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INTERNATIONAL TAXATION
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THE IMPORTER NOT ESTABLISHED IN THE EU MUST APPOINT AN INDIRECT CUSTOMS REPRESENTATIVE

An economic operator not established in the territory of the European Union (i.e. not having its registered office or central headquarters or a permanent establishment or a place of business in the EU), who wants to import goods into the EU, cannot submit the import customs declaration independently, but may only appoint an “indirect customs representative”, established in the territory of the EU, who will act in his own name, assuming the role of “declarant”. This was clarified by the Italian Customs Agency in a notice dated 19/10/2022, reiterating what it had already stated in Circular 40/2021.

The indirect customs representative appointed by the importer not established in the EU:

- cannot appoint, in turn, another customs representative;
- is always jointly and severally liable with the importer not established in the EU for any dispute raised by the Customs Office concerning the items of the customs declaration (origin, classification, value of the goods declared upon importation).

In any case, the importer not established in the EU must be identified for customs purposes by means of the EORI code issued by the Member State where he first carried out customs formalities.

The VAT number of the non-EU established importer, in case of direct VAT registration of the same in the Member State where he carries out customs operations, or the VAT number of the tax representative he has appointed in that State must then be linked to the EORI code of the importer.

The Customs Agency has also better clarified the role and functions of the tax representative, who in operating before customs authorities can only cope with the formalities necessary for the payment of import VAT, while he cannot deal with matters other than import VAT.

Therefore, the tax representative of the importer not established in the EU cannot submit the customs declaration on behalf of the latter; however, the VAT number of the tax representative must be indicated in the field 44 of the import customs declaration (SAD).