Indirect Tax Alert

News from EY Americas Tax

Brazil: New Ordinance
published by Sao Paulo
State Authorities
establishes new procedures
for importing goods within
state and brings cash flow
opportunities

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On 11 March 2020, the authorities in the Brazilian state of Sao Paulo published Ordinance CAT (Coordination of Tax Administration) #24/2020, which modifies the procedures for the taxation and clearance of imported goods within the state.

At first glance, the Ordinance could be understood as a consolidation of existing rules on this matter (since it absorbed and/or revoked provisions of Ordinance CAT #59/2007). However, the Ordinance may have some positive implications for taxpayers. For example, Brazilian taxpayers can request the benefits of a special regime to suspend ICMS (state value-added tax) on imports when certain conditions are met (as seen in Article 14) (i.e., ICMS is suspended when products are cleared by customs, but due when products are sold). Unlike past ordinances, Ordinance CAT #24/2020 does not use the term "partial suspension," which could lead taxpayers to believe that it changed to a full suspension of ICMS on imports.

In addition to the conditions usually required for the suspension of ICMS on imports (e.g., unloading and customs clearance of goods in the State of São Paulo and proof of existing ICMS credit balance), Ordinance CAT #24/2020 establishes a new condition under which taxpayers must prove that a similar Brazilian product does not exist or there is insufficient production of the product in Brazil.



To prove that a similar product does not exist in Brazil or there is insufficient local production of the product, the taxpayer must request a resolution from the CAMEX (Foreign Trade Chamber) indicating that the product does not exist or there is insufficient production. The taxpayer also could prove the lack of a similar product by obtaining a certificate from a competent federal agency or representative entity of the productive sector with national coverage (e.g., ABIMAQ - Brazilian Association of Machinery and Equipment Industry).

Ordinance CAT #24/2020 entered into force on 11 March 2020. It offers many opportunities for taxpayers to request the benefits of the special regime or amendments to the benefits they are receiving. Importers in Sao Paulo State may be able to increase their cash flow by taking advantage of the benefits offered by the special regime. They should carefully analyze the opportunities provided by Ordinance CAT #24/2020.

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