

**THE AMENDMENTS MADE ON CUSTOMS LAW CODE WITH THE CODE  
NO.7190, DATED 24/10/2019**

**1- Amendment in 179<sup>th</sup> Article of Customs Law Code**

For goods in liquidation, the previous law stipulates that the demand of re-export is only possible if 1% of the CIF value of the goods is invested within 30 days, but with the new addition to the law, the companies that have not invested 1% of the CIF value in this period and have not demanded the re-export, can make a second demand by paying the 3% of the CIF value. Also, this demand can be made for the 3<sup>rd</sup> time before the sale of the goods provided that the amount of 10% of the CIF value is paid.

**OLD PROVISION:** “However, the acceptance of the above claims shall be subject to the payment of fines, warehousing and handling expenses and other expenses, if any, of 1% of the CIF value of the goods in foreign currency.”

**NEW PROVISION:** “(Amended paragraph: 24/10 / 2019-7190 / 5 art.) However, the acceptance of the above claims shall be subject to the payment of fines, warehousing and handling expenses and other expenses, if any, of 1% of the CIF value of the goods in foreign currency and if it is demanded to benefit from this application for the second time, 3% of the CIF the acceptance is subject to payment of 3% of the CIF value in foreign currency. If the application is made after the publication of the procurement notice or the retail sale decision and before the sale of the goods, the acceptance of these demands shall be subject to the payment of fines, warehousing and handling expenses and other expenses of the goods in question in the amount of 10% of the CIF value of the goods in foreign currency . Other applications are not accepted.”

**2- Amendment in 202<sup>nd</sup> Article of Customs Law Code**

With the amendment made in the law, the issuance of guarantee 20% more than the tax amount was terminated. In accordance with the new application, the guarantee will be charged up to the amount of taxes.

**OLD PROVISION:** “In accordance with the customs legislation, if the customs authorities deem it necessary to provide a guarantee for the payment of customs duties and other public receivables, this guarantee shall be issued by the person who is responsible or have possibility to be responsible at the amount of 20% more of the amount of such taxes.”

**NEW PROVISION:** (Amendment: 24/10 / 2019-7190 / 7) In cases where it is necessary to provide a guarantee for the payment of customs duties and other public receivables in accordance with the customs legislation, this guarantee shall be issued by the person who is responsible or have possibility to be responsible at the same amount as of the said taxes and other public receivables.

### **3- Amendment of 216<sup>th</sup> Article of Customs Law Code**

For the taxes to be reinstated under the new regulation, if the reinstatement is sourced from the failure of the taxpayer, the taxpayer shall be paid interest by the customs administration, for the period from the date of application until the date of payment. If the transaction is due to the failure of the administration, for the time in between the date of payment of the tax and the date of notification of the decision of reinstatement to the taxpayer the taxpayer will be paid interest.

**OLD PROVISION:** “However, if the decision is not applied by the Contracting Entity within three months from the date of the decision of reinstatement, interest shall be paid on the request of the person concerned starting from the end of the three-month period. This interest is calculated in accordance with the provisions of the Law No. 6183 on the Collection of Public Receivables regarding the deferral interest.”

**NEW PROVISION:** - (Changed: 24/10 / 2019-7190 / art. 8)1. For the reinstatement of the custom taxes and the connected delay interest or delay increase, In case that this excess payment subject to reinstatement is sourced from the lender starting from the reinstatement application; in the other cases from the amount calculated for the time between the payment date and the reinstatement decision date, the interest will be paid by calculating the interest amount on the deferred interest rate determined in accordance with the Law no. 6183

### **4- Amendment (by Addition) of 231<sup>st</sup> Article of Custom Law Code**

According to the previous law, in case of self-denunciation, the penalties imposed according to this article shall be applied at a rate of 15%. After the amendment it will applied at the rate of 10%.

**OLD PROVISION:** “If the above-mentioned violations are notified by the declarant before the customs administration determines them, the said penalties shall be applied at a rate of fifteen percent.”

