audit should be approved by the higher officials and after implementation of the planning for audit, should inconsistencies be found, the PCA Division or PCA Unit of the Regional Customs Offices should report to the Director of Regional Customs Offices or Director-General where appropriate for their consideration and amendment in order to be consistent with the current situation.
- 3.5 In case of emergency with sufficient audience is available, the PCA Division or PCA Unit of the Regional Customs Offices may conduct the audit but a report should be received by the Director of Division or Unit prior to the audit taking place.

4. Processing of Auditing

- 4.1 When the quarterly and yearly planning for audit is approved, the PCA Division and Customs auditors of the Regional Customs Offices shall issue a notice to the person, entity or trader who is targeted for auditing within 10 working days in advance in order to allow the time for document preparation and be able to attend the audit.
- 4.2 The notice sent to targeted persons for audit shall describe clearly the date of audit, time, venue and other documents including the persons who shall join the audit, for

example: Director of company, accountant, warehouse keeper and others as appropriate.

- 4.3 When the targeted person for audit (the trader) had received the notice, should that person not be ready to allow the Customs auditors to conduct the audit or due to some other reasons, the trader can request Customs to postpone the audit to another time in writing within 3 working days. If there is no request from the trader for audit within 3 working days, it shall mean that the trader has agreed with the notice and has allowed the Customs auditors to conduct the audit accordingly.
- 4.4 The PCA Division or PCA Unit of the Regional Customs Offices shall consider the request to postpone the time of the audit for appropriate reasons. A postponement can be allowed only once and shall not exceed 15 working days. The Customs authority shall inform the trader in writing.
- 4.5 The PCA Division or PCA Unit of the Regional Customs Offices may conduct the audit at their offices or at the premises of the Trader as applicable. If the audit is conducted at the premises of the Trader, it shall be completed within 10 working days. In the case that it cannot be completed within 10 working days, an extension of time may be allowed only once within 10 working days on the basis of the traders' agreement.
- 4.6 After the completion of the audit, the Customs auditors shall make a report of the initial results and send it to the trader for their consideration trader and comment within 5 working days. If there are no additional comments from the trader in writing, it shall mean that the trader agrees with the report of audit result by Customs.
- 4.7 The result of the audit shall be signed by both Customs auditors and the trader and shall be made in three copies:
 - One copy for the trader
 - One copy for the Customs auditors
 - One copy is attached herewith the report to the Director of the PCA Unit of the Regional Customs Offices or for the Director of the PCA Division at Headquarters.

5. The PCA auditor consists of two types

5.1 Regular audit

A regular audit is an audit based on the planning approved by the Customs Department comprising monthly, quarterly and yearly audits, designated time and venue of audit and notified to the trader in writing in advance. If the notice of audit is acceptable by the trader, the audit can be conducted at the office of the PCA Division or PCA Unit of the Regional Customs Offices or at the trader's premises.

5.2 An urgent auditing

An urgent auditing can be conducted as soon as the imported goods are released, even though this is not included in the approved audit plan. This urgent auditing is based on information collected from the ASYCUDA system or any information relating

to Customs valuation, HS and classification, certificate of origin, types of goods and quantity of goods. Customs auditors may conduct a field audit at the premises, warehouse or distribution place of the trader without any notice in advance. After the audit is completed, the Customs auditors shall make a final report to the Director of Unit or the Director of Division respectively within 24 hours.

6. Appointment of audit team and responsibility

6.1 The Customs audit team who shall conduct a field audit at the premises of the trader shall consist of at least three auditors:

- The Director of each Regional Customs Office shall nominate the Customs auditors at local level
- Director of the PCA shall nominate the Customs auditors at central level

6.2 The responsibilities of Customs auditor team at central level

The PCA Division shall directly set the general techniques of auditing throughout the country by coordinating with PCA Units of each Regional Customs Office in order to provide directions. The PCA Division shall mainly focus on some particular types of goods for auditing

1. Fuel, vehicle and other luxury goods
2. Imported goods under preferential treatment (FTA) and imported goods under the Promotion Investment Law such as temporary admission, tariff reduction and exemption.

