

Customs Flash

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General edition, volume 9, number 3
30 January 2014

Proposal for a Directive on the customs infringements and sanctions - Update

Introduction

The enforcement of customs legislation currently lies within the ambit of 28 EU Member States' national law. In practice the EU Member States qualify customs infringements differently and also impose different types of sanctions because of the 28 different sets of legal rules and traditions. These differences result in different treatment of companies operating in the EU. Also the process of granting an AEO status could differ considering the criterion related to the absence of any customs infringements, the qualification of which could vary per Member State. In order to deal equally with the breaching of Union customs legislation and create a level playing field between economic operators, the European Commission has submitted a proposal for a new Directive. A link to this proposal can be found here: [Proposal / COM\(2013\) 884 final](#)

What does it entail?

The aim of the Directive is to provide for a common legal framework. In achieving this goal the proposal lists a number of customs infringements and also provides for the range of corresponding sanctions. The proposal distinguishes customs infringements that do not require any element of fault and customs infringements committed intentionally or by negligence. For example, the removal of goods from customs supervision or the failure of the holder of the inward processing procedure to discharge a customs procedure within the time limit constitute a customs infringement, irrespective of any element of fault. The sanction that may be imposed for these infringements is either 1% up to 5% of the value of the goods or in case the customs infringement is not related to specific goods from € 150 up to € 7,500. Another example is when the customs authorities are intentionally provided with false information. This shall constitute a customs infringement for which the sanction may vary between either 30% of the value of the goods or a fine up to € 45,500.

What does it mean for you?

The proposal may result in different qualifications of customs infringements and/or sanctions that are higher or lower than currently set forth in the national legislation Member States. Member States that now impose relatively low sanctions or have a limited number of customs infringements listed in their current legislation, may have to adjust their legislation to a higher standard. This increases the importance for companies operating in these Member States to be compliant and companies may need to reevaluate their (internal) procedures.

What to do?

Currently the proposal is still under discussion. Therefore, at the moment it is not certain if and when the proposal will be approved. Considering the potential impact that it may have on business we will monitor the progress and keep you updated on any new developments that may occur.

If you have any questions regarding this subject, please do not hesitate to contact us.

Contact

Any questions concerning the items in this publication? Please contact your usual tax consultant at Deloitte or:

- Klaas Winters, klwinters@deloitte.nl, +31 (0)88 288 2125
- Johan Hollebeek, jhollebeek@deloitte.nl, +31 (0)88 288 1992
- Fernand Rutten, frutten@deloitte.com, + 32 2 600 66 06
- Nick Moris, nmoris@deloitte.com, + 32 2 600 66 03
- Julien Pauwels, jpauwels@deloitte.com, +32 2 600 66 25
- Tom Verbrugge, tverbrugge@deloitte.com, + 32 2 600 66 20

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Wilhelminakade 1
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Netherlands

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