**NEW PROVISION:** “If the above-mentioned violations are notified by the declarant before the customs administration determines them, the said penalties shall be applied at a rate of ten percent.”

**5- ! Amendment of 235<sup>th</sup> Article of Custom Law Code**

- For the goods imported without receiving the necessary Permit, certificate of conformity, etc. the administration fee at the amount of one-tenth of the customs value will be imposed. Previously, the fine imposed was at the exact amount customs value.
- In the occasion that the document or information regarding the suitability of the good for the import is issued within the period determined by the Ministry, the administrative fine will be given in accordance with the 241/1.
- If the acts specified in Article 235 are notified by the taxpayer before the determination by the customs administration, the penalty to be imposed according to this Article shall be 10%.

For the goods subject to/ not subject to transit regime - Article 235/5-a-b-c-d will be applied according to the changing situation (provision is given below)

**NEW PROVISION:** “1. As a result of the declaration and examination, inspection or inspection after delivery the declaration made with respect to the goods subject to the free circulation regime;

a) (Amendment: 24/10 / 2019-7190 / 12 art.) In case that it is determined that the importation of goods is prohibited by general regulatory administrative procedures, administrative fine shall be imposed four times the customs value of the goods as well as the difference customs taxes, if any.

b) In the event that the goods of (a) are worthless or waste; for goods in bulk administrative fine shall be calculated as thirty thousand Turkish Liras per ton, for the goods in package the administrative fine shall be calculated as six hundred Turkish Liras for per container, and the goods shall be exported abroad.

c) (Amendment: 24/10 / 2019-7190 / 12 art.) Although the import of the goods depends on the mandatory license, permission, conformity certificate or the substitute information, which shall be given by certain organisations and whose submission or declaration to the customs administration is obligatory, if there is declaration in the way that the good is not subject to any document or information and it is determined, administrative fine shall be imposed twice the customs value of the goods as well as the difference customs duties, if any.

**d) In the event that the goods of (c) are worthless or waste; for goods in bulk administrative fine shall be calculated as eight thousand Turkish Liras per ton, for the goods in package the administrative fine shall be calculated as two hundred Turkish Liras for per container, and the goods shall be exported abroad.**

**e) (Annex: 24/10 / 2019-7190 / 12 art.) Within the time period to be determined by the Ministry, issuing the document or information indicating that the importation of the goods specified in paragraph (c) is deemed appropriate or notification of the positive results of the inspection performed by the relevant institution or organization an administrative fine shall be imposed in accordance with the first paragraph of Article 241/1.**

**2. As a result of the declaration and examination, inspection or control made in respect of goods subject to export regime;**

**a) If it is determined that the exportation of goods is prohibited by general regulatory administrative procedures, an administrative fine of twice the customs value of the goods shall be imposed.**

**b) (Amended: 24/10 / 2019-7190 / 12 art) Although the import of the goods depends on the mandatory license, permission, conformity certificate or the substitute information, which shall be given by certain organisations and whose submission or declaration to the customs administration is obligatory, if there is declaration in the way that the good is not subject to any document or information and it is determined, an administrative fine of one tenth of its customs value shall be imposed.**

**c) (Annex: 24/10 / 2019-7190 / 12 art.) Within the time period to be determined by the Ministry, issuing the document or information indicating that the exportation of the goods specified in sub-paragraph (b) is deemed appropriate or notification of the positive results of the inspection performed by the relevant institution or organization an administrative fine in accordance with the Article 241/1 shall be applied.**

**4. (Amended: 24/10 / 2019-7190 / art. 12) By reservation of the criminal provisions;**

**a) The goods referred to in paragraph (a) of the first paragraph shall be returned to country of origin or the third country within 30 days upon the request of the obliged person or with the appropriate opinion of the relevant institution or organization. Goods that are not returned to their country of origin or to the third country within this period shall be left to the customs administration where they either are to be disposed by disposal on condition that the disposal expenses will be paid by the owner or to be sold with record of export.**

b) The goods mentioned in the paragraph (c) of the first paragraph are accepted to have left to the customs administration either to be returned back to country of origin on demand of its owner or transited to a third country directly or through free zone with the approval of related institution or sold with the record of export or disposed directly on condition that the expenses are covered by the owner.

c) The customs value of the goods whose non-conformity is detected after delivery, but the good itself cannot be found, it is decided to transfer the custom value to the public.

