Simplify Your VAT When Selling B2C Via The Netherlands: Defer Your Import VAT And Register For OSS

If you import via the Netherlands, you can take advantage of the import VAT deferment (also known as "the reverse charge").

Appointing a fiscal representative is required if a non-Dutch business wants to take advantage of the import VAT deferral.

In certain conditions, appointing a fiscal representative is obligatory. For example, if a non-EU business effects EU distance sales in the Netherlands, then appointing a general fiscal representative is required.

The One-Stop-Shop (OSS) registration provides an opportunity to ease the administrative burden of businesses falling in scope of the distance selling rules in effect from 1 July 2021.

Those businesses are not required to VAT register in each of the EU country of their customers if they opt for OSS.

Background

In most of EU countries acting as an Importer of Record means that you will have to register for VAT, charge VAT on sales and submit VAT returns.

Customs duty

Customs duty is levied across the EU at the place where goods are cleared into 'free circulation' in the EU. Once duty (if applicable) and VAT has been paid by the importer, the goods are in free circulation and they can then be released for use in the EU market. Unlike other indirect taxes, such as VAT, once customs duty has been paid it is not recoverable by the importer.

Import VAT will be due, even if customs duties are not payable.

VAT

Most goods imported into the Netherlands from outside the EU are subject to VAT. The VAT will have to be paid by the importer at the time of clearing goods into the EU. Where the importation is for business purposes, then the importer may be able to reclaim the tax (subject to certain rules). However, it is possible to postpone payment of import VAT to the periodic VAT return, hence no cash-flow occurs (referred to as an "import VAT deferment" or "the reverse charge VAT on import").

Import VAT deferral

The import VAT deferral means obtaining a cash flow advantage when importing goods by reporting payable and deductible import VAT on the VAT return rather than paying import VAT on the border when goods are cleared into free circulation in the EU and deducting this VAT on the Dutch VAT return later.

A taxable person not established in the Netherlands (a "non-resident") will not be able to shift the import VAT to the VAT return unless it appoints a fiscal representative.

Article 33a of the VAT Act offers non-resident taxable persons (taxable persons not established in the

Netherlands (i.e. not having a business establishment or a fixed establishment in the Netherlands)) an opportunity to appoint a fiscal representative in relation to their VAT obligations.

In certain conditions, a fiscal representative is obligatory. For example, if a non-EU business effects EU distance sales in the Netherlands, then appointing a general fiscal representative is required.

How can a non-Dutch business defer import VAT?

Appointing a fiscal representative is required if a non-Dutch business wants to apply the reverse charge VAT on import (i.e. to obtain an import VAT deferral (article 23) license).

Import VAT deferral for non-Dutch businesses

A non-resident can either appoint a limited fiscal representative or a general fiscal representative for the import of goods in the Netherlands. A limited fiscal representative can be used only for reporting the importation of the goods and a subsequent B2B supply. If the non-resident appoints a limited fiscal representative, it does not need to be registered for VAT purposes in the Netherlands itself. When a general fiscal representative is appointed, it can report all purchases and supplies of a non-resident but the non-resident should be registered for VAT in the Netherlands itself.

The advantage of appointing a general fiscal representative as opposed to a limited fiscal representative is that not only an importation of the goods and a certain subsequent B2B supply but also intracommunity acquisitions and domestic purchases as well as EU distance sales can be reported by the general fiscal representative.

General license

A fiscal representative with a general license acts on behalf of a non-resident taxable person with respect to all his supplies of goods and services for which Dutch VAT is due, intra- Community acquisitions and importation of products, unless a fiscal representative with a limited license is appointed for those transactions. A non-resident taxable person may use the services of only one general fiscal representative. If a non-resident business has appointed a Dutch fiscal representative with a general license, the representative's VAT identification number, full name and address need to be indicated on the invoices raised by the non-resident company.

Special rules for B2C supplies

Dutch local sales

When a non-Dutch business sells goods to private individuals located in the Netherlands from the stock located in the Netherlands, then:

- the supplier becomes liable to register for VAT in the Netherlands;
- the Netherlands becomes the place of supply; and
- Dutch VAT should be charged on the sales.

EU distance sales

Special requirements apply to businesses involved with so-called distance sales made within the EU, e.g. mail order and internet sales.

Registration for VAT in the Netherlands may be required where a non-established business is involved with distance selling via the Netherlands.

Distance selling occurs when a taxable supplier supplies and delivers goods from one EU country to a customer in another EU country who is not registered or liable to be registered for VAT. Such customers are known as non-taxable persons, and include private individuals and businesses and other organizations that are not registered for VAT (either because of their size, or the fact that they are exempt from having to register due to the nature of their activities). The common examples of distance sales are goods supplied by mail order and via the internet.

From 1 July 2021, the country-by-country thresholds of either €35,000 or €100,000 set by each EU country for distance selling within EU have been replaced with a single pan-EU threshold of €10,000. This threshold applies to the total cross-border sales by the business across the EU (and NI) and not, as previously, on a country-by-country basis. No threshold applies for businesses who are not established in the EU or the Northern Ireland (NI) who have to register immediately when performing distance sales within the EU.

This means that when an EU/NI business (who has cross-border pan-European sales above the threshold of €10,000) or a non-EU businesses (no threshold applies) sells goods to the non-VAT registered customers located in the EU via the Netherlands (e.g. from a stock located in the Netherlands), then the supplier becomes liable to register for VAT in all EU MSs where it has customers.

OSS registration possible

Alternatively, the business could opt for online One Stop Shop (OSS). To ease the administrative burden of businesses having to register in each EU member state where they have customers, there is a new opt-in online One Stop Shop (OSS) quarterly VAT reporting and payment system. This means that businesses falling in scope of the new distance selling rules in effect from 1 July 2021 are not required to VAT register in each of the EU country of their customers if they opt for OSS.

However, the OSS cannot be used to report local sales or intra-Community deliveries for which local Dutch VAT registration is still required. Any sales to customers in the Netherlands are subject to Dutch VAT and should be reported in the Dutch VAT return.

Grant Thornton's international indirect tax team and digital advisory team can assist you in your VAT refund claims as well as in any other VAT / customs matters, compliance and update of your systems and processes. Please contact us if you would like to discuss your options and possibilities.

Contact

Do you have questions or do you need more detailed information? Please do not hesitate to contact us.

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