



Value Added Tax (VAT) Import and Export

Introduction

When importing or exporting goods into or out of the European Union, the **Value Added Tax** plays an important role. This document will explain how **VAT** works between companies in one country and between companies in two different countries.

The functioning of the European VAT-system

Customs plays an important role when it comes to imposing **VAT**. This 'Value Added Tax' yields a lot of money for the government. The particularity of VAT is that it is neutral in the commercial traffic. So, unlike the example of import duties, VAT has no influence on the cost price of goods between companies mutually.

How does the VAT-system work?

- Company A sells goods for € 100 to Company B.
- On the sales price, A charges B 19% VAT. In total, the goods cost € 100 + € 19 = € 119.
- Company B resells the goods to Company C for € 150.
- Company B also has to charge 19% VAT on the sales price to C. The sales price is then € 150 + € 28,50 = € 178,50.
- On the monthly VAT declaration that Company B has to send the tax offices, they state that on their sale, they received € 28,50 from their clients.
- But Company B is allowed to deduct from that the € 19,00 pre-tax they paid on their purchase. On balance, they have to remit € 9,50.
- Company B has obviously added € 150 -/ - € 100 = € 50 value to the product. The tax they have to remit is 19% on € 50 = € 9,50. For that reason the VAT is called the **Value Added Tax**.

Destination country principle

The VAT-system in the European Union is made so that the VAT is due in the country where the goods are finally consumed. This is the **destination country principle**.

If Company C in the above example had been a consumer instead of a company, this consumer would have also paid € 178,50, composed of € 150,00 for the product and € 28,50 VAT. Therefore, companies collect VAT at the sale from companies to consumers. For the tax offices this is a very attractive system, because the companies collect the tax from the consumer and the tax offices do not have to take any further action. For companies the system is commercially neutral because VAT doesn't influence the cost

price. For the consumer, VAT is a heavy burden he or she has to pay with all consumption. But since VAT is usually not visible at the sale, it is a tax that brings little resistance in society.

VAT at import and export

Suppose that Company C is an entrepreneur in Germany and 19% VAT is charged on the sale. The yield of VAT on the **export** transaction (in the Netherlands) would then be due to the Dutch Treasury, while the consumption takes place in Germany. The principle of the destination country, that VAT must benefit the country of consumption or destination, is undone. For that reason VAT-systematic provide that on the export no VAT needs to be levied. The reflection hereof is that VAT must be levied at the **import**. But who must charge the VAT at the import and remit it to the Treasury?

Suppose an American Company A sells goods to a Dutch Company B. The Netherlands doesn't want the American company to become involved with our VAT-system. For that reason Customs levy 19% VAT on the import of goods. At the import declaration that Company B must make when the goods enter the Netherlands, Customs charge 19 % VAT and charge these to Company B. Company B can deduct the 19% on its monthly VAT-declaration. This way, VAT is also neutral at transactions with other countries. It is of course of the highest interest that VAT-legislations in the countries of the European Union are geared to one another. There is a whole series of directives that constitute the base of VAT-legislation in the different member states. But each country still has a lot of freedom, and can set the height of the rates itself.

Distance sales

Companies sell more and more goods to private persons through the Internet. By the terms of the VAT-legislation this is called **distance sales**.

When a company sells goods to private persons in another EU-member state and delivers these free domicile, for example by mail, at first VAT of the country of sale /sending is levied. That VAT must of course be remitted to the in country Revenue there. As soon as the turnovers in that other member state increase a threshold is reached, above which VAT of the country of the buyer /destination must be levied.

This **threshold amount** at distance sales differs from country to country in the EU. If the threshold amount is exceeded, the seller must register in the country of destination and remit VAT there.

VAT transfer

If goods are declared for importation in the Netherlands, the government levies 19% VAT. There are also goods on which 6% VAT is levied, such as foodstuffs and primary necessities. In most countries of the EU, it is the importer who actually has to pay the VAT at the import. This results in large cash flows towards Customs. In the same month the import took place, the importer can deduct the paid VAT from his VAT-declaration. He then gets his money back from the Treasury. To simplify this, Dutch VAT-legislation has, in article 23, made it possible to transfer the VAT. This means that the VAT doesn't have to be paid. However, the importer must in his VAT declaration enter the amount of the import and calculate tax on it. But two lines lower in the declaration he may deduct the same amount as a pre-tax, together with the other VAT he paid on the goods that he bought in the Netherlands. This is called the transfer rule according to article 23 of the Turnover Tax Law. In the Netherlands, almost all companies that import goods have a VAT transfer permit. The tax offices provide these almost on demand.

VAT-number

The application of the transfer rule is connected to the use of the **VAT-number** of the importer. The VAT-number of the importer must be stated on the declaration for importation. This way, the tax offices dispose of all data on the imports made by a Company. Upon a tax review, it is simple to verify all import transactions. The system is extremely efficient and works very well. The result for importers and Customs agents is that the monetary transactions are limited; at time for the import declaration, one can concentrate on important matters such as correctly defining the customs value, goods code and preference.

Transfer rule

It is remarkable that only a few countries besides Belgium and the Netherlands know such a transfer rule. This means, for example, that in Germany turnover tax must be paid at time of the import. Because the VAT deduction cannot always take place in the same month, a liquidity disadvantage is created for the importer and a liquidity advantage for the treasury. It may concern very large sums that can be of much interest as part of the financing of the government finances. Perhaps that's why it is so difficult to switch from a system without transfer to a system with VAT transfer. Because of the VAT transfer at the time of import in the Netherlands, a competitive advantage is created at the import via the Netherlands (and Belgium) with respect to other EU-member states.

