The PACMAN Association

Volume 1, Issue 50

July 2013

MANAGING IMPORTS & EXPORTS

INSIDE THIS ISSUE:

ISF Oversight is Critical To Compliance Risk Management

By Rennie Alston

CEO, American River Int'l

The import community has been put on notice that the ISF penalties are finally a reality. As of **July 9, 2013**, penalty case issuances have moved from a deferred enforcement discussion to a current risk penalty process. The response from the import community has varied from immediate shock to a calm presence of compliance confidence that their specific ISF process is in good standing. Many importers have dropped their immediate concerns since the introduction of the program and various webinars, seminars and written articles from 10+2 to the current Importers Security Filing (ISF) format. There are those who simply delegated the ISF filing function to their foreign agent freight forwarders, US freight forwarders, customs brokers or alternate third party service providers. Others delegated the ISF filing to internal shipping and logistics departments as an added responsibility in conjunction with common traffic functions.

Caution and compliance attention should be elevated when reviewing the effectiveness of the ISF filing management process. It is an elevated risk factor to merely delegate the ISF filing functions to a third party service provider for the sake of just filing. It is important to supervise and control each filing with an assurance of accurate, timely and concise information. ISF filing requirements are outlined in the CFR title 19 part 149 and are now subject to penalties that range up to $5,000.00 USD per violation. Mitigating factors exist if you are a C-TPAT participant, at a structure of 50% mitigation. These amounts are very costly penalties for any importer, and require a dedicated effort of compliance management to reduce the risk of such penalty assessment.

Importers are encouraged to complete detailed ISF letters of instructions that specifically detail accurate information for each filing. It is a compliance best practice to obtain a copy of the ISF filing details in addition to the ISF transaction number to ensure that intended information was filed in accordance with the intent of the importer. There is a need to remain closely involved during this penalty transition period as CBP is sure to be aggressive in their efforts to test the "importer" on the responsibility of supervision and control of the "importer security filing" data. Freight forwarders, brokers, foreign agents have traditionally fulfilled a service that meets the need of logistics performance in various areas in door to door transportation, document preparation, cargo facilitation and timely delivery. The ISF execution is detailed, thorough and very specific to information that will be linked to eventual CBP entry information and coming close will not meet the requirement of accurate detailed information necessary for compliant filing.

Continued on page 2

OTIs, OFFs, and NVOCCs—Pay Attention to Proposed Changes by the FMC

By Kelly Raia

The FMC is proposing a number of changes to 49CFR515 which will affect their business. For those of you not too familiar with these acronyms and definitions, here's a quick primer:

Ocean Transportation Intermediaries (OTIs) are either Ocean Freight Forwarders or Non-Vessel which arranges cargo movements to Operating Common Carriers and are regulated by the FMC pursuant to the Shipping Act of 1984. An Ocean Freight Forwarder (OFF) is a company located in the U.S. which

Continued on page 3

VAT on Sales Through Websites in Europe

By Daniela Treptow
Market/Int'l Communications Analyst
Euro VAT Refund, Inc.

North American companies that sell products through websites such as Amazon.co.uk and Costco.co.uk in the United Kingdom or other countries in Europe will many times have to deal with Value Added Tax (VAT) if they ship the products to any of the fulfillment warehouses in Europe, or directly to the customer under term DDP (Duty Delivery Paid).

Value Added Tax (VAT) is a consumption tax added to most products and services throughout Europe as well as in many other countries. VAT rates of 15 - 27% will vary from country to country. Almost all companies in the European Union are registered for VAT. The company charges VAT on most sales to customers in their own country. No VAT is generally assessed when they invoice to a VAT registered company in another country, and they can also deduct the VAT that they incur on almost all their expenses, including the VAT they have to pay to the local customs for products they import to the country.

North American companies that are planning to sell through websites in Europe will frequently find that:

1. Around 20% VAT will be assessed by customs in the country of import, in addition to the duty. This VAT is usually only refundable if the North American company registers for VAT in the country of import.

2. The EU websites, such as Amazon and Costco, require that the vendor merchant follows the local VAT laws of the country, which often means that the North American company must register for VAT and charge VAT to the customers. This means that the North American company has to:

- Register for VAT in the country of import, such as the UK
- Charge VAT to the customer
- Can also deduct the VAT paid upon import and to vendors in the UK

When goods are shipped to an EU country from a country outside of the EU (for example from the U.S. to the UK), duty and VAT will be assessed and have to be paid to the local customs. If the "importer of record" is an EU company, they can usually deduct the VAT in their next VAT return, and it is not a cost to them. The duty, however, is a cost. If it is a private person who imports, they cannot claim back the import VAT. The VAT will be a cost to them.

