

According to Paragraph 2 of Article 11 of the Financial Administration Act (Official Gazette of the Republic of Slovenia No 25/14), Paragraph 3 of Article 41 of the Act on the Organisation and Job Classification in the Financial Administration of the Republic of Slovenia No 010-33/2014-1 of 16 July 2014 and Paragraph 2 of Article 13 of the Tax Procedure Act (Official Gazette of the Republic of Slovenia No 13/11, 32/12, 94/12, 101/13, 111/13, 25/14, 40/14, 90/14 and 91/15), I hereby release

THE INSTRUCTIONS ON THE FORMALITIES RELATING TO THE PAYMENT OF VAT ON IMPORTATION No 13/2016

1. These instructions set out formalities relating to the payment of VAT on importation when VAT is paid as an import duty and when it is paid on the basis of the VAT return.

Legal basis

2. These instructions are based on:
 - Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10. 10. 2013; with all amendments; hereinafter referred to as the UCC);
 - Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code (OJ L 343, 29.12.2015; with all amendments; hereinafter referred to as the DA);
 - Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ L 343, 29.12.2015; with all amendments; hereinafter referred to as the IA);
 - Commission Delegated Regulation (EU) 2016/341 of 17 December 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards transitional rules for certain provisions of the Union Customs Code where the relevant electronic systems are not yet operational and amending Delegated Regulation (EU) 2015/2446 (OJ L 69, 15.3.2016; hereinafter referred to as the TDA);
 - Rules on the completion of the single administrative document, electronic cooperation with the Financial Administration of the Republic of Slovenia and on other forms used for the performance of customs procedures (Official Gazette of the Republic of Slovenia No 98/15; with all amendments; hereinafter referred to as: the SAD Rules);
 - The Value Added Tax Act (Official Gazette of the Republic of Slovenia No 13/11 – official consolidated text; with all amendments; hereinafter referred to as ZDDV-1);
 - Rules on the implementation of the Value Added Tax Act (Official Gazette of the Republic of Slovenia No 141/06; with all amendments; hereinafter referred to as PZDDV);
 - Tax Procedure Act (Official Gazette of the Republic of Slovenia No 13/11; with all amendments; hereinafter referred to as ZDavP-2);
 - Act Implementing the Customs Legislation of the European Union (Official Gazette of the Republic of Slovenia No 32/16).

DEFINITION OF TERMS

3. The below mentioned terms used in these instructions have the following meanings:
 - import: each entry into the Union of goods which according to customs regulations do not have the status of Union goods or of goods introduced from a third country which are not released for

free circulation in the Union pursuant to customs regulations and any other introduction of goods from a third territory into the Union;

- recipient of the goods: the recipient specified in box 8 of the customs declaration who is also liable to pay VAT on import of goods in situations mentioned in Paragraphs 6 and 7 of Article 77 of ZDDV-1;
- first place of destination: the place mentioned on the consignment note or any other document under which the goods are imported into the Member State of importation. If no such place is mentioned, the first place of destination is deemed to be the place of the first transfer of cargo in the Member State of importation;
- chargeable event: the occurrence by virtue of which the legal conditions necessary for VAT to become chargeable are fulfilled;
- atypical taxable person: a taxable person with a valid VAT number who is identified for VAT purposes only in respect of intra-Community acquisitions and/or cross-border supply of services or supply of occasional services of international carriage of passengers. A list of data on these taxable persons is published on the website of the Financial Administration of the Republic of Slovenia (FURS). Taxable persons identified for the purposes of intra-Community acquisitions of goods and/or cross-border supply of services are marked with the letter "P" on the list. However, taxable persons identified for VAT purposes only in respect of occasional services of international carriage of passengers are marked with the letter "O" on the list.

