

Council Directive 2009/132/EC of 19 October 2009 determining the scope of Article 143(b) and (c) of Directive 2006/112/EC as regards exemption from value added tax on the final importation of certain goods (codified version)

TITLE VIII

**GOODS FOR CHARITABLE OR PHILANTHROPIC ORGANISATIONS**

*CHAPTER 1*

***General provision***

*Article 42*

Member States may impose a limit on the quantity or value of the goods, exempt under Chapters 2, 3 or 4 in order to remedy any abuse and to combat major distortions of competition.

*CHAPTER 2*

***Goods imported for general purposes***

*Article 43*

- 1 Subject to Articles 44, 45 and 46, the following shall be exempt on admission:
  - a basic necessities obtained free of charge and imported by State organisations or other charitable or philanthropic organisations approved by the competent authorities for distribution free of charge to needy persons;
  - b goods of every description sent free of charge, by a person or organisation established outside the Community, and without any commercial intent on the part of the sender, to State organisations or other charitable or philanthropic organisations approved by the competent authorities, to be used for fund-raising at occasional charity events for the benefit of needy persons;
  - c equipment and office materials sent free of charge, by a person or organisation established outside the Community, and without any commercial intent on the part of the sender, to charitable or philanthropic organisations approved by the competent authorities, to be used solely for the purpose of meeting their operating needs or carrying out their stated charitable or philanthropic aims.
- 2 For the purposes of paragraph 1(a) ‘basic necessities’ means those goods required to meet the immediate needs of human beings, such as food, medicine, clothing and bed-clothes.

*Article 44*

Exemption shall not be granted in respect of:

- (a) alcoholic products;
- (b) tobacco or tobacco products;
- (c) coffee and tea;

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- (d) motor vehicles other than ambulances.

*Article 45*

Exemption shall be granted only to organisations accounting procedures of which enable the competent authorities to supervise their operations and which offer all the guarantees considered necessary.

*Article 46*

1 The organisation entitled to exemption may not lend, hire out or transfer, whether for a consideration or free of charge, the goods referred to in Article 43 for purposes other than those laid down in Article 43(1)(a) and (b), unless the competent authorities have been informed thereof in advance.

2 Should goods and equipment be lent, hired out or transferred to an organisation entitled to benefit from exemption pursuant to Articles 43 and 45, the exemption shall continue to be granted provided that the latter uses the goods and equipment for purposes which confer the right to such exemption.

In other cases, loan, hiring out or transfer shall be subject to prior payment of VAT at the rate applying on the date of the loan, hiring out or transfer, on the basis of the type of goods and equipment and the value ascertained or accepted on that date by the competent authorities.

*Article 47*

1 Organisations referred to in Article 43 which cease to fulfil the conditions giving entitlement to exemption, or which are proposing to use goods and equipment exempt on admission for purposes other than those provided for by that Article, shall so inform the competent authorities.

2 Goods remaining in the possession of organisations which cease to fulfil the conditions giving entitlement to exemption shall be liable to the relevant import VAT at the rate applying on the date on which those conditions cease to be fulfilled, on the basis of the type of goods and equipment and the value as ascertained or accepted on that date by the competent authorities.

3 Goods used by the organisation benefiting from the exemption for purposes other than those provided for in Article 43 shall be liable to the relevant import VAT at the rate applying on the date on which they are put to another use on the basis of the type of goods and equipment and the value as ascertained on that date by the competent authorities.

*CHAPTER 3*

*Articles imported for the benefit of handicapped persons*

*Article 48*

- 1 Articles specially designed for the education, employment or social advancement of blind or other physically or mentally handicapped persons shall be exempt on admission where:
- a they are imported by institutions or organisations that are principally engaged in the education of or the provision of assistance to handicapped persons and are authorised by the competent authorities of the Member States to receive such articles exempt from tax; and

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- b they are donated to such institutions or organisations free of charge and with no commercial intent on the part of the donor.

2 Exemption shall apply to specific spare parts, components or accessories specifically for the articles in question and to the tools to be used for the maintenance, checking, calibration and repair of the said articles, provided that such spare parts, components, accessories or tools are imported at the same time as the said articles or, if imported subsequently, that they can be identified as being intended for articles previously exempt on admission or which would be eligible to be so exempt at the time when such entry is requested for the specific spare parts, components or accessories and tools in question.

3 Articles exempt on admission may not be used for purposes other than the education, employment or social advancement of blind or other handicapped persons.

#### *Article 49*

1 Goods exempt on admission may be lent, hired out or transferred, whether for a consideration or free of charge, by the beneficiary institutions or organisations on a non-profit-making basis to the persons referred to in Article 48 with whom they are concerned, without payment of VAT on importation.

2 No loan, hiring out or transfer may be effected under conditions other than those provided for in paragraph 1 unless the competent authorities have first been informed.

Should an article be lent, hired out or transferred to an institution or organisation itself entitled to benefit from this exemption, the exemption shall continue to be granted, provided the latter uses the article for purposes which confer the right to such exemption.

