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DIH 17003 REV 3

Working document

**COLLECTION OF VAT FOR DISTANCE SALES OF GOODS**

### Document history of the earlier versions

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<th>Purpose</th>
<th>Main changes</th>
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This document examines the possibilities to support within the EU Customs Data Model the arrangements foreseen by the proposal for a Council Directive amending Dir. 2006/112 and Dir. 2009/132 as regards certain value added tax obligations for supplies of services and distance sales of goods. The purpose of this analysis is to prepare for necessary amendments to the Union customs legislation which will be necessary after adoption of the relevant legal acts in the VAT area. For formal reasons an amendment to the customs legislation is not possible before the amendment of the legal acts in the VAT area.

\[\text{COM (2016) 757 final}\]
All references to the proposed legislation in the VAT area relate to the Commission proposals and do not take into account the current state of play of the discussion in the relevant Council working groups. This document will be finally reviewed after adoption of the relevant legal acts in the VAT area.

1. Background


The proposal foresees that Title IV of Dir. 2009/132 providing for an exemption for imports of goods of a negligible value (up to EUR 22) will be deleted. Consequently VAT would have to be paid for all imported goods irrespective of their value.

At the same time it introduces the facilitation of the "One Stop Shop" for consignments with an intrinsic value of 150,00 € or less. Imports made in the context of the "One Stop Shop" are exempt from VAT. The use of the "One Stop Shop" is optional for economic operators. In order to benefit from this exemption the seller of the goods in the third country or his intermediary will have to apply for a special VAT number. This special VAT number will have to be declared in the customs declaration for release for free circulation and it will have to be validated by the customs authorities processing this declaration. The VAT would have to be declared in the quarterly VAT return by the seller of the goods or his intermediary. The holder of the special VAT number indicated in the customs declaration will be liable for the payment of the VAT where it is not properly declared in the VAT return.

2. General Principles

There are two main steps in relation with the entry of goods into the Union customs territory where information has to be provided, notably those related to risk management for the purposes of safety and security before entry of the goods into the EU, and those related to the customs clearance of the goods upon their importation. As a result entry and import of goods into the EU are associated to two distinct data flows and different requirements and time limits apply to each of those flows.

As a result, information about goods that are brought into the customs territory of the Union has to be provided to the customs authorities in several steps.

The first step is lodging of an entry summary declaration (ENS) within the deadlines foreseen in the customs legislation. This obligation must be complied with before the goods are dispatched from a third country to the European Union.

Secondly, upon arrival the goods have to be presented to customs and in most of the cases put under temporary storage. Data must be entered in the temporary storage records for this purpose.
Finally, before they can be handed over to the consumer goods must be declared for release for free circulation. Release for free circulation entails the obligation to pay customs duties. In addition, taxes and charges incurred upon importation must also be paid.

For the formalities relating to the declaration for release for free circulation a reduced dataset applies for goods in postal consignments. These are goods other than items of correspondence, contained in a postal parcel or package and conveyed under the responsibility of or by a postal operator in accordance with the provisions of the Universal Postal Union Convention adopted on 10 July 1984 (Article 1(24) UCC DA).

Where parcels or packages are transported by an operator other than a postal operator (i.e. express couriers) the full data set applies.

3. Entry Summary Declaration (Article 127 UCC)

The entry summary declaration has to be lodged within the applicable time-limit in accordance with Articles 105 to 111 of the UCC DA.

The information to be provided is defined in the data requirements table in Title I, Chapter3, Section 1 of Annex B UCC DA. The relevant columns begin with letter F (F1a –F5).

The data requirements for goods in postal consignments can be found in column F4c. This data set corresponds to the data of the CN23 which is the official form required for parcels exceeding a certain value which are moved in accordance with the acts of the Universal Postal Union.

The supplier is not a party which has to be declared in the data set in column F4c. The party in the third country which has to be declared is the consignor. This party is identified by the EORI number where available. Where the EORI number is not available the following attributes have to be provided: name, street and number, country, postcode, city, phone number.

The VAT number is not part of this data set. The data-set serves for risk analysis for safety and security. The data requirements have to be kept to what is necessary for this purpose. It is therefore not possible to extend this data set.

Where additional data is required for the subsequent clearance process the CN23 can be re-used by the postal operator to generate a customs declaration in accordance with column H6 of the data requirements table in Title I Chapter3 Section 1 of Annex B UCC DA. For more details on customs declarations see point 4.

For goods which are not goods in postal consignments the data to be provided depends on the mode of transport.

It is important to note that the purpose of the entry summary declaration is to provide the necessary information for risk analyses relating to safety and security.

