

Flash News

Law proposal for the implementation of a VAT warehouse regime

5 May 2011

On 24 March 2011, law proposal n°6266 was issued for the implementation of warehousing arrangements other than customs warehousing and similar arrangements, in accordance with Articles 154 to 163 of Directive 2006/112/EC. This law proposal aims at enhancing the development of Luxembourg as a logistics centre, especially for the trading of high value goods. The law proposal creates a trading environment for goods produced or customs cleared in the EU, compatible with the VAT-free trading available in excise warehouses and customs warehouses.

Advantages of the regime

The VAT warehousing regime would, inter alia:

- Eliminate VAT cash flows in relation to transactions taking place within the regime;
- Avoid VAT registration for operators established outside of Luxembourg if the trading of the goods placed in the warehouse is their only activity in Luxembourg;

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- Reduce the workload of the Luxembourg VAT Authorities and limit the risk of fraud;
 - Increase the attractiveness of Luxembourg as a logistics centre, especially for the trading and warehousing of high value goods.

How does the regime operate?

The general idea is to suspend VAT liabilities while goods are under the regime. This implies that all operations taking place under the regime would be VAT exempt as long as they do not result in the goods leaving the regime.

The operations which would benefit from the exemption relate to the entry of the goods in the warehouse (importation, intra-community acquisition, local supply) as well as the services related to the entry under the regime (transport and logistics). Other operations such as packaging and warehousing will also fall within the scope of the exemption. The sale of the goods placed under the regime will not trigger VAT liabilities either in so far as it does not result in the goods leaving the regime.

The exemption is temporary. When the goods are removed from the regime, taxation upon exit will be accomplished in one of two ways. The supplies resulting in the goods leaving the regime will be subject to the common VAT treatment or – essentially in cases where the owner of the goods takes them out of the warehouse outside the context of a supply – the initial exemption will be adjusted.

The person removing the goods from the regime or their tax representative will be liable for the VAT due upon exit. This will be either the person who placed the goods under the regime or the last buyer of the goods.

In the case of a chain of transactions taking place under the regime, the subsequent supply renders definitive the exemptions of the previous related supplies under the regime.

Goods concerned

The goods expected to benefit from the regime are included in Appendix D of the law proposal. The goods agree with those listed in Appendix V of Directive 2006/112/EC and include basic food products, chemicals in bulk and other metals.

The law proposal does not explicitly exclude any products from the VAT warehousing regime. However, retail sales are excluded from the benefit of the regime.

Supervision of the regime

Any person who wishes to set up a VAT warehouse for which the regime would apply will have to obtain the necessary license and fulfil specific compliance obligations, notably via the e-VAT system.

The general rules governing the implementation of the regime are yet to be defined. The surveillance of the regime will be the responsibility of the Customs Authorities.

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