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Eastern Europe: Definition of exporter – VAT consequences

Insights
Tax Alerts
Additional resources
Contacts

The European Union (EU) customs definition of exporter and its influence on value-added tax (VAT) has been affecting export businesses operating in some countries in Eastern Europe for a number of years. Recent developments in the region, for example, in Poland and Bulgaria, may challenge some exporters' supply chain models and may require them to adjust them to benefit from VAT-free exportations.

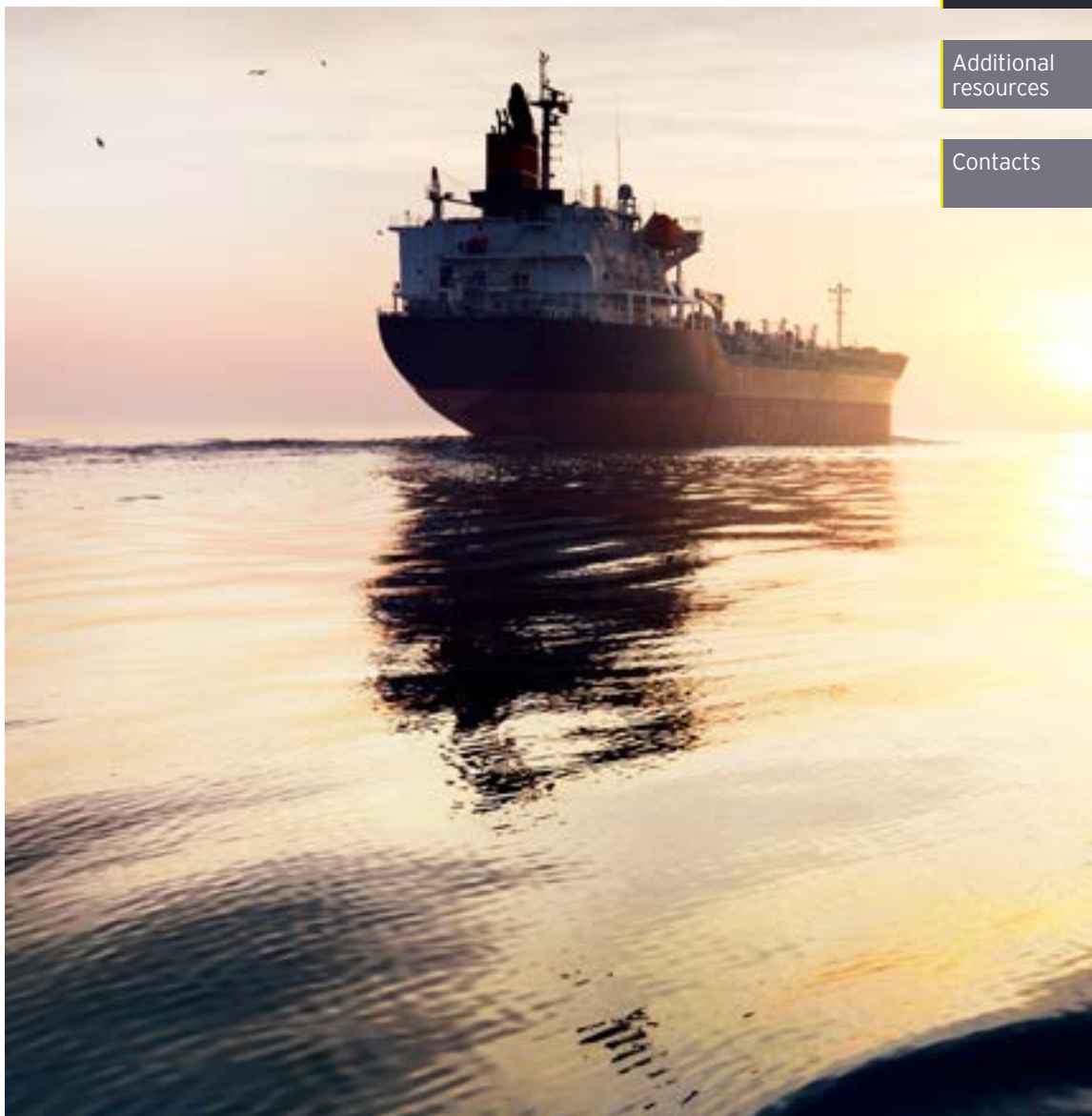
VAT exemption with credit for exports

While domestic sales of goods are generally charged with VAT, exports of goods are generally treated as "exempt with credit." This means that the exporter does not have to charge VAT to the purchaser but is entitled to recover VAT paid on its own costs (including purchase of the exported goods, transport, overheads and similar costs). Exemption with credit is sometimes referred to as "zero rating" as, effectively, the transaction is treated as if it were subject to VAT at a 0% rate. However, exemption may only apply if the seller can prove that it is the exporter of the goods and that the goods have actually been exported from the EU.

The VAT treatment of exports may have a great impact on nonestablished entities registered in specific EU countries where they are designated as the distributor of goods to non-EU markets. In such cases, being able to apply the VAT exemption for these sales is crucial for the export model to be efficient. This concern may be particularly relevant for businesses based in specific EU Member States where the customs definition of an exporter may create difficulties for multinationals' supply chain models.

EU legislation

The EU provision that regulates VAT exemptions for exports is Article 146 of the Council Directive 2006/112/EC of 28 November 2006. According to this article,



Member States shall exempt the following transactions:

- The supply of goods dispatched or transported to a destination outside the EU by or on behalf of the vendor.
- The supply of goods dispatched or transported to a destination outside the EU by or on behalf of a customer not established within their respective territory, with the exception of goods transported by the customer themselves for the equipping, fueling and provisioning of pleasure boats and private aircraft or any other means of transport for private use.

However, this provision does not stipulate the conditions for application of the exemption. These conditions are the responsibility of national regulators in each Member State.

In accordance with Article 1 (19) of the Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No. 952/2013 of the European Parliament and of the Council[1] regarding detailed rules concerning certain provisions of the Union Customs Code (UCC)[2], the term "exporter" means:

(a) A private individual carrying goods to be taken out of the customs territory of the Union where these goods are contained in the private individual's personal baggage.

(b) In other cases, where (a) does not apply:

(i) a person established in the customs territory of the Union, who has the power to determine and has determined that the goods are to be taken out of that customs territory;

(ii) where (i) does not apply, any person established in the customs territory of the Union who is a party to the contract under which goods are to be taken out of that customs territory.

According to the UCC guidelines[3] published by the European Commission on the interpretation of the above definition of exporter, the exporter may also be a person other than the seller of the goods. It is important that this person is duly authorized by the party to the transaction resulting in the obligation to export and meets the definition of the exporter.

In this case, it should be noted that a person who is a party to a contract under which the goods are to be taken out of the customs territory of the EU can also be an exporter within the framework of the EU regulations.

The concept of *"party to a contract under which the goods are to be taken out of the customs territory of the EU"* means that in cases of exports where Article 1(19)(b)(i) does not apply, the business partners concerned must make contractual or business arrangements to designate who will act as exporter, provided the person designated is established in the customs territory of the EU.

A carrier, a freight forwarder or any other party may act as exporter, provided that person complies with the definition of exporter and agrees to take on this role.

1 "Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code," *EUR-Lex website*, January 2022. Find it here.

2 Delegated Regulation (EU) of 2018/1063 16 May 2018.

3 "UCC Guidance documents," *European Commission: Taxation and Customs Union website*. Find it here.

