

## Importing into the European Union

### Overview

Customs Duties are taxes on the import of goods. They are one of the oldest forms of taxation. Prior to joining the European Union, Ireland and the UK each had their own separate customs duties which applied on imports into each country. On joining the European Economic Community in 1973, Ireland and the UK abolished their own customs duties.

The European Economic Community and the European Union into which it evolved, is a customs union. There are no custom duties on good passing between European Union Member States. Custom duties arise when goods are imported into the European Union or when they are released into free circulation from a customs control process.

### Customs Administration and Procedure

The creation of the European Customs territory led to consolidation of the Customs Code and its implementing regulations. The Customs Code and Tariff applies as direct legislation in all EU Member States. Breach of customs law constitutes a criminal offence. Significant penalties can apply. Revenue can seize and forfeit offending goods under certain circumstances.

In the case of imports from outside the European Union, it is necessary to make an Import Declaration to customs. Customs duty and import VAT must be paid. Excise duty may also apply. Certain duty suspensions or relief may be available which are mentioned below. There may also be also restrictions on imports such as quotas and other controls.

Imports from outside the European Union are declared by way of the Single Administrative Document. This can be submitted electronically through the CHIEF system or manually. To make the declaration correctly, it is necessary to identify the goods from the Customs Tariffs.

The declaration explains what is happening with the goods e.g. where they are being purchased, brought into free circulation or are being brought in for a temporary period etc. The commodity code determines the rate and type of customs duty that is charged. An agent such as a freight forwarder, frequently makes the customs declaration on behalf of the importer. A freight forwarder can obtain authorisation to make electronic declarations, thereby speeding up the process.

## **Charge of Duty and Tax**

Imports may be liable to customs duty depending on their classification and where they come from. They may also be liable to additional duties such as anti-dumping duties. Reduced or zero rate of customs duty may apply to some countries, although they may be limited to a quota. Documentary proof is usually required as to where the imports originate from.

Goods are not normally released by the Revenue Authorities until all charges have been paid. However, there are arrangements under which payment can be deferred.

VAT is charged on goods imported from outside the European Union. This is charged at the same rate as if it is supplied domestically. VAT registered businesses can reclaim VAT as an input tax in the same way as VAT is paid on domestic purchases. Instead of paying VAT to the supplier, VAT is paid to the Revenue. Goods such as tobacco and alcohol are subject to excise duty. See our separate note in relation to these products.

## **The EU Common Customs Tariff**

The European Unions Common Customs Tariff sets out the rules and the rates of duty applicable to imports into the European Union. The EU Common Customs tariff is a three volume guide setting out custom duties and other relevant information applicable to the import and export of goods. It enables importers and exporters to comply with their legal obligations.

Volume 1 of the tariff sets out a range of general information for importers and exporters including restrictions, VAT relief schemes and anti dumping duties.

Volume 2 sets out the commodity codes for each type of product. It contains thousands of commodity codes. It lists duty rates and important information such as import licensing and preferential duties applicable to the goods. This is a 10 digit reference number for imports and an 8 digit code for consignments trading within the EU. With the correct commodity code, the tariff can be used to ascertain the current duty and import VAT rate. The tariff will also specify whether a licence is required.

Volume 3 sets out customs procedures. It explains how to complete the relevant documentation for importing and exporting.

The UK version of the Common Customs Tariff is the HMRC "Integrated Tariff of the United Kingdom".

## **Commodity Codes and Classification**

All goods have been given classification numbers. Goods are given different classifications based on what they are, according to their constituent parts and class. The tariff is divided into chapters, sub-headings and commodity codes. Classifying goods can be a complex process involving a number of steps. All goods must be classified under a tariff heading and commodity code.

The tariff incorporates the harmonised system developed by the World Customs Organisation. It adopts European statistical naming conventions. The correct commodity codes are necessary to fill out customs paper work. The commodity code

is an eight digit code. The commodity code must be declared under both the simplified procedures and the SAD procedure.

The commodity code identifies the goods under the Common Custom Tariff. It allows the customs to apply appropriate controls on exportation and apply the correct rates of duty on importation. Commodity codes are held in a database called the Taric (Tariff Intégré Communautaire.- the integrated Community tariff). These are updated daily and provide common standards and treatment throughout the EU. The commodity codes cover 98% of the types of merchandise in over 5,000 commodity groups and is available on line. The tariff is updated on a monthly basis by the European Union.

There are a number of rules for interpretation of the tariff. They determine how the tariff is used to establish a heading for a particular type of good. Where goods fall into two categories the most specific description takes precedence over a general description. A description by name is more specific than a description by class. Goods comprising of component parts are classified according to the material or component that gives their essential character.

There are notes on classification for incomplete or unfinished articles which have the essential character of a finished article and for mixtures or combinations of mixtures. The substance or material of the good is the determining factor in deciding its essential character.

It is possible to have goods certified under the tariff in a binding way. It is possible to apply to HMRC for a Binding Tariff Information (BTI). This decision on the classification is binding for 6 years.

## **Tariff Information**

The tariff will set out the following in respect of each commodity.

- The customs procedure associated with the classification will be set out;

- The duty rates applicable to particular goods. This will be a percentage calculated on value;
- Preferential rates of duty, where applicable, will be specified.
- Anti dumping duties that may apply. A business can be liable for anti duty charges under an anti dumping duty.
- Quotas which may apply.

The commodity code must be entered on the single administrative document.

## **Anti-Dumping**

An anti-dumping levy or countervailing duty is a duty levied on goods from outside EU to protect the EU trade. Anti-dumping duty may be imposed if goods are being dumped below commercial value in the EU. Countervailing duties can apply to imports that have been subsidised in the exporting country.

Traders may complain to the EU, who investigate dumping and may impose countervailing subsidies. The rate of duty applicable may depend on the origin.

## **Postal Movements**

Customs laws apply to postal movements. Goods, other than certain restricted goods, may be exported by parcel without being entered for customs. The customs declaration is made at the post office. The postal dispatch documentation is to be affixed to the package and must be accompanied by the appropriate supporting documents. There are simplified versions of the SAD for postal dispatches.

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*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.*

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