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DUTY DRAWBACK UNDER SECTION 19 BIS

The duty drawback scheme enables exporting companies to obtain a refund of Customs duty paid on imported goods where those goods will have undergone production, mixing, assembling, or packing and then exported to a foreign port. Only the person who is the legal owner of the goods at the time the goods are exported, or a person to whom this right has been assigned, is eligible to make a claim for duty drawback.

DEFINITION

According to the Revised Kyoto Convention, the term "drawback" means the amount of import duties and taxes repaid under the drawback procedure.

Duty drawback is provided under Section 19 bis of the Customs Act (No.9) B.E. 2482. It means the refund of import duty already paid or the return of guarantee placed on imports which have undergone production, mixing, assembling, or packing and then exported to a foreign port or as stores for use on board a ship proceeding to a foreign port within one (1) year from the date of importation.

ELIGIBILITY FOR DUTY DRAWBACK

If the exports meet the criteria listed below, the import duty already paid or the guarantee placed on such imports shall be repaid or returned as drawback to the importer.

1. The drawback on such imports is not prohibited by the Ministerial Regulations.
2. The quantity of the imports used in producing, mixing, assembling, or packing exports is in accordance with the rules approved or specified by Customs.
3. The goods are exported through a port or place of exit designated for a drawback scheme.
4. The goods are exported within one (1) year from the date of importation of the goods used in producing, mixing, assembling or packing exported goods. In case where there is a force majeure event that causes the delay of such exportation, Customs may extend the aforementioned period by six (6) months.
5. A claim for drawback must be made within six (6) months from the date of exportation of the goods. However, Customs may extend this time limit on a case by case basis.

Eligible Goods for Duty Drawback

1. Raw materials which are obviously seen in the exports e.g. fabrics, buttons, zippers and thread in garments, plastic sheeting in plastic products, etc.
2. Raw materials used directly in the manufacturing process and contained in the exports but not obviously seen e.g. preservatives in canned food, stiffening agents in garments, solvents for glue in cellophane and anti-rust agents in electronic circuits, etc.
3. Raw materials required in the manufacturing process e.g. sizing materials and bleaching agents used in textile products, sand paper, scouring powder, varnish, velvet, scouring agents, chalk, carbon paper and pattern.

Non Eligible Goods for Duty Drawback

1. Machinery, tools, moulds and various appliances e.g. grinding ball for ores, tools and appliances made from tungsten carbide used in the manufacturing of watches, etc.
2. Fuels for manufacturing e.g. fuel oil, firewood, coal, etc.

Drawback Procedures

1. Request for approval
2. Importation of raw materials
3. Submission of production formula
4. Submission of "right transferred table"
5. Exportation of Goods
6. Claiming for duty drawback
7. Duty payment on raw materials not exported

