



## Customs Flash Belgium

### ECJ clarifies the cost of transport included in the customs value

#### Introduction

On 11 May 2017, the European Court of Justice (ECJ) issued a ruling in the case: *The Shirtmakers BV v. Staatssecretaris van Financiën* (C-59/16).

Importing textile goods from Asia, *The Shirtmakers BV* relied on a customs agent to arrange the goods' transportation to the EU, their storage in the Netherlands and the completion of the required import formalities. When declaring the customs value, the customs agent only added the costs invoiced by the transportation companies to the price actually paid, or payable for the imported goods, without adding the fees incurred for the customs agent's services. The Dutch customs authorities disagreed with this approach, claiming that the customs value has been understated.

In its ruling, the ECJ explains the scope of the *cost of transport* concept. This cost is to be added to the price actually paid, or payable for the imported goods in order to determine the customs value in accordance with Article 32(1)(e)(i) of the Community Customs Code (the current Article 71(1)(e)(i) Union Customs Code).

Which costs are included in the *costs of transportation*?

According to the ECJ, the autonomous EU concept of *cost of transport* must be interpreted broadly. The decisive criterion for costs to be considered within this concept is that they are connected with the movement of goods to the European Union's customs territory. **It does not matter whether the costs are inherent in, or necessary for the actual transport of the goods.**

Consequently, the Court has ruled that **the amounts charged by service providers (such as forwarding agents) to an importer with respect to the service provided in organising the imported goods' transport to the EU's customs territory, constitute a cost of transport.** The cost includes charged supplements corresponding to the agent's profit margin, in addition to the costs incurred by the agent.

The outcome of this ECJ ruling is also applicable under the current Union Customs Code.

## What does it mean for you?

All costs made in connection with the movement of goods to the EU's customs territory are to be included in the customs value of those goods. This also accounts for service fees relating to said movement.

If the importer does not duly assess transport cost in relation to the goods' movement to the EU, there is a latent risk of the customs value's understatement. This has an impact on both customs and VAT compliance.

## What to do?

Importers and other customs debtors must verify their customs valuation methods, particularly when resorting to the services of a customs agent for the transportation of imported goods to the EU's customs territory.

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## Contacts

If you have any questions concerning the items in this alert, please contact your usual tax consultant at our Deloitte office in Belgium or:

- Fernand Rutten, [frutten@deloitte.com](mailto:frutten@deloitte.com), + 32 2 600 66 06
- Nick Moris, [nmoris@deloitte.com](mailto:nmoris@deloitte.com), + 32 2 600 66 03
- Klaas Winters, [klwinters@deloitte.nl](mailto:klwinters@deloitte.nl), +31 (0)88 288 2125
- Johan Hollebeek, [jhollebeek@deloitte.nl](mailto:jhollebeek@deloitte.nl), +31 (0)88 288 1992

For general inquiries, please contact:

[bedeloittetax@deloitte.com](mailto:bedeloittetax@deloitte.com), + 32 2 600 60 00

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