I. GENERAL

Taxable amount for the charging of VAT in respect of the importation of goods

4. In respect of the importation of goods, the taxable amount is the value for customs purposes determined according to the Union customs provisions in force.
5. The taxable amount includes the following items, in so far as they are not already included:
 - excise duties, taxes, levies and other charges due outside the Member State of importation and those due by reason of importation, excluding the VAT to be levied;
 - incidental expenses, such as commissions, packing, transport and insurance costs incurred up to the first place of destination within the territory of the Member State of importation, as well as costs resulting from the transport to another place of destination within the Union, if that place is known when the chargeable event occurs.
6. In respect of the importation of goods, the taxable amount includes those additional costs which are directly charged to the importer and the value of which is determined and can be proved on the basis of the available documents at the time when a customs declaration is accepted.
7. If goods have been subject to customs warehousing and the costs of warehousing and preserving goods while they remained in the warehouse are not shown separately and are, therefore, included in the value for customs purposes, then these costs are also included in the taxable amount.
8. Where goods have undergone the usual forms of handling in a customs warehouse according to customs provisions and the value of such handling is not included in the customs value of the goods at the request of the declarant, the request of the declarant is taken into account also in respect of determining the taxable amount upon import.
9. Where goods in respect of which the taxable amount must be determined have been kept in a free zone, the costs of warehousing and preserving in a free zone are also included in the taxable amount in respect of the importation of the goods, if such costs are not shown separately and are therefore included in the customs value of the goods.

10. Where goods have undergone the usual forms of handling in a free zone within the meaning of customs provisions and the value of such handling is not included in the customs value of the goods at the request of the declarant, the declarant's request is taken into consideration also in respect of determining the taxable amount upon import.
11. If services supplied in respect of non-Union goods while they remain in a free warehouse, free zone or customs warehouse are exempt from VAT according to Article 57 of ZDDV-1, the declarant cannot request the value of these services to be excluded from the taxable amount for the charging of VAT in respect of the importation of goods.
12. The taxable amount does not include:
 - price reductions by way of discount for early payment;
 - price reductions and rebates granted to the customer and obtained by him at the time of the importation.
13. The inclusion of individual elements in the taxable amount or their exclusion is proved by means of the documents which must be presented to a customs authority by a relevant person in order to determine the customs value of the goods according to customs provisions.
14. When goods are temporarily exported from the Union for outward processing on the basis of an outward processing contract and re-imported after having undergone, outside the Union, repair, processing, working or adaption for the account of the exporter, the taxable amount is the value of the repair, processing, working or adaptation if the recipient of the goods is the person who has temporarily exported the goods.
15. Where goods have undergone processing, working, making-up or reparation under inward processing and import VAT becomes chargeable for the processed goods, the taxable amount for the payment of VAT in respect of the imported goods incorporated in the processed goods is determined according to the same method which is applied for the determination of the proportion of imported goods in the processed product as it was used for determination of that proportion in order to calculate the amount of the customs debt according to customs provisions.
16. The declarant or his customs agent completes the customs declaration according to the UCC, IA, DA, TDA and SAD Rules and provides all data necessary for the calculation of the taxable amount and determination of import VAT.
17. In respect of the importation of goods, VAT is paid as an import duty. When the prescribed conditions are met, the VAT on import is shown in the VAT return and paid within the period set for the submission of the VAT return.

II. VAT IN RESPECT OF THE IMPORATION OF GOODS PAID AS AN IMPORT DUTY

18. VAT is paid as an import duty in respect of the importation of goods. VAT on importation is charged by a customs authority responsible for the calculation of import duties according to customs provisions.
19. VAT in respect of the importation of goods must be paid by the customs debtor determined according to the customs provisions or by the recipient of goods. Where several persons are determined as customs debtors pursuant to customs provisions, they are jointly and severally liable for the payment of VAT on the import of goods.

20. A customs debtor must pay VAT within the period prescribed by the customs provisions for the payment of the customs debt or else interest on arrears is charged according to Article 114(1) of the UCC.
21. When according to customs provisions a customs debtor must pay interest on arrears on the amount of the customs debt due, the basis for the calculation of interest on arrears includes also VAT payable on import of the goods.
22. Where a customs authority requires the provision of a guarantee pursuant to customs provisions for the payment of the customs debt or where such provision might be required if the prescribed rate of customs duty was not "free", the guarantee provided must also cover the payment of VAT.

