

## Dutch Customs postpones requirement that non-EU company can no longer act as exporter from The Netherlands until 1 April 2020

---

### EY Tax News Update: Global Edition

EY's Tax News Update: Global Edition is a free, personalized email subscription service that allows you to receive EY Global Tax Alerts, newsletters, events, and thought leadership published across all areas of tax. Access more information about the tool and registration [here](#).

Also available is our [EY Global Tax Alert Library](#) on ey.com.

---

### Dutch Customs announcement

The Dutch Customs published a message on 1 October 2019 that as of 1 December 2019 a non-European Union (EU) exporter would no longer be allowed to be reported in box 2 of the export declaration. (For background, see EY Global Tax Alert, [Dutch Customs announces that non-EU company can no longer act as exporter from The Netherlands as of 1 December 2019](#), dated 18 October 2019). As this change would mean that a non-EU company could no longer act as a customs exporter from the Netherlands, Dutch Customs have now communicated that the **changes will be postponed until 1 April 2020**. With this postponement, companies are offered additional time to adapt to the changes and prepare alternative plans.

The change in approach of the Dutch Customs Authorities will have an impact for non-EU (principal) companies or, considering Brexit, United Kingdom (UK) companies currently exporting from the Netherlands. As of 1 April 2020, they will now need to authorize another company to act as exporter on their behalf, or otherwise change their EU customs presence so that they will be regarded a company established in the EU customs territory.

## Background of the changes

On 30 July 2018, the EU Commission published amendments to the *Commission Delegated Act of the United Customs Code (UCC)*, introducing a new definition of exporter in the EU. According to this definition, a company that wants to act as an “exporter,” should be a company established in the EU customs territory that meets one of the following conditions:

- ▶ Has the power to determine that the goods are to be brought outside the customs territory of the EU
- ▶ Is a party to the contract under which goods are to be taken out of that customs territory

### More EU Member states no longer allowing non-EU customs exporter

Following the changes, most EU Member States (the Netherlands included), did allow non-EU exporters which appointed an indirect representative during the transitional period of the implementation of the EU Automatic Export System (UCC IT system), which has been extended until 31 December 2025.

Other EU Member States (like Belgium, the Czech Republic, Hungary, Italy, Latvia, Lithuania **and recently Germany and Spain**) changed their approach before the Netherlands and no longer allow a non-EU company as exporter in box 2 of the export declaration. The approach of some other EU Member States remains unclear, but there has been a shift happening of EU customs authorities no longer allowing the transitional arrangement (even though they are allowed to accept non-EU exporters acting as exporter until 31 December 2025).

## Steps to mitigate the impact

Non-EU companies exporting from the Netherlands should review their supply chain and ensure it is in conformity with the new changes. Businesses should also work with their local tax professional to:

- ▶ Determine which other party (in the supply chain) may act as exporter for customs purposes in the EU: this company will need to be authorized by way of a Power of Attorney (PoA) covering this activity. The PoA should only authorize another person to act as exporter for customs purposes, without transferring ownership or other responsibilities.
- ▶ Consider the EU presence of the company: by establishing a “permanent business establishment” for customs purposes, the non-EU company might qualify as an EU-established entity allowing it to export from the Netherlands.
- ▶ Review the treatment of the exports from a value-added tax (VAT) perspective and ensure the VAT exemption at export can still be applied.
- ▶ Review the current supply chain set-up and address supply chain & trade flow efficiency.
- ▶ Address modifications to upcoming or existing IT implementation programs (e.g., implementation of ERP systems) resulting from the alterations to the roles of the stakeholders in the distribution model.

The above is based on our interpretation of current tax legislation and case law published to date. This Indirect Tax Alert provides general information with no pretence of completeness, and it is not a tax advice.

For additional information with respect to this Alert, please contact the following:

**Ernst & Young Belastingadviseurs LLP, Global Trade, Amsterdam**

- ▶ Walter de Wit [walter.de.wit@nl.ey.com](mailto:walter.de.wit@nl.ey.com)
- ▶ Jeroen Scholten [jeroen.scholten@nl.ey.com](mailto:jeroen.scholten@nl.ey.com)
- ▶ Ashish Sinha [ashish.sinha@nl.ey.com](mailto:ashish.sinha@nl.ey.com)
- ▶ Sidney Rouwenhorst [sidney.rouwenhorst@nl.ey.com](mailto:sidney.rouwenhorst@nl.ey.com)
- ▶ Martijn Vroom [martijn.vroom@nl.ey.com](mailto:martijn.vroom@nl.ey.com)
- ▶ Jolina Groenendijk [jolina.groenendijk@nl.ey.com](mailto:jolina.groenendijk@nl.ey.com)
- ▶ Ruben Bel [ruben.bel@nl.ey.com](mailto:ruben.bel@nl.ey.com)
- ▶ Nadeya Sayedi [nadeya.sayed@nl.ey.com](mailto:nadeya.sayed@nl.ey.com)

**Ernst & Young Belastingadviseurs LLP, Global Trade, Rotterdam**

- ▶ Caspar Jansen [caspar.jansen@nl.ey.com](mailto:caspar.jansen@nl.ey.com)
- ▶ Hans Winkels [hans.winkels@nl.ey.com](mailto:hans.winkels@nl.ey.com)
- ▶ Martijn Schippers [martijn.schippers@nl.ey.com](mailto:martijn.schippers@nl.ey.com)
- ▶ Anton de Groot [anton.de.groot@nl.ey.com](mailto:anton.de.groot@nl.ey.com)

**About EY**

EY is a global leader in assurance, tax, transaction and advisory services. The insights and quality services we deliver help build trust and confidence in the capital markets and in economies the world over. We develop outstanding leaders who team to deliver on our promises to all of our stakeholders. In so doing, we play a critical role in building a better working world for our people, for our clients and for our communities.

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. For more information about our organization, please visit [ey.com](http://ey.com).

Indirect Tax

© 2019 EYGM Limited.  
All Rights Reserved.

EYG no. 005348-19Gbl

1508-1600216 NY  
ED None

This material has been prepared for general informational purposes only and is not intended to be relied upon as accounting, tax, or other professional advice. Please refer to your advisors for specific advice.

**[ey.com](http://ey.com)**