



The new Union Customs Code

Key changes

The Union Customs Code (UCC) is being introduced across the European Union with effect from 1 May 2016. There will be a number of fundamental changes as to how goods cross EU borders, which raise a number of issues for businesses importing goods into the EU.

What is new?

Under the new UCC rules, there will be a number of key changes. These include:

- the removal of first sale provisions relating to valuation
- significant changes to royalties and licence fees for IP and other intangible rights
- the introduction of trademark royalties
- mandatory guarantees for most special procedures and temporary storage
- the potential need to have Authorised Economic Operator (AEO) status in order to benefit from certain customs simplifications and reliefs.

“First sale for export” rule abolished

Under current EU rules, importers may use the so called “first sale for export” customs value ie, provided certain conditions are met they can use the value of an earlier sale in the supply chain as the customs value.

Under the new rules, the EU definition of “transaction value” for import will only allow “one sale”, (also referred to as the “last sale”) as the basis for establishing the customs value. From 1 May 2016, importers must use the value of the sale occurring “immediately before the goods are brought into the territory of the

EU”. This means that the first sale for export rule can no longer be used.

To allow businesses time to align their business model and/or supply chain to the new rules the UCC contains a transitional period (a sunset clause). The sunset clause permits companies bound by a binding contract to use the first sale until 31 December 2017 provided the contract refers to an earlier sales value being used as the basis for the customs value for the goods imported into the EU.

Royalties and licence fees

Royalties and licence fees will continue to be treated as dutiable only where the payment is a condition of sale of the respective products. However, the circumstances where a payment will be considered a “condition of sale” have broadened under the new rules.

Under the new rules, all royalty payments will be dutiable irrespective of the relationship between the manufacturer and third party licensors. If a buyer cannot purchase the goods without the payment of the royalties or licence fees then this is considered a condition of sale of the goods and included in the customs value.

Any comments or queries?

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These changes will have a considerable financial impact on businesses which pay a high amount of royalties and/or the products imported into the EU attract a high duty rate.

Trademark royalties under the UCC

Under the current rules, trademarks are not dutiable if the buyer of the goods is free to source its product from a seller it chooses. Many businesses make use of this exemption. However, this will be abolished from 1 May 2016.

Under the UCC, businesses importing goods into the EU and paying trademark royalties in connection to those goods will be subject to the same rules as royalties and licence fees (as described above). Any business currently importing products for which trademark royalties are paid will be affected by this change.

Guarantees

Under the current rules, Member States have discretion to decide when a guarantee is, or is not, required, but under the UCC this will change. From 1 May 2016, there will be some circumstances where the provision of a guarantee is mandatory.

Under the UCC, businesses will need a guarantee for authorisations to operate certain procedures eg IP, outward processing, temporary admissions, customs warehousing. The level of guarantee shall be based on a reference amount and must be sufficient at all times.

Authorised Economic Operator status and criteria

Under the UCC, importers and exporters using, or intending to use, simplified customs

procedures (such as inward processing relief, temporary storage or community transit) will need to fulfil AEO criteria, or face the prospect of having provided financial guarantees to cover the VAT and duty suspended under those schemes.

Under the new rules, the status of AEO will be granted by authorisation, rather than a certificate, and new conditions and criteria (relating to practice standards and professional qualifications) will apply to obtain AEO status.

To allow for the transition, AEO authorisation holders will be reassessed using the new AEO criteria by 30 April 2019. The reassessment will focus on difficulties encountered during the original AEO authorisation process and the ability to meet the new criteria.

How will these changes affect your business?

The UCC and its implementing acts, will have a significant impact on businesses importing goods into the EU.

Any businesses who consider they may be affected by the changes should review their contracts and consider the impact these changes may have on their customs duty costs.

Please do not hesitate to contact us should you have any queries or wish to discuss the UCC further.

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