Application forms for duty Drawback

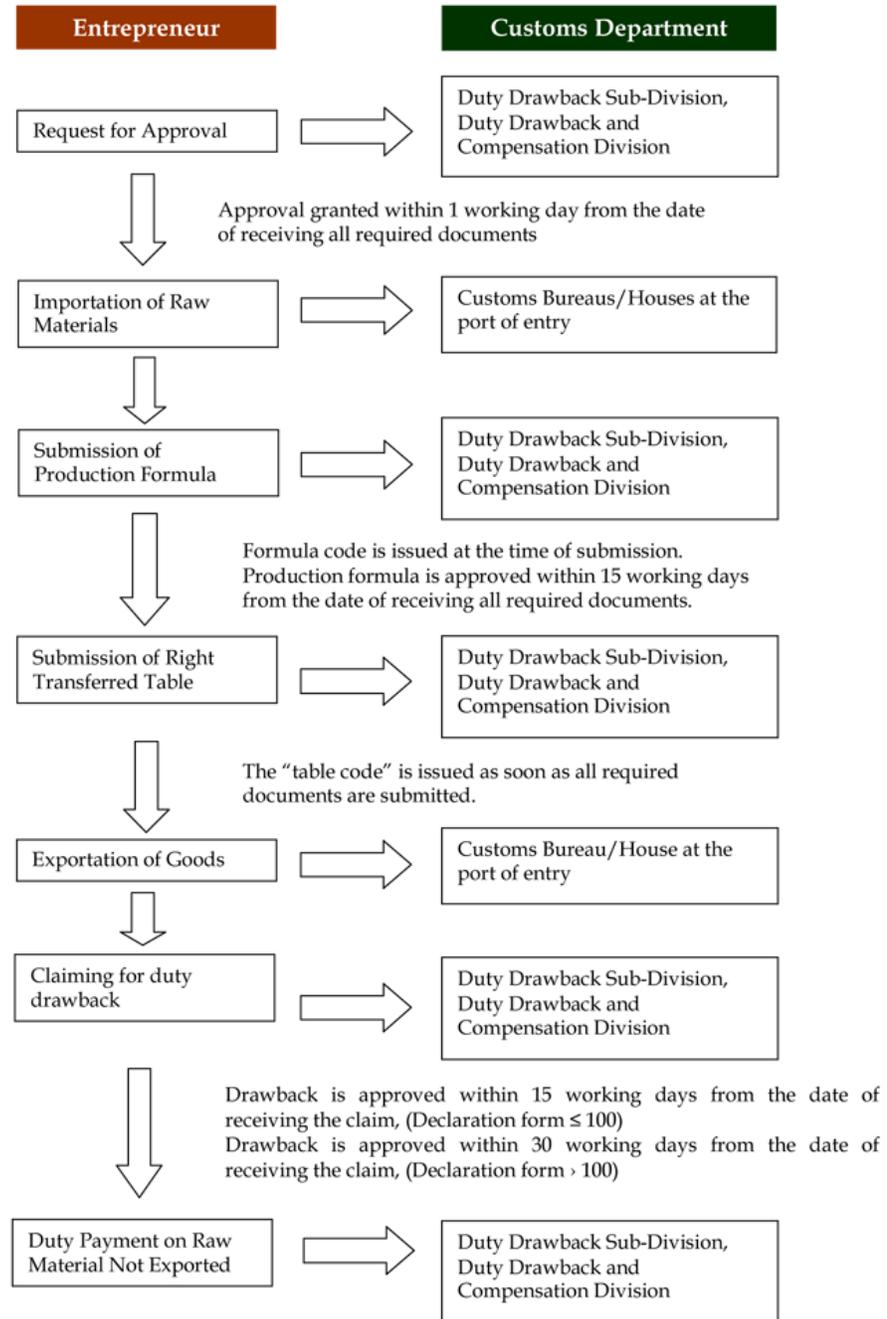
1. Form for approval of drawback (Form Kor Sor Kor 29)
2. Form for the approval of production formula (Form Kor Sor Kor 96)
3. Form for transferring the right of duty drawback (Form Kor Sor Kor 96/6)
4. Form for claiming duty drawback under Section 19 bis and bank guarantee (Form Kor Sor Kor 111)
5. Form for the summary of total amount of outstanding import duties and taxes (Form Kor Sor Kor 112)
6. Form for requesting duty concession (Form Kor Sor Kor 131)
7. Sample of report on duty refund on exportation
8. Sample of report on duty drawback classified by export declaration
9. Sample of report on raw material imported and used
10. Sample of report on duty drawback classified by import declaration
11. Sample of report on raw material drawback

Duty Drawback and Compensation Division, Tax and duty drawback Incentives Bureau is responsible for duty drawback under Section 19 bis. The Division is further divided into 5 sub-divisions, according to types of exports as listed below.

As for the importation and exportation of goods, please contact Customs at port/place of entry/exit.