Polish perspective

Polish VAT legislation

The Polish VAT Act does not contain a definition of exporter. However, in domestic regulations, the definition of "export of goods" is indicated. According to Article 2(8) of the VAT Act, export of goods shall be understood as the supply of goods dispatched or transported from the territory of the country outside the territory of the EU by either:

- The supplier or on their behalf (so-called direct export).
- The acquirer having their seat outside the territory of the country or on their behalf (so-called indirect export), with the exception of goods exported by the acquirer for the equipping and provisioning of recreational ships and tourist aircraft or any other means of transport for private use.

In all cases, the dispatch of goods outside the EU must be confirmed by the competent customs authority specified in the customs provisions.

The Polish VAT case concerning definition of exporter (I FSK 1187/21)

Recently, the Polish Supreme Administrative Court ruled in the case of a UK-based company (the Company) with a fixed establishment in Poland, which is also part of a multinational group (Group) operating worldwide. The Company is registered in Poland as an active VAT taxpayer.

The Company's position in the Group is structured in such a way that the Company purchases goods from other Group entities and sells them to both EU and non-EU markets.

Due to Brexit, and the consequent change in the UK Company's status from an entity that has its headquarters in the EU to an entity whose principal place of business is outside the EU, the Company considered a change in its business model in Poland. The change was intended to enable the Company to carry out and continue its VAT export operations in the future.

The Company planned to introduce a new model for the export of goods from Poland, in which a related group company (Related Company), established in Poland, would contractually be granted the power for determining that the goods are to be brought to a destination outside the customs territory of the EU – for goods sold by the Company from its Polish warehouse to third-country contractors.

The Related Company would appear as an exporter on customs declarations (box 2 on the Single Administrative Document (SAD)). Throughout the whole process, the Company would remain the owner of the exported goods, the party making business decisions regarding the sale of goods, the party to sales contracts with contractors and the entity indicated as the seller on the invoice documenting the sale. Sales of goods would be made directly by the Company to non-EU contractors and, transactionally, the supply chain would not include the Related Company. Consequently, in the supply of its goods, the Company would issue sales invoices directly to its contractors. Based on the contractual provisions with the Related Company, the Company would have all customs documents required to prove the goods left the EU, which are the formal condition to apply the 0% VAT rate for exports from Poland.

Given the above, the Company decided to obtain a binding individual tax ruling to confirm the model described above as viable and in line with Polish VAT regulations. In particular, the Company asked if the supply of goods shipped or transported from Poland outside the EU, as presented in the description of the future event, constitutes an export of goods, within the meaning of the VAT Act and whether the Company would be entitled to apply the 0% VAT rate based on customs documents confirming the goods are leaving EU, when these documents are in its possession.

The tax authorities replied in an individual tax ruling, No. 0114-KDIP1-2.4012.215.2020.3.RM dated 14 September 2020. In the ruling, the tax authority decided that the Company's position was incorrect. In the opinion of the tax authority, in the circumstances of the case, the applicable legal regulations make it impossible to conclude that the Company's deliveries of goods to third-country purchasers in the planned model meet the conditions for exports of goods taxed at the 0% VAT rate within the meaning of Article 2(8) of the VAT Act.

The tax authorities ruled that because the documents confirming the export of goods outside the EU will be mentioning a different entity than the supplier or purchaser of the goods, the planned transaction cannot be considered an export of goods, within the meaning of Art. 2(8) of the VAT Act. The tax authority disregarded the fact that the physical dispatch of goods from Poland outside the EU would be confirmed by the relevant customs authority and the fact that the Company would possess documentary proof (issued by customs administration) of that export.

The Company disagreed with the position taken by the tax authority and appealed against the ruling to the District Administrative Court. In the judgment of the District Administrative Court No. I SA/Gl 1459/20, dated 23 February 2021, the Court supported the Company's position. The District Administrative Court also noted that in the Polish VAT Act, the catalog of documents confirming export is open and that the list of documents contained in the VAT Act is only an example. Moreover, the District Administrative Court also noted that the entity requesting the interpretation wants to obtain a complete answer to the question formulated, and, therefore, the tax authorities should indicate whether and what role the other documents listed in the request fulfill. Thus, if the export of goods outside the EU is confirmed by evidence other than the IE-599 message (confirmation of export issued by the Polish customs authorities), the tax authorities cannot ignore such circumstance, or applying the VAT rate to the export for domestic sales, because this action violates the principle of neutrality and is not appropriate to the factual findings made by the authority. Consequently, the action takes the form of a tax sanction rather than taxation of the factual transaction.

As a result, the District Administrative Court found the appeal to be appropriate and revoked the original ruling. However, the tax authority filed a complaint with the Supreme Administrative Court, which ruled on the case on 11 October 2022 (case No. I FSK 1187/21).

The judgment of the Supreme Administrative Court indicates that the tax authority's cassation appeal was dismissed, which means a positive result for the Company. While the official justification of the judgment is still to come (the Court issued its judgment during a closed session), the judgment is important for numerous businesses in Poland, particularly for logistics hubs.

The judgment is in line with EU regulations and the UCC guidelines published by the European Commission and confirms the interpretation of the Polish VAT Act's provisions on exports, which is favorable to taxpayers.

Bulgarian perspective

Documentary requirement for export VAT exemption

Under the applicable Bulgarian legislation, one of the mandatory requirements for application of the exemption with credit VAT rate for exports is the possession of a "customs document in which the supplier is listed as an exporter of the goods." The requirement is introduced by means of the Regulations for the Application of the VAT Act (RAVATA), which is a sub-legislative local act introducing rules and provisions aimed to clarify the main law, the Value Added Tax Act (VATA).

The cited provision in the RAVATA lists the mandatory documentary evidence for exports of goods from Bulgaria to countries outside the EU allowing the supplier to exempt from VAT their sale in accordance with the main VATA rule (itself transposing into the Bulgarian VAT legislation Article 146 from Directive 2006/112).

This requirement in the RAVATA was introduced before the EU customs rule regarding the current exporter definition and implies that:

- The exporter for customs purposes is presumed to be the supplier for VAT purposes.
- The supplier should mandatorily be listed in box 2 of the SAD customs declaration as an exporter to benefit from the VAT exemption.

Practical implications related to export supplies

The current Bulgarian legislative framework for VAT is not aligned with the EU customs legislation. This discrepancy creates significant uncertainty regarding application of the 0% VAT rate for exports in cases where the suppliers are not established within the EU. Usually these are entities acting as distributors of goods within large multinational companies that only have Bulgarian VAT numbers but without any permanent and/or legal establishment.

The uncertainty faced by such entities creates various tax and business risks. On the one hand, the absence of an export customs declaration listing the nonestablished supplier as an exporter is regarded by the tax administration as nonfulfillment of a formal condition and a ground for "effective" assessment of the general 20% VAT rate. This risk, in turn, forces these businesses to amend their supply chains in a manner that is not always sound from a business perspective (e.g., performance of "deemed" intra-Community supply to another EU Member State from where the goods are subsequently exported). Such models create additional administrative and financial burdens and are not sustainable in the long term.

It seems that, in practice, some nonestablished suppliers may obtain an European Economic Operator's Registration and Identification (EORI) numbers and act as if established within the EU by being listed as exporters in the customs declaration. In the absence of an establishment, such reporting may be regarded as being in breach of the EU customs legislation and creates risks not only for sanctions under the customs legislation but also for potential attribution of an establishment for corporate and/or VAT purposes.

