



**CLUSTER  
FOR  
LOGISTICS**

LUXEMBOURG

ADDING VALUE IS THE KEY.

Logistics Information Day : Exploring Recent  
Changes in Import, Export and VAT Regulation

6<sup>th</sup> May 2024

# VAT Pitfalls in the Logistics Sector



VAT SOLUTIONS

# Logistic sector – where are the VAT pitfalls ?

The importance of customs declarations  
and transport documents for VAT

**SHOULD NOT BE UNDERESTIMATED !**



# Logistic sector – where are the VAT pitfalls ?

## **'TRANSPORT' DOCUMENTS AND INVOICES**

↳ Support intracommunity VAT exemption

Art.43.1.d)i)  
Lux VAT Law

↳ Goods supplied to another VAT taxable person **from Luxembourg to another EU member state** are VAT exempt

Art.45bis  
Regulation  
282/2011

Circular 799  
Lux VAT

↳ The **vendor shall be in possession of at least two pieces of evidence** proving that the goods left the Luxembourg territory, among which the transport documents (CMR, Airwaybils, bill of lading, etc.) are enumerated

➔ **The vendor must hold and retain the transport documents !**



# Logistic sector – where are the VAT pitfalls ?

## **IMPORT CUSTOMS DECLARATIONS**

↳ Support the computation of import VAT due

Art.34  
Lux VAT Law

▶ Taxable basis for importation of goods is the customs value  
Additional costs shall be added if not already included (e.g. customs duties, transport costs up to first place of destination in the EU, etc.)

➔ The importer of record, liable for VAT, must hold and retain the import customs declaration that should enable him to correctly compute the import VAT taxable basis



# Logistic sector – where are the VAT pitfalls ?

## IMPORT CUSTOMS DECLARATIONS

↳ Support the import VAT deduction right

Art.48.3.c)  
Lux VAT Law

▶ To be entitled to exercise its VAT deduction right, the VAT taxable person shall hold a document that confirms the importation, designating him as consignee or importer of record and mentioning the amount of VAT due, or allowing its computation

→ To exercise his VAT deduction right, the importer of record must hold and retain the customs declaration including sufficient level of information



# Logistic sector – where are the VAT pitfalls ?

## **EXPORT' CUSTOMS DECLARATIONS**



Support export VAT exemptions

Art.43.1.a).  
43.1.b)  
Lux VAT Law



Sale of goods supplied from **Luxembourg** to **non-EU** countries are VAT exempt

Art.11  
GDR 16/6/99

Circular 679  
Lux VAT



The **vendor shall prove the reality** of export by holding a **customs declaration** proving that the export customs formalities were dully fulfilled

➔ **The vendor must hold and retain the export customs declaration !**



# Logistic sector – where are the VAT pitfalls ?

Art.65.4.2)  
Lux VAT Law

Documents whose retention is required by the Law or its implementing provisions shall be kept during 10 years

Art.81  
Lux VAT Law

A VAT audit may be carried out during 5 years after the 31st December of the year during which the taxable event took place

➔ **The vendor must retain transport & customs documents during 10 years !**



# Logistic sector – where are the VAT pitfalls ?

**TRANSPORT DOCUMENTS**

**IMPORT CUSTOMS DECLARATIONS**

**EXPORT CUSTOMS DECLARATIONS**

## Carriers

- Do you systematically provide proofs of transport/customs declarations to your clients ?
- How long do the proof of transport/customs declarations remain available in your system ?
- Is there a clear link with the sale/purchase invoice of your client ?

## Clients they serve

- Who receives or collects the proofs of transport/customs declarations ?
- How long are the proof of transport/customs declarations retained ? By who ?
- Is there a satisfactory link with your sale/purchase invoice ?

- Anything agreed about transport documents/customs declarations in your services agreement?





# Logistic sector – where are the VAT pitfalls ?

The conditions to exempt import/export services

**SHOULD NOT BE UNDERESTIMATED !**



# Logistic sector – where are the VAT pitfalls ?

## PLACE OF TAXATION OF 'TRANSPORT' SERVICES

Art.17.1.b)  
Lux VAT Law

Services supplied to another VAT taxable person are taxable where the recipient of the services has established his business

Art.18  
Regulation  
282/2011

An EU customer may be regarded as a VAT taxable person where the customer has communicated his VAT number, and the supplier obtains confirmation of the validity of the VAT number and of the associated name and address

→ Do not underestimate the importance of your KYC process for VAT !



# Logistic sector – where are the VAT pitfalls ?

## VAT EXEMPTION OF IMPORT SERVICES

Art.43.1.o  
Lux VAT Law

The supply of services, including transport and ancillary operations (...), relating to the importation of goods, placed under one of the customs procedures provided for by Community regulations in force, and carried out up to the first place of destination of these goods *[are VAT exempt]*, insofar as the cost of these services is to be included in the taxable amount *[for the determination of import VAT]*

EUCJ  
7/9/23  
C-461/21

the supply of carriage services is exempt (...) where, first, they relate to the importation of goods and, second, **the value of that carriage is included in the taxable amount for VAT purposes** of the imported goods. In order to benefit from the exemption, it is therefore for the **provider to provide the competent tax authorities with evidence** that the carriage transaction in question satisfies those two substantive conditions for exemption from VAT

→ VAT exemption of import services applies if the services were effectively included into the taxable basis for import VAT and the carrier can evidence this fact



# Logistic sector – where are the VAT pitfalls ?

## VAT EXEMPTION OF EXPORT SERVICES

Art.43.1.n  
Lux VAT Law

▶ the supply of services, including transport and ancillary operations (...) *[are VAT exempt]*, where they are directly linked to the export of goods placed under one of the customs procedures provided for in current Community regulations

EUCJ  
29/6/17  
C-288/16

▶ the exemption laid down in that provision **does not apply** to a supply of services (...) relating to a transaction consisting in the transport of goods to a third country, **where those services are not provided directly to the consignor or the consignee of those goods**

➔ VAT exemption of export services apply if the services are provided directly to the consignor or consignee of those goods



# Questions ?



# Don't hesitate – Continue learning with us !



## Tailor-made trainings

**VAT:** VAT for logistics, second-hand goods, VAT returns, etc.

**Customs:** introduction, tariff classification, Incoterms, etc.



## Advices

VAT processing of complex operations in Luxembourg and abroad

Helpline



## VAT returns

In Luxembourg

Abroad



## Sector specialisation

[E-commerce](#)

[Supply Chain](#)





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