

Subject: Procedure of temporary import with partial exemption from payment of import duties

1. GENERAL PROVISIONS

The customs authority, in the process of temporary import, approves the use in the customs territory of the Republic of Serbia of foreign goods intended for re-export, in unchanged state, except usual reduction of the value due to abuse, with complete, or partial exemption from payment of import duties and without implementation of measures of commercial policy.

The procedure of temporary import with partial exemption is defined with the provisions of the articles 111 to 117 and 164 to 171 of the Customs Law ("Official Gazette of the Republic of Serbia", Nr. 18/10) and articles 264 to 288 and 320 to 321 of the Regulation on approved treatment of goods ("Official Gazette of the Republic of Serbia", No. 93/10).

The goods placed in the procedure of temporary import have to stay in unchanged state. Repairs and maintenance are allowed, including overhaul, adjusting and measures required for preserving goods or providing technical conditions required for the usage within the customs procedure.

2. APPROVAL

The customs authority gives an approval for temporary import, at request of the entity using the goods, or the entity organising use of goods.

The customs authority in charge may issue the approval for carrying out the temporary import procedure to the entity which provides guarantees required for correct realisation of the approved procedure in the cases when the customs authority has an opportunity to supervise and control the approved procedure.

The customs authority will not approve the temporary import procedure if the identity of the imported goods is not possible to determine. The customs authority may approve the temporary import procedure also in the cases when it is not possible to establish the identity of the imported goods, if, because of the kind of goods or their intended usage, abuse of the procedures is not possible.

The customs authority will not approve the temporary import with partial exemption from payment of import duties for consumable goods and passenger vehicles, regardless of their purpose.

The request for approval is submitted with the customs authority in charge per place of intended use of goods (supervisory customs authority).

The request for issuing of the approval for carrying out the procedure of temporary import with partial exemption is submitted in writing and in accordance with the form given in the supplement 1, which is filled in accordance with the instructions enclosed with the explanation by the Customs Directorate on the procedure of inward processing.

The applicant must state all the data required for adoption of approval and it must be detailed, understandable and precise, in order for the customs authority in charge to be able to reach the decision regarding the request, that is to establish whether all prescribed requirements have been met for approval of the procedure of temporary import with partial exemption.

The request is supposed to be submitted at least 30 days before the planned temporary import of goods, because the goods for temporary import procedure with partial exemption cannot be imported before the approval is issued.

If the customs authority finds that the data stated in the request is not complete or sufficient for adoption of the approval, they may request additional information or explanation from the applicant.

The customs authority in charge of adoption of the approval issues the approval in the following manner:

- 1) with request on the form, on prescribed form (Annex 3) enclosed with an explanation on inward processing procedure and,
- 2) with request for extension of the approval period or change of the approval, with a note on the request. The approval or an explained decision on rejection of the request for issuing the approval is submitted to the applicant within 30 days from the day when the customs authority established that the requested additional information or missing information was submitted.

Required to be stated in the approval of the temporary import procedure with partial exemption are the conditions under which the procedure is carried out.

Not excluding the provisions of the Article 188, sections 4 and 5 of the Customs Law, the customs authority may approve that the customs declaration be submitted to another customs authority, different from the customs authority stated in the approval. Supervisory customs authority determines the manner in which it will be informed about the submitting of the declaration.

On approving the procedure of temporary import, the customs authority is required to set the deadline within which the temporary imported goods have to be re-exported. The timeframe for re-export of goods is determined in accordance with the period required for achieving the purpose of temporary import.

The goods may stay in the procedure of temporary import for up to 24 months. The customs authority may, in accordance with the circumstances, and in agreement with the approval holder, set even a shorter timeframe.

Yet, total period during which the goods may be in the process of temporary import and with the same user must not be longer than 24 months, even when the temporary import procedure finished with the goods being placed in another customs procedure with postponement and returned in the process of temporary import.

Exceptionally, at the request of the user, extension of the deadline for re-export of goods may be approved.

Deemed to be exceptional conditions are all the events which require that the goods be used for an extended period of time in order for the purpose of the originally approved temporary import to be fulfilled.

The approval is deemed to be valid from the day of its adoption or from the day stated in the approval. The validity period must be stated in the approval.

The holder of the approval must inform the customs authority about all the facts that appear after issuing of the approval and influence on its implementation or contents.

The approval of the temporary import procedure may be changed or extended per request of the approval holder, submitting relevant documentation and stating justified

reasons.

The requests for issuing of approval in the procedures involving several customs authorities in charge per place of use of goods in the customs territory, (single approval), are submitted with the customs authority in charge per place of use of goods. If it is not possible, thus, to establish the responsibility of the customs authority, then it is established per place of central bookkeeping of the applicant and where any of parts of temporary import procedure is carried out. If it is not possible to establish the customs authority in charge, thus, the request is submitted with the customs authority per place of central bookkeeping, in order to facilitate supervision over the procedure. In this case, also, the customs authority in charge of issuing the approval is also supervisory customs authority.

