

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 3

Recovery, payment, repayment and remission of the amount of import or export duty

Section 1

Determination of the amount of import or export duty, notification of the customs debt and entry in the accounts

Article 101

Determination of the amount of import or export duty

- 1 The amount of import or export duty payable shall be determined by the customs authorities responsible for the place where the customs debt is incurred, or is deemed to have been incurred in accordance with Article 87, as soon as they have the necessary information.
- 2 Without prejudice to Article 48, the customs authorities may accept the amount of import or export duty payable determined by the declarant.
- 3 Where the amount of import or export duty payable does not result in a whole number, that amount may be rounded.

Where the amount referred in the first subparagraph is expressed in euros, rounding may not be more than a rounding up or down to the nearest whole number.

A Member State whose currency is not the euro may either apply mutatis mutandis the provisions of the second subparagraph or derogate from that subparagraph, provided that the rules applicable on rounding do not have a greater financial impact than the rule set out in the second subparagraph.

Article 102

Notification of the customs debt

- 1 The customs debt shall be notified to the debtor in the form prescribed at the place where the customs debt is incurred, or is deemed to have been incurred in accordance with Article 87.

The notification referred to in the first subparagraph shall not be made in any of the following cases:

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- a where, pending a final determination of the amount of import or export duty, a provisional commercial policy measure taking the form of a duty has been imposed;
- b where the amount of import or export duty payable exceeds that determined on the basis of a decision made in accordance with Article 33;
- c where the original decision not to notify the customs debt or to notify it with an amount of import or export duty at a figure less than the amount of import or export duty payable was taken on the basis of general provisions invalidated at a later date by a court decision;
- d where the customs authorities are exempted under the customs legislation from notification of the customs debt.

2 Where the amount of import or export duty payable is equal to the amount entered in the customs declaration, release of the goods by the customs authorities shall be equivalent to notifying the debtor of the customs debt.

3 Where paragraph 2 does not apply, the customs debt shall be notified to the debtor by the customs authorities when they are in a position to determine the amount of import or export duty payable and take a decision thereon.

However, where the notification of the customs debt would prejudice a criminal investigation, the customs authorities may defer that notification until such time as it no longer prejudices the criminal investigation.

4 Provided that payment has been guaranteed, the customs debt corresponding to the total amount of import or export duty relating to all the goods released to one and the same person during a period fixed by the customs authorities may be notified at the end of that period. The period fixed by the customs authorities shall not exceed 31 days.

Article 103

Limitation of the customs debt

1 No customs debt shall be notified to the debtor after the expiry of a period of three years from the date on which the customs debt was incurred.

2 Where the customs debt is incurred as the result of an act which, at the time it was committed, was liable to give rise to criminal court proceedings, the three-year period laid down in paragraph 1 shall be extended to a period of a minimum of five years and a maximum of 10 years in accordance with national law.

3 The periods laid down in paragraphs 1 and 2 shall be suspended where:

- a an appeal is lodged in accordance with Article 44; such suspension shall apply from the date on which the appeal is lodged and shall last for the duration of the appeal proceedings; or
- b the customs authorities communicate to the debtor, in accordance with Article 22(6), the grounds on which they intend to notify the customs debt; such suspension shall apply from the date of that communication until the end of the period within which the debtor is given the opportunity to express his or her point of view.

4 Where a customs debt is reinstated pursuant to Article 116(7), the periods laid down in paragraphs 1 and 2 shall be considered as suspended from the date on which the application for repayment or remission was submitted in accordance with Article 121, until the date on which the decision on the repayment or remission was taken.

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Article 104

Entry in the accounts

1 The customs authorities referred to in Article 101 shall enter in their accounts, in accordance with the national legislation, the amount of import or export duty payable as determined in accordance with that Article.

The first subparagraph shall not apply in cases referred to in the second subparagraph of Article 102(1).

2 The customs authorities need not enter in the accounts amounts of import or export duty which, pursuant to Article 103, correspond to a customs debt which could no longer be notified to the debtor.

3 Member States shall determine the practical procedures for the entry in the accounts of the amounts of import or export duty. Those procedures may differ according to whether, in view of the circumstances in which the customs debt was incurred, the customs authorities are satisfied that those amounts will be paid.

Article 105

Time of entry in the accounts

1 Where a customs debt is incurred as a result of the acceptance of the customs declaration of goods for a customs procedure, other than temporary admission with partial relief from import duty, or of any other act having the same legal effect as such acceptance, the customs authorities shall enter the amount of import or export duty payable in the accounts within 14 days of the release of the goods.

However, provided that payment has been guaranteed, the total amount of import or export duty relating to all the goods released to one and the same person during a period fixed by the customs authorities, which may not exceed 31 days, may be covered by a single entry in the accounts at the end of that period. Such entry in the accounts shall take place within 14 days of the expiry of the period concerned.

2 Where goods may be released subject to certain conditions which govern either the determination of the amount of import or export duty payable or its collection, entry in the accounts shall take place within 14 days of the day on which the amount of import or export duty payable is determined or the obligation to pay that duty is fixed.

However, where the customs debt relates to a provisional commercial policy measure taking the form of a duty, the amount of import or export duty payable shall be entered in the accounts within two months of the date of publication in the *Official Journal of the European Union* of the Regulation establishing the definitive commercial policy measure.

3 Where a customs debt is incurred in circumstances not covered by paragraph 1, the amount of import or export duty payable shall be entered in the accounts within 14 days of the date on which the customs authorities are in a position to determine the amount of import or export duty in question and take a decision.

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4 Paragraph 3 shall apply with regard to the amount of import or export duty to be recovered or which remains to be recovered where the amount of import or export duty payable has not been entered in the accounts in accordance with paragraphs 1, 2 and 3, or has been determined and entered in the accounts at a level lower than the amount payable.

5 The time-limits for entry in the accounts laid down in paragraphs 1, 2 and 3 shall not apply in unforeseeable circumstances or in cases of force majeure.

6 The entry in the accounts may be deferred in the case referred to in the second subparagraph of Article 102(3), until such time as the notification of the customs debt no longer prejudices a criminal investigation.

Article 106

Delegation of power

The Commission shall be empowered to adopt delegated acts, in accordance with Article 284, in order to determine the cases referred to in point (d) of Article 102(1) where the customs authorities are exempted from notification of the customs debt.

Article 107

Conferral of implementing powers

The Commission shall adopt, by means of implementing acts, measures to ensure mutual assistance between the customs authorities in case of incurrence of a customs debt.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

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