

Partner di



To whom it may concern

Dott. Sandro Guarnieri
Dott. Marco Guarnieri
Dott. Corrado Baldini
Dott. Paolo Fantuzzi

Reggio Emilia, Jan. 26, 2024

MEMORANDUM N. 9/2024

Dott.ssa Clementina Mercati
Dott.ssa Sara Redeghieri
Dott.ssa Federica Lusenti
Dott. Paolo Caprari
Dott.ssa Beatrice Cocconcelli
Dott. Daniele Pecora
Dott.ssa Veronica Praudi
Dott.ssa Martina Carobbi

Insight

Avv. Francesca Palladi

Subject: Importing goods for processing or repair: VAT regime

Many companies that import goods to be processed or repaired, instead of adopting the inward processing or temporary importation procedure under suspension of VAT and customs duties, opt for the simpler final importation and then proceed to export once the goods have been processed or repaired. In doing so, however, **the VAT on importation becomes non-deductible** according to the rulings of the E.U. Court of Justice and the Italian IRS.

In Order 8.10.2020 No. C-621/19, the European Court of Justice clarified that under Article 168 of EU Directive No. 112 of 28.11.2006, the importer is entitled to deduct VAT on imported goods only "to the extent that the goods and services are used for the purposes of his taxable transactions," i.e., **only if those goods are used in the course of the importer's business or if the cost of those goods affects the formation of the selling price of the "downstream" transactions. If the importer does not incur any cost for such goods (as in the case where he imports them for processing) because the ownership of the goods remains with the principal and, therefore, the cost of such goods does not contribute to the formation of the processing price, the VAT on importation is non-deductible.**

The case resolved by the ECJ Order concerned a Slovak company that had imported goods from non-EU countries for the purpose of reconditioning them, i.e., to perform processing work on behalf of third-party principals, without, therefore, ever becoming the owner of the goods. Once processed, the goods were delivered to the same principal or their clients in EU or non-EU countries. The importing company had paid the VAT at customs and deducted it. The Slovak tax authorities first and the Court of Justice later denied the right to deduct VAT on importation, stating that such a right exists only if the imported goods are used for the purpose of carrying out taxable transactions by the taxable person, and this condition is met **only if there is a direct and immediate link between those goods and the activity carried out by the importer or when the cost of those goods is incorporated in the price of transactions carried out "downstream".**

SGB & Partners

Sede legale
Via Meuccio Ruini, 10
42124 Reggio Emilia
CF e Piva 01180810358

Tel. +39 0522 941069
Fax +39 0522 941885
Mail info@sgbstudio.it
Web www.sgbstudio.it

Partner di



Applying this principle, the Internal Revenue Agency in its answer to interpello 11.1.2019 No. 6 considered the deduction of VAT legitimate in the case of pallets that an Italian company held on a rental basis and imported into Italy to sublet to domestic customers.

In such a scheme, the right to deduct VAT is recognized in the hands of the pallet importing company, as:

- the import stands in direct and immediate connection to the company's own sub-hire activity;
- the costs incurred by the taxable person (rental fees) influence the price of "downstream" services (sub-hire fees).

The firm remains available for any clarifications.

SGB & Partners - Commercialisti

SGB & Partners

Sede legale

Via Meuccio Ruini, 10

42124 Reggio Emilia

CF e Piva 01180810358

Tel. +39 0522 941069

Fax +39 0522 941885

Mail info@sgbstudio.it

Web www.sgbstudio.it