

Pursuant Article 75, paragraphs 1 and 2 of the Constitution of the Republic of Macedonia, the President of the Republic of Macedonia and the President of the Assembly of the Republic of Macedonia, hereby issue a

DECREE
PROCLAIMING THE LAW ON AMENDING AND APPENDING THE CUSTOMS
CODE

The Law on Amending and Appending the Customs Code, adopted by the Assembly of the Republic of Macedonia on its Session held on 04th January 2008 is hereby proclaimed.

No. 07-87/1
04th January 2008
Skopje

President
of the Republic of Macedonia
Branko Crvenkovski (*signed*)

President
of the Assembly
of the Republic of Macedonia,
Ljubiša Georgievski, (*signed*)

LAW ON AMENDING AND APPENDING THE CUSTOMS CODE

Article 1

In the Customs Code (Official Gazette of the Republic of Macedonia” no. 39/2005) following item 29 of Article 4, item 30 shall be inserted to read:

30. “Person posing greater risk” is a person:

a) that has incurred a customs debt, value added tax or excises within the last twelve months in an amount exceeding EUR 10,000 (equivalent amount in Denars), as a result of:

- Release of goods for free circulation or placing goods under the temporary importation procedure with partial relief from import duties as a result of false data provision or failure to provide the data necessary, within the meaning of Article 216 of this Law or
- Incurrence of customs debt within the meaning of Articles 217, 218 or 219 of this Law

b) that has committed customs offences pursuant this Law, which resulted in irrevocable and executive rulings imposing fines, the amount of which exceeds EUR 10,000, equivalent amount in Denars within the last twelve months

c) that has committed a criminal act in the domain of customs operations for which irrevocable and executive rulings have been passed within the last twelve months;

d) to which multiple and additional legally owed duties of customs debt, VAT or excise duties have been calculated or against whom customs offence charges have been brought for a total number of customs declarations, exceeding 2% of the total number of customs declarations lodged within the last twelve months;

e) that a competent authority has identified as a tax debtor due to tax evasion or failure to pay taxes or public duties of any kind (VAT, excise, personal income tax, profit tax, property tax, turnover tax on real estates and rights and other taxes proscribed by law), in a total amount exceeding EUR 10,000, equivalent amount in Denars.

f) that a competent authority has identified to have committed an offence in relation to tax evasion or failure to pay taxes or public duties of any type (VAT, excise, personal income tax, profit tax, property tax, turnover tax on real estates and rights and other taxes proscribed by law), for which irrevocable and executive rulings imposing fines, the amount of which exceeds EUR 10,000, the equivalent amount in Denars, have been passed within the last twelve months.

g) that a competent authority has identified to have committed a criminal offence in relation to tax evasion or failure to pay taxes or public duties of any type (VAT, excise, personal income tax, profit tax, property tax, turnover tax on real estates and rights and other taxes proscribed by law) for which instance and executive rulings been passed in the last twelve months;

h) that a competent authority has identified to have failed to pay pension and disability contributions, health insurance and insurance in case of unemployment, for more than four months within the last twelve months; or

i) or for which there is evidence that its owner i.e. owners, i.e. members of the management board of administrative management board, as well as persons who are members of the same family of the afore-mentioned persons (parents and children or other relatives, living in the same household) were owners of the legal person, i.e. members of the management body or members of administrative bodies of a legal person for which a bankruptcy procedure has been initiated, i.e. liquidation procedure, i.e. were owners of a legal person, i.e. members of working body or members of management bodies of legal person within the meaning of the sub-items a) to h) of this item, unless it has been undoubtedly identified that the same person did not contribute for incurrence of bankruptcy or liquidation procedure or he/she performed his/her function in the legal person immediately before or after the occurrence of any reasons which have lead to bankruptcy or liquidation procedure or situations quoted in the sub-items a) to h) of this item.

