

Tax & Legal Weekly Alert

21-23 December 2015

Articles in this issue:

New Customs Code - Increased customs duties due to new Customs Valuation rules

Two of the most important changes concern the abolishment of the 'First Sale for Export' rule and the customs treatment of royalties. The customs value of imported products is likely to increase, leading to higher costs of goods sold.

The management of packaging waste

The recycling / recovery objectives regarding the packaging waste possible will not be reached in 2015 following the results of the latest controls by the Environment Fund Administration.

Draft methodological norms to the Fiscal Code

We inform you that on 18.12.2015 the draft Methodological Norms for the application of the Law 227/ 2016 regarding the Fiscal Code has been published on the website of the Ministry of Finance.

New Customs Code - Increased customs duties due to new Customs Valuation rules

With the new customs legislation, Union Customs Code (“UCC”), expected to enter into force as of May 2016, significant changes in the current customs valuation rules will rapidly be put into place.

‘First Sale for Export’ for Customs Value

The amount of customs duties owed is generally based on the customs value of the products concerned. Under the Community Customs Code, which is currently in force, the transaction value of any sale in the supply chain may be chosen for determining the customs value, provided that the goods are destined to be imported into the EU at that moment.

Based on the current proposed provision, it is likely that the transaction value of the goods to be determined based on the sale occurring immediately before the goods are entered into the EU. As the last sale usually has the highest transaction value, this will have a negative consequence for businesses that profit from the lower ‘First Sale’ transaction value.

‘Sunset Clause’

To limit the financial impact the new legislation will include a transitional measure which will allow companies to still use the ‘First Sale’ rule under the condition that there are contracts in place concluded prior to the UCC. This exception is only applicable until 31st December 2017.

Treatment of Royalties

Royalties are payments made for the use of rights related to know-how, trademarks, copyrights, patents, designs, etc. Current legislation states that Royalty payments should be added to the customs value in the event the buyer of the goods has to pay the Royalties as a condition of sale of the products.

Under the proposed legislation, it is likely that Royalties will be included in the customs value, as the UCC included an additional condition that they not only be a condition for sale, but also a condition for purchase.

What does it mean for you?

When your supply chain involves a chain of transactions, or when there is a separate payment of Royalties that is related to the imported product, the profitability of your products may be impacted significantly with the introduction of the UCC in 2016.

What do we advise?

If the abovementioned is applicable in your practice, we recommend you to analyse your supply chain in order to find an optimal set-up in order to minimize the impact of the upcoming changes.

For further questions regarding the aspects mentioned in this alert, please contact us.

Pieter Wessel
Partner
+40 21 2075 242
pwessel@deloittece.com

Mihai Petre
Senior Manager
+ 40 730 585 665
mipetre@deloittece.com

The management of packaging waste

Economic operators who are manufacturers and importers of packed goods must pay an annually contribution of 2 lei / kg for the difference between the amount of packaging waste corresponding minimum targets for recovery of the packaging waste and the quantities actually recovered for the packaging of the goods placed on the national market.

To achieve these objectives, economic operators are responsible for ensuring the management of the packaging waste which have become waste on the national territory either individually (for packaging waste resulting from the own goods placed on the national market), or through transferring of responsibility to an authorized economic operator.

In the past months, the EFA has conducted tax inspections both on economic operators who take responsibility for achieving the recovery and recycling target of the packaging waste as well as on the economic agents who place on the national market packaged goods.

The conclusion in most of the inspections was that the obligations relating to packaging waste were not fulfilled according to the legal provisions. The most frequent problem was that traceability of the waste until the final recoverer could not be proven.

What to do?

These issues related to the management of packaging waste may entail significant additional obligations in terms of the contribution to the Environment Fund.

In this regard we recommend companies to review their raw material/finished goods flows in terms of packaging and analyse the contracts with the economic operators authorized to take responsibility in the context of this years' multiple controls from the Environmental Fund Administration.

You should also be aware of the possible options for 2016 (individually or through transferring of responsibility) as it will have to communicate this decision to the EFA, no later than 25th of January.

For further questions regarding the aspects mentioned in this alert, please contact us.

Pieter Wessel

Partner
+40 21 2075 242
pwessel@deloittece.com

Mihai Petre

Senior Manager
+ 40 730 585 665
mipetre@deloittece.com



Draft methodological norms to the Fiscal Code

We inform you that on 18.12.2015 the draft Methodological Norms for the application of the Law 227/ 2016 regarding the Fiscal Code has been published on the website of the Ministry of Finance. The draft is now subject to public debate and can be found [at this link](#).

If you have any proposals or suggestions with respect to this draft of the Methodological Norms, you can submit them to the representatives of the Ministry using the email address: publicinfo@mfinante.ro.

For further questions regarding the aspects mentioned in this alert, please contact us.

Dan Bădin
Partner
+40 21 2075 392
dbadin@deloittece.com

Adrian Teampău
Senior Manager
+40 21 2075 483
ateampau@deloittece.com

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