

Removal goods (Article 2 ff Provision on Exemption from Customs Duties)

Increasing globalisation requires a high degree of geographical flexibility of individuals, especially in the professional field. But in the private field, too, contacts and relationships are extending beyond borders and even continents. Moving from one country to another is nothing out of the ordinary any more. The payment of customs duties on personal effects – furniture, clothing, in short, the entire contents of a house – however, would restrict this development, and people wishing to settle in the EU would be faced with insurmountable costs. For this reason, under certain conditions, customs law exempts so-called removal goods from import duties that would normally be levied.

What are removal goods?

The most important question for beneficiaries is doubtless which of his belongings are exempt from customs duties when he relocates to the EU, and which are not. Given that the term "removal goods" is open to interpretation and can lead to misunderstandings, the Provision on Exemption from Customs Duties provides a conclusive definition (Article 1 Subpara. 2 Subitem c) and d) Provision on Exemption from Customs Duties). According to this definition, removal goods are deemed the following:

- household effects,
i.e. all personal items, linen and bedclothes, furniture and equipment intended for personal use by the beneficiary or within the household;
- private vehicles of whatsoever kind,
i.e. bicycles and motorcycles, cars (if applicable, with trailers), camping trailers, boats and sports planes;
- domestic supplies,
insofar as they do not exceed the quantities usually kept by a family as supplies – this is based on the quantity usually kept at the former place of residence;
- pets and horses/ponies;
- portable instruments and equipment for manual or freelance activities, insofar as the person who is moving requires these to practice his profession.

Although none of these items are subject to a specific quantitative restriction, the nature and quantity of the items entered as removal goods should not suggest that they have an obviously commercial character. For example, the registration of 20 new sports bicycles as removal goods by an individual would not be plausible and may raise suspicions that the goods are intended for sale in the customs territory of the EU, and that import duties are being bypassed.

What items are not deemed removal goods?

Items that are not deemed removal goods (Article 5 Provision on Exemption from Customs Duties):

- alcoholic products, i.e. beer, wine, wine or alcohol-based aperitifs, brandy, liqueur, spirits etc.;
- tobacco and tobacco products;
- commercial vehicles;
- commercially used items, with the exception of portable instruments and equipment for manual or free-lance activities.

Basic requirements

a. of the beneficiary

The most important prerequisite for the granting of exemption from customs duties on removal goods is that the person who is relocating – and this has to be a natural person – is moving his ordinary residence to the customs territory of the European Union (Article 2 Provision on Exemption from Customs Duties).

Furthermore, the beneficiary must have lived for at least twelve months before his relocation outside the Union's customs territory, i.e. he had his ordinary residence there (Article 4 Provision on Exemption from Customs Duties). Exceptions to this rule, however, are possible, notably if the beneficiary can prove that he had at least intended to reside for twelve or more months outside the EU.

Example:

A German employee moves from Berlin to Mexico City where he is to start a new job. For health reasons, he is forced to quit his job again after ten months and return to Germany. The fact that he spent less than a year abroad is not a problem because he had intended to stay in Mexico on a long-term basis because of his employment and his contract of employment can prove this. In other words, exemption from customs duties on the removal goods which have been entered for the procedure of release for free circulation would be possible in this respect.

b. removal goods:

The entered removal goods also have to fulfil certain criteria to be exempt from import duties. Firstly, the goods, of course, have to be removal goods in the sense of the Provision (Article 1 Subpara. 2 Subitem c) Provision on Exemption from Customs Duties); they should not be excluded according to Article 5 Provision on Exemption from Customs Duties (see above). Secondly, the goods must actually belong to the beneficiary, and have been used by him – in the case of non-consumable goods – for at least six months before he moved to the EU (Article 3 Subitem a) Provision on Exemption from Customs Duties). Proof is provided in the form of invoices, sales contracts, etc. Moreover, the removal goods may only be used in the new place of residence in the EU for the same purpose that they were used for before (Article 3 Subitem b) Provision on Exemption from Customs Duties).

Finally, exemption from customs duties will only be granted if the removal goods are released for free circulation within twelve months after the beneficiary's relocation by the latter (Article 6 Provision on Exemption from Customs Duties). This does not have to happen in one go, the beneficiary is

also entitled to import his removal goods in several smaller consignments, however he may not exceed the twelve-month deadline. Contact your responsible customs office in advance for more details about early importation of removal goods, non-compliance with the 12-month deadline, etc. Clearance of goods as removal goods by a German customs office is dependent on whether the goods are intended first of all for use in Germany for the purpose for which they have preferential treatment, i.e. if the new place of residence is taken up in Germany – even if this is temporary.

If motor vehicles or sports planes are entered as removal goods, proof must be provided from the responsible authorities abroad that the vehicle or plane was registered for use in the appropriate country in the name of the person who is relocating.

Forms/customs declaration

Goods for which exemption from customs duties not covered by collective agreement is to be requested must always be entered for the procedure for release for free circulation in writing. For the application, form 0350 should be used: Customs declaration for the release of removal goods for free circulation for special use.

Purpose limitation

To prevent goods from being imported customs-cleared as removal goods although they are items of trade, the removal goods remain under customs supervision after release for free circulation. This means the owner has only limited access to the customs-cleared goods. **For twelve months** – from the date the release for free circulation has been accepted – he may not surrender the goods to any other person, in particular, he may not:

- loan,
- pledge,
- rent,
- sell or
- give as a gift

the goods.

If the beneficiary violates this provision, i.e. if he withdraws the goods from customs supervision, exemption from customs duties shall be dropped and customs duties for the relevant goods shall be subsequently levied – irrespective of other penalties under criminal law or administrative fines (Article 7 Provision on Exemption from Customs Duties).

Turnover tax on imports and special excise duty

Goods that are deemed removal goods in the sense of the law and are released as such under customs exemption for free circulation, are exempt both from turnover tax on imports and from any special excise duty (Para. 1 Subpara. 1 EUStBV, Para. 1 Subpara. 1 No. 1 EVerbrStBV).