

APPENDIX B

INFORMATION AND DOCUMENTS REQUIRED PER TRANSACTION

A licence to act as Fiscal Representative will only be granted by the Dutch tax authorities if certain conditions are fulfilled. One of these conditions is that the Fiscal Representative keeps efficient and well-organized records. These must clearly and convincingly demonstrate to the tax authorities that legislation and regulations have been applied correctly. The period of prescription applicable to a tax levy is 5 years pursuant to article 27 of the 'Invorderingswet 1990' [Collection of State Taxes Act 1990]. [6]

In many cases the Fiscal Representative will not have the required documents, information and data at his disposal, but nevertheless shares responsibility in respect of the tax authorities, Principal should provide these appropriately and in a timely manner - within a period of 14 days after expiry of the tax return period, unless otherwise indicated. After termination of the agreement, Principal shall continue to have the obligation, pursuant to article 8.8, for the period during which the authorities may impose retrospective tax⁵, to cooperate in every way and if so required supply all documents, information and data concerning the activities carried out by Fiscal Representative within the framework of the present agreement.

§ 1 Documents, information and data to be provided by Principal

General

Written declaration by Principal concerning the consignment for which Fiscal Representative is to act in this capacity (or by fax, e-mail)

Required documents, information and data in the case of import

All documents, information and data required for customs clearance [7], such as, for example an invoice

[6] Article 27 of the Collection of State Taxes Act 1990 states that the right to collection under duress and the right of set-off with reference to a tax levy become prescribed five years after commencement of the day following that upon which the tax levy is fully collectable or, if such should lead to a later point in time, five years after commencement of the day following that upon which the last deed of litigation in respect of said tax levy to the party owing taxes has been passed. The second paragraph of article 27 states the cases in which the period of prescription may be extended.

[7] In the case that transport and/or customs clearance are not handled by Fiscal Representative, Principal should make these documents, information and data available to Fiscal Representative, if necessary through a third party brought in by him. In order to transfer the VAT due at importation to the periodical VAT declaration (in accordance with article 23 of the Turnover Tax Act 1968), Fiscal Representative's VAT identification number allocated by the tax authorities should be mentioned on the import declaration.

Subsequent supplies

Required documents, information and data in the case of Intra-community supplies

- **VAT identification number of party dealing with Intra-Community acquisitions** should be passed on to Fiscal Representative by Principal prior to the Intra-community supply
- **Invoice** presented to the Intra-community acquiring party. In order to apply the zero rate, this invoice should include both the VAT identification number of the Fiscal Representative and that of the Intra-Community acquiring party (for further general invoice requirements, please refer to §2)
- **Proof of delivery** [8], for example signed waybill B/L, CMR or declaration/statement in respect of the transport
- **Carrier(s)' invoice** [6]

In accordance with bulletin 38 by the State Secretary for Finance (Decree of 20 June 1995, nr. VB 95/2120), documents that Fiscal Representative may require of Principal, could include the following:

- **Order confirmation** [9]
- **Proof of payment by acquiring party**
- **Insurance policy covering transport of the goods**
- **Acquiring party** should send Fiscal Representative a FAX of receipt of goods [10]
- **Declaration by acquiring party** that he has reported/will report an Intra-community acquisition in the VAT declaration in the member state where the goods were acquired [8]
- Copies of the **VAT declaration by acquiring party** should be sent to Fiscal Representative [8]

Required documents, information and data for supplies within the Netherlands

- **Invoice** presented to the Dutch acquiring party. In order to transfer the VAT to a company with domicile in the Netherlands and registered for VAT, this invoice should include both the VAT identification number of the acquiring party and the statement “verlegging conform artikel 12 lid 3 Wet op de Omzetbelasting 1968” [Transfer in conformity with article 12 paragraph 3 Turnover Tax Act 1968]. Supplies to Dutch acquiring parties other than a company registered for turnover tax or with an unknown VAT identification number are not eligible for transfer under article 12 paragraph 3 Turnover Tax Act 1968. Invoice should include VAT (for further general invoice
- **Proof of delivery** [6], for example signed waybill or other documents that may serve as proof of delivery

[8] In the case that Fiscal Representative does not have the transport documents/proof of delivery at his disposal (for example: not arranging transportation) Principal should make these documents available to Fiscal Representative, if necessary through a third party brought in by him.
[9] Correspondence between seller and acquiring party

[10] In the case that Principal is not the party who acquired the goods, Principal should instruct the acquiring party accordingly.

