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

**VAT Expert Group  
19<sup>th</sup> meeting – 26 February 2018**

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**VAT EXPERT GROUP**

**VEG N<sup>o</sup> 074**

**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 and Import One Stop Shop (see VEG 073); and
- the new special arrangement for the import VAT reporting and payment. See Annex 2 for the additional explanations provided by the Commission during the Council negotiations.

The purpose of this working document is to determine whether or not these provisions:

- require detailed measures to be laid down in the 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 at the VEG meeting of 26 February 2018.

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

	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>Possibly</p> <p>The possible impact on the UCC DA and UCC IA of this provision has already been discussed at the Customs DIH (Data Integration and Harmonisation) Committee.</p> <p>The conclusion of the discussion was that there was no direct impact on the customs declaration at import as existing procedure codes should be used.</p> <p>However, discussions on providing for the use of simplified customs declarations at import with a reduced dataset are taking place in a Customs 2020 Project Group on Import and Export Customs Formalities Related to Low Value Consignments.</p>	<p>Possibly</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</p>	No	No	No

	VAT Directive	Impact on VAT IR?	Impact on UCC DA and UCC IA	IT impact?
	<p>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>			
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>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><b>Yes</b></p> <p><i>Paragraph 1</i> – clarify 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</p>	No	No

	VAT Directive	Impact on VAT IR?	Impact on UCC DA and UCC IA	IT impact?
	<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>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>Business representatives inform to the extent possible 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>		

**EXPLANATION OF THE 'SPECIAL ARRANGEMENTS FOR DECLARATION AND PAYMENT OF IMPORT VAT' AS PROPOSED IN THE 11TH COMPROMISE OF THE VAT E-COMMERCE PACKAGE**

At the fiscal attachés meeting of 18 October 2017, a number of delegations requested further explanations on the functioning of the special arrangements of Chapter 7, using practical examples.

**1. WHAT IS THE PURPOSE OF THE SPECIAL ARRANGEMENTS?**

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). 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). But for the declaration and payment, existing simplifications already provided for in the Union Customs Code (UCC) must be available:

(a) For the payment of VAT: global payment by the end of the month following the month of importation as provided for in Articles 110 and 111 UCC (Article 369zb(2));

(b) Release for free circulation: can be based on simplified customs declarations at import, such as entry in the declarant's records as provided in Article 182 UCC, followed by a 'supplementary declaration' provided for in Article 167 UCC being the basis for the global payment in point (a) (Article 369zb(1)).

(2) 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);

(3) 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)). 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). The records to be kept by the declarant should allow justifying the non-payment of VAT on parcels refused by the customer (Article 369zb, point (3));

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

## **2. 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>1</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 use 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.

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<sup>1</sup> 6-digit HS code