Article 2

Paragraphs (8), (9) and (10) of Article 6 shall be amended and shall read:

“(8) The Central Administration of the Customs Administration shall withdraw the customs license for representation if the representative (a natural person) due to illegal, incorrect or incompetent execution of his work is responsible for:

- incurrence of a customs debt, VAT or excise duties within the last twelve months exceeding the total amount of EUR 5,000, equivalent amount in Denars as a result of release of goods for free circulation or placing goods under temporary import procedure with partial relief from import duties caused by lodging of false data or by failing to submit the necessary data within the meaning of Article 216 of this Law or for the incurrence of customs debt within the meaning of Articles 217, 218 and 219 of this Law;
- occurrence of customs offences within the last twelve months for which irrevocable and executive rulings have been passed, i.e. fines, the total amount of which exceeds EUR 5,000, equivalent amount in Denars or

- occurrence of obligations which resulted in calculation of multiple and additional legally owed duties of customs debt, VAT or excise duties or customs offence charges brought for a total amount of customs declarations exceeding 2% of the total number of customs declarations lodged within the last twelve months;

“(9) The Central Administration of the Customs Administration shall withdraw the customs license for representation where the representative (legal person) is a person posing greater risk.”

“(10) When a customs license or authorization for carrying out representation work is withdrawn in accordance with paragraphs (8) and (9) of this Article, a new customs license or new authorization for representation may be granted in the period of twelve months from the day it was withdrawn.”

Paragraph (11) of Article 6 shall be erased.

Article 3

A new Part 1A entitled “Authorised Economic Operators” with a new Article 6(a) shall be inserted after Article 6, which shall read:

Part 1-A Authorised Economic Operators

Article 6(a)

(1) Customs authorities, if necessary following consultations with other competent authorities in the domain of security and finances, shall grant, subject to the criteria provided for in paragraph (4) of this Article the status of “Authorised Economic Operator” to every economic operator registered in the customs territory of the Republic of Macedonia.

(2) An authorised Economic Operator shall benefit from facilitations with regard to customs controls relating to safety and security and/or from simplifications provided for under the customs regulations.

(3) The status of Authorised Economic Operator shall, subject to the rules and conditions laid down in paragraph (5) of this Article, be recognized by the customs authorities of the Republic of Macedonia, without prejudice to customs controls. Customs authorities shall, on the basis of recognition of the status of Authorised Economic Operator and provided that the requirements relating to a specific type of simplification are fulfilled, grant approval to the Authorised Economic Operator to benefit from that simplification.

(4) The Authorised Economic Operator status shall be granted to the economic operator that meets the following criteria:

- complies with the customs requirements for execution of customs formalities and appropriately acts, in accordance with the customs formalities,
- is not a person posing greater risk,
- has an efficient system for managing commercial and, where appropriate transport records, which allows appropriate customs controls,
- is solvent for the type of authorization, where necessary, and

- applies appropriate safety and security standards for the type of authorization, where necessary.

(5) The manner and procedure for granting approval for Authorised Economic Operator status, the issuing of authorisations for simplifications, type and scope of facilitation that may be approved in respect of customs controls related to safety and security, by applying risk management rules, as well as the conditions under which the Authorised Economic Operator status can be temporary withdrawn or annulled and, having in mind international Agreements, the possibility for exemption of the condition for registering special categories of Authorized Economic Operators in the Republic of Macedonia, shall be done in accordance with the provisions of Article 257 of this Law.”

(6) The customs authority shall temporary withdraw the status of Authorized Economic Operator when:

- it has been established that the requirements or criteria, on basis of which the status of Authorized Economic Operator was granted, are no longer fulfilled
- the customs authorities has reasons to believe that the Authorized Economic Operator has committed a criminal act in relation to violations of the customs regulations.

