

VAT deferment (Article 23)

The paying of the VAT can be moved from the time of import to the periodical declaration of taxes. The periodical declaration is in general monthly. The due VAT for the import will be mentioned at the declaration as payable. At the same time amounts will be subtracted as paid pre-taxes.

The customer must meet certain conditions to get this deferment.

- ? A particular amount of import declaration every month
- ? You must apply for a license at the tax department (the so-called article 23)
- ? The bookkeeping must meet certain demands

The European VAT system

Some new terms were introduced when the new European VAT system was brought into force, namely:

- Intra Communal Acquisition (ICV)

An ICV is the gaining of control to dispose of a product as an owner. In other words is this the buying of goods from another member country by an owner.

- Intra Communal Delivery (ICL)

An ICL is the delivery of goods to a customer in another EU country. In other words this is the selling of goods to a customer in another EU country.

- Intra Communal Transport

The transport of goods between two member countries.

- Fictive delivery / acquisition

Sending or receiving goods to/from a member country to another without something in return.

- Country of destination principle

Levy taxes in the country of purchase through the supplier, so the buyer pays the VAT to the treasury in his own country.

- Country of origin principle

Levy taxes in the country of purchase, so the buyer pays VAT to the treasury in the country of the supplier.

- Matching

The comparison of VAT declarations of the buyer and seller in different member countries.

There has not been any Customs supervision at the borders between EU member countries since 1 January 1993. Goods can be free transported between the member countries.

The consequences are:

- The VAT levy will be transferred to the administration of the buyer-seller. The seller sells the goods to an employer from another member country, the seller delivers against zero rate, the purchase is charged with VAT in the country of destination. The administration of the seller and buyer will be compared to a huge database. This VIES database (VAT Information Exchange System) contains all transactions in the EU. This way can be checked if the seller and buyer declare the same amount for VAT. If the seller cannot prove that the transaction is executed correctly, than will the tax department regard the delivery as internal and they will levy Netherlands VAT.

- One can only do business with employers of who one knows all data as well as the ID number (VAT number). There is a database in the Netherlands that contains all ID numbers in the EU. A company can give up the name and ID number of his client after which the outcome follows. The outcome is positive or negative and no additional data will be given (to prevent fraud). The outcome is given in writing.

- Exceptions on the VAT system (pay VAT in the country of destination) are in case of purchasing/selling of:

- 1) Private owned companies
- 2) Tell-selling
- 3) Cars
- 4) Equals (private owned as farmers, hospitals, government)

- Since 1 January 1993 are the transportation costs and all additional costs as transaction, unloading, repacking etc. charged with VAT. This only applies for free goods, not for Customs goods (are 0%).

- Since 1 January 1993 are also taken some administrative obligations into force.

- 1) Registration
- 2) Statistics / intrastate
- 3) Listings
- 4) Registers

Registration

Every taxpayer with rights to deduction of VAT gets an ID number for VAT. The ID number has a certain layout, every Netherlands ID number begins with NL.

Statistics / intrastat

Companies who deliver or purchase goods within the EU on a regular base must provide the Central Bureau of Statistics (CBS) of statistical data. In the past were these data send by the Customs to the CBS (by the statistics copy of the Enig Document) but since within the EU free goods does not have to be cleared through Customs anymore, this does not happen anymore.

The companies in The Netherlands must issue their Intrastat declarations themselves. As this is specialist work (as clearing through Customs) and the fact that it involves much administrative bother, many companies outsource the intrastat declarations. Many logistics service providers provide these services.

Listings

Every taxpayer must submit a list of all buyers to whom he has conducted Intra-Communal Delivery every quarter. This list must contain e.g.:

- The own ID number.
- The ID number of the buyers from other member countries (to whom is delivered the last quarter).
- The value of the goods stating the buyer (with his ID number) from the other member country.

Report of revision as price reduction afterwards and cancellations.

- Certain type of companies do not have to meet the listing obligations.
- The listings will be saved in the VIES database and so can the tax department check if both the buyer and the seller make (the right) report. This checking is called "matching", when the amounts of the buyer and seller do not meet it is a "mismatch".

Registers

Every employer must keep lists of goods that are sent between two member countries without ICL/ICV. This can be material for the executing of work in another member country (service mechanics etc.).

VAT on services

VAT on services has had the biggest influence on the operations. In the past could everything be settled under the zero rate, nowadays must the VAT rules be taken into consideration.

Exempted of VAT (zero rate) are:

- Services with regard to goods that have not been imported yet (T1 goods).
- Services with regard to goods that will be exported from the EU.

Prove the zero rate

The supplier who applies the zero rate in connection with an ICL must prove that the goods were shipped to another member country on the basis of the so-called "books and documents". This is not always easy because documents do not have to be made for transport to member countries.

For proving transport to another member country is not absolute proof necessary. It is necessary to prove that all precautions are taken to make sure that the goods have left The Netherlands and are delivered at their destination. For this all evidence must be kept.

Books and documents

This is not further described in the law. These are all documents that have been made up under the terms of the international trade transport. Examples to prove the transport to other member countries are:

- CMR / Airway bill
- Orders
- Copies of invoices
- Signed statement of the buyer that the goods have been delivered
- Correspondence with the buyer

It is of great importance for proving the zero rate that the administration is kept well. Otherwise the tax department may levy sales tax.

Fiscal representative

A company without an establishment in The Netherlands can appoint a fiscal representative. A fiscal representative works for a foreign company and deals with all his VAT obligations (VAT declarations, listing and the paying of VAT). There are two types of fiscal representatives, namely limited and general.

The limited fiscal representative

A limited fiscal representative acts on behalf of a foreign company to import the goods and the following deliveries. This means in practice the importing from outside the EU en the delivery through to an employer in The Netherlands or another member country.

The general fiscal representative

The general fiscal representative acts on behalf of a foreign company for all deliveries for which tax must be paid, the intra communal acquisition and the import.

For both types of fiscal representative is a license needed and also a statement of the customer in which the fiscal representative is appointed officially.