



VAT NEWSLETTER

Annual Tax Act 2020 (Part 3): Special arrangements for import of consignments of up to EUR 150

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1 Background

Import consignments with a value of up to EUR 22 are currently exempt from import VAT. The abuse of this regulation caused increasing tax losses and competitive disadvantages for EU-based traders. As a consequence, the exemption was set to expire with the introduction of the new distance sale rules, originally on 01.01.2021, now probably on 01.07.2021 due to the corona pandemia. The abolition of the regulation will result in import VAT being incurred on every import. However, the exemption from import duty for consignments with a value of up to EUR 150, pursuant to Art. 23 para. 1 of the Council regulation on exemption from customs duty, will continue to apply. In order to levy import VAT, each future consignment must be cleared for import. To counter this increased administrative burden, Section 21a of the German VAT Act (draft) provides for a special arrangement for levying import VAT on consignments with a maximum value of EUR 150. This is a special regulation for distance sales of goods imported from third countries, which are sent directly to a purchaser in the customs territory of the Union. It is applicable if the supplier does not use the taxation procedure of sec. 18k of the German VAT Act (draft) or the consignment is not imported under the standard import procedure.

2 Import procedure

Consignments must be presented to the customs authorities when brought into the customs territory (Art. 139(1) UCC). Parcel service providers regularly present consignments which are sent from a Non-EU country to recipients in Germany by distance sellers. Shipments for which import duties or import VAT are incurred and which therefore require a customs declaration are currently sent to the local customs office competent for the recipient's place of residence. The recipient can collect the goods from the customs office against payment of the import duties. Under Sec. 21a of the VAT Act (draft), service providers will, in future, be able to declare the goods for free circulation in the name and on behalf of the recipient.



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3 Requirements and taxation procedure

According to sec. 21a of the German VAT Act (draft), the service provider may submit the import declaration in the name and on behalf of the consignee if

- the service provider submits a request to this effect.
- the tax exemption, according to sec. 5 para. 1 No. 7 of the German VAT Act (draft), is not claimed (this only applies to sec. 18k of the German VAT Act (draft)).
- the conditions for a deferment of payment pursuant to Art. 110 lit. b) UZK are met.
- the transport or dispatch of the goods ends in Germany and
- the consignment does not contain excisable goods.

If all of these conditions are met, the amount of import VAT will be debited to a deferment account of the service provider. Although the customs authorisation of a deferment account pursuant to Art. 110 lit. b) UCC is not a prerequisite, the conditions for such an authorisation must be fulfilled. In practice, at the time of the import transaction, the existence of the conditions can probably only be proven by a corresponding authorisation. A guarantee for the deferred amounts is not required if the service provider has AEOC status or fulfils the conditions for a reduction of the comprehensive guarantee (Art. 95 para. 2, 3 UCC). Upon delivery, the service provider must claim the import VAT from the recipient. Incidentally, the service provider has no right to deduct input tax from the import VAT deferred in his name, as he has no right to dispose of the goods at any time.

The service provider is subject to comprehensive recording and reporting obligations when applying sec. 21a of the VAT Act (draft). In particular, he must declare all shipments imported in this way in a declaration to the responsible customs office by the 10th day of the following month. The declaration must distinguish between four categories:

1. consignments that were delivered to the respective recipients in the last month; import VAT on these consignments must be paid by the service provider to the customs authorities by the 16th day of the following month.
2. consignments that have not yet been delivered and are still with the service provider; import VAT on these consignments remains charged to the deferment account and is carried forward to the following deferment period.
3. consignments which it was not possible to hand over to the consignee and which were re-exported in the previous month or destroyed under customs supervision or otherwise disposed of; import VAT is deemed not to have arisen and is booked out of the deferment account if it is ruled out that the goods will enter the domestic economic circuit.
4. consignments that have been lost; the import VAT is also booked out of the deferment account and the responsible main customs office claims it from the service provider by means of a liability notice.

The service provider is also liable for import VAT that is levied on consignments that he has delivered without collecting the VAT from the recipient.

4 Conclusion

Sec. 21a of the German import VAT Act (draft) obliges the presenting service provider to collect import VAT from the consumers. The administrative burden for the customs authorities is likely to be reduced and recipients will not be required to visit the customs office. However, the presenting service providers would have to take on a considerable additional workload and an additional risk (liability!). It is unclear who should bear the additional costs involved. Against this background, it is highly questionable whether this regulation will, in practice, ultimately prove relevant.