

PAPER NI DTOR 01/2012 , DUTY FREE SHOPS IN SPANISH AIRPORTS

BASIC FISCAL AND CUSTOMS RULES

- According to Article 21 of Law 37/1992, of 28th December of 1992, regulating Value Added Tax, the following operations are exempted from VAT:

“Supplies of goods carried out, within specified limits, by duty-free shops under customs supervision, in the context of air and sea travel, provided that the buyers are established outside the European Union and departing immediately to third countries, as well as the supplies of goods on board ships or aircrafts departing to a third country.

The expression “under customs supervision” means, in practice, that:

- Non-Union goods must have been declared for customs warehouse procedure so that they are under customs supervision.
- And, Union-goods must have been declared for warehousing other than customs warehousing procedure.

So, goods to be supplied to travelers departing to third countries in airports duty free shops must have been previously declared for customs warehousing or warehousing other than customs warehousing, in order to be exempted from VAT.

It must be noted that, according to article 527 (2) of Commission Regulation (CEE)(n° 2454/1993, “ Authorisations shall not be granted if the premises of customs warehouses or the storage facilities are used for the purpose of retail sale. An authorisation may, however, be granted, where goods are retailed with relief from import duties:

- (a) to travellers in traffic to third countries;
- (b) under diplomatic or consular arrangements;
- (c) to members of international organisations or to NATO forces”.

- Regarding the **customs declaration**, the simplified procedure of entry in the declarant records is the only way to declare non-Union goods for the above mentioned procedures.

REQUIRED FISCAL AND CUSTOMS AUTHORISATIONS

According to the provided information, the following authorizations are required:

- Authorisation to operate a customs warehouse.
- Authorisation to operate a warehouse other than a customs warehouse.
- Authorisation to operate a tax warehouse, in case there is an intention to sell, with exemption of excise duties, alcoholic beverages and manufactured tobacco in duty free shops.
- Authorisation to use the simplified procedure of entry in the declarant's records.

The applicant may operate the above mentioned warehouses and deposits in the same premises as long as it is expressly foreseen in the authorizations.

And lastly, no amount will be charged by the Spanish Customs and Excise Department for the authorization or the operation of the facilities.


FISCAL AND CUSTOMS LEGISLATION IN FORCE

- Commission Regulation (EEC) n° 2454/93, of 2 July 1993, laying down provisions for the implementation of Council Regulation (EEC) n° 2913/92 establishing the Community Customs Code: Part I, Title IX (Simplified procedures) and Part II, Title III, Chapter 2 (Customs warehouses).
- Law 38/1992, of Excise Taxes: articles 21 and 61.
- Royal Decree 1165/1995, establishing the Excise Taxes Regulation: articles 11, 53 bis and 123 bis.
- Law 37/1992 of Value Added Tax: articles 18, 21 y 24 and Annex Fifth.
- Royal Decree 1624/1992, establishing the Value Added Tax Regulation.
- Resolution of 18th June, 2003, of the Customs and Excise Department establishing the rules of operation of customs warehouses and warehouses other than customs warehouses.
- Ministerial Order of 21st December, 1998, regulating the simplified procedure of Entry in the declarant's records.

For further information, please check the Spanish Tax Agency website www.agenciatributaria.es.

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La Directora del Departamento de Aduanas e II.EE



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This version is a courtesy translation. The official paper is the Spanish version.