VAT registration within the EU is usually possible to do without creating any other liabilities such as a permanent establishment or other. However, this has to be confirmed country by country, and from case to case.

SAMPLE:

North American company imports and sells goods to and in the UK and other EU countries

The company imports and warehouses in the UK, sells to private persons and companies in the UK and other EU countries. Some sales are done through the Amazon.com website, and some are done through the company's own website.

U.S. company is registered for VAT in the UK

In this sample, the U.S. company is registered for VAT in the UK.

Imports from the U.S,

Value of goods	$20,000
Duty 3%	600
Value for VAT*	$20,600

20% VAT is due upon import, and $ 4,120 is paid to UK customs.

*The VAT value is based upon the value of the goods plus the duty plus some other costs like the freight.

Landed cost is $20,600 since U.S. company is registered for VAT. The import VAT is refundable.

Sale to customers in the UK and other EU countries. This includes sales to Amazon.com customers and customers through the company website.

Sales to all UK customers & EU private customers	$40,000
20% UK VAT**	8,000
Total collected from the UK and EU customer	$48,000

** VAT is not a cost to a company customer, since they can claim it back. VAT is a cost to the private persons, as they cannot claim it back.

Sales to companies in other EU countries. The companies can provide a VAT number from their country

Sales to all companies in other EU countries	$8,000
0% UK VAT***	0
Total collected from the UK and EU customer	$8,000

***Assumes the company customer is registered for VAT in their home country

VAT declaration to the UK tax authorities

U.S. company declares to the UK tax authorities:

VAT collected from the UK customers	$8,000
VAT collected from EU company customers	0
Less VAT paid upon import ****	-4,120
Due the UK Tax Authorities	$3,880

VAT should always be accounted for on a Balance Account, and should always be "zero at the end of the day" for the VAT registered company.

****If the U.S. company had not been VAT registered, the VAT of $4,120 could not be reclaimed and U.S. company is also required to be registered according to UK law.

Conclusion:

The U.S. company is required to register for VAT in the UK. In addition, if they do not register as by law, they cannot deduct any VAT that they incur. A VAT return is filed to the tax authorities on a regular basis, declaring all the VAT charged, and against that, all the VAT paid to the vendors is deducted. "At the end of the day", the balance on the VAT account is zero. The basics for the VAT system is that it should not be a cost to any companies involved in the distribution chain, but it will end up as cost to the private person who buys the product in the end.

Please contact Euro VAT Refund, Inc. for clarification and assistance, so the VAT does not end up as a cost to the North American Company or its business customers in Europe.

The PACMAN Association

10 Woodbridge Center Drive
Suite 420
Woodbridge, NJ 07095

Phone: 877-PACMAN8
FAX: 631-396-6830
pacman@compliancemaven.com

We're on the Web!

www.compliancemaven.com

'The leading source of information on how best to enhance your global supply chain'

SUBSCRIBE TODAY!

□ YES! Please enter my subscription for 12 issues of the PACMAN Association's Report on Managing Imports & Exports, which also entitles me to electronic access to current and all back issues in the newsletter section of www.compliancemaven.com for $370 – plus $16.95 shipping & handling.*

□ YES! I'd like to save $200 on a two-year subscription for $540 – plus $33.90 shipping & handling.*

□ YES! Please enter my subscription for 12 electronic issues for $225.00

□ Enclosed is my check for $_____________
□ Bill me/my company
□ Charge my:
□ VISA
□ MasterCard
□ AMEX
□ Discover

Card#_______________________________________Exp. Date_____________

Signature:____

Tel:____

Name/Title____

Company____

Street____

City___________________________________State______ Zip_____________

E-Mail____

MAIL TO: PACMAN Subscription Department
10 Woodbridge Center Drive, Suite 420
Woodbridge, NJ 07095

Phone: 1-877-PACMAN8 or fax to 630-396-6830

*By purchasing an individual subscription, you expressly agree not to reproduce or redistribute our content without our permission, including by making our content available to non-subscribers within your company or elsewhere.

We value your comments and suggestions.....please email us at PACMAN@COMPLIANCEMAVEN.COM