

Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (recast)

TITLE III

CUSTOMS DEBT AND GUARANTEES

CHAPTER 1

Incurrence of a customs debt

Section 1

Customs debt on import

Article 77

Release for free circulation and temporary admission

1 A customs debt on import shall be incurred through the placing of non-Union goods liable to import duty under either of the following customs procedures:

- a release for free circulation, including under the end-use provisions;
- b temporary admission with partial relief from import duty.

2 A customs debt shall be incurred at the time of acceptance of the customs declaration.

3 The declarant shall be the debtor. In the event of indirect representation, the person on whose behalf the customs declaration is made shall also be a debtor.

Where a customs declaration in respect of one of the procedures referred to in paragraph 1 is drawn up on the basis of information which leads to all or part of the import duty not being collected, the person who provided the information required to draw up the declaration and who knew, or who ought reasonably to have known, that such information was false shall also be a debtor.

Article 78

Special provisions relating to non-originating goods

1 Where a prohibition of drawback of, or exemption from, import duty applies to non-originating goods used in the manufacture of products for which a proof of origin is issued or made out in the framework of a preferential arrangement between the Union and certain countries or territories outside the customs territory of the Union or groups of such countries or territories, a customs debt on import shall be incurred in respect of those non-originating goods, through the acceptance of the re-export declaration relating to the products in question.

2 Where a customs debt is incurred pursuant to paragraph 1, the amount of import duty corresponding to that debt shall be determined under the same conditions as in the case of a

Status: Point in time view as at 31/01/2020.

Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) No 952/2013 of the European Parliament and of the Council, CHAPTER 1. (See end of Document for details)

customs debt resulting from the acceptance, on the same date, of the customs declaration for release for free circulation of the non-originating goods used in the manufacture of the products in question for the purpose of ending the inward processing procedure.

3 Article 77(2) and (3) shall apply. However, in the case of non-Union goods as referred to in Article 270 the person who lodges the re-export declaration shall be the debtor. In the event of indirect representation, the person on whose behalf the declaration is lodged shall also be a debtor.

Article 79

Customs debt incurred through non-compliance

1 For goods liable to import duty, a customs debt on import shall be incurred through non-compliance with any of the following:

- a one of the obligations laid down in the customs legislation concerning the introduction of non-Union goods into the customs territory of the Union, their removal from customs supervision, or the movement, processing, storage, temporary storage, temporary admission or disposal of such goods within that territory;
- b one of the obligations laid down in the customs legislation concerning the end-use of goods within the customs territory of the Union;
- c a condition governing the placing of non-Union goods under a customs procedure or the granting, by virtue of the end-use of the goods, of duty exemption or a reduced rate of import duty.

2 The time at which the customs debt is incurred shall be either of the following:

- a the moment when the obligation the non-fulfilment of which gives rise to the customs debt is not met or ceases to be met;
- b the moment when a customs declaration is accepted for the placing of goods under a customs procedure where it is established subsequently that a condition governing the placing of the goods under that procedure or the granting of a duty exemption or a reduced rate of import duty by virtue of the end-use of the goods was not in fact fulfilled.

3 In cases referred to under points (a) and (b) of paragraph 1, the debtor shall be any of the following:

- a any person who was required to fulfil the obligations concerned;
- b any person who was aware or should reasonably have been aware that an obligation under the customs legislation was not fulfilled and who acted on behalf of the person who was obliged to fulfil the obligation, or who participated in the act which led to the non-fulfilment of the obligation;
- c any person who acquired or held the goods in question and who was aware or should reasonably have been aware at the time of acquiring or receiving the goods that an obligation under the customs legislation was not fulfilled.

4 In cases referred to under point (c) of paragraph 1, the debtor shall be the person who is required to comply with the conditions governing the placing of the goods under a customs procedure or the customs declaration of the goods placed under that customs procedure or the granting of a duty exemption or reduced rate of import duty by virtue of the end-use of the goods.

