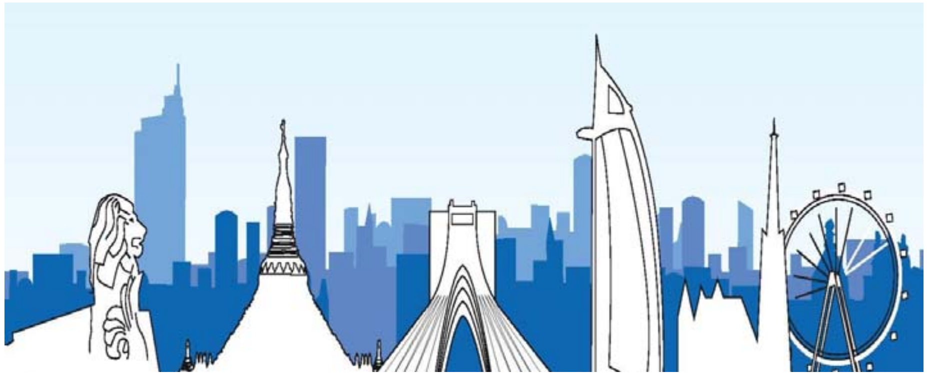

RAK Customs Policy (2) of 2016 – Free Zone Procedures

Many clients had and have had problems if their goods first arrived in the Jebal Ali Free Zone and are further transported, for instance, to another Free Zone such as RAK FTZ. There is a customs tax levied of 2 x 5%. Years ago, there were already discussions about abolishing the customs tax since the UAE is one country and therefore no customs duty should apply from Free Zone (Jebal Ali) to Free Zone (RAK FTZ). Until now, this problem still exists and has not been solved. For this occasion, we would like to give you an overview of the latest “RAK Customs Policy” (Ref.: HO 1/3/2016/1774) which came into effect on the 30th of June 2016.

RAK custom regulations in detail

The customs policy (2) of 2016 regulates the industrial activity of Free Zone Companies. In general: As a RAK Free Zone Company, customs duties must be paid in full when the goods are imported into the local market. This regulation applies whenever the goods leave the FTZ destined for the UAE local market, and is also in accordance with Articles 85 and 88 of the Common Customs Law. Furthermore, if the goods are leaving the Free Zone to one of the GCC States, the customs duty ‘tax’ must be paid at the first point of entry into the GCC which will be the territory of RAK if the goods are leaving a RAK FTZ (Art.5 Customs Policy RAK).

Customs duties shall just apply to the production cost value of the goods, which are not owned by the Free Zone Companies and are just placed in order to be processed, modified, cut and painted and after returned to the Non-Free Zone Company owner (Art.2 Customs Policy RAK). For the implementation of that, several requirements have to be satisfied.

First of all, the company needs to get the director general’s approval that they fall under the scope of the Production Cost Calculation system. Moreover, once the goods are deposited into the Free Zone, a MOU (Memorandum of Understanding) or a mutual contract between the Free Zone Company and the Non-Free Zone Company must be handed in and also needs to be approved by the customs centre manager.

Furthermore, a production list with the actual production cost (not percentage) including the quantity and the value of consumed raw material must be provided. Additionally, the production list also must contain imported items, or non-duty paid items, as well as the value of these goods and their production cost. Altogether, this will be considered as the value subject to the customs duties. In case there are difficulties with providing a production list, for instance because of the complexity of process for huge projects, the manufacturer has the possibility to take 25% of the value of the goods as a production cost.

The modified goods have to exit the Free Zone within 6 months of entry in order to benefit from the Production Cost Calculation system as a company. To prove this, the documents and contracts with the entry dates of the goods must be submitted.

Once all conditions are fulfilled, the approval to the Production Cost Value Form has to be completed including all necessary documents which have been asked for in the form.

Exemption of customs taxes for Free Zone Companies

If the Free Zone Company wants to rent out equipment or machinery from the UAE local market to use in production processes (construction, maintenance and etcetera) it can be exempted from customs taxes. Therefore, the equipment needs to be taken out with the same description, fabrication number, and a valid rental contract together with the customs documents provided by the competent customs centre. Everything needs to be handed in before entrance to the market (Art.3 Customs Policy RAK). Generally, in case received goods or equipment from a local market supplier needs to be returned because the items are defect, the Free Zone Company will not have to pay customs duties. Therefore, the removal needs to be done within one month of entry into the Free Zone. In addition, in order to prove this, customs documents with the entering date into the Free Zone and also a letter explaining the issue needs to be submitted (Art.4 Customs Policy RAK).

Temporary Admission Mechanism

Goods and Equipment belonging to the Free Zone Company, which are rented out for projects, use or repair in the UAE local market and after will be returned, shall be charged a 5 % customs duty as a deposit for a period of six months after receiving the prior approval of the Director General. This period is for equipment only and is renewable (max. 3 years, an additional 1 % of customs duty deposit). The renewal shall be requested before the deposit date of expiry. Items, which are returned after projects or repairs, shall have the customs fees paid into the bank (by cheque) if the period exceeds one month (Art. 6/7 Customs Policy RAK).

Payable customs taxes by arrival of goods in a Free Zone

When goods arrive in a Free Zone (e.g. Jebel Ali Port) and are to be delivered to another Free Zone (e.g. RAK FTZ) Dubai customs needs to be paid. Therefore customs taxes of 5 % would apply since it is leaving the Emirate, unless the tariff department gives approval that you just have to pay a deposit. For this situation, there are no general aspects one can follow, it depends on the individual case if the tariff department will refuse or approve it.

Within the same Emirate, for instance, when goods are imported just into another Free Zone in Dubai, the amount of customs taxes (5 %) will be collected at the first point of entry, but just in the form of a deposit (as a guarantee), which will be refunded after the customs procedures are completed within the compulsory period at the second FTZ.

Customs depend on the individual circumstances

However, any common statement regarding how to avoid customs duty cannot be made since it depends on the individual case which means: what kinds of goods (e.g. heavy machinery), whether the goods are used for trade or just rental, if the goods will return or not, and which Free Zones are involved.

It still needs to be examined what extent the impact of the introduction of the VAT will have, if the paid customs tax will be deductible again as a pretax like in Europe.

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