

APPENDIX B

Authorization for limited fiscal representation

NECESSARY INFORMATION AND DOCUMENTS PER TRANSACTION

A permit to act as Fiscal Representative is only granted by the Dutch Tax and Customs Administration if certain requirements are met. One of the requirements set by the Tax and Customs Administration is that the Fiscal Representative keeps correct, complete and orderly records. These records shall evidence to the satisfaction of the Tax and Customs Administration that laws and regulations are correctly applied. The time limit with regard to a tax assessment is 5 years, pursuant to article 20 General Taxes Act.

Since the Fiscal Representative will often not have the necessary documents, information and data at its disposal, but is (co)liable to the Tax and Customs Administration, the Client shall provide these in a timely manner - **before the start of the work**, unless otherwise is stated - and correctly. The Client is also after termination of this agreement/authorization - during the period in which the government may impose an additional tax assessment - obliged to render all assistance and provide all requested documents, data and information regarding the work that the Fiscal Representative has carried out within the framework of this agreement.

The VAT records and the file of the Fiscal Representative shall contain:

- an overview of all incoming transactions (import duties and purchase invoices),
- an overview of all outgoing transactions (supplies / transfer of own goods / sales invoices and export documents),
- a transparent relationship between incoming and outgoing transactions and, if applicable, storage of goods,
- all files and documents shall demonstrate that the VAT rate (0%) is correct (proof of supply, invoice statements, correct VAT IDs, transparency and corresponding with the goods flow).

Examples of additional information that the tax authorities may need (on an occasional basis and in retrospect) are:

- confirmation of the order, between supplier, foreign importer and buyer,
- proof of payment by or from the buyer,
- statement of the buyer that it has reported / will report an intra-community acquisition in the VAT return in the member state where the goods have been acquired,
- copies of the VAT return by buyer.

1. Documents, data and information that shall be provided by the Client

➤ GENERAL

Written statement or statement by e-mail from the Client about the consignment for which the Fiscal Representative shall act as such

The Fiscal Representative shall receive an order from the Client for each consignment, namely:

- a specific, written instruction by or in the name of the foreign importer, for each consignment for which the Fiscal Representative shall act as such. This applies both to the import and to the successive consignment. The aforementioned instruction shall contain all details required to be able to import correctly, including the place and the name of the person to whom or the legal person to which the goods shall be sent. The instruction shall also specify which documents are included.
- all documents and instructions shall at all times contain clear and identical references, such as order numbers, reference numbers or invoice numbers; also the quantities and the weights of all items shall correspond with each other.

➤ NECESSARY DOCUMENTS, INFORMATION AND DATA IN CASE OF IMPORT

- **All documents, information and data necessary for import through customs¹**, such as a packing list and an invoice. For an overview of the necessary data and documents for the customs declaration, reference is made to the instructions with the agreement/authorization for direct representation.

¹ If the Fiscal Representative is not in control of the transport and/or the import through customs, the Client shall make these documents, information and data available to the Fiscal Representative, possibly through third parties engaged by it. For the purpose of reverse-charging the Turnover Tax on import to the periodic return (in accordance with article 23 of Turnover Tax Act), the import declaration shall state the VAT identification number of the Fiscal Representative as granted by the Tax and Customs Administration.

➤ SUBSEQUENT SUPPLIES

Necessary documents, information and data in case of intra-Community supplies

- **VAT identification number of the customer** shall be stated by the Client to the Fiscal Representative prior to the intra-Community supply
- **Order confirmation or packing list**, clearly stating the goods supplied.
- **Invoice** issued to the person who acquires intra Community within the EU. To apply the zero rate, this invoice shall state both the VAT identification of the Fiscal Representative and that of the customer (for further general invoicing requirements see §2)
- **Proofs of supply**², for example signed B/L or CMR or a cleared e-AD with goods subject to excise duty.
- **Invoice transporter(s)**⁷

In accordance with the Turnover Tax Decree on intra-Community supplies of the State Secretary of Finance (Decree of 1 October 2002 no. DGB 2002/4947m/ bwbr0014081), the Fiscal Representative may require, inter alia, the following documents of the Client:

- **Order confirmation**³
- **Proof of payment of the customer**
- **Insurance policy in connection with the transport of the goods**
- Customer shall send a **customary confirmation of taking receipt of the goods** to the Fiscal Representative⁴
- **Statement of the customer** that it has reported/will report an **intra-Community acquisition** in the return for the Turnover Tax in the member state where the goods have been acquired⁹
- Copies of the **return for the Turnover Tax shall be sent by the customer** to the Fiscal Representative⁹

Necessary documents, information and data in case of supplies within the Netherlands

- **Invoice** issued to the Dutch customer. For the purpose of reverse charging the Turnover Tax to a company with place of business in the Netherlands and registered for the turnover tax, the invoice shall state both the VAT identification number of the customer and the statement "reverse-charged in accordance with article 12 paragraph 3 Turnover Tax Act 1968". Supplies to Dutch customers, not being a company registered for the turnover tax or with unknown VAT identification number, are not eligible for reverse-charging pursuant to article 12 paragraph 3 Turnover Tax Act. The VAT shall be charged on the invoice (for further general invoicing requirements see §2)
- **Proofs of supply**⁷, for example signed consignment note or other documents that can serve as proof of supply

Depending on the situation, the Fiscal Representative may require, inter alia, the following documents of the Client:

- **Order Confirmation**⁸
- **Proof of payment of the customer**
- **Statement of the customer** that it has filed / will file a **return for the Turnover Tax** ⁹

² If the Fiscal Representative does not have the transport documents / proofs of supply at its disposal (for example: is not in control of the transport), the Client shall make these documents available to the Fiscal Representative, possibly through third parties engaged by it.

