



## VAT alert Belgium

## New Union Customs Code: VAT impact in new guidance on exports

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*From 1 May 2016 until the end of 2020, the New Union Customs Code will gradually enter into force, impacting almost all businesses importing or exporting goods. The new Union Customs Code is written in such a way that only a company established in the customs territory of the Union can act as Exporter.*

*This new definition of exporter led to numerous discussions. Recently, the European Commission and the Belgian authorities provided more clarity.*

## Consequences for customs

As of 1 May 2016, the Customs Regulations require that a company is established in the customs territory of the Union to act as exporter.

Non-EU established companies aiming to export goods are obliged to appoint an indirect representative or authorise a third party to export the goods outside the EU.

If the non-EU established company appoints an indirect representative (mentioned in box 14 of the SAD), the latter will be the holder of the export procedure and should consequently be mentioned in Box 2 of the SAD. However, during a transitional period, the non-EU established company can still be mentioned in Box 2. This transitional period will presumably end with the introduction of the Automated Export System ('AES') planned for March 2019.

## Consequences for VAT

In order to exempt an export supply from VAT, the Belgian authorities require an export document indicating the person claiming the VAT exemption in box 2 of the export document. Under strict conditions, it was in some cases allowed to mention the customer of the person claiming the exemption in box 2, provided that the export document referred to the sales invoice in box 44.

As the customs definition of Exporter changes with the introduction of the UCC, the exporter of what is recorded in Box 2 of the SAD will, in a number of cases, no longer be the person claiming VAT exemption for export.

The Belgian VAT authorities have decided to make a distinction between the Exporter for customs purposes (based on the UCC definition) and the exporter for VAT purposes (the company claiming VAT exemption). The exporter for VAT purposes will have to be mentioned in Box 44 of the SAD (name and VAT number) while the exporter for customs purposes is mentioned in box 2 of the SAD.

The Belgian VAT authorities also emphasise that, with chain transactions (subsequent sales whereby the goods are directly shipped from the first supplier to the last customer), it is very important to determine the supply to which the transport outside the EU is linked; the VAT exemption for export can only be applied to this supply.

## Conclusion

For non-EU established companies planning to export goods from the EU, it will be necessary to appoint an indirect representative or to authorise a third party.

All companies that supply goods under the VAT exemption for exports will need to instruct their customs agents that their name and VAT number should be mentioned in box 44 of the export document.

## Contacts

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