

beta This part of GOV.UK is being rebuilt – find out what beta means (<https://www.gov.uk/help/beta>)

1. Home (<https://www.gov.uk/>)
2. Money (<https://www.gov.uk/money>)
3. Business tax (<https://www.gov.uk/money/business-tax>)

HMRC internal manual

VAT Input Tax

From:

HM Revenue & Customs (<https://www.gov.uk/government/organisations/hm-revenue-customs>)

Published:

13 April 2016

Updated:

26 February 2021, see all updates (<https://www.gov.uk/hmrc-internal-manuals/vat-input-tax/updates>)

Give feedback about this page (<https://www.gov.uk/contact/govuk>)

VAT Input Tax basics: recipient of supply

You should check the other guidance available on GOV.UK from HMRC (<https://www.gov.uk/government/organisations/hm-revenue-customs/services-information>) as Brexit updates to those pages are being prioritised before manuals.

Import VAT – Deduction of Input tax

Only the person to whom a supply is made, for use in the furtherance of their taxable business, can make a valid input tax claim. This is a fundamental principle. It overrides the question of who may have paid for the supply. It also overrides the question of who may hold the relevant invoice or other evidence where the representative or agent makes payments on behalf of the principal.

Import VAT may only be claimed by the owner of the goods who would be entitled to reclaim the import VAT either in accordance with s24 VATA 1994 (if registered for VAT in the UK) or under part XXI of the VAT Regulations 1995 (SI 1995/2518) if they are not registered for VAT in the UK, provided they satisfy the legislative conditions. For further information see Notice 723A (<https://www.gov.uk/guidance/refunds-of-uk-vat-for-non-uk-businesses-or-eu-vat-for-uk-businesses>)

HMRC is aware of incorrect treatment by businesses whereby import VAT has been incorrectly deducted as input tax by non-owners of the goods. In many cases this was because it was administratively easier for the importer of record, i.e. the person making the customs declaration and who accounted for the import VAT, to recover it, even if they were not the owner. This was because the owner has to either be UK VAT registered in order to deduct the VAT or make a VAT refund claim. The incorrect claims for recovery of VAT created a risk of duplicated claims as both the owner and the importer could potentially be deducting the same import VAT through different means.

HMRC published Revenue and Customs Brief 2 (2019) in April 2019. This restated HMRC's long-standing policy that it is the owner of the imported goods who is entitled to recover the import VAT under current UK legislation. Following publication, HMRC and HM Treasury received a number of representations from businesses and business representatives about the application of these rules in

specific cases. HMRC looked at the issues raised and conducted a review of the policy and published further clarification in Revenue and Customs Brief 15 (2020) in October 2020. The Revenue and Customs Briefs clarify (but do not change) our long-standing policy.

Meaning of Ownership

When we refer to the owner as having ownership of the goods, this needs to be seen specifically in the VAT context of ownership being 'the right to dispose of goods as owner'. It is accepted that, as long as the contract of ownership envisages that title will pass at some future date (usually on payment), title does not need to have passed at that earlier point. Typically, contractual arrangements will often allow the 'owner' to use and dispose of the goods as they see fit.

So, for example, where goods are imported into a customs warehouse, and 'ownership' passes in warehouse (subject to title typically passing later on payment), then the 'owner' of the goods will be in a position to dispose of those goods as owner, to use and/or sell those goods. Any import VAT paid by the 'owner' of the goods in such circumstances can be deducted by them as input tax, subject to the normal rules, irrespective of whether title has passed at that point.

Toll Operators

Toll operators all operate a similar business model: importing goods (most commonly within the pharmaceutical sector), processing them and distributing them within the UK for clinical trials. The toll operator does not take ownership of the goods and does not resell them. They may, however, distribute the goods onwards at the instruction of the owner (their customer). The only supply by the Toll Operator is of its services to its client (the owner of the imported goods).

Ownership of the goods at all times remains with their overseas customers (the owners). However, the toll operator acts as 'importer of record' on UK import declarations, pays the import VAT to HMRC and receives the import VAT certificate (C79).

HMRC has become aware that a number of UK toll operators who paid import VAT on behalf of overseas customers also claimed a corresponding deduction for input tax under VAT Act 1994 s24. However, there is no provision in UK law for such deduction.

Where ownership has passed before import into the UK

In some situations, overseas businesses may sell goods to their UK customers prior to importation into the UK. The overseas seller may continue to act as the 'importer of record' on UK import declarations, pay the import VAT to HMRC and receive the import VAT certificate (C79). However, in these circumstances it is the UK 'owner' who has the right to recover the import VAT.