	Name	Goods under Responsibility	Contact Details: 120th year Building Customs Department
TRAVELLERS			
Importing Postal Items			
Arriving in Thailand	Duty Drawback Sub-Division 1	Food, Chemical Products and Plastics under Heading 01-40	2nd Floor Tel: 02-667-7485
Departing from Thailand	Duty Drawback Sub-Division 2	Textile and Leather Products under Heading 41-63	2nd Floor Tel: 02-667-7034
Customs Clearance Procedures	Duty Drawback Sub-Division 3	Miscellaneous Products under Heading 64-83 and 93-97	3rd Floor Tel: 02-667-7061
Allowance	Duty Drawback Sub-Division 4	Electronic and Electrical Equipments under Heading 84-85 and 90-92	3rd Floor Tel: 02-667-7255
Customs Bonding Facility			
Tourist Refund Scheme			
Customs Offences			
OTHER			
Functions and Responsibilities	Duty Drawback Sub-Division 5	Automobiles and Parts under Heading 86-89	3rd Floor Tel: 02-667-7275
Customs House			
Revenue Collection			
Export Promotion and Privileges			
Overview			
Industrial Estate (EPZ)			
Duty Exemption under BOI			
Comparison of Tax Measures			
Postal Parcels			
Permanent Import			
Eligible Persons			
Documentation			
Import Clearance Procedures			
Tax and Duty Assessment			
Contact			
Customs Enforcement			

FLOW CHART OF DUTY DRAWBACK PROCEDURES



1. Request for Approval of Duty Drawback

The importer who requests for an approval of duty drawback under Section 19 bis must be a legal person who operates either Company Limited, Public Company Limited, Limited Partnership or Registered Ordinary Partnership. Such request has to be submitted before processing Customs formality or before submitting an Import Declaration at the Duty Drawback Sub-Division.

When Customs grants an approval for the duty drawback scheme, the importer is required to pay applicable import duty. Five payment options are provided as follows:

- Cash;
- Guarantee issued by the Ministry of Finance;
- Bank guarantee;
- Revolving guarantee provided by a commercial bank (Revolving guarantee must cover full amount of applicable duty.);
- or
- Other security deposited for import duty payment.

First-Time Request for Approval of Duty Drawback

The request for approval of duty drawback must be in the form of a letter as indicated by Customs and accompanied by the documents/information listed below:

- The request for approval of duty drawback under Section 19 bis (Form Kor Sor Kor 29);
- A certification letter issued not more than 6 (six) months by the Ministry of Commerce indicating legal person registration, the purposes of the legal person, authorized person, paid up registered capital, and a company address;
- A Factory Operation Notice (Form Ror Ngor 2), or a Factory Operation Permit (Form Ror Ngor 4) or Factory Operation Certification issued by a government agency. If an importer does not own the factory himself, a lease contract, an employment contract or a sales contract together with the Factory Operation Notice (Form Ror Ngor 2), or a Factory Operation Permit (Form Ror Ngor 4) or Factory Operation Certification issued by a government agency of the land lord, the employer or the buyer as the case may be.

The importer then submits a request form (Form Kor Sor Kor 29) and all supporting documents to Customs. Thai Customs has set standard for granting an approval within one day of receipt of all necessary documents and information. If additional information is not submitted promptly upon the request of Customs, Thai Customs cannot guarantee that the approval will be granted within one days.

Please note that the importer may request Customs to revise certain particulars in the approval of duty drawback at the later stage. Similar procedures for the first-time request for approval of duty drawback must be followed under this circumstance. The approval is granted within one working day from the date of receiving all required documents.

In addition, the importer granted approval for the duty drawback under Section 19 bis is also allowed to amend the name other than that given at the first-time request, provided that the company registration with the Ministry of Commerce and the Revenue Department is revised. The minimum documents required for the amendment of the name are as listed below:

- A request to amend the name of the importer granted an approval for duty refund under Section 19 bis
- A letter certifying that an approval for duty drawback under Section 19 bis has been granted
- A certification letter issued by the Ministry of Commerce indicating the status of a legal person registration, the purposes of a legal person, authorized person and company address where the name of the importer is amended.

Request for Approval of Duty Concession under the Notification of the Ministry of Finance

Two options for the request for approval of duty concession under the Notification of the Ministry of Finance are provided:

- **A request seeking 50% concession of the MFN rate** : An eligible person should meet the criteria listed below:
 - A legal person
 - No financial obligation with Customs
 - No past record of any offence in claiming duty drawback under Section 19 bis
 - Fulfill any of the following qualifications:
 - A company which have securities registered with the Stock Exchange of Thailand
 - A public company limited
 - A member of the Federation of Thai Industries and is certified by the Federation to have stable and creditable financial status according to regulations set forth by the Federation as approved by the Ministry of Finance
 - A member of the Thai Chamber of Commerce and is certified by the Thai Chamber of Commerce to have stable and creditable financial status according to regulations set forth by the Thai Chamber of Commerce as approved by the Ministry of Finance
 - Submission of a financial statement to the Ministry of Commerce as regulated by the Ministry of Commerce. The statement has to be certified by an account auditor that the company has earned a profit for more than 2 consecutive years. In addition, the financial status must never be rejected by the Federation of Thai Industries or the Thai Chamber of Commerce.