When the entity demands single approval, prior approval of the customs authorities in charge of beginning and/or completion of the procedure is required.

The customs authority in charge, to which the request was submitted, sends the request and proposal of the approval to other customs authorities which confirm the date of reception within **15 days** and inform the customs authority in charge within **30 days** from the day of reception of the proposed approval about their remarks. If the remarks are received within this timeframe and without the consent being reached, the request is rejected with reasons being stated.

The customs authority can issue an approval if it receives no objections regarding the draft approval within 30 days. The customs authority will send a copy of the agreed approval to all customs authorities involved in the procedure.

When general criteria and conditions for adoption of the single approval are agreed by two or more customs authorities, instead of prior approval and sending of the copy of the agreed approval, regular notification is sent.

The notification is always sufficient when the single approval is renewed, insignificantly changed, supplemented, or terminated.

The goods are placed in the temporary import procedure by submitting unified customs document, completed in accordance with the articles 12 to 14 of the Rules on form, content, manner of submitting and filling in of the declaration and other forms in customs procedure ("Official Gazette of the Republic of Serbia", Nr. 29/10, 84/10, 100/10, 56/11, 66/11 и 14/12) with the temporary import code ("53") being entered in section 37 (Procedure), while, in the section 44 (documents submitted and additional information) the period of the temporary import is entered, that is the timeframe within which the temporarily imported goods must be exported, that is the deadline within which another allowed customs procedure or usage may be requested, as well as the data on the approval of the temporary import procedure, in a manner described by the mentioned Rules.

3. PUTTING UP COLLATERAL

The customs authority will demand that a collateral be put up for the goods in the procedure of temporary import with partial exemption for collection of the customs debt which could appear with regard to those goods.

The goods covered with the declaration will not be released until collateral for the customs debt is provided.

4. RECORD KEEPING

The customs authority may, in order to facilitate the control over the procedure request keeping records, approving that the existent bookkeeping of the user be used for this purpose, under condition that it includes all required information.

The records kept must include the following information:

- 1) the data from the declaration placing the goods in customs procedure,
- 2) the data from the declaration prescribing allowed customs procedure for the goods, or usage for completion of the procedure,
- 3) date and relevant information on other customs documents and all other documents pertaining to the beginning and completion of the procedure,
- 4) kind of production activities, type of handling or temporary usage,
- 5) the data enabling tracking of goods, including the location of the goods and the date on any change of location
- 6) commercial or technical description required for establishment of identity of goods.

The customs authority may approve that some of these information is not recorded, if it does not affect on carrying out control or supervision of the procedures for the goods used.

When submitting the declaration for placing the goods in temporary import procedure, the declarant is required to enclose the **following documents accompanying the unified customs document with partial exemption from payment of import duties:**

- 1) **invoice and other commercial documents based on which the customs value of the goods was declared,**
- 2) declaration on customs value of goods, if required, based on the Article 127 of the Regulation, completed in accordance with the conditions of that article and when required
- 3) written approval for the requested customs procedure or copy of the request for issuing an approval, if a retroactive approval was adopted.

The customs authority may demand that the transportation documents be enclosed with the declaration, or the documents connected with the previous customs procedure.

The customs authority may approve that the approval for required customs procedure or copy of the request for issuing of the approval be kept by the user of the approval, instead of being submitted with the declaration.

6. ESTABLISHING THE CUSTOMS VALUE OF THE TEMPORARILY IMPORTED GOODS CHARGED WITH IMPORT DUTIES

The customs value of the temporarily imported goods is established in accordance with the section 1 of the Article 49 of the Customs Law, implementing the articles 40 to 45 of that law.

As the temporarily imported goods remain in ownership of the foreign company, deliverer, and as giving the goods for usage or other disposal does not represent the sale, the value of the temporarily imported goods cannot be established based on the transaction value of those goods (Article 39 of the Customs Law).

Respecting the proposed order of the method of customs evaluation, the customs value of temporarily imported goods is determined based on:

1. the transaction value of the identical goods sold for export to Serbia and exported at the same or approximate time as the valued goods (Article 40. Of the Customs Law);
2. the transaction value of similar goods sold for export to Serbia and exported at the same or approximate time as the value goods (Article 41 of the Customs Law);
3. the price at which the identical or similar goods are sold in Serbia, decreased by the expenses which appear in the country after the export, such as: regular commission that is paid or should be paid, or regular increase for increased profit and covering general sales expenses, regular expenses of transportation and insurance of goods and import and other levies which are paid in Serbia on occasion of import or sale of goods (Article 43 of the Customs Law);
4. the calculated value which represents the sum of expenses which appeared abroad, such as: the value of the material used in production and expenses of production of imported goods, amount of regular profit and general expenses in sale of goods, as well as the costs of transportation, loading, discharge and transport-related handling expenses and insurance expenses (Article 44 of the Customs Law), и
5. available data on the prices of identical or similar goods, with implementation of the previously stated methods, with minor deviation, harmonised with the principles and provisions of the Agreement on implementation of the Article VII of the General Agreement on Customs and Trade from 1994, and the Customs Law (Article 45 of the Customs Law).