Where a customs declaration in respect of one of the customs procedures referred to in point (c) of paragraph 1 is drawn up, and any information required under the customs legislation relating to the conditions governing the placing of the goods under that customs procedure is given to the customs authorities, which leads to all or part of the

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import duty not being collected, the person who provided the information required to draw up the customs declaration and who knew, or who ought reasonably to have known, that such information was false shall also be a debtor.

Article 80

Deduction of an amount of import duty already paid

1 Where a customs debt is incurred, pursuant to Article 79(1) in respect of goods released for free circulation at a reduced rate of import duty on account of their end-use, the amount of import duty paid when the goods were released for free circulation shall be deducted from the amount of import duty corresponding to the customs debt.

The first subparagraph shall apply where a customs debt is incurred in respect of scrap and waste resulting from the destruction of such goods.

2 Where a customs debt is incurred, pursuant to Article 79(1) in respect of goods placed under temporary admission with partial relief from import duty, the amount of import duty paid under partial relief shall be deducted from the amount of import duty corresponding to the customs debt.

Section 2

Customs debt on export

Article 81

Export and outward processing

1 A customs debt on export shall be incurred through the placing of goods liable to export duty under the export procedure or the outward processing procedure.

2 The customs debt shall be incurred at the time of acceptance of the customs declaration.

3 The declarant shall be the debtor. In the event of indirect representation, the person on whose behalf the customs declaration is made shall also be a debtor.

Where a customs declaration is drawn up on the basis of information which leads to all or part of the export duty not being collected, the person who provided the information required for the declaration and who knew, or who should reasonably have known, that such information was false shall also be a debtor.

Article 82

Customs debt incurred through non-compliance

1 For goods liable to export duty, a customs debt on export shall be incurred through non-compliance with either of the following:

- a one of the obligations laid down in the customs legislation for the exit of the goods;
- b the conditions under which the goods were allowed to be taken out of the customs territory of the Union with total or partial relief from export duty.

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- 2 The time at which the customs debt is incurred shall be one of the following:
 - a the moment at which the goods are actually taken out of the customs territory of the Union without a customs declaration;
 - b the moment at which the goods reach a destination other than that for which they were allowed to be taken out of the customs territory of the Union with total or partial relief from export duty;
 - c should the customs authorities be unable to determine the moment referred to in point (b), the expiry of the time-limit set for the production of evidence that the conditions entitling the goods to such relief have been fulfilled.
- 3 In cases referred to under point (a) of paragraph 1, the debtor shall be any of the following:
 - a any person who was required to fulfil the obligation concerned;
 - b any person who was aware or should reasonably have been aware that the obligation concerned was not fulfilled and who acted on behalf of the person who was obliged to fulfil the obligation;
 - c any person who participated in the act which led to the non-fulfilment of the obligation and who was aware or should reasonably have been aware that a customs declaration had not been lodged but should have been.
- 4 In cases referred to under point (b) of paragraph 1, the debtor shall be any person who is required to comply with the conditions under which the goods were allowed to be taken out of the customs territory of the Union with total or partial relief from export duty.

Section 3

Provisions common to customs debts incurred on import and export

Article 83

Prohibitions and restrictions

- 1 The customs debt on import or export shall be incurred even if it relates to goods which are subject to measures of prohibition or restriction on import or export of any kind.
- 2 However, no customs debt shall be incurred on either of the following:
 - a the unlawful introduction into the customs territory of the Union of counterfeit currency;
 - b the introduction into the customs territory of the Union of narcotic drugs and psychotropic substances other than where strictly supervised by the competent authorities with a view to their use for medical and scientific purposes.
- 3 For the purposes of penalties as applicable to customs offences, the customs debt shall nevertheless be deemed to have been incurred where, under the law of a Member State, import or export duty or the existence of a customs debt provide the basis for determining penalties.

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Article 84

Several debtors

Where several persons are liable for payment of the amount of import or export duty corresponding to one customs debt, they shall be jointly and severally liable for payment of that amount.

Article 85

General rules for calculating the amount of import or export duty

1 The amount of import or export duty shall be determined on the basis of those rules for calculation of duty which were applicable to the goods concerned at the time at which the customs debt in respect of them was incurred.