In other cases, loan, hiring out or transfer shall be subject to prior payment of VAT, at the rate applying on the date of the loan, hiring out or transfer, on the basis of the type of goods and the value ascertained or accepted on that date by the competent authorities.

#### *Article 50*

1 Institutions or organisations referred to in Article 48 which cease to fulfil the conditions giving entitlement to exemption, or which are proposing to use articles exempt on admission for purposes other than those provided for by that Article shall so inform the competent authorities.

2 Articles remaining in the possession of institutions or organisations which cease to fulfil the conditions giving entitlement to exemption shall be liable to the relevant import VAT at the rate applying on the date on which those conditions cease to be fulfilled, on the basis of the type of goods and the value ascertained or accepted on that date by the competent authorities.

3 Articles used by the institution or organisation benefiting from the exemption for purposes other than those provided for in Article 48 shall be liable to the relevant import VAT at the rate applying on the date on which they are put to another use on the basis of the type of goods and the value ascertained or accepted on that date by the competent authorities.

## CHAPTER 4

### ***Goods imported for the benefit of disaster victims***

#### *Article 51*

Subject to Articles 52 to 57 goods imported by State organisations or other charitable or philanthropic organisations approved by the competent authorities shall be exempt on admission where they are intended:

- (a) for distribution free of charge to victims of disasters affecting the territory of one or more Member States; or
- (b) to be made available free of charge to the victims of such disasters, while remaining the property of the organisations in question.

Goods imported by disaster-relief agencies in order to meet their needs during the period of their activity shall also benefit upon admission from the exemption under the same conditions.

#### *Article 52*

No exemption shall be granted for materials and equipment intended for rebuilding disaster areas.

#### *Article 53*

Granting of the exemption shall be subject to a decision by the Commission, acting at the request of the Member State or States concerned in accordance with an emergency procedure entailing the consultation of the other Member States. This decision shall, where necessary, lay down the scope and the conditions of the exemption.

Pending notification of the Commission's decision, Member States affected by a disaster may authorise the suspension of any import VAT chargeable on goods imported for the purposes described in Article 51, subject to an undertaking by the importing organisation to pay such tax if exemption is not granted.

#### *Article 54*

Exemption shall be granted only to organisations the accounting procedures of which enable the competent authorities to supervise their operations and which offer all the guarantees considered necessary.

#### *Article 55*

1 The organisations benefiting from the exemption may not lend, hire out or transfer, whether for a consideration or free of charge, the goods referred to in the first paragraph of Article 51 under conditions other than those laid down in that Article without prior notification thereof to the competent authorities.

2 Should goods be lent, hired out or transferred to an organisation itself entitled to benefit from exemption pursuant to Article 51, the exemption shall continue to be granted, provided the latter uses the goods for purposes which confer the right to such exemption.

In other cases, loan, hiring out or transfer shall be subject to prior payment of VAT, at the rate applying on the date of the loan, hiring out or transfer, on the basis of the type of goods and the value ascertained or accepted on that date by the competent authorities.

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#### *Article 56*

1 The goods referred to in point (b) of the first paragraph of Article 51, after they cease to be used by disaster victims, may not be lent, hired out or transferred, whether for a consideration or free of charge, unless the competent authorities are notified in advance.

2 Should goods be lent, hired out or transferred to an organisation itself entitled to benefit from exemption pursuant to Article 51 or, if appropriate, to an organisation entitled to benefit from exemption pursuant to Article 43(1)(a), the exemption shall continue to be granted, provided such organisations use the goods concerned for purposes which confer the right to such exemption.

In other cases, loan, hiring out or transfer shall be subject to prior payment of VAT, at the rate applying on the date of the loan, hiring out or transfer, on the basis of the type of goods and the value ascertained or accepted on that date by the competent authorities.

#### *Article 57*

1 Organisations referred to in Article 51 which cease to fulfil the conditions giving entitlement to exemption, or which are proposing to use the goods exempt on admission for purposes other than those provided for by that Article shall so inform the competent authorities.

2 In the case of goods remaining in the possession of organisations which cease to fulfil the conditions giving entitlement to exemption, when these are transferred to an organisation itself entitled to benefit from exemption pursuant to this Chapter or, if appropriate, to an organisation entitled to benefit from exemption pursuant to Article 43, the exemption shall continue to be granted, provided the organisation uses the goods in question for purposes which confer the right to such exemptions. In other cases, the goods shall be liable to the relevant import VAT at the rate applying on the date on which those conditions cease to be fulfilled, on the basis of the type of goods and the value ascertained or accepted on that date by the competent authorities.

3 Goods used by the organisation benefiting from the exemption for purposes other than those provided for in this Chapter shall be liable to the relevant import VAT at the rate applying on the date on which they are put to another use, on the basis of the type of goods and the value ascertained or accepted on that date by the competent authorities.