

Changes in the Customs Law as of January 1, 2009

On November 7, 2008, the Lower Chamber of the Polish Parliament (Sejm) ultimately passed an amendment to the Customs Law.

Single Authorization for Simplified Procedures (SASP)

The Customs Law amendment provides for introduction of a single authorization for the simplified customs clearance procedure throughout the European Union under an authorization issued in one of the Member States.

The SASP authorization will make it possible for economic operators to enter goods for clearance and to settle the customs duty in their home country, no matter in which of the Member States the goods would actually be located. This will contribute to centralization of accounting and settlements of customs liabilities for all imports and exports transactions effected under the simplified procedure in the Member State that issued the authorization, even if the goods are physically presented in another Member State.

The required conditions to be met by the operator applying for the grant of SASP are the same as the current requirements for the simplified procedure.

Changes in the disposal of seized goods

Goods seized by the customs authorities will only be eligible for

destruction or sale after a judicial decision on their forfeiture by the Treasury. The current regulations are not explicit in this respect. Their interpretation may lead to the conclusion that also those of the goods seized by the customs authorities may be destroyed or sold with respect to which no forfeiture has been ruled. As of January 1, 2009, the mere seizure of goods will be treated as a temporary protective measure, while destruction or sale will only be possible after the goods become property of the Treasury.

Medical and tobacco products will be subject to obligatory destruction. Alcoholic beverages and cosmetic products will be destroyed if their sale proves impossible, difficult or unjustified, or if they fail to meet the requirements of admission to trade. If the unit cost of destruction of the goods exceeds the equivalent of EUR 10, such cost will be covered by the obliged entity and by the entity that possessed the goods immediately before their seizure.

Permit to run a customs depot

Pursuant to the amended regulations, the agency authorized to issue permits to run customs depots will be the head of the customs office competent on account of the depot's location. Currently, the permits are

issued by heads of the customs chambers. The new regulation will simplify the procedures related both to establishment of customs depots, and to application of the customs depot procedure. In the former case, applications will be examined in a shorter time. As regards application of the customs depot procedure, the new solutions will make it possible to avoid applying for two separate permits for using the public or private customs depot procedure if the entity running the depot is at the same time a party using the customs depot procedure. The adopted solution is in keeping with the practice of other Member States of the Community.

The status of Authorized Economic Operator (AEO)

All heads of the customs chambers will be empowered to issue the AEO (Authorized Economic Operator) certificates. Under the current state of the law, 3 customs chambers only (in Warsaw, Wrocław and Szczecin) are empowered to grant the status of authorized economic operator. The amendment will facilitate the operators' application for the AEO status.

List of warrantors

A change will be introduced to the principles of keeping the list of entities authorized to issue

warranties securing customs debt. The list will only include entities pursuing banking or insurance activity, which will submit a relevant application, have been empowered to issue the warranties and guarantee proper discharge of their obligations.

The list will be prepared by the Minister of Finance. Entries, amendments and deletions will be announced in the Official Journal of the Minister of Finance.

Payment of the customs duty through a foreign bank not operating in Poland

If customs liabilities are paid through a foreign bank with no registered office or branch in Poland, the date of payment of the customs liabilities will be the date when the debtor's bank account is debited, provided that the amount paid is credited on the custom's authority's bank account within 5 consecutive working days. If this deadline is not kept, the payment date will be the date when the amount is actually credited on the custom's authority's account.

The above information is not exhaustive and only aims at signaling or reminding the major changes.

If you are interested in details of the aforementioned issues, you are kindly requested to contact us.

Contact details

Krzysztof Stefanowicz

Director

Tel.: +48 (22) 528 11 63

Fax: +48 (22) 528 11 59

kstefanowicz@kpmg.pl

Marek Szymański

Senior Manager

Tel.: +48 (22) 528 10 34

Fax: +48 (22) 528 11 59

mszymanski@kpmg.pl

KPMG Offices

Warsaw Office

ul. Chłodna 51

00-867 Warszawa

Tel.: +48 (22) 528 11 65-71

Fax: +48 (22) 528 11 59

tax@kpmg.pl

Cracow Office

al. Armii Krajowej 18

30-150 Kraków

Tel.: +48 (12) 424 94 00

Fax: +48 (12) 424 94 01

tax.krakow@kpmg.pl

Poznan Office

ul. Roosevelta 18

60-829 Poznań

Tel.: +48 (61) 845 46 00

Fax: +48 (61) 845 46 01

tax.poznan@kpmg.pl

Wroclaw Office

ul. Bema 2

50-265 Wrocław

Tel.: +48 (71) 370 49 00

Fax: +48 (71) 370 49 01

tax.wroclaw@kpmg.pl

Gdansk Office

ul. Piwna 28-31

80-831 Gdańsk

Tel.: +48 (58) 321 96 00

Fax: +48 (58) 321 96 01

tax.gdansk@kpmg.pl

Katowice Office

ul. Powstańców 43

40-024 Katowice

Tel.: +48 (32) 200 65 05

Fax: +48 (32) 200 65 10

tax.katowice@kpmg.pl

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act upon such information without appropriate professional advice after a thorough examination of the particular situation.

KPMG and the KPMG logo are registered trademarks of KPMG International, a Swiss cooperative.

© 2008 KPMG Tax M.Michna sp.k., a Polish limited partnership and a member firm of the KPMG network of independent member firms affiliated with KPMG International, a Swiss cooperative. All rights reserved.