

Council Regulation (EC) No 1186/2009 of 16 November 2009 setting up a Community system of reliefs from customs duty (codified version)

TITLE II

RELIEF FROM IMPORT DUTY

CHAPTER I

Personal property belonging to natural persons transferring their normal place of residence from a third country to the Community

Article 3

Subject to Articles 4 to 11, personal property imported by natural persons transferring their normal place of residence from a third country to the customs territory of the Community shall be admitted free of import duties.

Article 4

The relief shall be limited to personal property which:

- (a) except in special cases justified by the circumstances, has been in the possession of and, in the case of non-consumable goods, used by the person concerned at his former normal place of residence for a minimum of six months before the date on which he ceases to have his normal place of residence in the third country of departure;
- (b) is intended to be used for the same purpose at his new normal place of residence.

In addition, Member States may make relief conditional upon such property having borne, either in the country of origin or in the country of departure, the customs and/or fiscal charges to which it is normally liable.

Article 5

1 Relief may be granted only to persons whose normal place of residence has been outside the customs territory of the Community for a continuous period of at least 12 months.

2 However, the competent authorities may grant exceptions to the rule in paragraph 1, provided that the intention of the person concerned was clearly to reside outside the customs territory of the Community for a continuous period of at least 12 months.

Article 6

No relief shall be granted for:

- (a) alcoholic products;
- (b) tobacco or tobacco products;
- (c) commercial means of transport;
- (d) articles for use in the exercise of a trade or profession, other than portable instruments of the applied or liberal arts.

Article 7

1 Except in special cases, relief shall be granted only in respect of personal property entered for free circulation within 12 months from the date of establishment, by the person concerned, of his normal place of residence in the customs territory of the Community.

2 The personal property may be released for free circulation in several separate consignments within the period referred to in paragraph 1.

Article 8

1 Until 12 months have elapsed from the date on which its entry for free circulation was accepted, personal property which has been admitted duty-free may not be lent, given as security, hired out or transferred, whether for a consideration or free of charge, without prior notification to the competent authorities.

2 Any loan, giving as security, hiring out or transfer before the expiry of the period referred to in paragraph 1 shall entail payment of the relevant import duties on the property concerned, at the rate applying on the date of such loan, giving as security, hiring out or transfer, on the basis of the type of property and the customs value ascertained or accepted on that date by the competent authorities.

Article 9

1 By way of derogation from the first paragraph of Article 7, relief may be granted in respect of personal property entered for free circulation before the person concerned establishes his normal place of residence in the customs territory of the Community, provided that he undertakes actually to establish his normal place of residence there within a period of six months. Such undertaking shall be accompanied by a security, the form and amount of which shall be determined by the competent authorities.

2 Where use is made of the provisions of paragraph 1, the period laid down in Article 4(a) shall be calculated from the date on which the personal property is brought into the customs territory of the Community.

Article 10

1 Where, owing to occupational commitments, the person concerned leaves the third country where he had his normal place of residence without simultaneously establishing his normal place of residence in the customs territory of the Community, although having the intention of ultimately doing so, the competent authorities may authorise duty-free admission of the personal property which he transfers into the said territory for this purpose.

2 Duty-free admission of the personal property referred to in paragraph 1 shall be granted in accordance with the conditions laid down in Articles 3 to 8, on the understanding that:

- a the periods laid down in Article 4(a) and the first paragraph of Article 7 shall be calculated from the date on which the personal property is brought into the customs territory of the Community;
- b the period referred to in Article 8(1) shall be calculated from the date when the person concerned actually establishes his normal place of residence in the customs territory of the Community.

3 Duty-free admission shall also be subject to an undertaking from the person concerned that he will actually establish his normal place of residence in the customs territory of the Community within a period laid down by the competent authorities in keeping with the

circumstances. The latter may require this undertaking to be accompanied by a security, the form and amount of which they shall determine.

Article 11

The competent authorities may derogate from Article 4(a) and (b), Article 6(c) and (d) and Article 8, when a person has to transfer his normal place of residence from a third country to the customs territory of the Community as a result of exceptional political circumstances.