5. (Amended: 24/10 / 2019-7190 / 12 art.) If it is detected that the good brought to the Turkey Custom Area by not being subject to the transit regime to be shipped by road-side and free circulation is determinably different than the declaration after the control and examinations conducted without needing further technical examination, tests and investigation the process shall be conducted in accordance with the (a) and (b) sections of this article shall be applied due to the feature of the action. For the goods which are subject to transit regime and not to the free circulation; after their movement from the move customs office before its arrival to the destination customs office or in the detection of defect or excess the (c) and (d) sections of this article shall be applied according to the feature of the action. The procedures and principles for the defects and excess' that cannot be considered within the scope of (c) and (d) will be determined by the Ministry.

a) In the event that the sum of the customs duties of excess/defect goods exceeds the sum of the customs duties of the declared goods, an administrative fine of twice the customs duties on excess/defect goods shall be imposed.

b) In the event that the goods are different than the declarations in the ways that; the import of goods is subject to license, condition, permit, limitation or certificate of conformity or qualification to be issued by certain organizations, an administrative fine of twice the customs value of the differently declared goods shall be imposed.

c) In case it is found that the goods are incomplete/defective as opposed to the declaration, in addition to the collection of customs taxes on the missing goods, an administrative fine of twice the customs duties of the goods shall be imposed.

d) If it is determined that there is excess in goods as opposed to the declaration, the administrative fine shall be given in the amount of the customs tax values of the surplus goods and the surplus goods shall be liquidated in accordance with the provisions of Articles 177 to 180.

## **6- Amendment in 236<sup>th</sup> Article of Custom Law Code**

In the event that it is determined that there is a noticeably different kind of goods than stated in the warehouse declaration, without the need for analysis, technical examination and investigation, the amount of penalty to be applied will be : “If the taxes exceed the declared amount, two administrative fines shall be imposed on the goods issued differently.” In the old provision the penalty applied was the twice of customs value.

**OLD PROVISION: If it is determined that the goods in the customs warehouses are goods of a distinctly different kind from that stated in the warehouse declaration, the administrative fine shall be imposed twice the customs value of the goods, the property shall be confiscated and the property shall be transferred to the public and the goods shall be subject to liquidation in accordance with the provisions of Articles 177 to 180.**

**NEW PROVISION: 5. (Annex: 28/3 / 2013-6455 / 13 art.) (Amended: 24/10 / 2019-7190 / 13 art.) If the type of the goods declared to be subject to ant-repo regime is found prominently as different as oppose to the declaration as a result of the control or inspection, without the need for analysis, technical examination and investigation;**

a) **In the event that the sum of the customs duties of different type of goods exceeds the sum of the customs duties of the declared goods, an administrative fine of twice the customs duties on different type of goods shall be imposed.**

b) **In the event that the different type of goods are different than the declarations in the ways that; the import of goods is subject to license, condition, permit, limitation or certificate of conformity or qualification to be issued by certain organizations, an administrative fine of twice the customs value of the differently declared goods shall be imposed.**

#### **7- Amendment of 238<sup>th</sup> Article of Custom Law Code:**

**NEW PROVISION: Article 238 - (Amendment: Art. 18/6 / 2009-5911 / 62)1. (Amendment: 24/10 / 2019-7190 / 14 art.) Except in the cases specified in subparagraph (h), (l) and (m) of the third paragraph of Article 241, paragraphs (g) and (h) of the fourth paragraph and fifth paragraph (b), the administration fees at the below determined amounts shall apply;**

a) **In the case of violation of inward processing regime, processing regime under customs control and the temporary import regime the twice the customs value of the goods;**

b) **In the case of regime violations regarding the special use of vehicles temporarily imported with full exemption, one quarter of the amount of customs duties,**

