

NEW E-COMMERCE RULES (NO. IV)

Special arrangements for declaration and payment of import VAT for small consignments

As already mentioned in our last part, all commercial goods imported into the EU from a third country will be subject to VAT, irrespective of their value (the customs duty relief for goods with an intrinsic value not exceeding EUR 150 imported into the EU remains in place). In order to be able to collect VAT on small value consignments (the intrinsic value of a consignment up to EUR 150) as easily as possible, the following new optional VAT collection procedures are being introduced (these are two completely different VAT payment systems):

1. The special scheme for distance sales of goods imported from third countries – the import scheme (hereinafter only “**IOSS**”)
2. The special arrangements for declaration and payment of import VAT (hereinafter “**the special arrangements**”)

Below we summarize the procedure for applying the special arrangements. This procedure is completely different from the procedure using IOSS. The special arrangements were introduced as an alternative simplification for the collection of import VAT in cases where neither the import scheme (IOSS) nor the standard VAT collection mechanism on importation are being used. Similar to the import scheme IOSS, use of the special arrangements is not mandatory.

The special arrangements can be used for goods imported in consignments of up to EUR 150, which are not subject to excise duty. These special arrangements can only be used if the release for free circulation is made in the Member State in which the low value goods will be delivered to the customer/importer, i.e. in the Member State of destination.

The person liable to pay import VAT is the person for whom the goods are intended, i.e. the consumer, but the calculation of the import VAT, the collection of this tax and its payment to the relevant tax administrator is ensured by the person who presents the goods for customs clearance in one of the EU Member States. Under the special arrangements, the consumer pays the VAT to the declarant/person presenting the goods to customs and this person is obliged to pay this VAT to the relevant tax administrator. Usually, this declarant/person will be a postal operator, express carrier or customs agent.

This simplification measure is therefore designed in particular for postal operators, express carriers or other customs agents in the EU who typically declare low value goods for importation, either as direct or as indirect customs representatives. The VAT Directive does not provide for conditions to authorize economic operators to use the special arrangements. Member States may however apply the conditions for the authorization of the deferment of payment of customs duty under the customs law also for the special arrangements.

EU Member States may provide for the use of the standard VAT rate for all goods declared under the special arrangements. This facilitates the declaration process for the declarants who may face difficulties having to determine the correct VAT rate on highly diverse goods contained in low value consignments. However, the customer may refuse the automatic

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application of the standard rate and can choose the reduced rate. In this situation, the declarant can no longer apply the special arrangements for this import of goods.

The person presenting the goods to customs will remit to the tax/customs authorities only the VAT he actually collected from the consumer during a calendar month. This measure avoids that for goods not delivered or not accepted by a consumer/importer, the declarant/customs representative would be liable to pay the related VAT.

The declarant / person presenting the goods for customs clearance shall make a single monthly payment of all import VAT collected from the consumers to the competent authorities. The reference (taxable) period is a calendar month and the one-off monthly payment of collected import VAT is deferred until the 16th day of the month following the month in which the tax was collected from the consumer. If the goods are imported into the Czech Republic, for example, on July 30, 2021, but are handed over to the final consumer and the tax is paid by him just on August 1, 2021 (and the special arrangements are used), the postal operator or express carrier is obliged to pay the collected tax by 16 September 2021.

This monthly declaration is submitted electronically and shows the VAT amounts effectively collected by the person making use of the special arrangements from the individual consumers during the relevant calendar month.

The declarant/customs representative should keep sufficiently detailed records and he should keep proof of non-delivery/non-acceptance (e.g. proof of exit) from the consumer to justify the waiver of the VAT due on those consignments.

Even when using the special arrangements the customs formalities in respect of low value consignments imported into the EU must be completed for, i.e. an import customs declaration must be presented regardless of the value of the consignments, with the exception (for a transitional period) of certain goods in postal consignments.

The customs declaration may contain a dataset H7, I1, H1 or H6 (H6 is intended only for postal operators). The application of the special arrangements for the import of goods in consignments of small value must be indicated on the import customs declaration by using additional codes C07 and F49.

Undelivered goods (from which no import VAT has been declared) must be exported with a view of their return to the original supplier's address or another address indicated by that supplier and the customs declaration for release for free circulation needs to be invalidated (the customs declaration may be invalidated even after the goods have been released if the application is lodged within 90 days of the date of acceptance of the customs declaration). The invalidation of the customs declaration is not necessary for a transitional period for certain goods in postal consignments, for which the customs declaration is considered not to be lodged at all if the goods could not be delivered to the consignee.

*Next time we will focus on the **involvement of external electronic platforms** and the related VAT implications. **The specialized online seminar will take place on 16th March 2021.** If you have any questions, please contact us at tomiczek@stanek-tomiczek.com.*

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Staněk, Tomíček & Partners, s.r.o., zapsaná v obchodním rejstříku vedeném Městským soudem v Praze v části C, vložka č. 104681, IČ: 27210081, DIČ: CZ 27210081, se sídlem U Prašné brány 1078/1, 110 00 Praha 1