

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 II

IMPORTATION OF PERSONAL PROPERTY BELONGING TO INDIVIDUALS COMING FROM THIRD COUNTRIES OR THIRD TERRITORIES

CHAPTER 1

Personal property of natural persons transferring their normal place of residence to the Community

Article 3

Subject to Articles 4 to 11, exemption from VAT on importation shall be granted on personal property imported by natural persons transferring their normal place of residence from outside the Community to a Member State of the Community.

Article 4

Exemption shall be limited to personal property which:

- (a) except in special cases justified by the circumstances, has been in the possession of and, in the case of non-consumable goods, used by the person concerned at his former normal place of residence for a minimum of six months before the date on which he ceases to have his normal place of residence outside the Community;
- (b) is intended to be used for the same purpose at his new normal place of residence.

The Member States may in addition make exemption of personal property conditional upon such property having borne, either in the country of origin or in the country of departure, the customs and/or fiscal charges to which it is normally liable.

Article 5

Exemption may be granted only to persons whose normal place of residence has been outside the Community for a continuous period of at least 12 months.

However, the competent authorities may grant exceptions to this rule provided that the intention of the person concerned was clearly to reside outside the Community for a continuous period of at least 12 months.

Article 6

Exemption shall not be granted in respect of:

- (a) alcoholic products;
- (b) tobacco or tobacco products;
- (c) commercial means of transport;

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- (d) articles for use in the exercise of a trade or profession, other than portable instruments of the applied or liberal arts.

Vehicles intended for mixed use for commercial or professional purposes may also be excluded from exemption.

Article 7

1 Except in special cases, exemption shall be granted only in respect of personal property entered for permanent importation within 12 months of the date of establishment, by the person concerned, of his normal place of residence in the Community.

2 The personal property may be imported in several separate consignments within the period referred to in paragraph 1.

Article 8

1 Until 12 months have elapsed from the date of the declaration for its final importation, personal property which has been imported exempt from tax may not be lent, given as security, hired out or transferred, whether for a consideration or free of charge, without prior notification to the competent authorities.

2 Any loan, giving as security, hiring out or transfer before the expiry of the period referred to in paragraph 1 shall entail payment of the relevant VAT on the goods concerned, at the rate applying on the date of such loan, giving as security, hiring out or transfer, on the basis of the type of goods and the customs value ascertained or accepted on that date by the competent authorities.

Article 9

1 By way of derogation from Article 7(1), exemption may be granted in respect of personal property permanently imported before the person concerned establishes his normal place of residence in the Community, provided that he undertakes actually to establish his normal place of residence there within a period of six months. Such undertaking shall be accompanied by a security, the form and amount of which shall be determined by the competent authorities.

2 Where use is made of paragraph 1, the period laid down in point (a) of the first paragraph of Article 4 shall be calculated from the date of importation into the Community.

Article 10

1 Where, owing to occupational commitments, the person concerned leaves the third country or third territory where he had his normal place of residence without simultaneously establishing his normal place of residence on the territory of a Member State the Community, although having the intention of ultimately doing so, the competent authorities may authorise exemption in respect of the personal property which he transfers into the said territory for this purpose.

2 Exemption in respect of the personal property referred to in paragraph 1 shall be granted in accordance with the conditions laid down in Articles 3 to 8, on the understanding that:

- a the periods laid down in point (a) of the first paragraph of Article 4 and paragraph 1 of Article 7 shall be calculated from the date of importation;
- b the period referred to in Article 8(1) shall be calculated from the date when the person concerned actually establishes his normal place of residence on the territory of the Community.

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3 Exemption shall also be subject to an undertaking from the person concerned that he will actually establish his normal place of residence on the territory of the Community within a period laid down by the competent authorities in keeping with the circumstances. The latter may require this undertaking to be accompanied by a security, the form and amount of which they shall determine.

Article 11

The competent authorities may derogate from points (a) and (b) of the first paragraph of Article 4, points (c) and (d) of the first paragraph of Article 6 and Article 8 when a person has to transfer his normal place of residence to the territory of a Member State as a result of exceptional political circumstances.

CHAPTER 2

Goods imported on the occasion of a marriage

Article 12

1 Subject to Articles 13 to 16, exemption shall be granted in respect of trousseaux and household effects, whether or not new, belonging to a person transferring his or her normal place of residence to the territory of the Community on the occasion of his or her marriage.

Exemption shall also be granted in respect of presents customarily given on the occasion of a marriage which are received by a person fulfilling the conditions laid down in the first subparagraph from persons having their normal place of residence outside the Community. The exemption shall apply to presents of a value of not more than EUR 200. Member States may, however, grant exemption for more than EUR 200 provided that the value of each exempt present does not exceed EUR 1 000.

2 The Member State may make exemption of the goods referred to in the first subparagraph of paragraph 1 conditional on their having borne, either in the country or territory of origin or in the country or territory of departure, the customs and fiscal charges to which they are normally liable.

Article 13

The exemption may be granted only to persons:

- (a) whose normal place of residence has been outside the Community for a continuous period of at least 12 months;
- (b) who produce evidence of their marriage.

However, derogations from the rule referred to in the first subparagraph may be granted provided that the intention of the person concerned was clearly to reside outside the Community for a continuous period of at least 12 months.

Article 14

No exemption shall be granted for alcoholic products, tobacco or tobacco products.

Article 15

1 Save in exceptional circumstances, exemption shall be granted only in respect of goods permanently imported:

- a not earlier than two months before the date fixed for the wedding; and

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b not later than four months after the date of the wedding.

In the case referred to in point (a), exemption may be made subject to the lodging of appropriate security, the form and amount of which shall be determined by the competent authorities.

2 Goods to which exemption is granted may be imported in several separate consignments, within the period referred to in paragraph 1.

Article 16

1 Until 12 months have elapsed from the date of the declaration for their final importation, personal property which has been imported exempt from tax may not be lent, given as security, hired out or transferred, whether for a consideration or free of charge, without prior notification to the competent authorities.

2 Any loan, giving as security, hiring out or transfer before the expiry of the period referred to in paragraph 1 shall entail payment of the relevant VAT on the goods concerned, at the rate applying on the date of such loan, giving as security, 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.

CHAPTER 3

Personal property acquired by inheritance

Article 17

Subject to Articles 18, 19 and 20, exemption shall be granted in respect of personal property acquired by inheritance by a natural person having his normal place of residence in the Community.

Article 18

Exemption shall not be granted in respect of:

- (a) alcoholic products;
- (b) tobacco or tobacco products;
- (c) commercial means of transport;
- (d) articles for use in the exercise of a trade or profession, other than portable instruments of the applied or liberal arts, which were required for the exercise of the trade or profession of the deceased;
- (e) stocks of raw materials and finished or semi-finished products;
- (f) livestock and stocks of agricultural products exceeding the quantities appropriate to normal family requirements.

Article 19

1 Exemption shall be granted only in respect of personal property permanently imported not later than two years from the date on which the person becomes entitled to the goods (final settlement of the inheritance).

However, this period may be extended by the competent authorities on special grounds.

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2 The goods may be imported in several separate consignments within the period referred to in paragraph 1.

Article 20

Articles 17, 18 and 19 shall apply *mutatis mutandis* to personal property acquired by inheritance by legal persons engaged in a non-profit-making activity who are established on the territory of the Community.