Bulgarian legislative developments regarding the exporter issue

An unsuccessful proposal for amendment in the RAVATA was introduced by taxpayers in 2020 as a part of the public consultation for amendment of the sub-legislative act. The proposed text suggested an abridged version of the provision, removing the requirement that the export declaration also lists the supplier as an exporter of the goods.

A second attempt was made in the summer of 2022 by the Bulgarian Ministry of Finance. The Ministry proposed an addition to the current text in the RAVATA introducing the possibility for "another document certifying the export in cases where a possibility for not filing a customs document exists, in accordance with the customs legislation." However, the suggested text was removed from the adopted changes.

The latest attempt to regulate that matter was in September 2022 with a new official proposal by the Ministry of Finance. The proposal introduces a new article in the VATA. The suggested text clarifies that persons not established in the territory of the EU should be listed in box 44 of the SAD customs declaration, in addition to their VAT identification number and the invoice number for the goods by using corresponding codes (at this stage, it remains unclear what type of codes will be required). The draft text also introduces an obligation that the nonestablished supplier (exporter) is mandatorily required to have a Bulgarian fiscal representative. The proposed amendment in the VATA should be voted on by the National Assembly and, if adopted, is expected to come into force at the beginning of 2023.

Romanian perspective

Exporter of record for VAT purposes

The VAT exemption for exports per the EU VAT directive[4] was transposed into the primary VAT legislation in Romania; hence, from this perspective, one could easily argue in favor of a full alignment with the EU VAT rules. Thus, supplies of goods dispatched outside the EU (export transactions), whether by the supplier, by the customer (not established in Romania) or by any other person on their behalf, are VAT-exempt (with credit).

At the same time, more details regarding the practical applicability of VAT exemptions are included in the national regulations. The exporter of record for VAT purposes is defined as the supplier engaged in performing the export transactions, as well as those persons who transport goods outside the EU without a commercial transaction (e.g., transferring stocks across the border to engage in economic activities or transfers as part of supplies of goods that require installation by the supplier or on its behalf in a non-EU state). Beyond this, for the purpose of applying the VAT exemption connected with the international transport of goods (also including the export transactions), the supplier is defined as any of the following persons: the producer of the goods, the owner of the goods or a person acting in their own name but on behalf of another person under a commissionaire structure (i.e., an undisclosed agent).

In terms of supporting documentation, the VAT exemption related to exports of goods could be justified by the exporter of record with a compliant invoice along with formal proof that the goods have left the customs territory (e.g., the certification or notification issued by the export customs office, attesting the fact that the export was completed, or the export report notified to the consignor in the case of excise duty products covered by suspensive arrangements and declared in Excise Movement and Control System (EMCS)).

4 Article 146 of the Council Directive 2006/112/EC of 28 November 2006 on the common system of value-added tax.

Insights
Tax Alerts
Additional resources
Contacts

Moreover, an important amendment of the VAT regulations, brought by the changes in the customs regulations and particularly the limitations of non-EU-based companies to act as exporters of record for customs purposes, refers to the fact that whenever a supplier not established in the EU acts as exporter of record for VAT purposes, it is able to apply the VAT exemption based on a customs SAD export declaration mentioning at box 44 its identification details and the number of the invoice connected to the supply of the goods outside the EU.

Thus, from a Romanian standpoint, in applying and documenting the VAT exemption for exports, the legislator was mindful that the exporter of record for VAT purposes and exporter of record for customs purposes may not always be represented by the same company.

It is also encouraging that Romanian VAT regulations specifically refer to the Court of Justice of the European Union (CJEU) decision in case C-275/18 (Milan Vinš),[5] acknowledging that whenever the dispatch of goods outside the territory of the EU cannot be justified with customs notifications or customs-certified exports declarations, the exporter may use other evidence to prove the actual dispatch and, hence, may benefit from the VAT exemption.

Practical implications driven by distinction between VAT vs. the customs exporter of record

In addition to the specific provisions in the VAT legislation, further to many questions and practical difficulties raised by the business environment, the Romanian tax authorities' intention was to address this dichotomy between the two definitions of exporters of record via a circular covering various practical cases. In this guide, the tax authorities tried to set the scene and reiterate the clear distinction between the exporter for VAT purposes and the customs exporter, and the fact that for customs purposes, non-EU established companies may appoint other entities to act as exporter, such as another party from the supply chain, or even a carrier, a logistics provider or any other entity willing to take on this role.

The tax authorities also restated the importance of box 44 in the customs export declaration for exports. This has been done via practical examples of chain transactions (A-B-C transactions) that involve both EU and non-EU established companies, a unique dispatch of goods outside the EU and where the transportation has been assigned, gradually, to each of the three parties involved in the chain.

In the scenario where party A in the chain (the first supplier in the chain established within the EU) is in charge of the transport, A could be the sole party in the chain acting as exporter of record for VAT purposes and, hence, would be entitled to apply the VAT exemption for exports, regardless of how the customs export declaration is filled in at either box 2 or 44.

However, in a scenario where the transportation is assigned to party B (the buyer-reseller in the chain, established either within or outside EU, but not in Romania), the VAT exemption for export may apply both when the supplier (A) or the customer (B) organizes the transport. The actual assignment of the VAT exemption appears to have been left in the hands of the taxpayers and the manner in which box 44 in the customs export declaration is completed.

An arbitrary allocation of the entity applying the VAT exemption might give a direction to taxpayers, but not always the right direction, and hence, the risk of additional VAT costs cannot be excluded.

Hungarian perspective

Exporter from a customs perspective

The exporter from a customs point of view can be different from the exporter from a VAT point of view who wishes to apply the VAT exemption in Hungary. From a customs point of view, the exporter must be a person physically established in the customs territory of the EU, and they must meet certain requirements (e.g., they have the power to determine and have already determined that the goods are to be transported outside the customs territory of the EU and have a contract under which goods are to be transported outside the customs territory of the EU).

5 "Case C-275/18," *InfoCuria Case-law website.* Find it here.

Exporter from a VAT point of view
From a VAT perspective, the exporter is the company or person who is performing the VAT-exempt supply of goods. Based on the Hungarian VAT Act, certain conditions should be met to treat the supply of goods as a VAT-exempt export transaction, for example, the goods should be transported out of the territory of the EU within 90 days from the date of supply, and within this time limit the goods are not to be used or consumed. The goods must leave the territory and proof must be collected from the customs office exiting the goods from the EU. The goods are dispatched as a consignment or transported from the domestic territory by or on behalf of the vendor. We note that if a freight forwarder is involved, it should supply the transportation services to the exporter from a VAT point of view to treat their services as a VAT-exempted transaction.

Perspective from other Eastern European countries

In Czechia, Slovakia, Lithuania and Latvia, the model discussed in the Polish case (i.e., another entity being an exporter within the meaning of the customs regulations being used for VAT purposes) does not currently raise controversies with the local tax authorities and could potentially be applied, providing the entity that applies VAT exemption for the export holds sufficient documentary proof to support the fact that their goods have been exported from the EU.

Summary

The differences in the VAT treatment of similar transactions in the Eastern European countries considered in this article are a testimony to the mutual influence of VAT and customs provisions, which can, at times, cause issues for businesses.

Proper planning of the supply chain and a review of existing chain transactions, in light of the differences between the customs and VAT definitions of exporter, and between the different approaches across the countries, are recommended for multinational businesses that export from the region.

In particular, businesses involved in export transactions in the region should pay special attention to proper documentation of the export transactions for VAT purposes, especially for the implementation of any new export models or for any changes to their supply chains. ■

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Hamamatsu – a long journey about to end?