2 Where it is not possible to determine precisely the time at which the customs debt is incurred, that time shall be deemed to be the time at which the customs authorities conclude that the goods are in a situation in which a customs debt has been incurred.

However, where the information available to the customs authorities enables them to establish that the customs debt had been incurred prior to the time at which they reached that conclusion, the customs debt shall be deemed to have been incurred at the earliest time that such a situation can be established.

Article 86

Special rules for calculating the amount of import duty

1 Where costs for storage or usual forms of handling have been incurred within the customs territory of the Union in respect of goods placed under a customs procedure or in temporary storage, such costs or the increase in value shall not be taken into account for the calculation of the amount of import duty where satisfactory proof of those costs is provided by the declarant.

However, the customs value, quantity, nature and origin of non-Union goods used in the operations shall be taken into account for the calculation of the amount of import duty.

2 Where the tariff classification of goods placed under a customs procedure changes as a result of usual forms of handling within the customs territory of the Union, the original tariff classification for the goods placed under the procedure shall be applied at the request of the declarant.

3 Where a customs debt is incurred for processed products resulting from the inward processing procedure, the amount of import duty corresponding to such debt shall, at the request of the declarant, be determined on the basis of the tariff classification, customs value, quantity, nature and origin of the goods placed under the inward processing procedure at the time of acceptance of the customs declaration relating to those goods.

4 In specific cases, the amount of import duty shall be determined in accordance with paragraphs 2 and 3 of this Article without a request of the declarant in order to avoid the circumvention of tariff measures referred to in point (h) of Article 56(2).

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5 Where a customs debt is incurred for processed products resulting from the outward processing procedure or replacement products as referred to in Article 261(1), the amount of import duty shall be calculated on the basis of the cost of the processing operation undertaken outside the customs territory of the Union.

6 Where the customs legislation provides for a favourable tariff treatment of goods, or for relief or total or partial exemption from import or export duty pursuant to points (d) to (g) of Article 56(2), Articles 203, 204, 205 and 208 or Articles 259 to 262 of this Regulation or pursuant to Council Regulation (EC) No 1186/2009 of 16 November 2009 setting up a Community system of reliefs from customs duty⁽¹⁾ such favourable tariff treatment, relief or exemption shall also apply in cases where a customs debt is incurred pursuant to Articles 79 or 82 of this Regulation, on condition that the failure which led to the incurrence of a customs debt did not constitute an attempt at deception.

Article 87

Place where the customs debt is incurred

1 A customs debt shall be incurred at the place where the customs declaration or the re-export declaration referred to in Articles 77, 78 and 81 is lodged.

In all other cases, the place where a customs debt is incurred shall be the place where the events from which it arises occur.

If it is not possible to determine that place, the customs debt shall be incurred at the place where the customs authorities conclude that the goods are in a situation in which a customs debt is incurred.

2 If the goods have been placed under a customs procedure which has not been discharged or when a temporary storage did not end properly, and the place where the customs debt is incurred cannot be determined pursuant to the second or third subparagraphs of paragraph 1 within a specific time-limit, the customs debt shall be incurred at the place where the goods were either placed under the procedure concerned or were introduced into the customs territory of the Union under that procedure or were in temporary storage.

3 Where the information available to the customs authorities enables them to establish that the customs debt may have been incurred in several places, the customs debt shall be deemed to have been incurred at the place where it was first incurred.

4 If a customs authority establishes that a customs debt has been incurred under Article 79 or Article 82 in another Member State and the amount of import or export duty corresponding to that debt is lower than EUR 10 000, the customs debt shall be deemed to have been incurred in the Member State where the finding was made.

Article 88

Delegation of power

The Commission shall be empowered to adopt delegated acts, in accordance with Article 284, in order to determine:

- (a) the rules for the calculation of the amount of import or export duty applicable to goods for which a customs debt is incurred in the context of a special procedure, which supplement the rules laid down in Articles 85 and 86;

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- (b) the cases referred to in Article 86(4);
- (c) the time-limit referred to in Article 87(2).

Status: Point in time view as at 31/01/2020.

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- (1) [OJ L 324, 10.12.2009, p. 23.](#)

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