

# Possibilities to optimize your Dutch VAT if you are in B2B trade

The Netherlands has a number of practical solutions to minimize your compliance burden and optimize your VAT cash flow if you are in B2B trade.

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.

By applying the reverse charge on import considerably improves the cash flow position, especially if you are in B2B trade:

- Your VAT position with appointing a fiscal representative as a rule is nil.
- Your VAT position without appointing a fiscal representative: as a rule, you are in a VAT refund position because VAT should be paid upfront.

## 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 importation. 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

Depending on the type of goods this import VAT deferment is either obligatory (if certain raw materials are imported) or the importer can make use of a special deferment license (“an Article 23 license”).

Dutch legal entities and fixed establishments can apply for an Article 23 license to import goods from non-EU countries. With this license, importers avoid payment of VAT at the time of importation. The import VAT is shifted to the VAT return instead.

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 he appoints a fiscal representative.

### When is a Fiscal Representative obligatory for non-residents?

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 fixed establishment in the Netherlands) the opportunity to

appoint a fiscal representative in relation to their VAT obligations.

In certain conditions, a fiscal representative is obligatory. If a non-Dutch business sells the goods in a certain bonded warehouse in the Netherlands, then appointing a general fiscal representative is required. Appointing a fiscal representative is also required if a non-EU business effects EU distance sales in the Netherlands.

## How can a non-Dutch business defer import VAT?

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

### Import VAT deferral for non-Dutch businesses

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

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 and all other 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 entrepreneur may use the services of a general fiscal representative only after registering for VAT himself. A non-resident taxable person may use the services of only one general fiscal representative. If a non-resident company 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.

### Limited license

A fiscal representative with a limited license can represent a non-resident taxable person for a limited number of transactions. According to article 24c(5a) of the Dutch VAT Implementing Order, as a general rule, a fiscal representative with a limited license may act as such with respect to:

- the importation of products into the territory of the Netherlands and the subsequent supply of the goods
- the supply of goods subject to the zero rate according to Table II(a)(7) and (8) of the Dutch VAT Act (excise and bulk products)
- export and intra-Community supplies subject to the zero rate according to Table II(a)(2) or (a)(6) of the VAT Act.

A non-resident taxable person, using the professional services of a fiscal representative with a limited license is not required to register for VAT himself. He can use the VAT identification number of the limited representative. When making intra-Community transactions, the VAT identification number of the representative must be indicated on the invoice.

The limited fiscal representative is jointly and severally liable for the VAT due on the transactions for which he operates as a limited VAT representative. He is also required to provide a bond (cash or bank guarantee).

## VAT treatment of B2B sales of imported goods

If you only sell to Dutch customers or businesses registered for VAT in other EU countries, then:

- To a Dutch customer: VAT is subject to the reverse charge in the Netherlands.
- To another business with a delivery to another EU country: Intra-EU Supply subject to 0% VAT.
- Your VAT position in case of appointing a fiscal representative: as a rule is nil.
- Your VAT position without appointing a fiscal representative: as a rule, you are in a VAT refund position because VAT should be paid upfront on imports when the goods are released.

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



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**Contact**

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

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