

Excise Duties in EU Trade

Overview

Excise duty applies to certain goods, including alcohol, tobacco and hydrocarbon oil. Excise duty is charged on these goods when they are imported into the UK for commercial purposes whether they are acquired from within the EU or otherwise. Excise duty on most excise goods is based on the quantity of the product, rather than its value. Some exceptions include alcohol duty which is based on the amount of alcohol and cigarettes, where part of the duty is based on retail value.

European Union excise laws differ from State to State. It is a national tax. Each EU country may charge its own rates of excise duty. The rules for charging duty are set out in EU Directives. Some member states have higher excise duties than others.

Excisable goods require an accompanying administrative document. Excise duty must normally be accounted for immediately upon arrival of the excisable goods into the European Union State of destination or upon the manufacture of the goods. However, there are procedures available to suspend the payment of duty.

Duty Suspension

Excise goods dispatched to the UK from another EU state under duty suspension can be received in the UK by:

- a registered excise dealer and shipper;
- an occasional importer;
- an excise warehouse approved to receive the goods

Importers of excise goods must be registered with the relevant custom authorities as shippers, dealers or warehouse keepers.

Excise duty suspension allows goods which are liable to excise duties to be held duty free pending release. Excise goods may be held in duty suspension in an excise warehouse. An excise warehouse must be approved by the HMRC. The occupier must be approved and registered as an authorised warehouse keeper.

Authorised warehouse keepers must take steps to ensure proper control and accounting for the goods. They are obliged to give guarantees in respect of movements of excise suspended goods. Duty is chargeable if excise goods legally or illegally leave any duty suspension system.

Duty paid on excise goods at a warehouse which are intended for export may be eligible for drawback. This is a system of repayment of excise duty already paid on goods that are not ultimately consumed in the UK.

Dealers, Shippers and Occasional Importers

Registered excise dealers and shippers (REDS) are Revenue approved traders to receive excise goods from other European Union member states. REDS must account for UK duty when the goods are received by the importer on whose behalf they are acting. REDS are not permitted to hold dispatched goods under duty suspension.

If goods are acquired commercially from other EU states infrequently or on a one off basis, it may be possible to be classified as an occasional importer. Occasional importers must apply to HMRC for individual approval of each consignment of excise goods they receive.

Movement of Duty Suspended Goods

Transferring excise goods between authorised warehouses is the most common method of transferring such goods across the European Union. This defers tax until they are ready for consumption.

The movement of excise suspended goods must be accompanied by an accompanying administrative document or a commercial document with equivalent information. The European Commission is working towards computerising the system in order to reduce paperwork. The new excise movement and control system is expected to be fully operational by mid-2009.

Goods dispatched between tax warehouses in one EU member state to another duty suspension must be accompanied by an Single Administrative Document. The recipient of duty suspension goods within the EU must enter the goods into an approved warehouse and provide the consignor with a certificate of receipt.

Excise goods moving between approved UK warehouses in duty suspension must be accompanied by a form W8. Excise duties must be covered by financial security. The movement guarantees must be provided by either the dispatching warehouse keeper transport or the owner of the goods.

Administration

Importers of excise goods from countries outside the EU may complete a Single Administrative Document at the place of importation requesting that the goods be entered into excise duty suspension. The excise goods are moved from place of importation to an approved excise warehouse. The SAD is also used to declare the goods for free circulation at which point duty and tax become payable.

Operators of approved excise warehouses must submit excise warehouse returns. This involves submitting details of stock, owners of goods movements, outstanding AADs, and other documents. A return must be completed and submitted for each individual warehouse on a monthly basis.

When excise goods are released from a warehouse for consumption, the excise duty must be paid. Forms W5 for alcoholic products and W6 for tobacco products must be submitted to HMRC to account for the duty together with remittance. Under the excise payment security scheme, it is possible to apply for authorisation to reduce

the level of security required to cover the payment of excise duty. Certain eligibility and authorisation criteria apply.

Distance Sales and Occasional Imports

Distance selling is the supply and delivery of duty paid excised goods directly to private individuals as well as businesses who do not have to register for VAT in another EU member state. The most common examples are mail order transactions. The vendor is responsible for paying the excise duty directly to the authorities in that member state at the time of delivery.

The excise duty must be guaranteed to the satisfaction of the fiscal authority in the member state of destination. Under distance sales to a private individual, the supply must be made duty paid. The vendor must appoint a UK representative who will account for all goods arriving in the UK by way of distance selling.

This Guide is intended as an overview and broad outline of the matters covered in it. Its purpose is to inform and raise awareness. We are happy to offer specific legal advice on particular circumstances. This Guide should not be relied on as a substitute for comprehensive legal advice with reference to the particular circumstances.

While we have taken care in the preparation of this publication, we do not accept legal liability as a result of any reliance placed on anything in this Guide. The reader should rely only on specific legal or taxation advice.