



**EUROPEAN COMMISSION**  
DIRECTORATE-GENERAL  
TAXATION AND CUSTOMS UNION  
Indirect Taxation and Tax Administration  
**Value Added Tax**

**Group on the future of VAT**  
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**GROUP ON THE FUTURE OF VAT**

**GFV N° 067 REV 2**

**Council Directive EU 2017/2455 of 5 December 2017 amending Directive 2006/112/EC and Directive 2009/132/EC as regards certain value added tax obligations for supplies of services and distance sales of goods**

**Article 2, point (31) – Provisions with effect from 1 January 2021**

**Special arrangements for declaration and payment of import VAT**

**Need for implementing provisions and IT impact**

## **1 PURPOSE OF THE DOCUMENT**

On 5 December 2017, the Council adopted Council Directive EU 2017/2455<sup>1</sup> amending Directive 2006/112/EC and Directive 2009/132/EC as regards certain value added tax obligations for supplies of services and distance sales of goods.

Point (31) of Article 2 of this Directive adds a new Chapter 7 to Title XII of the VAT Directive following the introduction of special arrangements for declaring and paying the VAT due upon importation of goods with a value not exceeding EUR 150 when the Import One Stop Shop system is not used as from 1 January 2021.

The abolition of the import VAT exemption for small consignments of a value not exceeding EUR 22 triggers a VAT liability when such goods will be imported into the EU. In addition, under the UCC, a customs declaration at import will become required as of 2021 for all imported consignments, irrespective of their value or transport method (post or courier, air, sea, road, etc.).

To minimise the administrative burden of these changes, the following measures were included in the VAT Directive:

- the Import scheme (see GFV 065); and
- the new special arrangements for declaration and payment of import VAT when the Import scheme is not used, which are the subject of this working document.

Point 2 below provides a detailed explanation of these special arrangements. The purpose of the table in Annex is to determine whether or not these provisions:

- require detailed measures to be laid down in implementing legislation; and
- have an IT impact (both as regards VAT and customs).

For the purpose of this work, the following implementing rules were considered:

- Council Implementing Regulation (EU) No 282/2011 laying down implementing measures for Directive 2006/112/EC on the common system of VAT (hereafter 'VAT IR');
- Commission Delegated Regulation (EU) 2015/2446 supplementing the Union Customs Code as regards detailed rules concerning certain provisions of the Union Customs Code (hereafter 'UCC DA' or 'UCC Delegated Act') and Commission Implementing Regulation (EU) 2015/2447 laying down detailed rules for implementing certain provisions of the Union Customs Code (hereafter 'UCC IA' or 'UCC Implementing Act')

The table in Annex 1 sets out the Commission's view, for discussion with Member States.

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<sup>1</sup> OJ L 348, 29.12.2017, p. 7.

**2 DETAILED EXPLANATION OF THE SPECIAL ARRANGEMENTS FOR DECLARATION AND PAYMENT OF IMPORT VAT (TITLE XII, CHAPTER 7 OF THE VAT DIRECTIVE)**

The purpose of the special arrangements is to simplify the collection of import VAT on imported small consignments of a value not exceeding EUR 150 when the Import One-Stop Shop (IOSS) is not used by providing the following:

(1) The MS of importation must allow the use of **simplified customs procedures for monthly global declaration and payment of import VAT** (Article 369y of the VAT Directive). VAT remains payable to the customs office of importation by the person presenting the goods to customs (i.e. by the declarant – mainly the post or express couriers) on behalf of the person for whom the goods are destined within the EU. This provision does not create any new customs procedures. Rather, it **obliges Member States to allow** the declarant presenting the goods to customs to make **use of existing simplified customs procedures**. These customs procedures are the following:

(a) **Global payment** (Article 369zb(2) of the VAT Directive): deferment of payment of import VAT in respect of all amounts of VAT entered in the accounts during the month (Article 110(b) UCC) and global payment by the end of the following month (Article 111(1) and (3) UCC). The deadline for payment laid down in Article 369zb(2) (end of the month) is however not aligned to the deadline calculated in accordance with Article 111(3) of the UCC (middle of the period). The Commission is preparing a proposal to bring Article 369zb(2) in line with Article 111(3) of the UCC (see GFV N° 077);

(b) **Monthly declaration** (Article 369zb(1) of the VAT Directive): this is the declaration serving as a basis of the global payment. Article 369zb(1) provides that it must be submitted electronically and show the global amount of VAT collected from the persons for whom the goods are destined. The VAT Directive or the UCC do not contain any further provisions on the nature of such a global monthly declaration. Consequently, any document accepted by the Member States containing the information necessary to connect the global payment to the imports having taken place during the preceding month is acceptable.

(2) **Release for free circulation:** the special arrangements do not contain any provisions on the customs procedures applicable for release for free circulation of small consignments. Consequently, the customs procedures provided for in the UCC and UCC Delegated and Implementing Act apply.

This means that, as of 2021, a standard customs declaration will be required for all small consignments, including those of a value not exceeding EUR 22. However, having regard to the huge number of small consignments imported, the use of simplified customs declarations at import will be required (both when the IOSS and the special arrangements are used).