³ Correspondence between seller and customer

⁴ If the Client is not also the acquirer of the goods, the Client shall instruct its customers in this respect

Necessary documents, information and data in case of export

- **Invoice** issued to the customer of the goods (for general invoicing requirements, see §2)
- **3rd copy of the export declaration signed by customs**
- **Proofs of supply**⁷, for example signed B/L or CMR
- **Invoice transporter(s)**⁷

Depending on the situation, the Fiscal Representative may require, inter alia, the following documents of the Client:

- **Order Confirmation**⁸
- **Proofs of import non-EU countries**
- **Proofs of payment** of foreign (non-EU) customers
- **Insurance policy in connection with the transport of the goods**⁷

Necessary documents, information and data in case of collect transactions

- **Invoice** issued to the customer of the goods (for general invoicing requirements, see §2)
- Customer provides to the Fiscal Representative **a statement** (prior to the transport) **as referred to in part 4.3 of Communication 38**⁹. If this statement is not available, it is strongly recommended to charge turnover tax, because this statement is crucial for the legitimate application of the zero rate
- One can also think of:
 - **An acquisition letter** in which the customer of the goods states to the Fiscal Representative that it has actually received the goods⁹
 - Copies of the **return for the Turnover Tax to be sent by the customer** to the Fiscal Representative⁵
- **Further documents, information and data** shall be provided in accordance with the relevant parts in this appendix, depending on the place of business of the customer

Necessary documents, information and data in case of simplified ABC transaction

A transaction is a simplified ABC transaction if:

- Multiple transactions are concluded with regard to the same good between three parties that each have their place of business in a different EU Member State, and;
- party 'A' and 'B' make the agreement on the transport of the goods to 'C', and;
- the goods are transferred directly from the Netherlands to 'C' in the country of 'C'.

- **Documents, information and data** shall be provided in accordance with the part on intra-Community Supplies in this appendix. Furthermore, the client (of the Fiscal Representative) 'A' shall instruct its contractual other party 'B' that all necessary information shall be sent to the Fiscal Representative (for example CMR signed by C).
- **Subject to the above**, the client 'A' shall instruct its contractual other party 'B' on the following:
 - The **Invoice to customer 'C'** shall state both the VAT identification of 'B' and that of 'C', and the statement that the VAT on the supply to 'C' is reverse-charged to customer 'C' (in accordance with article 141 VAT Directive 2006/112/EU)
 - **Statement of customer 'B'** to be sent to the Fiscal Representative⁵, to the effect that 'B' has reported / will report an intra-Community acquisition in the return for the Turnover Tax in the member state of its place of business

2. General invoicing requirements

An invoice shall be drawn up for all goods and services to an entrepreneur or a legal entity that is not an entrepreneur. An invoice shall be sent before the 15th day of the month following the month in which the goods are supplied. If use is made of a Fiscal Representative, the following data shall be stated on the invoice.⁶

- Name and address seller (full)
- VAT number seller
- CoC number seller
- Name and address customer (full)
- 'name and address Fiscal Representative' acts as Fiscal Representative with a limited permit
- VAT identification number of the Fiscal Representative¹³
- Invoice date
- Consecutive number invoice (invoices shall be numbered consecutively)
- (Detailed) description and the quantity of the goods supplied (any HS code / GN code)
- Date of supply
- Place of supply
- Supply conditions / Incoterms
- Unit price excluding VAT⁷
- Any prepayments, price discounts and rebates in so far as not included in the unit price¹³
- Taxable amounts for each rate or each exemption¹³
- Price excluding VAT, unless specific arrangement
- VAT- rate¹³
- Price including VAT
- Currency random, provided that the payable VAT amount is expressed in the national currency of the member state where the goods are supplied.

There are additional invoicing requirements for various acts, also with regard to the fiscal representation, if a reverse-charging or exemption arrangement applies.

In case of EU supplies to a customer with a valid VAT number in the country of destination:

- 0% VAT as a result of intra-Community consignment (article 138 - EU VAT Directive 2006/112 / EU)

⁵ If 'B' can prove that it has acquired the goods with a view to selling them to 'C', 'B' need not register in the country of 'C' and 'B' need not pay VAT on balance

⁶ Client, not being seller, shall instruct its contractual other party to the goods transaction on the invoicing requirements

⁷ As at 1 January 2004 (Guideline 2001/115/EC of the Council)

In case of NL supplies to a customer with place of business and a valid VAT number in the Netherlands:

- No VAT stated on the invoice
- Refund of the VAT pursuant to article 12 (3) Dutch Turnover Tax Act.

In case of export - supplies outside the EU:

- 0% VAT as a result of the export consignment (Article 146 - EU VAT Directive 2006/112/ EU)

Other supplies, or if no valid VAT number of the customer is available:

- 21% or 6% Dutch VAT

in case of intra-Community supplies / simplified ABC supply

- VAT identification number (community) customer
- VAT zero rate, statement with taxable amount "nil in accordance with article 9 paragraph 2 under b in conjunction with. Table II item a 6"

in case of supplies within the Netherlands to a company registered for the turnover tax

- VAT identification of the Dutch customer
- statement "reverse-charging in accordance with article 12 paragraph 3 Turnover Tax Act 1968"
- Neither statement of VAT rate nor statement of price including VAT

in case of supplies outside the European Union (export)

- VAT zero rate, statement with taxable amount "nil in accordance with article 9 paragraph 2 under b in conjunction with Table II item a 2"