Insights
Tax Alerts
Additional resources
Contacts

In *TradeWatch* Issue 2 2022, we published an article, "Hamamatsu – the journey nears its end," on the long-awaited decision in the Hamamatsu case,[1] which was ultimately delivered by the Federal Fiscal Court in Munich (BFH) during the oral hearing on 17 May 2022. It has taken more than four months for the BFH to publish the written grounds of the decision. The grounds for the judgment have been awaited not only in Germany but also in the rest of the European Union (EU), since the Union Customs Code (UCC) and its predecessor, the Community Customs Code, is applicable throughout the EU.

Tax and customs advisers expected to receive clarity from the BFH about whether downward transfer pricing adjustments can successfully substantiate a claim for a refund of customs duties paid at the time of importation when a higher transaction value was used to calculate the amount due. As there are other court decisions pending about the convergence between transfer pricing adjustments and how to determine customs values in related-party transactions, it was hoped that the court would also provide answers about whether the transaction value method of customs valuation is still the preferred method to use in related-party transactions[2] where it may be assumed that retroactive transfer price adjustments are likely to apply. Also, advisers were hoping that the BFH verdict would indicate something about the treatment of upward transfer price adjustments for determining the final customs value (i.e., how to treat a debit note issued by the exporting seller).

However, the legal reasoning of the judgment does not offer so much clarity as room for interpretation. For those wanting and expecting ultimate clarity, the verdict did not provide clear guidance.

Details of the verdict

Refund claim denied, as expected

As indicated in our previous article, the court decided that no refund for customs duties is to be granted if a preliminary transfer price was used in the customs declaration that is adjusted later by a lump sum credit note issued by the seller of the products.

Essentially, the published decision and its verdict confirmed the rumors as to the court's findings.

Scope of the definition of related parties

It was not expected that the BFH would comment in this case on the scope of the definition of "related parties," as it was obvious that both entities involved were considered to be related parties, especially

1 FG München 15 November 2018 (14 K 2028/18).

2 The transaction value method is the first and primary, as well as most commonly used, customs valuation method.

since the underlying price adjustment mechanism was covered from a corporate tax perspective by an Advance Pricing Agreement (APA). In this aspect, the European Court of Justice (ECJ) case *Baltic Master*[3] sheds more light on the scope of this definition. In this case, the ECJ concluded that a buyer and a seller may be deemed to be related in a situation in which no documents exists to prove such a relationship, but if substantiated by objective elements, it can be demonstrated that one of the parties is de facto in control of the other or both are controlled by a third party.[4]

Transaction value method and its applicability in the case of related-party transactions subject to retroactive price adjustments

In considerations 29 to 39 of its judgment, the BFH verdict elaborates in detail on the applicability of the transaction value as the primary and preferred method for customs valuation, as well as on the alternative valuation methods where the imports are covered by a transfer price. However, clear guidance and rules cannot be derived from the verdict.

Basically, the verdict indicates that the transaction value cannot be applied in cases in which the sum of the prices is reviewed in total at the end of a period (consideration 6). However, the verdict does not provide any clarity, as it only outlines the principles in this respect. These principles are outlined at the beginning of the verdict (consideration 1), where the BFH states that the customs value cannot be determined based on an agreed transaction value consisting partly of an amount initially invoiced and declared, and partly of a flat-rate correction at the end of the accounting period without it being possible to define whether that adjustment will be made upward or downward at the end of the period. BFH confirms that this view also holds if the fallback method[5] is applied (consideration 2).

The BFH's ruling and justification are already receiving criticism, since the BFH makes a connection to Article 8(3) of the Customs Valuation Code drafted by the World Trade Organization (WTO), but BFH ignores that a transfer pricing adjustment potentially triggers a change in the price payable or paid, but never an addition to or deduction from the customs value. Another principle that is constantly referred to in the verdict is the demand that a customs value is required to be fair and uniform and cannot be based on arbitrary or fictitious values (consideration 30).

Considerations of the BFH

As stressed by the BFH in its verdict under considerations 40 and 41, the decisive point in determining the customs value is the time when the customs debt is incurred. In general, this is the time when the relevant customs declaration is accepted by the customs authorities (c.f. Articles 85(1), 77(2) and 172(2) UCC). The BFH further confirms that customs valuation is a product-related and a date-related determination of the value. In this respect, therefore, it is a case-by-case exercise to determine the customs value of imported goods, regardless of which customs valuation method is applied (consideration 42).

Consequently, a subsequent adjustment in the purchase price can only be taken into account in special cases (i.e., in the event of defective products at the time of acceptance of the customs declaration). Thus, in principle, changes in the factual or legal circumstances that occur only after payment of the customs debt, cannot justify a refund of import duties. Accordingly, the European Court of Justice (CJEU) in its decisions has previously permitted a subsequent adjustment of the transaction value only in special cases to prevent customs values being established on "arbitrary or fictitious values".

Given the fact that the decision in this case relates to a downward adjustment, it remains questionable how an uplift adjustment can occur in the light of this principle. In that respect, we think that regardless of any future adjustment, an initial (transfer) price should not be considered as arbitrary or fictitious if at the time the customs declaration is accepted the information at hand shows that the price has not been influenced.

Generally, transfer price adjustments are determined periodically (e.g., at the end of each year or quarter) and may be subject to upward or downward adjustments. Therefore, in practice, in most cases, the import of the products and the customs debt has been incurred before the transfer pricing adjustment is calculated.

By their nature, therefore, transfer price adjustments are not yet known or foreseeable at the decisive time for customs purposes (i.e., acceptance of

3 CJEU 9 June 2022, C-599/20 (Baltic Master), ECLI:EU:C:2022:457.

4 This case is discussed in detail in our article ' EU: CJEU rules on use of statistical data for determination of customs value', *TradeWatch* Issue 2, 2022, page 35, *EY website*. Find it here.

5 Fallback method is to be applied if the customs value cannot be applied under any of the previous methods and should be based on using reasonable means consistent with the principles and general provisions of the Agreement and of Article VII of General Agreement on Tariffs and Trade, and on the basis of data available in the country of importation.

the customs declaration). Furthermore, it is not yet known at that time whether any adjustments would be in the form of a debit or credit note, nor is the amount of the potential adjustment. This means that the value of products that may be adjusted by a potential transfer price adjustment is not quantifiable at the decisive time for customs valuation purposes.

However, the BFH concludes that the customs value can be determined based on the invoice prices during the year, unless there is any indication at the decisive time that these prices do not reflect the true and actual economic value of the imported products and do not consider all elements of these products that have an economic value (considerations 30 and 53). This requires that at the time of acceptance of the customs declaration, there are neither harmful conditions nor a harmful relationship between the buyer and seller from a customs perspective that precludes the application of the transaction value method.

Further, the BFH concludes that transfer price adjustments serve as income tax instruments for avoiding disputes and reducing transfer pricing risks. Therefore, such adjustments have no impact on the customs value within the scope of all customs valuation methods since determining customs values must be done with a clear relation to both the imported product and date (i.e., on a case-by-case valuation of a concrete transaction).

Outlook and actions for business

In the light of the BFH verdict, it remains questionable how retroactive transfer price adjustments (as well as price adjustments in general) will be considered for customs valuation purposes in the future. Since the BFH verdict constitutes the last judicial instance in the Hamamatsu case, guidance from the EU Commission and/or EU customs authorities for clarification and a uniform application and interpretation on this topic is expected and required.

