

The release for free circulation of the goods imported for commercial purposes at Polish border customs offices

The procedure of the release for free circulation is usually associated with the obligation to pay customs and tax duties specified in the import customs declaration. In the customs declaration this type of procedure is marked as procedure "40" and it is always used by Polish economic operators and only sometimes by entrepreneurs from other European Union Member States.

Economic operators, both domestic and from other EU Member States that bring goods into the EU territory through the Polish border, usually use the transit procedure which is ended either in the Polish internal customs office or in the country of the customer, and only then the goods are declared for the relevant customs procedure.

It should be noted, however, that the use of transit procedure may be quite costly because it is related to the obligation to provide the financial guarantee for transit.

Perhaps placing the imported goods under the transit procedure at the border is a habit rather than the result of the economic balance? Perhaps it will turn out, based on appropriate calculations, that the release of the goods for free circulation already at the border generates measurable benefits?

If this is the case, the Polish Customs Service is ready to process such declarations at the border, and even encourages their lodging, ensuring the necessary infrastructure in the border customs offices and providing the efficient and professional service to all declarants in each of transport types, i.e. road, rail, air and maritime transport.

This proposal is addressed to Polish economic operators as well as to the companies from other European Union Member States. In relation to customs procedures, the same EU regulations are applicable.

So what does the UE customs law say in this regard?

- First of all, the goods placed under the "release for free circulation" procedure in any EU Member State are released for free circulation across the entire customs territory of the Union.
- Moreover, the EU regulations envisage a possibility to declare goods for free circulation according to two procedures:
 - 1) declaration for the release for free circulation, including the payment of customs and tax duties - the code of customs procedure to be applied in the customs declaration is "40",
 - 2) declaration for the release for free circulation including the payment of customs duties, however, with exemption from the VAT within the supply of those goods to

another Member States (the country of destination)- the code of customs procedure to be applied in the customs declaration is "42".

Therefore the decision to lodge the declaration for placing the goods under the above procedures in the border customs office, can significantly contribute to reducing costs of goods delivery to the place of destination inside the European Union.

The important advantages for operators regarding the release of goods for free circulation already at the border include:

- 1) avoiding formalities relating to transit procedures, including the obligation to provide the guarantee, impose customs seals and present the goods intact together with documentation in the customs office of destination inside the EU - in order to discharge the transit procedure and declare the goods for the release for free circulation,
- 2) assigning the customs status of Union goods to goods released for free circulation at a border, which means that they are no longer under customs supervision and they do not need to be presented to customs authorities neither in Poland nor anywhere else in the EU territory.

In case of application of the "42" procedure, the legal effect is the same but there is additional advantage. The Polish tax regulations envisage VAT exemption for this procedure, and the VAT payment takes place only in the country of destination. For application of this procedure the entity is not even obliged to provide in Poland the guarantee on account of the VAT duties. The guarantee is required only if the economic operator failed in its home country to fulfil its obligations to settle VAT due to the supplies within the previous customs declarations under the "42" procedure, or fulfilled the obligations, however, failed to inform the Polish customs authority thereof.

Declaration of goods - in written or electronic form - to release for free circulation is possible in all customs offices that operate at the seaports, airports and railway border crossing points. As regards the road border crossing points, the procedure of the release for free circulation, as described above, can be currently applied without any tonnage limits for trucks at border crossing points in Koroszczyń and Grzechotki. In other border customs offices for this type of procedure the following limits for total mass of trucks apply: Goldap up to 7,5 tons, Gronowo up to 6 tons, Budomierz up to 3,5 tons, Krościenko up to 7,5 tons and in Bezledy trucks with maximum load up to 8 tons per axle.

However, as of beginning of May, 2016 the Polish Customs Service plans to expand the possibility to place goods under the release for free circulation procedure at the border to other customs offices. In May there will be border customs offices in Hrebenne and Medyka as well as the rail border customs office in Dorohusk.

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