The qualifying simplified procedures are, in particular, the '**simplified customs declaration**' omitting certain data of the standard customs declaration (Article 166 UCC) and '**entry in the declarant's records**' (182 UCC). The C2020 Project Group on ~~the customs treatment of small~~ Export and Import Customs Formalities related to Low Value eConsignments ~~currently examines~~ the possibility to use a simplified customs declaration at import with a limited dataset (data needed for safety and security checks and for VAT

collection) for all small consignments of a value not exceeding EUR 150. The interim report of the Project Group of 24 May 2018 was presented to the CPG (Customs Policy Group) on 12 and 13 July 2018. The main recommendation of the Project Group related to the VAT e-commerce package is to use a reduced dataset for the release for free circulation of ALL consignments with an intrinsic value not exceeding EUR 150. The dataset includes the IOSS VAT identification number (where applicable) and the total amount invoiced (total value) of the goods. Discussions on the customs declaration at import with a reduced dataset will continue in the Customs Expert Group – Import and Export Formalities Section (CEG-FOR) and Data Integration and Harmonisation Section (DIH), with a view to its integration in the UCC-DA.

The full interim report is published for information on CIRCABC in the folder of the GFV meeting of 6-7 September 2018.

(3) Member States may allow the systematic use of the **standard rate of VAT** in order to facilitate the declaration process for the declarants (mainly the post or express couriers) who may face difficulties to correctly apply reduced VAT rates on a high number of small consignments (Article 369za);

(4) **The customer is liable to pay the import VAT** (Article 369z(1), point (a)), but it shall be collected from the customer by the declarant who presented the goods to customs (Article 369z(1), point (b)).

Member States shall provide that the person presenting the goods to customs takes appropriate measures to ensure that the correct tax is paid by the person for whom the goods are destined (Article 369z(2)).

**The declarant must only pay VAT to the customs office of importation if VAT has effectively been collected from the consignee**, in order to avoid burdensome refund procedures in case of refusal of the goods by the customer (Article 369zb, referring to the VAT collected). This provision extends in fact the scope of Article 220(2) of the UCC Implementing Regulation to all consignments (not only postal consignments). This provision reads as follows:

*'2. Where the customs declaration concerns release for free circulation, and it has not been possible to deliver to the consignee the goods referred to in Article 141(2) and (3) of Delegated Regulation (EU) 2015/2446, the customs declaration shall be deemed not to have been lodged.*

*The goods which have not been delivered to the consignee shall be deemed to be in temporary storage until they are destroyed, re-exported or otherwise disposed in accordance with Article 198 of the Code.'*

(5) The **records** to be kept by the declarant must be sufficiently detailed to enable customs or tax authorities of the Member State of importation to verify that the VAT declared is correct (Article 369zb(3)). These records should, inter alia, allow justifying the non-payment of VAT on parcels refused by the customer. It is for the Member States to determine the period during which the records must be kept. This record keeping requirement must not introduce new obligations for the declarant in addition to their existing record keeping obligations under customs legislation, apart maybe from the fact

that records must be made available electronically on request of the Member State of importation.

(6) The special arrangements only apply when the **customer is in the Member State of importation** (Article 369y). This is logical as the VAT becomes due in the Member State of importation and that Member State cannot charge VAT of another Member State.

## **A PRACTICAL EXAMPLE**

### **2.1. Facts:**

- A Portuguese citizen buys 2 books online on the web-shop of a Brazilian editor for a total value of EUR 40. This price does not include VAT;
- The Brazilian editor packs the books in an envelope, sticks a CN22 on it mentioning inter alia his identity, the identity and address of the Portuguese customer and the description of the goods (including the value and the relevant customs code<sup>2</sup>);
- This consignment is picked up by Brazilian post from the warehouse of the Brazilian editor, together with other similar consignments;
- The consignment is transported by air in a postal bag and arrives in Lisbon, where the postal bag is handed over to the Portuguese postal operator.

### **2.2. Fiscal treatment**

- Import VAT is due in Portugal. Under the special arrangement, Portugal can systematically provide for the application of the standard VAT rate (23%). If it does not allow for this option, the reduced rate for books applies (6%);
- The person presenting the goods to Portuguese customs (Portuguese Post), submits a customs declaration at import to the Portuguese customs on the basis of which the VAT amount due is determined (2,40 or 9,20 EUR depending on whether or not Portugal allows for the reduced VAT rate to be applied);
- The goods are released and delivered to the customer in Portugal by Portuguese Post. The customer accepts or refuses the parcel:
  - If the customer accepts the parcel, he pays VAT to Portuguese Post at the time of delivery. That VAT is then included by Portuguese Post in its monthly (global) declaration to be submitted to the Portuguese customs ~~by the end of the month following the importation~~ and at the same time Portuguese Post will pay the VAT collected on all imports under the special arrangement during the previous month to Portuguese customs;
  - If the customer refuses the parcel (e.g. wrong books have been supplied, or he did not expect having to pay additional amounts), no VAT is to be paid in the monthly declaration. The Portuguese Post will have to keep records justifying the non-payment of VAT on refused parcels. The goods which have been refused by the consignee shall then be in temporary storage until they are destroyed, re-exported or otherwise disposed of in accordance with Article 198 of the Customs Code (see Article 220(2) of the UCC Implementing Regulation). The customer may claim the value of the goods (EUR 40) from the supplier under the normal commercial procedures.