Depending on the situation, documents required of Principal by Fiscal Representative may

- **Order confirmation** [7]
- **Proof of payment by acquiring party**
- **Declaration by acquiring party** that he has submitted or will submit a **VAT declaration** [8]

Required documents, information and data for export

- **Invoice presented to acquiring party of the goods (for further general invoice requirements, please refer to §2)**
- **3rd copy of the customs export document, validated by customs at EU border**
- **Proof of delivery⁷, for example signed waybill (B/L or CMR)**
- **Carrier(s)' Invoice** [6]

Depending on the situation, documents required of Principal by Fiscal Representative may

- **Order confirmation** [7]
- **Import documents non-EU countries**
- **Proof of payment foreign (non-EU) acquiring parties**
- **Insurance policy covering transport of the goods** [6]

Documents, information and data required for pick-up shipments

(meaning that the Fiscal Representative places the goods at disposal of acquiring party, without arranging further transportation)

- **Invoice presented to acquiring party of the goods** [11] **(for further general invoice requirements, please refer to §2)**
- Acquiring party shall provide Fiscal Representative with a declaration (prior to transport) as referred to in section 4.3 of Bulletin 389. If this declaration is not available, we strongly advise charging VAT, as this declaration is crucial for the correct application of the zero rate
- Other considerations are:
 - Fax in which acquiring party of the goods declares to Fiscal Representative that he has actually taken delivery of the goods [8]
 - Copies of the VAT declaration by acquiring party should be sent to Fiscal Representative [8]
- Further documents, information and data should be supplied in conformity with the relevant sections of this Appendix, depending upon domicile of acquiring

[11] For the various invoice requirements, depending on domicile of acquiring party, please refer to the relevant sections in this Appendix and to the general invoice requirements included in §2

[12] If 'B' can show that he acquired the goods for the purpose of selling them on to 'C', 'B' does not need to be registered in 'C's state and ultimately 'B' will not have to pay VAT

Required documents, information and data for intra-Community supplies under connected contracts (simplified A-B-C scheme)

A transaction is considered to be a simplified ABC transaction if:

- several transactions take place with reference to the same item between three parties who are each established in a different EU member state, and;
 - parties 'A' and 'B' reach agreement over carriage of the goods to 'C', and
 - goods are transported directly from the Netherlands to 'C' in 'C's country.
- **Documents, information and data** should be provided in accordance with the section on Intra-community supplies in this Appendix. Furthermore, Fiscal Representative's Principal 'A' should instruct the other party to the contract 'B' that all required information should be sent to Fiscal Representative (for example, a CMR waybill signed by 'C')
 - Moreover Principal 'A' should instruct the other party to the contract 'B' with respect to the following;
 - **Invoice to client 'C'** should show the VAT identification number of both 'B' and 'C' as well as the indication that the VAT on the supply to 'C' will be transferred to client 'C' "conform artikel 28 quater.E.3 Zesde richtlijn" [in conformity with article 28 quater.E.3 of the Sixth Directive]
 - **Declaration by client 'B'** should be sent to Fiscal Representative [12], implying that 'B' has reported or will report an Intra-community acquisition in the **VAT declaration** in the member state of establishment

§ 2 General invoice requirements

An invoice must be made up for all goods and services to an entrepreneur or a legal entity who is not an entrepreneur. An invoice should be sent before the 15th day of the month following the month in which the goods were supplied. In the case that the services of a Fiscal Representative are called in, the following information should be mentioned on the invoice. [13]

- Name and address of selling party (in full)
- Name and address of acquiring party (in full)
- '(name and address of Fiscal Representative)' shall act as Fiscal Representative with a limited licence
- Fiscal Representative's VAT identification number [12]
- Invoice date
- Invoice number (invoices should be numbered consecutively)
- Detailed description of nature and quantity of goods supplied (HS-code / GN-code if any)
- Date on which the supply of goods was made or completed
- Unit price excluding VAT [14]
- Any advance payments, discounts and rebates if these have not been included in the unit price [12]
- Taxable amount per rate or exemption [12]
- Price excluding VAT, unless a special ruling applies
- VAT rate applied [12]
- Price including VAT
- The amounts which appear on the invoice may be expressed in any currency, provided that the amount of tax to be paid is expressed in the national currency of the Member State where the supply of goods takes place.

There are supplementary invoice requirements for various transactions, also in relation to fiscal representation, in the case that a transfer or exemption ruling applies.

in the case of Intra-community supplies / simplified A-B-C transactions

- VAT identification number of (Intra-Community) acquiring party
- VAT zero rate, statement for levy criterion "VAT zero rate, Intra-Community shipment according Art. 138 – EU VAT Directive 2006/112/EC"

[13] Principal who is not seller, should instruct other party to the contract relating to the goods transaction on invoice requirements

[14] Per 1-1-2004 (Council Directive 2001/115/EG)

in the case of supplies within the Netherlands to a for VAT-registered enterprise

- VAT identification number of Dutch acquiring party
- statement “verlegging conform artikel 12 lid 3 Wet op de Omzetbelasting 1968” [transfer in conformity with article 12 par 3 Turnover Tax Act 1968]
- Neither VAT rate nor price including VAT should be mentioned

in the case of deliveries outside the European Union (export)

- VAT zero rate, statement for levy criterion “VAT zero rate, Export shipment according Art. 146 – EU VAT Directive 2006/112/EC

in case of sale within VAT warehouse/entrepot in the Netherlands

- VAT zero rate, due to delivery in entrepot, other than in bonded/customs entrepot, in accordance with table II, item a.8, attachment 16 of the Dutch VAT Law 1968 (article 157 par.1 of the EU VAT Directive 2006/112/EC.