

France postpones implementation of EU definition of exporter to 1 October 2020

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The European Commission's Delegated Regulation (EU) 2018/1063 of 16 May 2018 amending the definition of exporter was due to enter into force in France as of 1 May 2020.

However, due to the economic environment linked to COVID-19 and the difficulties encountered by operators to modify their logistical and commercial schemes to comply with this new regulation before the deadline set, the French Customs Authority communicated its decision to postpone the date of entry into force of the new definition of exporter to 1 October 2020 by publishing the note to operators dated 27 March 2020.

It was also specified that the date of entry into force of the new definition of exporter could not be postponed again.

Consequently, from 1 October 2020, all operators must have their logistical and commercial schemes ready to implement with respect to the new definition of exporter specified by the note to operators No. 2000-071 published by French Customs and Indirect Taxation Authorities (DGDDI) on 3 March 2020.

Therefore, in order to be identified as an exporter for customs purposes as of 1 October 2020, the entity indicated in box 2 "Exporter" of the export declaration must meet the following requirements:

- Be established in the customs territory of the European Union (EU) and have the power to determine that the goods are to be taken out of the customs territory of the EU.
- Where the above is not applicable, be established in the customs territory of the EU and be a contracting party to the contract under which the goods are to be taken out of the EU.

From a practical standpoint, the entry into force of the new definition of exporter from 1 October 2020 will have an impact on operators established outside the EU customs territory. As from this date, for the deliveries to be considered exported from France, these operators will no longer be able to be identified as “Exporter” in box 2 of the export declaration.

However, these operators will be able to designate in box 2 of the export declaration another operator able to act as the exporter of record, such as an operator established in the EU customs territory and who is part of the contract under which the goods are to be exported. Such parties include a carrier or freight forwarder or any other contracting party.

To ensure the best legal certainty and to have the necessary documentation available in the case of audit by the customs or tax authorities, taxpayers should include such designation in contracts relating to export operations.

It is important to specify that from a fiscal standpoint, the definition of exporter was not modified by the Commission Regulation of 16 May 2018.

Thus, from a fiscal standpoint still be considered as an exporter entitled to apply the Value-Added Tax (VAT) exemption of Article 262, I of the French Tax Code operator carrying out export supplies. In other words, the person considered as being the last owner of the goods to be exported before their actual export from the EU customs territory.

Therefore, the non-EU established operators who make export deliveries from France are required to register for French VAT and to report their deliveries on line 04 “Exports” of the VAT declaration.

In order to be able to justify the VAT exemption applied to export transactions, operators established outside the EU must ensure that their name and their French VAT identification number appear in box 44 of the export declaration.

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

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