Documents at import declaration

When a Customs agent has made a declaration for importation for an importer, he will send the pertaining documents, together with his invoice, to the client. The documents usually include: the **Trade invoice**, the **Notice of Terminated Verification** and/or the **Customs-clearance proof** and possible copies of documents of origin and such. In practice, many declarations for importation are commissioned to Customs agents by forwarding agents, who received the order from an importer. The Customs agent will then send the import documents to the forwarding agent, for he is the formal client. Unfortunately, in practice, forwarding agents do not always send these documents on to the importer.

Review by tax authorities

However, at a review of the **Customs** or the **VAT offices** the importer can always appeal to the archiving duty of the Customs agent. He must keep the declarations for 7 years, including the original documents. Often Customs reports to a Customs agent with a list of import declarations that are made for a certain importer. From the documents of the archives, an audit can then easily be carried out. So the conclusion is that an importer must have in his administration all documents pertaining to the import declarations.

Limited Fiscal Representation

Limited Fiscal Representation (LFR) can only be applied at the import of goods in the EU. In Rotterdam, for example, let's say goods from the USA enter the EU but are destined for a German importer. The German importer wants the goods to be cleared in Rotterdam. But the German importer does not have a Dutch VAT-number. Because he does not have it, he cannot transfer the VAT to his own bookkeeping according to article 23 of the Turnover Tax Law. For a common import the Dutch VAT would be due,

which the entrepreneur could later ask back by means of a complicated procedure. To make this simpler, the Customs agent, who declares the goods for importation, can act as **Limited Fiscal Representative** for the VAT.

VAT obligations

When using Limited Fiscal Representation, at an import declaration, all import duties and such are due. The **VAT obligations**, however, are taken over by the declarant. The Customs agent thus becomes responsible and liable for the VAT at import. After the declaration the goods are free. They can now be transported to Germany without Customs interference. This makes the logistic process flexible. The Customs agent must now deliver the goods in conformity with the VAT-regulation to the German importer. It means that he must meet all obligations that are connected to an Intra-Community Delivery from the **Netherlands to Germany**.

Authorization

First of all, the Customs agent must have an **authorization** to be able to act as LFR. Usually the German importer provides this authorization. But it also happens that the seller from the USA gives the authorization. Then the Customs agent must check the VAT-number of the person who bought the goods. The Limited Fiscal Representative must then include the VAT-delivery in the quarterly **listing**. He must also each month report all necessary data to the statistical authorities. The Limited Fiscal Representative thus acts as if he himself is selling the goods to Germany. To be able to do this, the Customs agent must have a **permit**. Moreover, he must give a **security** since the tax offices want to be sure that they can collect any due tax from the Limited Fiscal Representative. The liability of the Limited Fiscal Representative limits itself to the VAT on the import transactions. But he is unlimitedly **liable**. So he also has to pay if an additional VAT tax exceeds the given security.

Acquisition letter

The Limited Fiscal Representative wants of course to be in command of his liability. If he can prove that the goods have left the Netherlands, the treasury cannot make him liable. He must therefore meet all the above-mentioned obligations. The delivery to another member state can for example be proved by means of a waybill that was signed at the receipt. Some Customs service agents send the receiver of the goods a quarterly '**Acquisition letter**'. In this Acquisition letter are enumerated the import declarations that are made for the importer in that quarter. By signing and returning the Acquisition letter, the receiver confirms having received the goods and that he will include these in his VAT-bookkeeping. For the importer, such an Acquisition letter is an extra check to see if all consignments are correctly included in the VAT-administration.

ABC transactions

Most business transactions are AB transactions at which seller A sells something to buyer B. But there are also many **ABC transactions**, at which seller A (from the USA) sells something to B (in Germany) while the goods are delivered to C (in France). This kind of ABC transactions is also possible with Limited Fiscal Representation. Then there are however additional obligations to be met by B and C as well as the Limited Fiscal Representative. But the most important logistic advantage with this kind of transactions is that after the import declaration, the goods are free and can be transported at random without Customs supervision.

Delivery in the Netherlands / Export / Storage

It is also possible that after the importation of the goods in Rotterdam ultimately **delivery in the Netherlands** takes place, therefore, to a Dutch Company. This is possible by applying article 12.3. of the Dutch VAT Law. But goods can also be exported to countries outside the European Union. The Limited Fiscal Representative must then prove the export by means of an export declaration. The system is ever so flexible that also storage and distribution of goods from the Netherlands to all possible destinations can take place.

Distribution country

The system of Limited Fiscal Representation is therefore very flexible. Distributors and logistics companies can benefit a lot from it. As the Netherlands is a **Distribution country**, the technique of declaring with Limited Fiscal Representation is generally applied.

Competitive advantage

In the Netherlands, the possibility of Limited Fiscal Representation is available since 1993. Also other EU-member states have a similar facility, but the Dutch system is very flexible which gives the Netherlands a **competitive advantage**. If goods for a German importer are directly imported in Germany via Hamburg, the importer must pay import VAT. If he has the same goods cleared via Rotterdam, he does not have to pay import VAT. This gives that importer a large liquidity advantage. Precisely for this liquidity advantage and also for the logistic flexibility, many non-Dutch companies use Limited Fiscal Representation.