

## Introduction to the Customs Value Determination of One-time Transfer Pricing in the Fiscal Year

The concept of transfer pricing originated from international taxation, and it was mainly initiated by the Organization for Economic Cooperation and Development (OECD). Taiwan Taxation Administration therefore promulgated “Regulations Governing Assessment of Profit-Seeking Enterprise Income Tax on Non-Arm's-Length Transfer Pricing”. However, could the transfer pricing methodology be applied to determine Customs value? The World Customs Organization (WCO) still has reservations, and only recommends that Customs could consider the transfer pricing results as references in each individual case. To optimize the investment environment and integrate the accounting audit system of taxes and duties, the Ministry of Finance instructs the Taxation and Customs Administration to develop a harmonizing solution for the convergence of transfer pricing and Customs valuation.

As we all know, the transfer pricing is the issue of distributing profits and costs among multinational companies in order to pursue the optimal taxation. The “profit-seeking enterprise income tax” recognized and collected by the National Tax Bureau is based on the annual profits of enterprises, whereas the “tariff” levied by customs is based on the transaction value and tariff rates of import goods (tangible assets). In addition to the above difference, the tax collection/ duty levy procedures and deadlines between the two systems are also different.

The main issue is to deal with differences between profit-seeking enterprise income tax and tariff. The Ministry of Finance therefore issued a Decree on 15 November 2019, which stipulates that in anticipation of the upcoming adjustment to transfer pricing, the profit-seeking enterprises engaged in controlled transactions of cross-border tangible assets should accord with Subparagraph 3, Paragraph 3, Article 18 of the Customs Act, provide a Deposit Guarantee, fill out the import declaration, attach the Customs Valuation Declaration Form and Proforma Invoice, and then submit to Customs at importation. Within one month after the end of the fiscal year, the profit-seeking enterprises shall submit an application to local Customs office for the determination of Customs Value, and conduct the supplementary payment or refund of duty. After the Ministry of Finance issued the Decree, the Customs Administration subsequently formulated and released “Directions of Customs Value Determination of One-time Transfer Pricing in Fiscal Year” to facilitate implementation.