Pending retroactive adjustments (due now or already processed)

The BFH verdict does not significantly alter our previous recommendations for how businesses in Germany should deal with transfer price adjustments for determining the customs value of imported goods:

- In the case of downward transfer price adjustments, applications for refunds should still be made, and appeals should be filed against rejections.
- In the case of upward transfer price adjustments, we advise businesses to notify German Customs but immediately appeal against any subsequent import duty notices.

Current practice for customs value declarations

Referring to the general principles the BFH explicitly mentioned, the fallback method (Method 6) is the adequate choice in case of a price payable or paid, which is based on an initial price and a foreseeable adjustment (downward or upward). We believe that, with flexibility applied, the chosen value should be the transfer price. Our reasoning for this approach is grounded in considerations 30 and 53 of the verdict, in which the BFH refers to customs declarations that were not lodged as incomplete and thus as complete customs declarations (i.e., the standard case). In such cases (such as applies in the Hamamatsu case), the prices were accepted since there was no indication at the time of acceptance of the customs declarations that those prices did not reflect the actual economic value of the imported goods, nor that those prices did not take into account all the elements of those goods which had an economic value.

We believe that, in practice, companies predominantly have preliminary prices in place that match this criterion, since, when price planning is performed, the adjustment process is, never the desired outcome. Therefore, we see strong arguments to defend a preliminary price as the customs value in a customs declaration. Based on discussions with German Customs, however, we understand that there is a high likelihood that German Customs will stick to its opinion regarding uplift transfer pricing adjustments (i.e., treating these as dutiable), and we expect a court decision about the treatment of an uplift case in due course. ■

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Poland: Transfer pricing adjustments and their impact on VAT, excise and customs duties

Transfer pricing adjustments

Transfer pricing adjustments (TP adjustments) are adjustments that correct (i.e., adjust) the price, remuneration, financial result, financial ratio or other specified financial result that was originally used in a transaction between related entities, in particular, between entities within one capital group.

In accordance with the Polish Corporate Income Tax Act (CIT), the purpose of such adjustments is to amend the transfer prices applied for a given settlement period to an amount compliant with the arm's-length principle. In practice, this means that the price should correspond to the market price that would be used by unrelated entities (third parties) in a similar transaction.

According to Polish regulations, taxpayers valuing the price of transactions concluded with related entities are required to set the price at the market level at the time of the transaction. TP adjustments may increase the price originally applied by increasing revenues or reducing costs (an in-plus adjustment) or by reducing revenues or increasing costs (an in-minus adjustment).

A TP adjustment made after the transaction occurs only when the transfer price applied by the taxpayer does not correspond to the market price that unrelated entities would set, even if, when concluding the transaction, the taxpayer acted rationally and reliably to comply with the arm's-length approach in setting the price. In other words, the adjustment must result from changes in circumstances surrounding the business activity or result from using a method of determining the transfer price based on budgetary data, which are adjusted to actual revenues and costs after the end of a given period.

Polish regulations provide for four formal conditions that must be met jointly (to recognize the correction of revenues or costs for tax purposes). All four conditions must be met in the case of in-minus adjustments, and the first two conditions only need be met in the case of in-plus adjustments:

1. In controlled transactions carried out by the taxpayer during the tax year, conditions were set that would be established by unrelated entities.
2. There has been a change in material circumstances affecting the conditions set during the fiscal year or the actual costs or revenues obtained are known to be the basis for the calculation of the transfer price and ensuring their compliance with the conditions that would be determined by unrelated entities requires transfer pricing adjustments.
3. At the time of the correction, a Polish taxpayer obtains a statement from a related entity or an accounting document confirming that the entity has made a transfer pricing adjustment in the same amount as the taxpayer.
4. There is a legal basis for the exchange of tax information with the country where the related entity has its place of residence, registered office or management board.

TP adjustments usually impact direct taxes. However, the impact of the TP corrections may also have far-reaching consequences for indirect taxes such as value-added tax (VAT), excise taxes and customs.

TP adjustments and their VAT implications – EU perspective

VAT is a harmonized tax at the European Union (EU) level. This means that the general principles of its calculation and settlement should be the same in all Member States. However, EU directives and regulations do not contain regulations specifying how countries should approach the issue of the impact of TP corrections on VAT. This has resulted in the emergence of various approaches in different EU countries. For example, a TP adjustment may be treated as:

- Outside the scope of VAT (no taxable transaction for VAT purposes)
- A price adjustment (the adjustment is connected to a prior underlying taxable transaction, which results in a retroactive adjustment)
- Further consideration for a subsequent supply, resulting in a prospective adjustment
- Consideration for a separate service supply, resulting in a separate taxable transaction for VAT purposes

On 18 April 2018, the VAT Expert Group (VEG), a unit of the European Commission, issued "Paper on topic for discussion: "Possible VAT implications of Transfer Pricing."[1] The paper aims to bring certainty, simplicity and clarity on the VAT treatment of TP adjustments. Although the VEG guidelines are not binding, in practice, they are considered by the Member States and their tax authorities as guidelines as to which VAT treatment is appropriate for individual transactions, taking into account the available regulations and the existing CJEU jurisprudence practice.

In its paper, the VEG stated that TP adjustments should be considered in general as "outside the scope of VAT," where both parties have a full right to recover VAT.

For TP adjustments to have an impact for VAT, all of the following aspects should be considered:

- The existence of consideration
- The existence of a supply (of goods or services)
- The existence of a direct link between the consideration and an initial supply

If the TP adjustment can be directly linked to the initial supply, the VAT treatment of the adjustment is the same as that of the initial supply. However, the TP adjustment must be split so as to link the adjustment to each single supply of goods sold or service provided. According to the VEG, the TP

1 "VEG No. 071 REV2: Paper on topic for discussion: Possible VAT implications of Transfer Pricing," *European Commission website*, April 2018. Find it here.

adjustment should not necessarily result in a price adjustment for VAT purposes, even though the profit adjustment may be an indirect consequence of goods being bought or sold and other types of costs being incurred.

TP adjustments and their VAT implication — Polish perspective

The practice of the Polish tax authorities corresponds in general with the position of the VEG, as presented in the guidelines. Rulings issued by the Polish tax authorities in individual cases of taxpayers often confirm that the adjustment of transfer prices to the market level is outside the scope of VAT. This approach also applies to situations where, after the end of the year, it transpires that a company has not managed to achieve a margin at the market level in a transaction with a related entity. To adjust the transfer prices to the appropriate amount, in such situations, the parties carry out so-called profitability adjustments. We are also identifying cases where TP adjustments fall in the scope of the Polish VAT.

In particular, while reading through the reasoning presented by the Polish tax authorities in tax rulings issued in individual cases, we identify that TP adjustments:

- Remain outside the scope of VAT if they relate to the entire profitability result achieved in a given period and are not linked to specific supplies between related entities (i.e., do not refer to specific invoices, individual items of these invoices or to prices originally applied)[2]
- Should be included in VAT settlements if they relate to specific supplies performed between related entities in a given period (i.e., there is a link between TP adjustments and specific invoices or prices of goods or services)[3]

It should be emphasized that these issues have not been regulated directly in the Polish VAT Act. The only possibility of providing legal protection for a specific transaction or entity is to obtain a binding tax ruling in an individual case. The ruling protects only the applicant. Therefore, relying only on rulings issued in similar circumstances for other entities does not provide adequate protection in the event of a tax audit.

TP adjustments and their customs implications

As we noted earlier, TP adjustments are primarily associated with direct taxes, and their impact on other taxes and duties often goes unnoticed. Many companies are not aware that retrospective TP adjustments could potentially impact the customs valuation of goods imported into the EU.