(7) The customs authority shall annul the status of Authorized Economic Operator when:

- the Authorised Economic Operator, whose status has been temporary withdrawn, has not undertaken the necessary measures for fulfillment of the requirements and criteria, on the basis of which the status of Authorised Economic Operator has been granted,
- the Authorised Economic Operator has committed customs offences pursuant this Law which resulted in executive and irrevocable rulings for which fines in the amount exceeding EUR 10,000, equivalent amount in Denars have been imposed within the last twelve months
- the Authorized Economic Operator committed a customs criminal act for which executive and irrevocable rulings have been passed or
- upon the request by the Authorized Economic

Article 4

Three new articles: 7 (a), 7 (b) and 7 (c) shall be inserted after Article 7 and shall read:

“Article 7 (a)

(1) A Decision taken by the customs authority shall be annulled if taken based on grounds of inaccurate or incomplete information and:

- the requesting party knew or must have known that the information were incorrect or incomplete, and
- such a Decision would not have been taken based on accurate and complete information.

(2) A Decision for annulment shall be submitted to the person it refers to and shall come into force on the date the Decision for annulment was taken.

Article 7(b)

(1) A Decision taken by the customs authority shall be revoked or amended in cases other than the cases referred to in Article 7(a) when it was additionally identified that one or more requirements prescribed for issuing of a Decision have not been complied with at the moment of issuing the authorization or ceased to be complied with after the Decision was taken.

(2) A Decision can be revoked if the person it refers to does not fulfill the obligation conferred on him by that Decision.

(3) A Decision shall be revoked when the person it refers to is a person posing greater risk.

(4) The Decision for revocation or amendment shall be submitted to the person it refers to and shall come into force on the date the Decision was taken.

Article 7 (c)

When a Decision has been annulled or revoked in accordance with Article 7(a) and Article 7(b) of this Law, the customs authority may take a new Decision of the same type for the same person after the expiry of one year from the date when annulment or revocation come into force.”

Article 5

In Article 89 new paragraph (2) shall be inserted after paragraph (1), and shall read:

(2) When a customs declaration is made by using electronic data processing technique, the customs authority may approve the documents usually enclosed to the customs declaration referred to in Article 72 paragraph (2) of this Law, not to be enclosed to the customs declaration. In such a case, the documents shall be kept in a way which allows control by the customs authorities.”

Paragraph (2) of Article 89 shall become paragraph (3).

Article 6

In Article 244 paragraph (1) the wording “payment operations” shall be replaced by “tax procedure”.

Article 7

In Article 245 paragraph (1) the wording: “Law on Value Added Tax” shall be replaced by “Law on Tax Procedure”

Article 8

In Article 252, paragraph (5), new sentence shall be added after the full stop and shall read: “the customs authorities may approve extension of this period in exceptional justifiable cases”.

Article 9

New Article, 258-a, shall be inserted after Article 258 and shall read:

“Article 258 (a)

Customs Offence Office, laid down in the Law on the Customs Administration, shall be exclusively designated to conduct offence procedures and to impose special offence measures for perpetrated customs offences“.

Article 10

Article 259 shall be amended and shall read:

- (1) The customs authority is obliged to propose settlement and mediation procedure to the perpetrator of the customs offence before submitting a request for offence procedure.
- (2) The purpose of the settlement and mediation procedure is reaching an agreement between the customs authority and the perpetrator of the custom offence for the purposes of eliminating the negative consequences of the offence and preventing perpetration of further offences, as well as avoiding conducting offence procedure before the Customs Offence Office.”

Article 11

New Article 259 (a) shall be inserted after Article 259 and shall read:

“Article 259 (a)

- (1) When a customs official identifies that an offence has been perpetrated, the customs official shall deliver to the perpetrator an invitation for payment of a fine, and a payment order to the perpetrator who confesses the commission of the customs offence of which the perpetrator is accused of, except in cases of customs offences for which special offence measure - seizure of goods is proscribed by this Law.
- (2) If the perpetrator fails to pay the fine referred to in paragraph 1 of this Article within 8 days of the receipt of the invitation for payment of a fine or payment order, the customs official is obliged to immediately lodge a request for initiation of an offence procedure before the offence authority.”