A request seeking 50% concession of the MFN rate must be in the form of a letter as indicated by Customs (Form Kor Sor Kor 131) and accompanied by the documents/information listed below:

- A request for duty concession (Form Kor Sor Kor 131) with one duplicate
- A letter certifying that an approval for duty drawback under Section 19 bis is granted
- Original documents, with their certified true copies, which indicate any of the following qualifications:
 - A Registration Certificate indicating securities trading between a legal person and the Stock Exchange of Thailand
 - A Registration Certificate of a public company limited
 - A certification letter from the Federation of Thai Industries indicating that the company have stable and creditable financial status according to regulations set forth by the Federation as approved by the Ministry of Finance
 - A certification letter from the Thai Chamber of Commerce indicating that the company has stable and creditable financial status according to regulations set forth by the Thai Chamber of Commerce as approved by the Ministry of Finance
 - Financial statement as regulated by the Ministry of Commerce and certified by the authorized account auditor that the company has earned a profit for more than 2 consecutive years. However, the financial status must never be rejected by the Federation of Thai Industries or the Thai Chamber of Commerce.

The eligible importer then submits the request form (Form Kor Sor Kor 131) and all supporting documents to Customs. Thai Customs has set standard for granting an approval within one day of receipt of all necessary documents and information as well as verification of financial obligation and record of past offence. If additional information is not submitted promptly upon the request of Customs, Thai Customs cannot guarantee that the approval will be granted within one days.

- **A request seeking duty concession to 5% of the MFN rate** : An eligible person should meet the criteria listed below:
 - A legal person
 - No financial obligation with Customs
 - No past record of any offence in claiming duty drawback under Section 19 bis

- A Customs's Gold Card member

A request seeking duty concession to 5% of the MFN rate must be in the form of a letter as indicated by Customs (Form Kor Sor Kor 131) and accompanied by the documents/information listed below:

- A request for duty concession (Form Kor Sor Kor 131) with one duplicate
- A letter certifying that an approval for duty drawback under Section 19 bis is granted
- A certified true copy of a gold card member.

The eligible importer then submits a request form (Form Kor Sor Kor 131) and all supporting documents to Customs. Thai Customs has set standard for granting an approval within one day of receipt of all necessary documents and information as well as verification of financial obligation and record of past offence. If additional information is not submitted promptly upon the request of Customs, Thai Customs cannot guarantee that the approval will be granted within one days.

NOTE: Only the importer granted approval for the duty drawback under Section 19 bis and placing a bank guarantee in lieu of duty payment is allowed to seek approval for duty concession. The request for duty concession together with all supporting documents should be lodged to Customs before processing Customs formalities.

Revocation of Approval for Duty Concession

An approval for duty concession may be revoked by Thai Customs, if it is found that the importer granted an approval for duty concession is not qualified and can not fulfilled any of the aforementioned criteria.

2. Importation of Raw Materials

To import raw materials after the approval of duty drawback under Section 19 bis is granted, the importer should follow normal import clearance procedures as indicated in the Notification of Customs No. 116/2549. An Import Declaration is submitted via the Customs automated system known as "e-Customs". However, additional procedures for the importation of raw materials under the duty drawback scheme should be closely observed to be eligible for duty drawback upon exportation.

The followings are examples of additional details to fill in the Import Declaration upon the importation of raw materials:

- Under the "Import Declaration Control" Section, letter "A" must be filled in the "Payment Method" box for those who pay duty by cash or a bank guarantee;
- Under the "Import Declaration Control" Section, letter "N" must be filled in the "Payment Method" box for those who pay duty by a revolving guarantee and pay VAT at Customs;
- Under the "Import Declaration Control" Section, letter "O" must be filled in the "Payment Method" box for those who pay duty by a revolving guarantee and pay VAT via the electronic payment system;
- Under the "Import Declaration Detail" Section, letter "Y" must be filled in the "Duty Refund under Section 19 bis" box.

