



Global Trade Advisory Alert

New exporter of record definition in the EU

On 16 May 2018, the European Commission (EC) amended and corrected the Delegated Act to the Union Customs Code (UCC). In addition to other relatively minor changes, the new regulation amended the definition of "exporter" to allow greater flexibility to 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.

Current definition of Exporter

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

1. be established in the customs territory of the Union;
2. hold a contract with a consignee in a third country;
- and
3. have the power to determine that the goods are taken outside the customs territory of the Union.

The EC felt that this description has been too restrictive and wanted to allow greater flexibility for business partners' designation of an individual as exporter for customs purposes.

New definition of exporter is less restrictive and provides greater flexibility

According to the EC, the new definition limits the conditions for being an exporter to the essential requirements for the function of the export procedure. 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 memorialize 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 disconnect 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.

Deloitte's Global Trade Advisory specialists are part of a global network of professionals who can provide specialized assistance to companies in global trade matters. Our professionals can help companies seeking to manage the impacts and potential impacts of the developments described above by supporting businesses in:

- carefully assessing whether the relaxed definition affects their operations, and
- verifying the VAT treatment of their export flows.

For more information, contact:

Global

Fernand Rutten
frutten@deloitte.com

Americas

Michele McGuire
mimcquire@deloitte.com

Asia-Pacific

Sarah Chin
sachin@deloitte.com

EMEA

Klaas Winters
klwinters@deloitte.nl



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



Consult the Global Trade Advisory Alert archive providing an overview of the latest alerts from the previous 12 months on deloitte.com



Read the monthly Global Indirect Tax Newsletter summarizing the latest developments for VAT, GST, sales tax, and global trade around the globe on deloitte.com

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms, and their related entities. DTTL (also referred to as “Deloitte Global”) and each of its member firms are legally separate and independent entities. DTTL does not provide services to clients. Please see www.deloitte.com/about to learn more.

Deloitte is a leading global provider of audit and assurance, consulting, financial advisory, risk advisory, tax and related services. Our network of member firms in more than 150 countries and territories serves four out of five Fortune Global 500® companies. Learn how Deloitte’s approximately 264,000 people make an impact that matters at www.deloitte.com.

This communication contains general information only, and none of DTTL, its member firms or their related entities (collectively, the “Deloitte network”) is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser. 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 Touche Tohmatsu Limited.

To no longer receive emails about this topic please send a return email to the sender with the word “Unsubscribe” in the subject line.