The concept of customs valuation is central to understanding the impact of TP adjustments on customs duties. The customs value is the basis for calculating customs and other tax duties when importing goods into the EU from outside the EU. It is used for the purposes of the Common Customs Tariff and for non-tariff measures laid down in EU law.

There are several different methods of customs valuation; however, the most important and the one primarily used is the transaction value method. The transaction value is the price paid or payable for the goods between the parties. The price actually paid or payable is the total payment paid or to be paid by the importer to the exporter or by the importer to a third party for the benefit of the exporter for the imported goods and includes all payments made or to be made as a condition of the sale of the imported goods.[4]

Generally, the transaction value method cannot be used if the buyer (the importer) and seller (the exporter) are related to each other and the relationship between them has influenced the price. It is, however, possible to apply the transaction value method if the declarant demonstrates that the declared transaction value is very close to one of the test values (e.g., the customs value of identical or similar goods).[5]

Returning to the issue of TP adjustments, in practice the importer often also acts as a distributor of the imported goods, bearing additional risk and responsibility. The costs related to distribution are included in its net margin and the price of the transaction concluded with a related entity (in this case, the exporter), taking into account the arm's-length principle.

2 Ruling of 26 February 2021 (0114-KDIP4-2.4012.660.2020.2.AS), ruling of 18 February 2021 (0111-KDIB3-1.4012.966.2020.2.KO), ruling of 12 February 2021 (0112-KDIL1-2.4012.610.2020.3.ST).

3 Ruling of 27 July 2020 (0114-KDIP1-2.4012.156.2020.3.RD), ruling of 3 November 2017 (0114-KDIP1-1.4012.389.2017.2.RR).

4 Art. 70 of the Regulation (EU) No. 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code; OJ L 269, 10.10.2013.

5 Art. 134 of Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No. 952/2013 of the European Parliament and of the Council laying down the Union Customs Code; OJ L 343, 29.12.2015.

However, if the predicted profitability target is not reached, and the importer's income from transactions with the related party exceeds the arm's-length rule, the parties will compensate with a TP adjustment. The question may be raised whether such a change should affect the value of the transaction initially declared for customs purposes, and thus should be included in the correction of the customs declaration by reducing or increasing the value of the transaction.

This issue is currently subject to controversy in Poland. It seems that CJEU case C-529/16[6]

(Hamamatsu Photonics Deutschland GmbH v Hauptzollamt München[7] has not brought sufficient certainty to the treatment of TP adjustments in Poland. There is no guidance on the treatment of TP adjustments issued by the Polish customs authorities, and there is not sufficient practice (local court cases) constituting unified jurisprudence that importers can rely on.

Firstly, a distinction should be made between adjustments that would impact the customs value by increasing it and those that would decrease them.

In the case of values being increased, the associated TP adjustments may result in arrears in customs and import duties that are based on the customs value. In such a case, many entities decide to correct their past entries showing the higher value as a basis for the duty calculation. In practice, the Polish customs authorities tend to examine in-plus customs value corrections with special scrutiny, asking for supporting documentation to prove that the value of the adjustment is correct and justified.

In the case of decreased values, if the adjustments cause a lowering of customs values, in practice, it is difficult to successfully proceed with the correction of past entries and to receive reimbursement for any overpaid duties.

The customs value also impacts the taxable amount of import VAT and excise duty (only for passenger cars) in Poland. Taking into account that TP adjustments are subject to numerous VAT rulings and proceedings, it is not uncommon that businesses involved in trade with goods are in possession of individual VAT rulings stating the TP adjustments in their case are "outside of the scope of VAT" or "in the scope of VAT." However, it is often difficult for those entities to apply the approach in the VAT ruling if TP adjustments are connected with import transactions.

For example, in the case of TP adjustments regarded as in the scope of VAT, difficulties arise if the adjustment influences import transactions and results in lowering the taxable amount. Import VAT reporting in Poland is based on customs reporting, and in practice, it is not possible to report a correction in import VAT until there is a correction in the customs declaration or a decision on the customs value and taxable amount for VAT issued by the customs and tax authorities. As mentioned above, the process of successfully correcting past entries by lowering the customs value is difficult to achieve in practice.

On the other hand, when the entity applies an "out of the scope of VAT" treatment in relation to TP adjustments, often the importer does not correct customs entries post-importation for in-plus adjustments. However, the risk of the customs authorities challenging such an approach is not eliminated. In such a case, the importer is exposed not only to the risk of customs arrears and relevant interest for late payment, but also to penal fiscal liability due to non-declaration or nonpayment of duty in the correct amount.

6 "C-529/16," *EUR-Lex website*, December 2017. Find it here.

7 This case is discussed in the article "Germany: Hamamatsu – the journey nears its end" from *TradeWatch* Issue 2 2022, page 43, and in the EY Tax Alert "CJEU issues ruling on determining transaction value for customs valuation," *EY website*, January 2018. Find it here.

Notwithstanding these comments, in our experience, it is often the case in Poland that the treatment of TP adjustments for customs purposes is driven by the VAT treatment (usually confirmed by the entity's individual tax ruling).

TP adjustments and their Polish excise implications

Excise duty is harmonized at the EU level. As a rule, only "excise goods" listed in Directive 2008/118/EC[8] are subject to excise duty (i.e., energy products, electricity, alcohol and alcoholic beverages, and tobacco products).

However, the Directive also allows Member States to introduce excise duty on products other than excise goods specified in the Horizontal Directive.[9] Under this provision, the Polish Excise Act applies excise duty on passenger cars in the event of their import, intra-Community acquisition or first registration in the territory of the country.

The excise duty taxation of passenger cars in Poland is different compared to other how excise-taxed goods are treated: passenger cars are the only products on which the excise duty depends only on the value of the goods (ad valorem rate) and not, for example, on their volume.

For businesses operating in the automotive industry that trade in passenger cars as part of their related-party transactions, they should identify cars that are registered in the territory of Poland (whether following an intra-Community acquisition or importation) and should evaluate their excise accounts if TP adjustments related to these transactions occur. If a TP adjustment can be directly linked to the supply of passenger cars, which will affect the original price, the question may be raised whether it is also necessary to correct the excise settlements on those passenger cars introduced into the territory of Poland.

Importantly, for imports of passenger cars from outside the EU, the basis for taxing a passenger car with excise duty is the customs value of the car increased by the duty due. For a long time, the practice in Poland related to post-entry corrections of the price of passenger cars were not included as relevant for increasing or decreasing the excise duty. Corrections of excise already declared and paid were not required and were not accepted in practice, regardless of the cause. However, this practice may not be changing. Recently, the court in Warsaw issued a judgment[10] for a taxpayer who applied for a reimbursement of an overpayment of excise duty as a result of a post-transaction decrease in the price of passenger cars it had brought into Poland from another EU Member State, concluding that the adjustment of the excise settlements in this case should be possible (i.a. III SA/Wa 2687/21).[11] This judgment may not have a direct impact on the treatment of TP adjustments for importers in reducing excise duties, but it certainly is a reason for evaluating the possible impact of TP adjustments on excise tax in this area.

Next steps for business

In an era of dynamic changes in international trade and supply chains, an uncertain geopolitical situation and unexpected circumstances influencing economic activity, TP adjustments are not uncommon. While resulting from economic and direct tax principles, TP adjustments may have a major impact on customs and indirect tax settlements. Given the likely prevalence of adjustments, and the often-large sums involved, businesses that undertake related-party transactions should look carefully at the indirect tax consequences of their TP adjustments. Ignoring their impact may create the potential risk of customs and tax arrears as well as personal liability under penal fiscal provisions. ■

Insights
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8 Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive 92/12/EEC," *EUR-Lex website*, December 2008. Find it here.