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<sup>2</sup> 6-digit HS code

	VAT Directive	Impact on VAT IR?	Impact on UCC DA and UCC IA	IT impact?
1	<p><i>Article 369y: scope of the special arrangement:</i></p> <p>Where, for the importation of goods, except products subject to excise duties, in consignments of an intrinsic value not exceeding EUR 150, the special scheme in Section 4 of Chapter 6 is not used, the Member State of importation shall permit the person presenting the goods to customs on behalf of the person for whom the goods are destined within the territory of the Community to make use of special arrangements for declaration and payment of import VAT in respect of goods for which the dispatch or transport ends in that Member State.</p>	No	<p><b>Yes</b></p> <p>The impact on the UCC DA and UCC IA of this provision has already been discussed at the Customs DIH (Data Integration and Harmonisation) Committee. In particular, a new procedure code has to be created in order to indicate that the 'special arrangement' is used.</p> <p>This impact is described in detail in working document DIH 17/003, <del>which is published for information in the folder of the GFV meeting of 9 February 2018. The working document has been finalised during the meeting of the CEG DIH on 29 January 2018. It was last discussed at the DIH Group meeting of 1 June 2018 on the basis of REV 4 of the working document. Further discussions in this document will have to integrate work on the customs declaration at import with a reduced dataset for consignments of a value not exceeding EUR 150.</del></p>	<p><b>Yes</b></p> <p>Impact on customs import systems as described in the previous column.</p>

2	<p><i>Article 369z: rules that are applicable</i></p> <p>1.For the purpose of this special arrangement, the following shall apply:</p> <p>(a) the person for whom the goods are destined shall be liable for the payment of the VAT;</p> <p>(b) the person presenting the goods to customs within the territory of the Community shall collect the VAT from the person for whom the goods are destined and effect the payment of such VAT.</p> <p>2.Member States shall provide that the person presenting the goods to customs within the territory of the Community takes appropriate measures to ensure that the correct tax is paid by the person for whom the goods are destined.</p>	<p><del>No</del> <b><u>To be discussed</u></b></p> <p><u>At a previous meeting of the GFV, a number of MS suggested specifying in the Implementing Regulation what is meant by 'appropriate measures' in the 2<sup>nd</sup> paragraph.</u></p> <p><u>One MS suggested to provide that the person presenting the goods to the customs must retain the goods until the correct amount of tax has been paid by the customer.</u></p>	No	No
3	<p><i>Article 369za – VAT rate applicable</i></p> <p>By way of derogation from Article 94(2), Member States may provide that the standard rate of VAT applicable in the Member State of importation is applicable when using this special arrangement.</p>	No	No	<p><b>Possibly</b></p> <p>There may be an impact on customs import systems in Member States which decide to make use of this option, as their systems often automatically use the correct VAT rate on the basis of the HS or CN code declared.</p>
4	<p><i>Article 369zb – declaration, payment of VAT and record keeping</i></p>	<p><del>Yes</del> <b><u>To be discussed</u></b></p> <p><i>Paragraph 1 – <u>Is there a need to</u> clarify</i></p>	No	No



<p>1. Member States shall allow that the VAT collected under this special arrangement be reported electronically in a monthly declaration. The declaration shall show the total VAT collected during the relevant calendar month.</p> <p>2. Member States shall require that the VAT referred to in paragraph 1 is payable by the end of the month following the importation.</p> <p>3. The persons making use of this special arrangement shall keep records of the transactions covered by this special arrangement for a period of time to be determined by the Member State of importation. Those records must be sufficiently detailed to enable the tax or customs authorities of the Member State of importation to verify that the VAT declared is correct and be made available electronically on request to the Member State of importation.</p>	<p>what is "VAT collected" (amounts effectively collected from the customer, not including goods refused)?</p> <p>Exchange rate is clarified in Article 369zc, rounding up as per Customs rules – no specific Implementing provisions required.</p> <p><i>Paragraph 3 – record keeping</i></p> <p>The person to whom these record keeping obligations apply is the person presenting the goods to customs referred to in Article 369y. The record keeping obligations are therefore those laid down in EU and/or national customs legislation.</p> <p><u>Is there a need for further clarification in the Implementing Regulation?</u></p> <p>Member States to inform in writing on:</p> <ul style="list-style-type: none"> <li>• existing simplifications applicable to importation of small consignments: <ul style="list-style-type: none"> <li>○ description of the simplification</li> <li>○ type of beneficiary (e.g. postal operators, others?)</li> </ul> </li> <li>• how do Member States deal with returns of goods in consignments (i.e. is the declarant involved in the process or the final consumer deals directly with the customs office?)</li> </ul>		
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