III. LIABILITY TO PAY VAT ON IMPORT SHOWN IN THE VAT RETURN

Identification for VAT purposes in Slovenia

23. The recipient of the goods must be a taxable person identified for VAT purposes with a valid Slovenian VAT identification number (in the form of a tax identification number with the prefix SI).
24. Atypical taxable persons cannot be recipients of the goods.
25. A recipient of the goods who is established in Slovenia and has not been identified for VAT purposes yet, but would like to show his liability to pay VAT on import in his VAT return, must submit an application for issue of a VAT identification number on the DDV-P2 form. In order to acquire a VAT identification number, conditions laid down in Article 78 of ZDDV-1 and Articles 129 and 130 of PZZDV must be met.
26. A recipient of the goods who is not established in Slovenia and has not been identified for VAT purposes yet, but would like to show his liability to pay VAT on import in his VAT return, must submit an application for issue of a VAT identification number on the DDV-P3 form no later than 15 days prior to his supply in the territory of Slovenia. Conditions laid down in Article 78 of ZDDV-1 and Articles 129 and 131 of PZZDV must be met for the acquisition of a VAT identification number.
27. A tax authority identifies for VAT purposes a taxable person performing an economic activity or showing an intention to perform an economic activity within the territory of Slovenia.
28. A taxable person cannot be identified for VAT purposes only because he imports goods or carries out exempt transactions without the right to VAT deduction.

Appointment of a special tax representative as the person jointly and severally liable to pay VAT

29. A recipient of the goods who is not established in Slovenia and wants to show VAT in respect of the importation in the VAT return must appoint before submitting a customs declaration a tax representative who is severally and jointly liable to pay VAT in respect of the importation of goods.
30. Only one tax representative who is jointly and severally liable for the payment of VAT may be appointed for a specific tax period. The tax period for a taxable person who is not established in the territory of Slovenia coincides with the calendar month.
31. A tax representative jointly and severally liable to pay VAT in respect of the importation can only be a person who complies with the following criteria and is:
 - a legal or natural person performing an economic activity,
 - established or has a permanent residence in Slovenia and

- identified for VAT purposes in Slovenia.

32. The branch office of a foreign person or a taxable person who is not established in Slovenia cannot be a tax representative jointly and severally liable for the payment of VAT in respect of the importation. Furthermore, an atypical taxable person cannot be a tax representative who is jointly and severally liable to pay VAT in respect of the importation.
33. A tax representative who is jointly and severally liable for the payment of VAT in respect of the importation must submit in advance as an internal document and in electronic form via the eDavki system the authorisation for representation along with the statement that he unconditionally assumes joint and several liability for the payment of VAT in respect of the importation of goods. Under "Subject", it is indicated "Authorisation – VAT in respect of the importation".
34. We recommend to submit the authorisation at least 5 days prior to the importation of goods, because the tax authority must verify the data in the authorisation and enter the authorisation in the record of tax representatives.
35. Until tax representation has been arranged, a taxable person cannot show VAT in respect of the importation of goods in the VAT return and is liable to pay VAT as an import duty.
36. Several taxable persons not established in Slovenia can appoint the same tax representative to be jointly and severally liable for the payment of VAT in respect of the importation.
37. A form of the authorisation for tax representation granted by the recipient of the goods and the declaration of tax representative is set out in Annex I to these Instructions.

A tax representative appointed for complying with the obligations and exercising the rights arising from VAT

38. A tax representative appointed according to Article 4 of PZDDV by a taxable person not established within the territory of Slovenia is not jointly and severally liable to pay VAT.
39. A tax representative mentioned in Article 4 of PZDDV complies with the obligations and exercises the rights arising from VAT in the name of a taxable person not established in Slovenia.
40. A taxable person may appoint the same person to comply with the obligations, exercise the rights arising from VAT and act as a tax representative jointly and severally liable to pay VAT in respect of the importation.

Performance of customs formalities

41. When a customs declaration is completed according to Items 42 and 43 of these instructions (depending on whether or not the recipient of the goods is established within the territory of Slovenia), VAT in respect of the importation is not paid as an import duty. Instead, VAT in respect of the importation of goods is shown in the VAT return and paid within the time limit for submission of the VAT return.
42. The recipient of the goods established in Slovenia must provide a customs authority with the following information in a customs declaration at the moment of importation:
 - in Box 44, the recipient enters his/her valid Slovenian VAT identification number under the code Y040;