9 "Council Directive (EU) 2020/262 of 19 December 2019 laying down the general arrangements for excise duty (recast)," *EUR-Lex website*, December 2019. Find it here.

10 "III SA/Wa 2687/21 – Wyrok WSA w Warszawie," *Centralna Baza Orzeczeń Sądów Administracyjnych website*, May 2022. Find it here.

11 Ibid.

UK: Freeports – moving toward delivery

Freeports are specially designated areas within the United Kingdom (UK) where different tax and economic regulations apply. Freeports are made up of tax and customs sites that sit within the Freeport's 45 km outer boundary. The UK Freeport's policy has been designed to drive global trade and investment, regeneration, innovation, skills, and leveling up within Freeport areas. In addition to tax and customs benefits, Freeports also offer benefits related to retained business rates, planning support and seed capital funding. Each Freeport contains a unique governance model, but generally Freeports are made up of both public and private sector partners that are responsible for overseeing the delivery of the Freeport.

There are eight Freeports in the UK:

- East Midlands Airport
- Felixstowe & Harwich (Freeport East)
- Humber
- Liverpool City Region
- Plymouth & South Devon
- Solent
- Thames (London Gateway)
- Teesside

Tax and customs benefits available

Freeports are made up of tax and customs sites. Individual tax and customs sites have their own site boundaries where businesses can locate to claim the benefits available, subject to authorization. The tax benefits available include Business Rates Retention, Stamp Duty Land Tax (SDLT) relief, Employer National Insurance Contributions (NICs) relief, Enhanced Structures and Building Allowance, and Enhanced Capital Allowances. These benefits are available to businesses operating on tax sites to drive investment and innovation within the Freeport. The local council area where Freeport tax sites are located will retain 100% of the business rates growth to allow them to continue to invest in regeneration and infrastructure to support future growth.

Customs benefits

Freeport customs sites offer benefits such as duty suspension, duty exemption for re-exports, duty flexibility when calculating the customs value on goods released to the Great Britain (GB)[1] market, and simplified import procedures that reduce the administrative burden when clearing goods at the GB border. Goods being imported into a Freeport will not be subject to import value-added tax (VAT) until released to the GB market and will be exempt from import VAT if re-exported from a Freeport customs site.

Benefits available to businesses operating within Freeport customs sites are similar to those already available through customs special procedures. However, there are some additional administrative benefits to operating within a customs site, including:

- **Simplified import declarations** through the Freeport customs special procedure. No supplementary declarations are needed for goods declared to the Freeport customs special procedure.
- **Ability to claim duty suspension, duty exemption on re-export, and duty flexibility for processing or storage activity under one combined customs special procedure.** Goods that are re-exported from a Freeport customs site may be subject to a prohibition of drawback clause, depending on the country of importation.
- **Movement between customs sites using a "by conduct" declaration** allowing businesses to move goods between customs sites without having to use transit or complete a separate customs declaration. The business and the Customs Site Operator (CSO) must maintain relevant records of the movement in accordance with their record-keeping obligations.
- **Movement between a Freeport business to another customs special procedure by declaration by conduct** rather than having to complete a declaration or transit movement.
- **Suspension of import VAT and zero-rating of eligible supplies of goods and related services in the Freeport.**

Each Freeport has its own core target sectors that it seeks to attract to drive trade and investment. Tied to the specific Freeport tax and customs levers are the wider economic benefits associated with Freeports, which include the objective of creating clusters of trade and investment that can drive manufacturing activity in the UK.

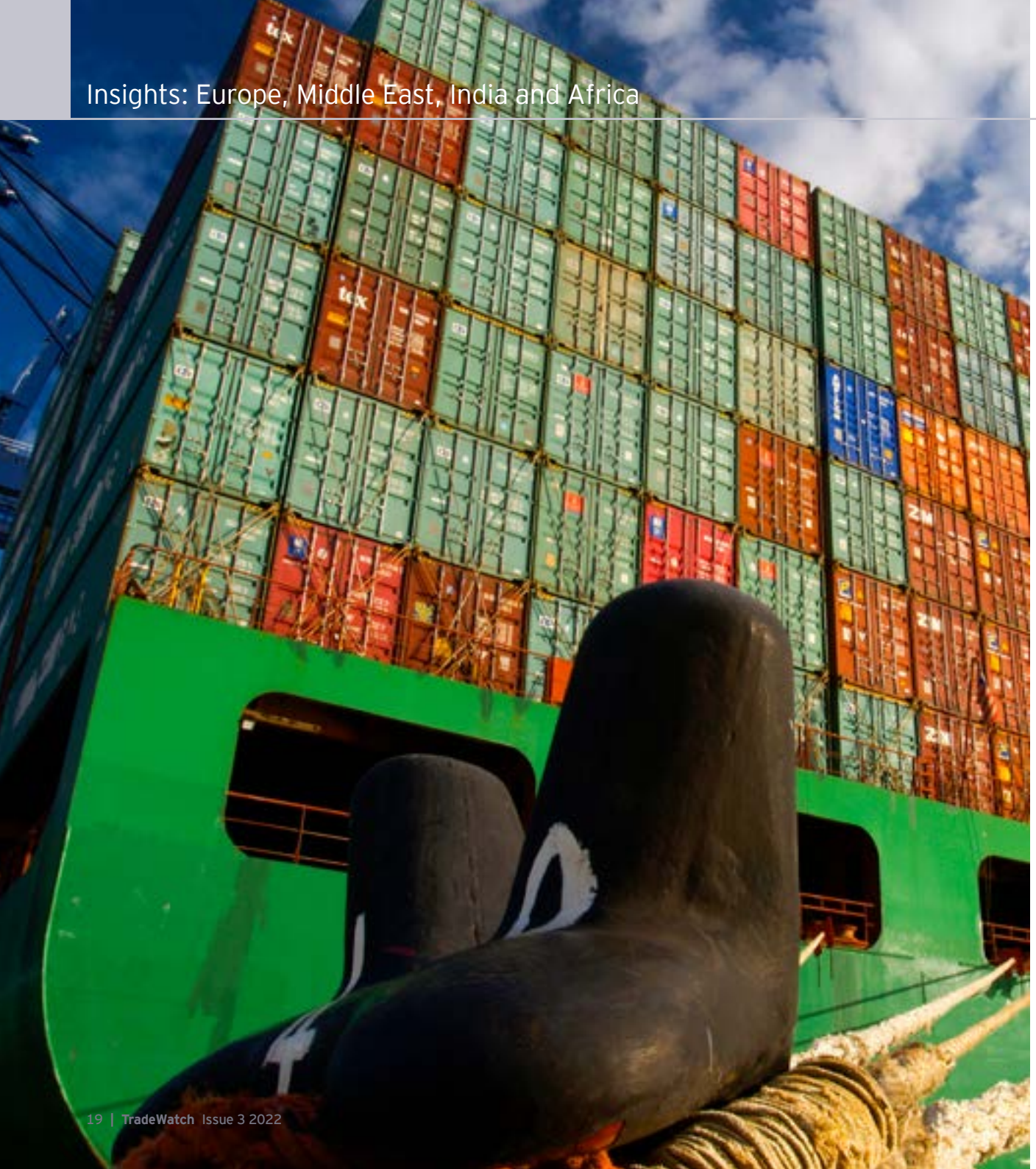
How Freeports work

The tax and customs benefits available within Freeports are only available within the specific tax and customs site boundaries, not within the wider Freeport area. Freeport customs sites are managed by a customs site operator(CSO), who must be authorized by the UK tax authority, His Majesty's Revenue and Customs (HMRC), as part of the customs site designation process.

