



vat's important

Foreign or domestic place of supply – Pros and Cons?

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For supplies of goods from abroad into Switzerland, the place of supply is not always deemed to be abroad. On the one hand, there are voluntary options through which the place of supply changes to the Swiss territory – with the consequence that Swiss VAT must be charged. On the other hand, however, this could also be the obligatory consequence for companies. We would like to point out the individual cases in this newsletter.

Import License

In terms of supplies of goods from abroad into Switzerland (imports), the place of supply from a VAT point of view is basically abroad, i.e. the recipient receives an invoice without VAT. In this case, the recipient in Switzerland must be stated as the importer of record on the customs declaration. The latter is liable for import VAT and can – provided that the conditions are met – claim this import VAT as input VAT in the VAT return.

This procedure is, most notably, not always advantageous for distance selling businesses. On the one hand, the total costs are not apparent to the customer when placing the order, as the import VAT and possible customs duties are invoiced separately and he / she must pay these amounts directly to the courier or postman. On the other hand, the selling company must create a customs declaration for each individual recipient in Switzerland.

A solution to these problem areas is offered by the so-called "Import License" (Form No. 1236). Through an approved Import License, the supplier is permitted to import goods in his / her own name, i.e. acting as the importer of record and paying the import VAT. Conversely, the supply (i.e. the sale to the Swiss customer) is considered as being domestically provided and is therefore also subject to Swiss VAT with the result that the customer receives an invoice with Swiss VAT in such cases. The approved license leads to a tax liability for the supplier; he / she therefore basically has the right to deduct the input VAT with respect to the paid import VAT. The Import License removes the disadvantages mentioned above: Since the supplier pays the import VAT, he / she can offer the total costs (including VAT) to the customer and there are no (unforeseen) additional costs for the customer. Moreover, combined consignments from abroad are possible (i.e. no separate customs declarations per Swiss recipient).

The service provider, who is in possession of an approved Import License, has the option of waiving the import in its own name in individual cases. In that event, he / she must clearly indicate the waiver in the invoice to the customer and disclose the customer as the importer or record on the customs declaration.

New VAT obligation in the distance selling sector from January 1, 2019

An additional and new configuration – where the place of supply changes from abroad to domestic territory – was embedded in the partially revised Swiss VAT law. The so-called distance selling regulation, which comes into effect on January 1, 2019, provides that foreign online retailers must charge Swiss VAT to their Swiss customers. The precondition for this is that these online retailers reach the turnover limit of CHF 100,000 per year with consignments of low-value goods which are exempt from import VAT (import VAT amount < CHF 5). By doing so, the legislator thus wants to redress the previous unequal treatment from foreign companies operating in the distance selling sector to domestic distance selling companies registered in the Swiss VAT register.

What does this mean for my company?

If a (domestic or foreign) distance selling company in Switzerland generates at least CHF 100,000 revenue per year from consignments of low-value goods which it imports into Switzerland, these supplies are considered as domestic supplies. As a result, the distance seller is subject to VAT in Switzerland and must be registered in the Swiss VAT register. From the time of the register entry, all consignments by the distance seller are then subject to Swiss VAT, i.e. also all supplies for which the import VAT amount is more than CHF 5.

A distance selling company which already has a turnover of at least CHF 100,000 from consignments of low-value goods in 2018, and which continues to perform such deliveries, must register themselves for VAT by January 1, 2019. Foreign companies have to appoint a fiscal representative for VAT registration purposes and to provide a guarantee in the form of an indefinite joint security from a Swiss-domiciled bank or a cash deposit.

By means of an "Import License", distance selling companies may voluntarily submit to tax liability even before the entry into force of the distance selling regulation or before reaching the turnover limit relevant to the tax liability. This, for instance, facilitates a better and more predictable changeover. Once the distance selling company reaches the turnover limit, it may no longer waive the application of the Import License for individual cases.

What do I have to think about?

The taxable distance selling companies are indicated in a special list on the website of the Swiss Federal Tax Administration (SFTA). If the inclusion in this special list did not take place through the VAT registration by the SFTA, the distance selling company would be obliged to report to the SFTA itself and request to be included. The list is especially important for those persons who are responsible for customs clearance, e.g. customs declarants: They may thus differentiate whether the import VAT is to be charged to the recipient of the consignment or to the taxable distance selling company.



Distance selling and developments in the EU

According to the applicable law in the EU, in principle, an operator must provide the VAT for deliveries abroad in the country of origin. However, for cross-border delivery of goods to private persons in the EU, certain country-specific delivery thresholds (EUR 35,000 to EUR 100,000) must be observed. If the thresholds are reached, the place of delivery changes to the country of destination.

As of January 1, 2021, this distance selling regulation will be replaced by a new regulation, which eliminates these delivery thresholds. The turnover would then always be taxable in the country to which the goods are sent. For simplification purposes, online retailers can fulfil their tax declaration obligations abroad via a unified online portal, as it is already possible today for the provision of electronic services. Deliveries from third countries (e.g. from Switzerland) to private customers in the EU should also be taxed in the country of destination. The possible tax exemption for imports into the EU for low-value goods (EUR 22) which is currently valid should therefore be abandoned completely.

Reminder: Input VAT refund in the EU – Application deadline of September 30, 2018

VAT refund applications for the 2017 calendar year must be submitted within the EU by September 30, 2018. It should be noted that the input VAT refund in the remuneration process can only be applied for by companies who are generally entitled to deduct input VAT, and who have generated either no turnover or only tax-free turnover in the EU member state concerned.

We would be happy to assist you with the implementation of the VAT option best suited to you.

With kind regards from your VAT team,

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