

## Customs implications in new administrative penalty law

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#### In brief

- » The revised *Law of the People's Republic of China on Administrative Penalty* will come into force on 15 July 2021, replacing its 2017 version.
- » Some revisions may have a bearing on customs penalty measures.

Feedback

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**In detail**

The *Law of the People's Republic of China on Administrative Penalty* (“the Administrative Penalty Law”), adopted at the 25th Meeting of the Standing Committee of the 13th National People’s Congress of the People’s Republic of China on 22 January 2021, will come into force on 15 July 2021.

This said law is binding to all authorities empowered by the State Counsel and local governments capable of passing administrative penalties, including China Customs. We have reviewed some of the latest amendments and noted that the following revisions are expected to affect customs administrative penalty:

**» Extended statute of limitation**

According to the previous provision, the administrative penalty will not be imposed on any offence dated over two years. The revised Administrative Penalty Law has extended the above period to five years for cases having an impact on human life and health, financial security or capable to result in harmful consequences.

The law has not provided further what types of goods could be referred to as “having an impact on the life and health”. It is likely that such goods as medical supplies, medical equipment, cosmetics and foods are covered by this new provision, and their statute of limitation might be extended to five years.

**» Expanded scope of administrative penalty**

The revised Administrative Penalty Law has included new types of administrative penalties, including public denouncement, qualification degrading, operation restriction, business closure or limitation by order.

It is expected that the types of customs administrative penalties could be expanded in accordance with the amended Administrative Penalty Law. For example, a downgrading in customs credit rating system might be integrated into the scope of customs administrative penalties.

**» Penalty waivers**

Two circumstances listed in the Administrative Penalty Law could be exempted from penalty:

- Initial offences with minor consequences and timely correction: It is expected that the customs administrative penalty will also introduce this provision and may further issue the “list of initial offences exempted from penalty” to clarify the matters.
- Offences not due to subjective fault: This opens the opportunity for importers and exporters to cite this provision for an exemption from penalty with the Customs.

**WTS China observation**

With the new revisions to the Administrative Penalty Law, relevant authorities are expected to update their penalty rules accordingly, including the Customs. Chinese importers and exporters are recommended to keep an eye on the most updated customs administrative penalty regulations and act accordingly.

In addition, under today’s strict customs environment, compliance and data accuracy remain the key elements of a successful importing or exporting. A routine compliance check or internal audit to identify potential risks and make corrections is effective to avoid customs administrative penalty.

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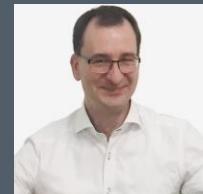
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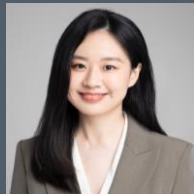


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