Customs sites have defined boundaries within the wider Freeport area. In practical terms, this means that goods must move to that specific customs site to achieve Freeport customs benefits. Freeport customs sites are designed to attract "business operators," which are companies that operate within customs sites either through processing or storage activity to achieve duty suspension or exemption reliefs. Freeports may have more than one customs site; however, it is up to the Freeport's governing body to determine whether they wish to support additional customs site applications.

To operate on a customs site and obtain the customs benefits available, businesses must be authorized by HMRC through the Freeports customs special procedure, which businesses can apply to subject to agreement with the CSO. By using this procedure, business operators obtain duty suspension and exemption benefits for both storage and processing activity without needing separate customs warehousing or inward processing authorizations. Alternatively, businesses may use an existing customs special procedure that they are already authorized for (such as inward processing and/or customs warehousing) to operate within a designated customs site; however, they must comply with Freeport customs site rules for record-keeping.

1 Great Britain includes England, Scotland and Wales.



There are not yet designated Freeport customs sites at all UK Freeports. The following Freeports have designated customs sites to date:

- Freeport East
- Plymouth and South Devon Freeport
- Solent Freeport
- Teesside Freeport
- Thames Freeport

Freeport levels of operation

Freeports are at varying levels of operationalization. While all Freeports have designated tax sites, Freeports are still under a full business case (FBC) approval process. A government announcement on FBC approvals is expected before the end of 2022. Once Freeport FBCs are approved by the government, Freeports will be working toward becoming fully operational to unlock the wider objectives around trade and investment, skills, innovation, and regeneration.

What's next for UK Freeports?

As Freeports in England move to operational delivery, the bidding process for Freeports in Scotland, Wales and Northern Ireland continues. An announcement on successful bids in Scotland is expected soon. Once the successful bids are announced, it is anticipated that Scottish Freeports will move to the business case stage.

Insights
Tax Alerts
Additional resources
Contacts

UK investment zones

In addition to Freeports, the UK government has recently announced the development of Investment Zones in England. Investment Zones will be considered through a "rapid Expression of Interest (EOI) process" open to mayoral combined authorities (MCAs), upper tier local authorities (UTLAs) or Freeports. Investment Zones will benefit from tax incentives over a period of 10 years, including:

- **Business Rates:** 100% relief from business rates on newly occupied business premises and certain existing businesses that expand in English Investment Zone tax sites. Councils hosting Investment Zones will receive 100% of the business rates growth in designated sites above an agreed baseline for 25 years.
- **Enhanced Capital Allowance:** 100% first-year allowance for companies' qualifying expenditure on plant and machinery assets for use in tax sites.
- **Enhanced Structures and Buildings Allowance:** Accelerated relief to allow businesses to reduce their taxable profits by 20% of the cost of qualifying nonresidential investment per year, relieving 100% of their cost of investment over five years.
- **Employer National Insurance Contributions relief:** Zero-rate employer NICs on salaries of any new employee working in the tax site for at least 60% of their time, on earnings up to GBP50,270 per year, with employer NICs being charged at the usual rate above this level.
- **Stamp Duty Land Tax:** A full SDLT relief for land and buildings bought for use or development for commercial purposes, and for purchases of land or buildings for residential developers.

The deadline for MCAs, ULTAs and Freeports to submit an EOI for Investment Zones was 14 October 2022. Following this EOI, the government intends to undertake a rapid review and approval process of Investment Zones. More information regarding the governance structure and operating models of Investment Zones is expected to follow. Investment Zones may include existing Freeport tax and customs sites.

Conclusion

Businesses interested in operating in a Freeport tax or customs site should quantify the potential benefit of both the direct and indirect tax levers available. In particular, businesses interested in the potential for customs benefits should consider the benefits that simplified import procedures may offer as well as the potential to operate the equivalent to inward processing and customs warehousing under one customs special procedure.

Businesses should continue to monitor the development of the Investment Zone policy, as it will lead to the creation of additional sites in the UK that offer tax levers for investors. ■

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Insights
Tax Alerts
Additional resources
Contacts

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- Government of Canada announces withdrawal of Most-Favored-Nation tariff benefit on goods originating in Russia and Belarus *(17.11.2022)*

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- EU Finance Ministers agree on Code of Conduct mandate reform *(10.11.2022)*

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- German Government releases draft legislation for a Single-Use Plastics levy in Germany *(08.11.2022)*

Ghana

- Ghana enacts various amendments to tax laws introduced in 2022 Mid-year Budget Review Statement *(24.10.2022)*

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- OECD/G20 Inclusive Framework holds 14th plenary meeting and publishes 6th annual progress report *(24.10.2022)*
- G20 Finance Ministers welcome progress made on BEPS 2.0 and call for swift implementation *(21.10.2022)*
- OECD releases public consultation document on administration and tax certainty aspects of Amount A of Pillar One *(21.10.2022)*
- OECD and UN: Tax Inspectors Without Borders publish Annual Report 2022 *(20.10.2022)*

Ireland

- Budget 2023: The EY Perspective *(27.09.2022)*

Italy

- Italian Government approves 2023 Budget draft document and proposes further suspension of Sugar Tax and Plastic Tax for 2023 *(20.11.2022)*

Russia

- Government of Canada announces withdrawal of Most-Favored-Nation tariff benefit on goods originating in Russia and Belarus *(17.11.2022)*

Spain

- Spanish Tax Authority announces opening of registration site for new plastic packaging tax as of 1 December 2022 *(28.11.2022)*
- Spain approves legislation on mandatory electronic invoicing *(05.10.2022)*

United Arab Emirates

- UAE issues new Tax Procedures Decree Law *(10.11.2022)*

United Kingdom

- UK announces new Electricity Generator Levy *(18.11.2022)*
- UK Chancellor delivers Autumn Statement *(17.11.2022)*

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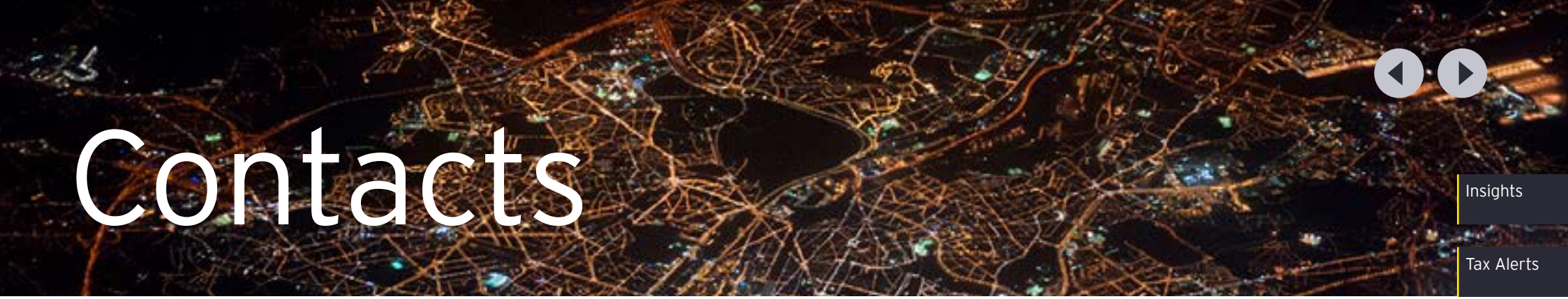

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