3. Submission of Production Formula

Prior to the exportation of goods, the importer granted an approval for duty drawback under Section 19 bis is required to submit a production formula to Customs as well. Reference number of the production formula or a "Formula Number" is issued when a request for approval of the production formula is submitted to Customs. The production formula is generally approved within 15 working days from the date of receiving all required documents and information. The revision of the quantity of the raw materials as indicated in the approved production formula is also allowed if so requested by the importer.

Besides submitting a new production formula for approval, the importer may also request to use other person's approved production formula, revise the approved production formula, transfer or sell the imported goods to other persons, and extend the validity of the approved production formula.

The approved production formula may be revoked, if requested by the importer.

Validity of the Approved Production Formula

The approved production formula is valid for five (5) years from the date of approval. Upon the request by the importer, the validity of the approved production formula can be extended for another five (5) years at a time. The request for extension the validity of the production formula must be made before the expiry date of the production formula. Failure to do so is considered as an offence and the validity of the production formula will be extended after the case is settled.

Raw Material Auditing

The auditing of raw material is conducted from the date when the Formula Number is issued. In case where the approved production formula is revised, the audit shall be conducted on the date indicated in the revised production formula, provided that such revision does not result in the approval of a new production formula.

Documents

1. Submission of Production Formula and Revision of the Approved Production Formula

- 1.1 Production Formula Declaration Form (Kor Sor Kor 96) with lists of products to be manufactured, lists of raw materials, code, unit and quantity of raw materials to be consumed including waste (if any) together with one (1) duplicate. The Unit of the raw materials shall be aligned with UN standards.
- 1.2 A copy of approved production formula
(in case of revision of the approved production formula only)
- 1.3 Manufacturing Process
(the submission of marker indicating the use of raw materials is also required for some products e.g. garments, shoes, etc.)
- 1.4 Samples of imported raw materials and finished products
- 1.5 Electronic media e.g. CD-ROM containing details of data in the format stipulated by Customs
- 1.6 Other related documents e.g. invoice of raw materials

2. Use of Other Person's Approved Production Formula

- 2.1 A request stating the purpose of using other person's approved production formula together with the written consent from the owner of the production formula

- 2.2 A copy of the approved production formula
- 2.3 Electronic media e.g. CD-ROM containing details of data in the format stipulated by Customs

3. Transferring or Selling of the Imported Goods to Other Person

- 3.1 Production Formula Declaration Form (Kor Sor Kor 96) with lists of products to be manufactured, lists of raw materials, code, unit and quantity of raw materials to be consumed including waste (if any) together with one (1) duplicate. The Unit of the raw materials shall be aligned with UN standards.
- 3.2 A letter certifying the production information of the manufacturer. The importer is waived from submission of production formula in the case where the exported product is manufactured using the production formula for drawback under Section 19 bis
- 3.3 Manufacturing Process
(the submission of marker indicating the use of raw materials is also required for some products e.g. garments, shoes, etc.)
- 3.4 Samples of imported raw materials and finished products
- 3.5 Electronic media e.g. CD-ROM containing details of data with the format stipulated by Customs
- 3.6 Other related documents e.g. invoice of raw materials

4. Extension of the Validity of the Approved Production Formula

- 4.1 A request stating the purpose of the extension
- 4.2 A copy of the approved production formula to be extended
- 4.3 Electronic media e.g. CD-ROM containing details of data in the format stipulated by Customs

4.Submission of Right Transferred Table

Right Transferred Table is the table containing information of the importer who is granted by the exporter to use his/her exported information for the purpose of auditing imported raw material in order to claim duty drawback under Section 19 bis. The table is submitted to Customs by the exporter.

Documents

- 1. Right Transferred Declaration Form for drawback under Section 19 bis (Kor Sor Kor 96/6) together with one (1) duplicate
- 2. Electronic media e.g. CD-ROM containing details of data in the format stipulated by Customs

5. Exportation of Goods

The products must be exported within one (1) year from the date of importation of raw materials. After the exportation of goods, the exporter is required to submit the Export Declaration electronically to Customs in accordance with standards stipulated by Customs.