6.3 Responsibilities of the Customs audit team at local level

The PCA Unit of each Regional Customs Office has the responsibility to plan and conduct the audit of all types of goods rather than those mentioned in 6.2 above.

In the case of imported goods under the management of the PCA Division at central level but where the traders' enterprise or company is located within a regional Customs jurisdiction, in order to facilitate the audit, the PCA Division at central level shall provide the relevant information and data to and coordinate with the PCA Unit of each Regional Customs Office by issuing the notification to the PCA Division and assigning the PCA Unit to conduct the audit. After the completion of audit, the PCA Unit shall make a final report of the results to the PCA Division within 7 working days.

7. Documents used for auditing

7.1 For the purpose of uniform application, collection of information and data, proposals and reports on the PCA activities, the PCA is assigned to create the forms of documents in order to implement uniformly throughout the country.

7.2 All copied documents following an audit, such as Customs declaration forms for vehicles, shall be kept for at least 10 years. Other relevant documents and Customs declaration forms for general goods shall be kept for an additional one year. The PCA Unit of each Regional Customs Office may propose to the Director of the regional Customs Offices to destroy those documents when necessary.

8. Coordination and cooperation

8.1 To ensure and facilitate a data collection, the PCA Division and PCA Unit of each Regional Customs Office shall coordinate and cooperate with other relevant Customs units such as International Customs checkpoints, Anti-Smuggling Unit, ICT Unit and other Customs Units in order to collect the information and data prior the audit taking place.

8.2 Apart from coordination and cooperation among the customs, the PCA Division and PCA Unit of each Regional Customs Office shall also coordinate and cooperate with other government agencies as such Accounting Department, Tax Department, banking, transport operator, insurance company, Chamber of Industry and Commerce and other agencies in order to collect the information and data on targeted traders.

9. Restrictions for Customs auditors

9.1 Some restrictions have been described in Article 84 of the Customs Law No. 04/NA, dated December 20, 2011. The main restrictions on Customs auditors are that they shall not:

1. Intentionally report an incorrect audit;
2. Disclose or disseminate the confidentiality of audit techniques or information relating to the result of audits without permission;
3. Disclose trade and financial information of traders without permission; and
4. Inpute inaccurate information, coerce or make obstacles for traders.

10. Dissemination, rewards and actions against fraudulent acts

10.1 The PCA Division and PCA Unit of each Regional Customs Office shall disseminate the Customs procedures, regulations, provisions and other obligations to the traders and the public to ensure that they can have access, understand and continuously cooperate.

10.2 The PCA Division and PCA Unit of each Regional Customs Office shall collect statistics on traders under their responsibility, monitor the business operation and collect other information regarding the implementation of the Customs Law, other domestic laws and regulations for the purpose of risk management. The PCA Division or PCA Unit of each Regional Customs Office shall propose to higher officials the outstanding traders who are compliant with the Customs Law for reward and this shall become the basis for implementation of the Authorized Economic Operator scheme of Lao PDR in the future.

10.3 The PCA Division and PCA Unit of each Regional Customs Office shall take actions against the traders who act fraudulently according to the Customs Law No. 04/NA, dated December 20, 2011. The PCA Division or PCA Unit shall also recommend to the higher officials or not in cooperate with an auditing, failure of tax payment and imbalance tax payment. The Customs shall take action against the business operation of such traders who violate by issuing an official notice of suspension of importation of goods.

11. Implementation

All Divisions, five Regional Customs Offices of the Customs Department, persons and entities who do business in import-export, transport operators, Customs brokers and other persons relating to Customs are mandated to be aware and implement this guidance strictly.

12. Effectiveness

This Guidance shall enter into force from the date of the signature.

Director-General of Customs

Athsaphangthong SIPHANDONE