For processing the data in the entry summary declarations the development of ICS2 is envisaged. This system will not be designed for the use in the context of duty collection.
Article 130 UCC allows the competent customs office to waive the lodging of an entry summary declaration where a customs declaration is lodged within the time-limits for the entry summary declaration and where this customs declaration contains the particulars for the customs declaration. It is the choice of the declarant to make use of this option.
4. **Customs Declaration for release for Free Circulation**

The different possibilities to release the goods for free circulation are summarised in the table below:

<table>
<thead>
<tr>
<th>Type of declaration</th>
<th>Acts deemed to be a customs declaration</th>
<th>Standard customs declaration with a reduced data set for goods in postal consignments</th>
<th>Standard customs declaration for release for free circulation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legal base</td>
<td>Articles 138 and 141 UCC DA Article 275 Dir. 2006/112</td>
<td>Article 144 UCC DA</td>
<td>Article 162 UCC</td>
</tr>
<tr>
<td>Scope of goods</td>
<td>• Items of correspondence</td>
<td>Goods in postal consignments as defined in Article 1 (24) of the UCC-DA which benefit from a relief from customs duties and VAT (consignments sent from one private individual to another one with a value below 45 EUR; specific arrangements apply for alcohols, perfumes and tobacco)</td>
<td>Any kind of goods</td>
</tr>
<tr>
<td></td>
<td>• Goods in postal consignments as defined in Article 1 (24) of the UCC-DA whose value does not exceed EUR 1000 including consignments of negligible value (Articles 23 and 25 of Reg. 1186/2009).</td>
<td></td>
<td>Mandatory for</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- goods transported by express couriers and</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- goods in postal consignment with a value above EUR 1,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Optional for</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- goods in postal consignment with a value below EUR 1,000</td>
</tr>
</tbody>
</table>


<table>
<thead>
<tr>
<th>Type of declaration</th>
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</tr>
</thead>
</table>
| Value threshold     | Goods in a postal consignment with an intrinsic value below 10 to 22 EUR (depending on the VAT arrangements in the Member State of import) other than alcoholic products, perfumes and toilet waters, tobacco or tobacco products. | For postal consignments under the following conditions:  
  - the value of the goods does exceed 10 to 22 EUR (depending on the VAT arrangements in the Member State of import) but not 1,000 EUR;  
  - no application for repayment or remission is made in relation to the goods;  
  - the goods are not subject to prohibitions and restrictions. | No threshold |
<p>|                     | Goods can also be declared electronically with the data set in Column H6 or H1 of the data requirements table in Title I Chapter 3 Section 1 of Annex B UCC DA. | Goods can also be declared electronically with the data set in Column H1 of the data requirements table in Title I Chapter 3 Section 1 of Annex B UCC DA. |</p>
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<thead>
<tr>
<th>Type of declaration</th>
<th>Acts deemed to be a customs declaration</th>
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</tr>
</thead>
<tbody>
<tr>
<td><strong>Applicable dataset</strong></td>
<td>The goods are declared for release for free circulation upon their presentation to customs provided that the data required are accepted by the customs authorities. The dataset is not defined in the customs legislation of the Union. The international obligations for MSs under the acts of UPU require customs authorities to check that data required for the CN22/23 is provided. According to the acts of the UPU it is the responsibility of the sender to ensure the availability and quality of the CN22/23 data. CN23 does not provide for the obligation to include data about the supplier.</td>
<td>Column H6 of the data requirements table in Title I Chapter3 Section 1 of Annex B UCC DA</td>
<td>Column H1 of the data requirements table in Title I Chapter3 Section 1 of Annex B UCC DA</td>
</tr>
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5. Impact of the proposed amendment to Dir. 2006/112 and Dir. 2009/132 on the import customs declaration

Article 3 of the Commission proposal COM(2016) 757 foresees the deletion of Title IV of Directive 2009/132/EC. This means that the exemption for import VAT for goods with a value below 10 to 22 EUR (depending on the VAT arrangements in the Member State of import) will no longer exist. Without prejudice to the exemption foreseen in the context of the OSS, import - VAT will have to be collected for all consignments without regard to their value.

At the same time that postal consignments with a value below 22 EUR can no longer be declared by any other act in accordance with Article 138 and 141 of the UCC DA and that therefore a customs declaration with the dataset in column H6 has to be lodged for these consignments.

a) Arrangements for the mini one stop shop

In order to declare the consignment for release for free circulation, the procedure code (data element 1/10 of the electronic declaration) 40 has to be used. The additional procedure code (data element 1/11) C07 (Consignments of negligible value) referring to Article 23 of Reg. 1186/2009 has to be declared.