- in Box 47, the recipient enters type of tax under the code »B00«, the taxable amount, the applicable rate and the amount of VAT.
43. The recipient of the goods who is not established in Slovenia must provide a customs authority with the following information in a customs declaration on importation:
- in Box 44, the recipient enters his valid Slovenian VAT identification number under the code Y040, and a valid Slovenian VAT identification number of the Slovenian tax representative who is jointly and severally liable to pay VAT in respect of import under the code Y042;
 - in Box 47, he enters type of tax under the code »B00«, the taxable amount, the applicable rate and the amount of VAT.
44. In Box 44 of a customs declaration, only one code Y040 with a valid VAT identification number of the recipient of the goods can be entered and only one code Y042 with a valid VAT identification number of a tax representative jointly and severally liable to pay VAT.
45. It is not necessary to insure the payment of VAT in respect of the importation of goods, and therefore the method of payment (MP) is indicated under the type of tax B00 in Box 47 of a customs declaration as "G" (postponed payment – VAT system).
46. The person liable to pay VAT on import shown in the VAT return is the recipient of the goods.
47. The payment of VAT on import of goods based on the VAT return must be requested by a customs declaration completed with all the necessary data.
48. Where goods are released for free circulation in passenger transport, and no electronic customs declaration is submitted, VAT cannot be shown in the VAT return and paid on the basis of the VAT return.
49. In the case of temporary admission with partial relief, VAT in respect of the importation and other import duties are charged on the basis of a decision issued by a customs authority. Consequently, VAT cannot be shown in the VAT return and paid on the basis of the VAT return.

Entering VAT on import of goods in the VAT return

50. The person liable to pay VAT on import of goods in situations mentioned in Paragraphs 6 and 7 of ZDDV-1 is the recipient of the goods.
51. The recipient of the goods who shows the charged VAT on import of goods in the VAT return completes the following boxes of the VAT return in respect of the import procedure concerned:
- Box 31: the taxable amount for the charging of VAT on import of goods is entered;
 - Box 26: the value of the VAT charged in respect of the importation of goods within a tax period is entered (VAT charged at a general or lower rate), the taxable amount is given in Box 31;
 - Boxes 41 or 42: where the recipient of the goods is entitled to VAT deduction, the amount of the VAT deduction in respect of the importation is entered. A taxable person may exercise the right of deduction in respect of the imported goods no sooner than in the tax period in which he charged VAT on import of goods.

Chargeable event and chargeability of VAT in respect of the importation of goods

52. The chargeable event occurs and VAT becomes chargeable when the goods are imported (or released for free circulation). Accordingly, VAT on import of goods is charged in the VAT return for the period in which the goods were imported.

53. Where a supplementary customs declaration has been lodged for the import of goods in respect of which VAT is charged in the VAT return after the expiry of the time limit for submission of the VAT return for the tax period in which the goods were imported, and the taxable amount in respect of the imported goods changes on the basis of a supplementary declaration, the taxable person enters the difference in the VAT return for the tax period in which the supplementary declaration was lodged. In these cases, the VAT deduction is adjusted accordingly, as well.
54. The previous item is not about adjusting errors from previous tax periods in the current VAT return which occurred due to the low amount of VAT charged or excess VAT deduction. That would namely result in calculating the interests according to Article 88b of ZDDV-1.
55. Where a taxable person does not charge VAT in the VAT return in respect of the importation of goods during which a chargeable event occurred or does not charge VAT on the difference in the taxable amount based on the supplementary customs declaration in due time, the interests mentioned in Article 88b of ZDDV-1 shall be calculated in the VAT return in which the taxable person adjusts the error.
56. In Annex 2 to these instructions, there are examples of charging VAT on import of goods depending on the type of the customs declaration and the moment of lodging a supplementary declaration.

Subsequent adjustment of VAT chargeability in respect of the importation of goods established and performed by a taxable person

57. Where VAT is paid based on the VAT return and the tax assessment decision issued in the tax return inspection procedure has not been serviced yet or the tax return inspection procedure, offence or criminal proceedings have not been started yet, the VAT return is adjusted by the taxable person according to Article 88b of ZDDV-1.
58. The refund of VAT on import when paid as an import duty is carried out according to the instructions regarding the refund of excess VAT.

Date of application

These instructions shall apply from 1 July 2016, with the exception of Items 29 to 37, which shall be applicable from 28 June 2016.

Number: 007-98/2016-9

Date: 27 June 2016

Peter Jenko,
Deputy Director General

Annexes:

1. Authorisation for tax representation according to Article 77 of ZDDV-1;
2. Examples of charging VAT on import of goods.

Release:

- the Intranet
- the Internet