In all circumstances it is the owner, whose details (EORI) should be shown in box 8 of the import declaration, who is eligible to reclaim the import VAT, either in accordance with s24 VATA (if registered for VAT in the UK) or under part XXI of the VAT Regulations 1995 (SI 1995/2518).

Agents

An agent may be given power to act on their client's behalf. They can then enter into contracts with third parties, receiving and issuing invoices in their own name.

Where an agent acts in line with section 47 of the VATA

(<https://www.legislation.gov.uk/ukpga/1994/23/section/47>), the agent is treated as importing and supplying the goods as principal.

In these circumstances the agent can reclaim the import VAT as input tax, subject to the normal rules, but must treat the transactions as a supply by them and charge and account for VAT on the onward sale in the normal way.

Customs Warehousing

Businesses such as retailers that source goods from abroad may on import enter the goods into warehousing and duty and VAT are suspended.

The retailer raises a purchase order at a later date and goods are dispatched from the warehouse and VAT deferred to the retailer's deferment account. The retailer takes ownership of the goods at the time of delivery to either a distribution centre or their retail premises.

Ordinarily, import VAT and customs duty becomes due when the goods are imported and enter free circulation. Where goods are entered into warehousing import VAT becomes due at the point the goods are removed from the warehouse and enter free circulation.

In the above example, when the goods are released from the warehouse into free circulation the import VAT becomes due. Where the retailer has taken ownership of the goods (irrespective of whether title has passed at that point) prior to the goods being removed from the warehouse and prior to entry into free circulation, the retailer may act as importer of record and also recover the import VAT.

Goods imported for onward leasing

This is where goods are imported from outside the UK for use by the person leasing the goods and remain in the ownership of the lessor. It is expected that the goods will be returned to the lessor at the end of the lease term.

The importation of the leased goods and the onward lease are 2 separate taxable events for VAT purposes. When the goods are imported into the UK the overseas supplier incurs the import VAT in respect of its separate onward supply of a leased good.

The person leasing the goods does not take ownership of the leased goods and does not have entitlement to recover the import VAT. They take on the leased good and any input tax incurred in respect of the lease itself would be recoverable. It would be subject to the normal rules, as it relates to the separate onward supply that they receive.

Customs special procedures

Businesses can use customs special procedures to suspend, reduce or claim relief on the payment of customs duties and VAT under specified conditions. This includes businesses who import goods for maintenance, repair or processing (usually with the intention to re-export).

Special procedures include:

- customs warehousing – allows for goods not in free circulation to be stored without payment of customs duty, and where appropriate excise duty or import VAT, in a customs warehouse
- inward processing – allows for the payment of customs duties and import VAT to be suspended on imported goods whilst processing is taking place.
- outward processing – allows for the temporary export of goods for processing or repair, and to re-import the processed products whilst retaining domestic status or with partial relief from import duties.
- temporary admission - allows for businesses and individuals who are established outside of the UK to be authorised to import goods with total or partial relief from customs duties and other charges because of the specific use to which the goods will be put.

- Unless otherwise provided for, goods placed under the TA procedure must not be altered or changed, except to allow for normal depreciation due to the use made of them. Repairs and maintenance, including overhaul and adjustments or measures to preserve the goods or to ensure their compliance with the technical requirements for their use under the procedure, are admissible. However, processing is strictly not allowed.
- authorised use - allows for reduced or nil rates of customs duty on certain imported goods, provided they are put to a prescribed end use.

However, some businesses, for administrative purposes, choose not to apply the relevant special procedure but choose to pay the import taxes applicable at import, including import VAT. If a business chooses not to use a special procedure, then the standard import procedure must be followed, and any import VAT can only be deducted by the correct entity.

For further information on Customs special procedures see <https://www.gov.uk/government/collections/pay-less-or-no-duty-on-goods-you-store-repair-process-or-temporarily-use> (<https://www.gov.uk/government/collections/pay-less-or-no-duty-on-goods-you-store-repair-process-or-temporarily-use>)

Postponed VAT accounting

From 1 January 2021, UK VAT registered businesses are able to use postponed VAT accounting to account for import VAT on their VAT Return for goods imported for use in their business from anywhere in the world.

Where a business initially declares goods to customs warehousing or into some other customs special procedure, they can use postponed VAT accounting when they submit the declaration that releases those goods into free circulation.

Businesses do not need to be authorised to use postponed VAT accounting, they simply make the appropriate entry on their customs declaration.

Find out more information about postponed VAT accounting (<https://www.gov.uk/guidance/check-when-you-can-account-for-import-vat-on-your-vat-return>).

- ← Previous page (<https://www.gov.uk/hmrc-internal-manuals/vat-input-tax/vit13200>)
- → Next page (<https://www.gov.uk/hmrc-internal-manuals/vat-input-tax/vit13400>)