In the case of goods imported based on renting or operational leasing, for which the customs value cannot be established in any of the aforementioned ways, it is determined in accordance with section 2 of the Article 49 of the Customs Law, that is the customs value is established based on the rent amount that is the operational leasing, harmonised with the provisions of the articles 46 and 47 of the Customs Law.

7. CALCULATION OF THE PARTIAL EXEMPTION FROM PAYMENT OF IMPORT DUTIES

As defined under the Article 170 of the Customs Law, the amount of the import duties which are charged for the goods in the procedure of temporary import, with partial exemption from payment of import duties, is determined for every month or a part of the month while the goods were under the procedure, in the amount of 3% of the amount

of import duties which would be paid for the goods if they were to be placed in free circulation on the day of acceptance of the declaration for placing the goods in the temporary import procedure.

The amount of import duties at the level of 3% is paid for the amount of import duties established based on the customs value of the goods (Article 40-45 of the Customs Law), or based on the value determined in accordance with the Article 49, section 2 of the Customs Law.

When calculating the duties for the goods temporarily imported for a period shorter than one month, the duties are calculated for whole month.

Total amount of import duties cannot be higher than the amount which would be paid if the goods were placed in free circulation on the day when they were placed in the temporary import procedure, with interests not being included in the amount.

The transfer of rights and liabilities coming out of the temporary import procedure does not imply that the same exemption is supposed to be applied to every period of usage of temporarily imported goods.

If the transfer of rights and liabilities was carried out with partial exemption for both entities that have an approval for implementation of the procedure during the same month, the first user of the approval must settle the amount of import duties for that whole month.

The JCI for calculation of duties is submitted before the JCI for re-export is submitted, or before other customs procedure is approved. The entity which is obliged to pay this amount may submit the declaration for calculation for every month, or, before submitting the JCI for re-export of goods, it may submit the JCI for calculation of duties for the period in which the goods were under temporary import procedure.

8. COMPENSATORY INTEREST

When the customs debt appears for goods in temporary import procedure, that is, if the goods are placed in the temporary import procedure, the holder of the approval for temporary import procedure is obliged to pay compensatory interest on the amount of established customs debt, for the period from the day of acceptance of the declaration for temporary import, until the day of placing the goods in free circulation.

The compensatory interest is paid in the amount and in a manner prescribed for default interest, yet the compensatory interest is calculated only for the amount of import duties and not for VAT.

The compensatory interest is calculated per month, from the first day of the next month from that in which the imported goods, for which the customs debt appears, are placed in the approved customs procedure for the first time, until the last day in the month in which the customs debt appeared.

The compensatory interest will not be charged in the following cases:

- 1) if the compensatory interest is to be calculated for the period shorter than one month,
- 2) if the amount of the compensatory interest calculated per one customs debt does not exceed EUR 20 in RSD equivalent,
- 3) if the customs debt appears for the reason that, in accordance with an agreement signed with another state, payment of more favourable import duty for export of goods to that state is enabled,
- 4) when placing in free circulation residues and remains produced due to decomposition of goods,

- 7) if the user of the approval demand that the goods be placed in free circulation, enclosing an evidence that, due to specific circumstances, which are not a consequence of their negligence or fraudulent activity, they could not, or it was not economically justified, to carry out re-export, under conditions which they required and proved when submitting the request for approval of the procedure,
- 8) when a customs debt has appeared and a collateral was put up for it,
- 9) if the customs debt appeared in accordance with the Article 237, section 1, sub-section 2 of the Customs Law (calculation of levies for temporarily imported goods with partial exemption from payment) or placing in free circulation of previously temporarily imported goods, in accordance with articles 323 - 328 (means of transportation, pallets, containers), Article 330. (objects for personal use and sport), 332 (materials for mitigation of consequences of an accident), 335 (sound, image, or data storage formats, goods for advertising purposes), 340 section 1, section 2 (testing according to sales contract) and Article 343 (goods for exhibition or sales) of the Regulation.

9. PROCEDURE COMPLETION

The temporary import procedure is finished when the goods for which the temporary import was approved are re-exported.

Temporarily imported goods may be re-exported in one or more shipments, not necessarily through the same customs office through which they were imported.

If the temporarily imported goods are not re-exported, the customs authority has to approve new customs procedure or usage of those goods.

The implementation of this explanation starts from June 18, 2012.

(The Act of the Customs Directorate Nr. 148-03-030-02-21/2012, dated June, 8, 2012)