For consignments with an intrinsic value of 150,00 € or less the facilitation of the "One Stop Shop" can be used. Imports made in the context of the " One Stop Shop" are exempt from VAT. A new additional procedure code (data element 1/11) for the electronic customs declaration will have to be created in order to allow the declarant to declare that he wants to use the arrangements of the One-Sto-Shop and benefit from the exemption of VAT at import.

b) Special arrangements for declaration and payment of import VAT

The proposed Title XII Chapter 7 provides for special arrangements for declaration and payment of import VAT for consignments with an intrinsic value of 150,00 € or less which can be optionally used:

- Liability of the person for whom the goods are destined for the payment of the VAT
- Responsibility for the person presenting the goods to customs for the collection of VAT from the person for whom the goods are destined.
- Member States shall allow that the VAT under this special arrangement is reported in a monthly declaration.

Where the special arrangement is used only the standard VAT rate but not the reduced rates is applicable.

The special arrangements only apply to the declaration and payment of import VAT. As regards the customs declaration the same arrangements as for the import one stop shop apply. This means that a customs declaration has to be lodged. In order to declare the consignment for release for free circulation, the procedure code (data element 1/10 of the electronic declaration) 40 has to be used. The additional procedure code (data element 1/11)
C07 (Consignments of negligible value) referring to Article 23 of Reg. 1186/2009 has to be declared.

The special arrangements are very similar to deferred payment arrangements based on Article 211 1st subparagraph of Directive 2006/112/EC. It appears that no further action has to be taken in order to reflect these arrangements in the import customs declaration. They appear to be covered by the already existing data requirements for deferred payment.

6. Necessary Amendments to Annex B UCC DA and UCC IA

In order to support the arrangements in the context of the IOSS Annex B of the UCC-DA and the UCC-IA have to be amended as follows:

Annex B UCC DA

- D.E. 3/40 in column H6 the letter "A" has to be added
- D.E. 3/40 in column H6 the letters "XY" have to be added
- D.E. 3/40 in column H6 footnote [51] has to be added
- In Title I Chapter 3 Section 2 "Notes" footnote [51] has to be added:
  
  "This information shall only be provided where the goods are declared for release for free circulation under the special scheme for distance sales of goods imported from third countries and territories set out in Title XII Chapter 6 Section 4 of Directive 2006/112/EC."

- In Title II "Notes in relation with data requirements" the notes relating to D.E. 3/40 should read as follows:
  
  "All relevant data requirements table columns used:
  When the goods are declared for release for free circulation under the special scheme for distance sales of goods imported from third countries and territories set out in Title XII Chapter 6 Section 4 of Directive 2006/112/EC the special VAT number attributed for the use of this scheme shall be provided."

  "Data requirements table column H1:
  When procedure code 42 or 63 is used, the information required by Article 143 (2) of Directive 2006/112/EC shall be entered.

Annex B UCC IA

- In Title II "Codes in relation with the common data requirements for declarations and notifications" the following additional procedure codes should be added to the code list relating to D.E. 1/11:

  "F48: Import under the special scheme for distance sales of goods imported from third countries and territories set out in Title XII Chapter 6 Section 4 of Directive 2006/112/EC."
“F49: Import under the special arrangements for declaration and payment of import VAT set out in Title XII Chapter 7 of Directive 2006/112/EC.”

- In Title II "Codes in relation with the common data requirements for declarations and notifications" the following should be added to the list of role codes used for D.E. 3/40:

  "FR5: Taxable person making use of the special scheme for distance sales of goods imported from third countries and territories set out in Title XII Chapter 6 Section 4 of Directive 2006/112/EC.

  FR6: Intermediary appointed by a taxable person making use of the special scheme for distance sales of goods imported from third countries and territories set out in Title XII Chapter 6 Section 4 of Directive 2006/112/EC (Article 369I)."

7. **Necessary Update of the guidance document on the EU CDM**

The arrangements for the one stop shop should be clearly explained in the guidelines to the EUCDM. It should in particular be clarified that the individual VAT identification number referred to in the proposed Article 369q of Dir. 2006/112 is different from the VAT identification number referred to in Title XI Chapter 2 of Dir. 2006/112.

The individual VAT identification number used for the one stop shop is defined in Annex I to Reg. 815/2012 and has the following structure: EUxxxxyyzz. xxx is the 3-digit ISO numeric of the Member State of Identification; yyyyy is the 5-digit number assigned by the Member State of Identification and z is a check digit.