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CUSTOMISED NEWS

CUSTOMS NEWSLETTER

Reform of the Tax Consultancy Act: New requirements for freight forwarders and customs representatives

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1 Background

The Ninth Act Amending the Tax Consultancy Act and Adjusting Other Tax Regulations (BGBl. 2026 I No. 197 of 2 July, 2026), serves to sharpen the regulations on restricted assistance in tax matters. The powers previously summed up in sec. 4 of the Tax Consultancy Act (StBerG) are subdivided into individual powers for different professional and personal groups. In this context, the legislator transfers the powers of freight forwarders and other customs representatives, previously regulated in sec. 4 no. 9 StBerG, to the new sec. 4d StBerG. According to the official justification for the law, no substantive change has been made to the existing special powers. Nevertheless, the amendment provides clarity regarding the powers of service providers that do not belong to the classical tax consulting professions. This is intended to continue to allow for a practical and realistic handling of customs procedures without impairing the protection against unqualified assistance in tax matters.

2 Amendments

Commercial assistance in tax matters is fundamentally reserved for “authorized” professional groups. Traditionally, these groups include tax consultants and lawyers (sec. 3 no. 1 StBerG). Exceptions were previously contained in sec. 4 StBerG. These exceptions were limited to specific application cases related to the profession exercised (e.g., notaries within the scope of their powers under the Federal Notary Act). Among these exceptions was the restricted assistance in tax matters by “forwarding companies” and “other commercial enterprises, insofar as they provide assistance in import duties matters in connection with customs handling”. This exception is now transferred to sec. 4d StBerG and applies to “freight forwarders” and “other customs representatives.”

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Freight forwarders are thus authorized to provide commercial assistance in tax matters for all customs procedural actions, in import and export duties matters, as well as in the excise treatment of goods in the trade with other member states of the European Union. Other customs representatives may, however, provide assistance in import and export duties matters. In both cases, it is a prerequisite that the activity is carried out in accordance with sec. 4b para. 2 StBerG, meaning it is performed by service providers who possess the necessary personnel, material, and financial resources. This particularly includes the adequate professional qualification of the personnel through whom or under whose guidance the assistance is provided.

With regard to the scope of permitted activity, the new sec. 4d StBerG contains a clarification. The wording "import duty matters" is changed to "import and export duty matters." The legislator thereby includes all procedural actions that a representative may perform according to Articles 18 ff. UZK, including legal remedies conducted before customs authorities (cf. BT-Drucks 21/6002 p. 64). The latter was not readily derivable from the previous wording but has also represented established practice in the past. In this respect, the norm contains a welcome clarification. The new sec. 4d no. 1 and no. 2 StBerG grants the powers to "freight forwarders" and "other customs representatives." The latter encompasses any natural or legal person or an association of persons that, under European Union law or national law, has the opportunity to act effectively in legal transactions (cf. BT-Drucks 21/6002 p. 64). There is no substantive difference between the "other customs representatives" in the new version and the "other commercial enterprises" in the old version. The possibility for both freight forwarders and other customs representatives to exercise the function of a fiscal representative, pursuant to sec. 22a para. 2 no. 2 of the German VAT Act, also remains unchanged.

The most important new regulation constitutes the specification of a qualification and resource requirement (sec. 4b para. 2 StBerG). Until now, there were no standardized requirements for acting as a customs representative. Professional qualification can, for example, be demonstrated through years of professional experience in this area or through corresponding education or training (cf. BT-Drucks 21/6002 p. 61). Violations of these requirements may, in the future, be sanctioned by the competent tax office in accordance with sec. 7 para. 1 StBerG by prohibiting assistance. In sec. 4b para. 2 StBerG, the legislator establishes additional requirements and demands, among other things, an adequate financial capacity. Given that liability insurance, unlike for tax consultants or lawyers, is not required for freight forwarders and other customs representatives, it must also suffice to cover individual liability cases (cf. BT-Drucks 21/6002 p. 61).

3 Practical Implications

The planned new regulation creates legal certainty in that freight forwarders and other customs representatives may carry out all customs procedural actions. Although this has been established practice in the past, it was not standardized. On the other hand, the legislator specifies the requirements for being permitted to act as a customs representative and creates a new basis for authorization to prohibit assistance. Freight forwarders and customs representatives will particularly need to ensure that necessary professional qualifications are demonstrably present. This includes, as is also the case for lawyers and tax consultants, evidence of continuous training and advanced education of personnel. However, the legislator does not touch upon the professional boundaries. Particularly at the interfaces to (import) VAT law, assistance remains reserved for authorized professional groups.

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