



Definition of "exporter" - Guidance by the I.A.P.R.

I.A.P.R. guidance on the implementation of the "exporter" definition and the proper completion of the export declaration for customs purposes

The Independent Authority for Public Revenue (I.A.P.R.) has recently adopted the definition of the "exporter" for customs purposes, as provided for in article 1 (19) of the Commission Delegated Regulation (EU) No 2015/2446 and published Circular 2003/31.12.2021 providing the long-awaited instructions on the mandatory intermediation of an "exporter" established within the customs territory of the European Union (EU) in the context of completion of customs export formalities.

In more detail, the Circular sets out the criteria which should be met in order for a person (individual or legal entity) to act as an "exporter", provides guidance not only for the proper completion of the export declaration, but also for the person who is eligible to enjoy the export VAT-exemption.

The key points of the Circular are summarized as follows:

- ▶ It is no longer necessary for the “exporter” and the seller of the goods to coincide in the same person, but it is only the seller who is eligible for the VAT-exemption on the exported goods under the provisions of the Greek VAT Code.
- ▶ In accordance with article 1 (19) of the Delegated Regulation (EU) No 2015/2446, the “exporter” is defined as:
 - ▶ The private individual who carries the goods to be taken out of the customs territory of the EU in his personal baggage, or
 - ▶ For business transactions any person who is established in the customs territory of the EU and has the power to determine and has determined that the goods are to be taken out of the customs territory of the EU. Where the above do not apply, the exporter is any contracting party established in the customs territory of the EU pursuant to the contract under which the goods are to be taken out of the customs territory of the EU.
- ▶ In essence, the basic criteria for a person to be eligible to act as an “exporter” are (a) the establishment within the EU and (b) the written authorization to undertake the export customs formalities (i.e. the power to determine the export).
- ▶ A carrier, a freight forwarder or any other party may act as exporter as long as that person complies with the definition of “exporter”, agrees to take on this role and in any case may be contractually empowered to act as exporter.
- ▶ The requirement for the exporter to be established within the customs territory of the EU does not apply in case of re-export of non-Union goods, as well as in case of persons who lodge customs declaration on an occasional basis.
- ▶ For VAT-exemption purposes, the “exporter” may no longer necessarily coincide with the “seller” of the goods, however, the exemption can be granted only to the seller under the conditions set out by the Greek VAT legislation and mainly the following:
 - ▶ The issuance of VAT exempt invoice via the Greek VAT number of the seller, which is declared on the export customs declaration.
- ▶ The seller should maintain the electronic message IE599 “Notification of the export completion”, which going forward will be sent to both the exporter and the seller, in case they are different persons.
- ▶ In view of the above:
 - ▶ The new rules have a significant impact on non-EU established entities which export goods from Greece via their Greek VAT registration number, since their indirect customs representative can no longer undertake the relevant export formalities. Consequently, immediate actions should be taken to ensure the smooth operation of their supply chains.
 - ▶ However, no changes would appear to take place regarding the import of goods within the Greek territory performed by non-EU established entities.
 - ▶ It is recommended also for the Greek established businesses to review their export transactions in the framework of the implementation of the new rules, since it would appear according to the Circular that the assumption of the contractual obligation to transport and/or export the goods may affect the application of the direct VAT-exemption.

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