Article 12

In Article 260 paragraph 1 the wording “court” shall be replaced by the wording “Customs Offence Office”.

In the paragraph (2) of this Article before the wording “courts” the wording “Customs Offence Office and” shall be inserted.

Article 13

In Article 261 paragraph 1, the wording “court” shall be replaced by the wording “Customs Offence Office”.

Article 14

In the heading of Chapter 2, the wording “punitive” shall be replaced by “offensive”.

Article 15

In Article 263, paragraph (1) the introductory line shall be amended to read: “A fine of EUR 5,000 to 100.000, equivalent amount in Denars shall be levied against a legal person for an offence if;”

In item 7 of the same paragraph of this Article, the word: “factory” shall be followed by the wording: “or which have been specially made, adapted, modified or in any way adjusted to conceal goods.”

Paragraph (2) of the same Article shall be amended to read:

“A fine of EUR 1,000 to 30,000, equivalent amount in Denars shall be levied against the responsible person in a legal person for the offence referred to in paragraph (1) of this Article.”

New paragraph (3) shall be inserted after paragraph (2) to read:

“A fine in the amount of EUR 500 to 15,000, equivalent amount in Denars shall be levied against a natural person for the offence referred to in paragraph (1) of this Article.”

Article 16

In Article 264, paragraph (1) the introductory line shall be amended to read: “A fine of EUR 1,000 to 30,000, equivalent amount in Denars shall be levied against a legal person for an offence if;”

Paragraph (2) of the same Article shall be amended to read:

“A fine of EUR 200 to 5,000, equivalent amount in Denars shall be levied against the responsible person in a legal person for the offence referred to in paragraph (1) of this Article.”

New paragraph (3) shall be inserted after paragraph (2) to read:

“A fine in the amount of EUR 200 to 5,000, equivalent amount in Denars, shall be levied against a natural person for the offence referred to in paragraph (1) of this Article.”

Article 17

Article 265 shall be amended to read:

“(1) A legal person that buys, sells, sells out, receives as gift, conceals, takes in for storage or transportation, keeps, uses or acquires on any basis goods for which it knows, or considering the circumstances, must have known, were used for perpetrating an offence under Articles 263 and 264 of this Law, if the perpetrator committed any of the actions under Articles 263 and 264 of this Law, shall be fined in the amount of EUR 5,000 to 10,000, equivalent amount in Denars, i.e. a fine in the amount of EUR 1,000 to 30,000 in equivalent amount in Denars in case of an offence referred to in Article 264 of this Law.

(2) A fine ranging from EUR 1,000 to 5,000, equivalent amount in Denars shall be levied for an offence referred to in paragraph (1) of this Article against a responsible person in a legal person.

(3) A fine ranging from EUR 500 to 15,000, the equivalent amount in Denars shall also be levied for an offence referred to in paragraph (1) of this Article against a natural person for an offence referred to in Article 263 of this Law, i.e. a fine in the amount of EUR 200 to 5,000, equivalent amount in Denars for an offence referred to in Article 264 of this Law.

Article 18

Article 266 shall be amended and shall read:

“Following the identification of a customs offence referred to in Article 263 paragraph (1) item 10 and 11, Article 264 or Article 265, in reference to Article 263 paragraph 1 item 10 and 11 and Article 264 of this Law, the customs official shall deliver to the perpetrator of the offence an invitation for payment of a fine or payment order in the amount of EUR 500 for a legal person, i.e. EUR 100 for a natural person”.

Article 19

In Article 267 paragraph 7 the wording: “a security measure” shall be replaced by “special offensive measure”.

Article 20

The provisions of Article 9, 10, 11, 12, 13 and 18 of this Law shall become applicable as from 01st September 2007.

The Provisions of Article 3 of this Law shall become applicable as from 01st January 2008.

Article 21

This Law shall come into force on the eighth day following its publishing in “The Official Gazette of the Republic of Macedonia”.