**c) Although the provisions concerning the inward processing regime and the processing regime under customs control have been violated, if it is detected that, the phase of processing of import good within the scope of the regime or including the processed version, has not been excluded from custom investigation against the legislation, the sum of interest in the ratio of default interest stated in law no. 6183 from the date of registration of declaration of import good regarding the custom taxes until the date of investigation,**

**d) Except for the vehicles specified in (b), if the goods imported within the scope of the temporary import regime are not subject to any other customs-approved transaction or use within the period, the sum of interest in the ratio of default interest stated in law no. 6183 from the date of registration of declaration regarding the regime until the date of investigation.**

**2. (Annex: 24/10 / 2019-7190 / 14 art.) (3) In the event that the goods mentioned in paragraphs (c) and (d) of the first paragraph are not subject to any customs-approved transaction or use within 60 from the date of notification, an administrative fine in the amount of customs duties also shall be given**

**3. The penalties given in accordance with the first paragraph shall not be less than the amount specified in the sixth paragraph of Article 241.**

**4. For the public administrations within the scope of general government the penalty provisions of this article and paragraphs (h), (l) and (m) of the third paragraph of Article 241, paragraphs (g) and (h) of the fourth paragraph and paragraph (b) of the fifth paragraph provisions shall not apply. In this case, the provision of the first paragraph of Article 241 applies.**

### **8- Amendment in 244<sup>th</sup> Article of Custom Law Code**

It will be possible to make a settlement request within the 15-day period regarding the objected transaction. Settled customs duties and penalties shall be paid within one month after notification of the minutes of settlement. For the penalties settled according to this provision, the advance payment discount cannot be benefited according to 17<sup>th</sup> article of Law no. 5326 dated 30/3/2005.

### **NEW PROVISION:**

**1. (Amendment: 24/10 / 2019-7190 / 16 art.) A settlement application can be made by the liable or penalty liable for the receivables within the scope of the additional accrual and penalty decision issued by customs administrations. Within the scope of settlement the followings take place;**

- a) The notified custom receivables regarding the differences obtained as a result of investigation made by customs administration and declaration,
- b) The notified custom receivables by declaration owner regarding the differences before the investigation made by customs administration,
- c) The penalties regulated by this law and the other related laws,

The settlement applications for the customs taxes and administration penalties for which the objection application is not yet issued or the objection is not resulted although the application had been made, shall be filed within fifteen days from the date of notification. In case of a request for a settlement is made, the period of objection or litigation shall cease, if the settlement does not exist or cannot be obtained, the period starts from where it left off; however if there is less than five days until the termination of the period, period is completed to 5 days. A new settlement cannot be requested in case that settlement does not exist or cannot be obtained.

2. (Amendment: 24/10 / 2019-7190 / Article 16) The provision of this article shall not apply if the act relating to customs duties and penalties is related to the smuggling offenses laid down in Law no. 5607.
3. (Amended: 24/10 / 2019-7190 / art. 16) Settlement requests made within the scope of this article shall be evaluated by the customs reconciliation/settlement commissions. The procedures and principles regarding the establishment and operation of customs reconciliation commissions and the transactions to be performed within the scope of this article shall be regulated by regulation.
4. (Amended: 24/10 / 2019-7190 / art. 16) The work of the Customs Reconciliation Commissions is confidential. Reconciliation minutes are final and are executed immediately by the contracting authority. The taxpayer or criminal interlocutor shall not be able to file a lawsuit and make any complaint to any authority on the matters agreed upon and determined by the minutes.
5. (Amended: 24/10 / 2019-7190 / Article 16) Settled customs duties and penalties shall be paid within one month after notification of the minutes of settlement. For the period between the commencement date of the customs duty on the settled taxes and the date of signature of the minutes of the settlement, the default interest shall be applied in accordance with the provisions of Law No. 6183. In case the settlement is not available or cannot be obtained, the transaction shall be carried out in accordance with the general provisions.
6. For the penalties settled according to this provision, the advance payment discount cannot be benefited according to 17<sup>th</sup> article of Law no. 5326 dated 30/3/2005.