

Consultation paper

Simplification of VAT collection procedures in relation to centralized customs clearance

Note

This document is being circulated for consultation to all parties concerned in the context of a preparation of a possible legislative proposal on the simplification of VAT collection procedures in relation to centralised customs clearance.

The sole purpose of this consultation is to collect relevant information and help the Commission develop its thinking in this area.

This document does not necessarily reflect the views of the Commission of the European Communities, and should not be interpreted as a commitment by the Commission to any official initiative in this area.

The parties concerned are invited to submit their comments no later than 31 October 2010.

Comments may be sent by letter, fax or electronic mail to

Correspondence: European Commission
Directorate-General for Taxation and Customs Union
VAT and other turnover taxes –Unit TAXUD/C1
Rue de Spa 3, 05/36
B-1049 Brussels
Belgium

Fax: +32-2-299.36.48

E-mail: TAXUD-C1-CENTRCLEAR@EC.EUROPA.EU

1. INTRODUCTION

According to the Article 106 of the Modernised Customs Code (Regulation 450/2008 of the European Parliament and of the Council of 23 April 2008) customs authorities may authorize importers to both declare and pay customs duties to the local customs administration of their establishment (hereinafter - Member State of authorisation), independent from where the goods are physically imported and where they are transported to within the EU. In such cases, the customs debt shall be deemed to be incurred in the Member State of authorisation.

The detailed customs implementing provisions relating to data collection and exchange are currently under discussion. The necessary customs IT systems are also currently under consideration.

However, according to the VAT legislation in force, such importers would have to assess and pay VAT in the Member State of actual importation.

Considering the aim of centralized clearance which is to facilitate business obligations by reducing administrative burdens for trusted operators, an amendment to VAT rules might be needed so that businesses can get the full benefit of centralized clearance.

When doing so, it should be taken into account that centralised clearance might in future be combined with self-assessment of customs duties (article 116 of the Modernised Customs Code).

2. BACKGROUND INFORMATION ON THE WORK SO FAR

The Council, when it agreed on the Modernised Customs Code, clearly recognized that "*centralised clearance may also require adjustments in the area of VAT*".

The Commission discussed this issue with experts from the 27 Member States as well as several representatives from the business at Customs 2013 / Fiscalis Seminars in 1-3 October 2008 in Budapest (Hungary) and in 2-5 March in Sinaia (Romania).

It was stressed during the seminars that the real benefit of centralised clearance for companies would only arise if a solution to the VAT challenge is solved. Otherwise, the risk arises that the option of placing goods in transit will continue to be a preferred option. Several solutions for possible VAT changes were proposed by different representatives.

The possible solutions were further analysed by VAT experts in the relevant working groups of the Commission dealing with these issues.

The present paper is the outcome of all these discussions and reflections.

The aim of this consultation is to obtain business views on a series of solutions relating to the possible adaptations of VAT collection rules.

3. EXAMINATION OF POSSIBLE SOLUTIONS

Before discussing any possible simplification models it is important to stress that Member States are using different ways of collecting import VAT: some Member States require payment of import VAT together with any customs duty (e.g. Germany) while others postpone it to the regular VAT return (e.g. Netherlands).

This principle should in the Commission's view not be affected by any option, which could reserve the possibility for Member States to require payment to the customs authorities or to postpone it to a regular VAT return. Any other solution could have considerable cash flow effects on either Member States either business.

The Customs Code does not provide any restrictions for granting the centralized clearance facilitation. Thus, this facilitation may be granted to any type of importer. Thus, also postal operators and express carriers may be authorised, while they are acting on behalf of both taxable persons and non-taxable persons (e.g. private individuals importing goods). The question will however arise whether additional VAT conditions should be introduced.

3.1. CENTRALIZATION OF IMPORT VAT OBLIGATIONS

Under the current VAT legislation importers using centralized clearance would have to assess and possibly pay import VAT in every Member State in which goods are physically released for free circulation (Member State of importation).

The centralization of import VAT obligations would simplify the obligations of the importers at the time of importation by allowing them to declare all the obligations related to importation in the Member State of authorization. In a centralized model the Member State of authorization would transfer the import VAT information to the relevant Member State. Payment might either be made directly to the Member State of importation or indirectly through the Member State of authorisation.

It must be noted in this respect that in most cases the importers will be registered in the Member State of importation in relation to their economic activities performed therein (including transfer of own goods using procedure 42.00). This means that the importers will have some presence in the Member State of importation (at least a representative for VAT obligations) therefore they would have means to fulfil the import VAT obligations directly in the Member State of importation.

3.2. THE TIMING OF THE VAT OBLIGATIONS

For customs purposes the importers will be obliged to file a full customs declaration or a simplified declaration followed by a supplementary declaration containing the data of a complete customs declaration.

Import VAT obligations could follow the customs declaration. This would mean that in case a full declaration is lodged, the importer would also have to declare and possibly pay the import VAT at the same time as any customs duty (except in those Member States that use postponed accounting). In case of simplified declarations however the customs value is accounted for only in the supplementary declaration. As the customs value forms the basis for import VAT calculation, import VAT would only be calculated (and possibly paid) in the supplementary declaration.

In such a way all import obligations would be dealt with at the same time.

Alternatively, all import VAT obligations (that is declaration and possibly payment) could be carried out on a "periodic basis" and be postponed until the time where in any case (complete customs declaration, simplified customs declaration or event self-assessment of customs duties) the necessary information (including the customs value) has been made available. This

would however mean that the VAT obligations would be detached from the customs obligations and would require a separate import VAT declaration to be lodged to the Member State of authorisation (in case of a centralized model) or to the Member State of importation (in case of a decentralized model).

4. QUESTIONS SUBMITTED TO THE PUBLIC AND INTERESTED PARTIES

As part of this consultation, the Commission would be interested in receiving contributions from all interested parties on the following points:

- 1) Do you consider that amendments to VAT collection rules are necessary in the context of centralised clearance? Please elaborate.
- 2) Which model do you consider as the most appropriate for import VAT obligations, a centralized or a decentralized model and why?
- 3) Do you consider that it is simpler to account for import VAT together with customs duties or to file a separate import VAT declaration on a periodic basis and why?
- 4) What other aspects do you think should also be considered in the context of this exercise?

5. FINAL OBSERVATIONS

Your contribution to this consultation should be sent to TAXUD-C1-CENTRCLEAR@EC.EUROPA.EU by 31 October 2010.

It is important for contributors to clearly identify: name, address, e-mail, activity, and, in the event of representative organisations, the level of representation.

Your contributions will be acknowledged collectively and published on the website of DG TAXUD. The results will be summarised in a report to be published on the same website.