



## **Global Trade Advisory Alert**

### **New exporter of record definition**

#### **Introduction**

With its 16 May 2018 regulation, the European Commission amended and corrected the Delegated Act to the Union Customs Code (UCC). In addition to other relatively minor changes, the new regulation amends the definition of 'exporter', in order to allow greater flexibility for business partners in their choice of person to act as exporter for customs purposes. The new definition will come into effect as of 31 July 2018.

#### **In brief: Current definition**

According to the UCC Delegated Act, as applicable up and until 30 July 2018, an exporter can only be one individual meeting three cumulative requirements:

1. Needs to be established in the customs territory of the Union
2. Holds a contract with a consignee in a third country
3. Has the power to determine that the goods are taken outside the customs territory of the Union

The Commission felt that this description is too restrictive and wants to allow greater flexibility for business partners' designation of an individual as exporter for customs purposes.

#### **Less restrictive and greater flexibility**

According to the European Commission, the new definition limits the conditions for being an exporter to the essential requirements for the export procedure's functioning. The only remaining conditions are that exporters must have the power to determine that the goods are to be taken out of the Union's customs territory, and that they must be established in said territory. The amendment means that the decision on who would act as exporter is largely at the discretion of the business partners involved; their choice can only be overruled if the assigned individual would not be established in the Union's customs territory. Only in such a case, and in others where business partners do not agree on who would act as exporter for customs purposes, the exporter for customs purposes is then determined based on specific provisions of customs legislation.

In essence, the new provision appears to introduce a situation, or consolidates an existing practice, in which business partners have the flexibility to designate an exporter for customs purposes, as long as this person is established within the Union's customs territory.

Under the new definition, there is a potential disconnection between the exporter for customs purposes in the customs declaration and the VAT exemption for export, as the person claiming the VAT exemption is not necessarily the exporter for customs purposes.

## How Deloitte can help

Businesses should carefully assess whether the relaxed definition affects their operations and should verify the VAT treatment of their export flows.

Deloitte's Global Trade Advisory specialists are readily available to provide additional insight regarding the above.

## For more information, contact:

Fernand Rutten  
[frutten@deloitte.com](mailto:frutten@deloitte.com)

Daan De Vlieger  
[Ddevlieger@deloitte.com](mailto:Ddevlieger@deloitte.com)

Alexander Baert (Laga)  
[abaert@laga.com](mailto:abaert@laga.com)



Access the latest global and regional tax and trade news, information, and resources from Deloitte tax@hand, a digital platform designed for global tax and trade professionals, available anytime, on any device, at [www.deloitte.com/taxathand](http://www.deloitte.com/taxathand)



Consult the Global Trade Advisory Alert archive providing an overview of the latest alerts from the previous 12 months on [deloitte.com](http://deloitte.com)



Read the monthly Global Indirect Tax Newsletter summarising the latest developments for VAT, GST, sales tax, and global trade around the globe on [deloitte.com](https://www.deloitte.com)



Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee ("DTTL"), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as "Deloitte Global") does not provide services to clients. Please see [www.deloitte.com/about](https://www.deloitte.com/about) for a more detailed description of DTTL and its member firms.

Deloitte provides audit, tax and legal, consulting, and financial advisory services to public and private clients spanning multiple industries. With a globally connected network of member firms in more than 150 countries, Deloitte brings world-class capabilities and high-quality service to clients, delivering the insights they need to address their most complex business challenges. Deloitte has in the region of 225,000 professionals, all committed to becoming the standard of excellence.

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited, its member firms, or their related entities (collectively, the "Deloitte Network") is, by means of this communication, rendering professional advice or services. No entity in the Deloitte network shall be responsible for any loss whatsoever sustained by any person who relies on this communication.

© 2018. For information, contact Deloitte Belgium.

[Subscribe](#) | [Unsubscribe](#)