It should be noted that the submission of a request for drawback under Section 19 bis is acceptable on condition that the production formula is submitted to Customs prior to processing Customs procedures or submission of the Export Declaration.

The exporter who electronically submitted the Export Declaration under the paperless procedures is not required to submit the attachment to the Export Declaration (Kor Sor Kor 113) and is exempted from drawing of product sample.

Documents

Please see Customs Notification No. 116/2549 for the minimum documents required for exports.

6.Submission of Claim for Drawback or Withdrawal of Guarantees

The importer who is granted an approval for duty drawback under Section 19 bis and requires to claim for duty drawback must submit a drawback claim to the Customs within six (6) months from the date of exportation. The duty drawback for imported raw materials is based on the first-in – first-out audit system.

Documents

- Application for duty drawback under Section 19 bis and withdrawal of bank guarantees (Kor Sor Kor 111) with one (1) duplicate
- A Certification letter issued by the Ministry of Commerce, no longer than six (6) months, together with one (1) duplicate
- A copy of identification card of the manager/person who signed to bind the company or of the co-manager
- A power of attorney (in case of representative) together with copy of ID card of authorizing person, authorized person and witness
- Five (5) types of computer printout reports as followings:
 - Duty drawback on exportation
 - Duty drawback classified by export declaration
 - Imported and used raw material
 - Duty drawback classified by import declaration
 - Raw material drawback

Granting Drawback

In case where the submitted documents are complete and correct, the duty drawback is granted within certain periods of time from the date of receiving the drawback claim as followings;

- within 15 working days, if the claim contains data of import and export declaration to **not** more than 100 in total;
- within 30 working days, if the claim contains data of import and export declaration to **more than** 100 in total;
- within 7 working days, if the claimant is categorized as special Customs brokers licensed by Customs; and
- immediately, if the claimant is a Customs Gold Card member.

Revolving Guarantee Duty Drawback

After granting drawback, the duty drawback transaction is electronically recorded and forwarded to the bank. The available credit is increased in the corresponding amounts as the refund and the transaction evidence will also be issued to the claimants.

7. Duty Payment on Unused Raw Material for Export

In the case the importer place a bank guarantee in lieu of import duty payment or depositing a revolving guarantee, and imported raw materials have not undergone production, mixing, assembling or packing for exports, or have not been entirely used within one (1) year from the date of importation, the importer is required to submit a summary report indicating the total amount of outstanding import duties and taxes (Kor Sor Kor 112) of the unused raw materials and pay such amount of duties and taxes, plus surcharge of one (1) percent per month by the thirteenth (13th) month or within eighteen (18) months from the date of importation respectively. Failure to do so, legal action will be taken.

Documents

1. Summary report of the total amount of outstanding import duties and taxes (Kor Sor Kor 112) with one (1) duplicate
2. A copy of import declaration

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As for the importation and exportation of goods, please contact Customs at port/place of entry/exit.

Name	Goods under Responsibility	Contact Details: 120th year Building Customs Department
Duty Drawback Sub-Division 1	Food, Chemical Products and Plastics under Heading 01-40	2nd Floor Tel: 02-667-7485
Duty Drawback Sub-Division 2	Textile and Leather Products under Heading 41-63	2nd Floor Tel: 02-667-7034
Duty Drawback Sub-Division 3	Miscellaneous Products under Heading 64-83 and 93-97	3rd Floor Tel: 02-667-7061
Duty Drawback Sub-Division 4	Electronic and Electrical Equipments under Heading 84-85 and 90-92	3rd Floor Tel: 02-667-7255
Duty Drawback Sub-Division 5	Automobiles and Parts under Heading 86-89	3rd Floor Tel: 02-667-7275

 **CONTACT**

For further inquiry and information, you may contact the Customs Call Center at Tel. 1164 or the Customs Clinic at Tel. 02-667-7880-4, Fax. 02-667-7885, e-mail: customs_clinic@customs.go.th. Additional information may also be obtained from Customs ports of entry/exit. Please consult our telephone directory for a Customs office near you. The listing can be found under the "CONTACT US" section.

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