

Act on Statistics Relating to Intra-Community Trading of Goods

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Text in Bulgarian: ЗАКОН за статистика на вътрешнообщностната търговия със стоки

Chapter One

GENERAL DISPOSITIONS

Article 1. (1) This Act shall regulate

1. the compiling of statistics relating to the intra-Community trading of goods between the Republic of Bulgaria and the Member States of the European Union, in accordance with the regulations of the European Union in this field:

(a) Regulation (EC) No 638/2004 of the European Parliament and of the Council of 31 March 2004 on Community statistics relating to the trading of goods between Member States and repealing Council Regulation (EEC) No 3330/91, hereinafter referred to as "Regulation (EC) No 638/2004";

(b) Regulation (EC) No 222/2009 of the European Parliament and of the Council of 11 March 2009 amending Regulation (EC) No 638/2004 on Community statistics relating to the trading of goods between Member States (OJ L 87/160 of 31 March 2009);

(c) Commission Regulation (EC) No 1982/2004 of 18 November 2004 implementing Regulation (EC) No 638/2004 of the European Parliament and of the Council on Community statistics relating to the trading of goods between Member States and repealing Commission Regulations (EC) No 1901/2000 and (EEC) No 3590/92, hereinafter referred to as "Regulation (EC) No 1982/2004";

(d) Commission Regulation (EC) No 1915/2005 of 24 November 2005 amending Regulation (EC) No 1982/2004 with regard to the simplification of the recording of the quantity and specifications on particular movements of goods;

(e) Commission Regulation (EU) No 91/2010 of 2 February 2010 amending Regulation (EC) No 1982/2004 implementing Regulation (EC) No 638/2004 of the European Parliament and of the Council on Community statistics relating to the trading of goods between Member States, as regards the list of goods excluded from statistics, the communication of information by the tax administration and quality assessment (OJ L 31/1 of 3 February 2010);

(f) Commission Regulation (EU) No 96/2010 of 4 February 2010 amending Regulation (EC) No 1982/2004 implementing Regulation (EC) No 638/2004 of the European Parliament and of the Council on Community statistics relating to the trading of goods between Member States, as regards the simplification threshold, trade by business characteristics, specific goods and movements and nature of transaction codes (OJ L 34/1 of 5 February 2010);

2. the functions and powers of the competent authorities for the purpose of compiling statistics relating to the intra-Community trading of goods;

3. the "Intrastat" system.

(2) The different or specific rules, which apply to the specific goods and movements of goods, the reference periods, the manner of reporting and declaring thereof, as well as of the goods which are excluded from the statistics relating to the intra-Community trading of goods, shall be determined by an ordinance of the Council of Ministers.

Chapter Two

COMPETENT AUTHORITIES. POWERS AND INTERACTION

Article 2. The competent authorities for the purpose of compiling statistics relating to the intra-Community trading of goods shall be the National Statistical Institute, the National Revenue Agency and the National Customs Agency.

Article 3. (1) The National Statistical Institute shall perform the following functions:

1. define the thresholds for declaring within the "Intrastat" system and the types of information declarable within the meaning given by Article 9 (2) of Regulation (EC) No 638/2004
2. draw up and maintain, jointly with the National Revenue Agency, rules for validation of the data collected within the "Intrastat" system;
3. collect data on specific goods and movements of goods, which are not declared within the "Intrastat" system, from other administrative sources;
4. carry out secondary validation of all data collected or received from the other competent authorities;
5. transmit the aggregated and detailed statistical data on the intra-Community trading of goods to the Eurostat Directorate General of the European Commission in accordance with the requirements of Article 12 of Regulation (EC) No 638/2004, as well as of Article 25 of Regulation (EC) No 1982/2004;
6. store all data on the intra-Community trading of goods of the operators responsible under this Act and maintain a register of such operators;
7. prepare analyses and reports on the quality of the statistical data on the intra-Community trading of goods;
8. make monthly data on the intra-Community trading of goods available to the Bulgarian National Bank for the purposes of the balance of payments on current account.

(2) The National Revenue Agency shall perform the following functions:

1. establish and maintain an "Intrastat" data collection system: prepare a methodology, operating procedures and documents, as well a software application ensuring the completion of Intrastat declarations;
2. exercise control over the scope of responsible operators and, through validation, control the quality of the data provided within the "Intrastat" system in accordance with the requirements of Article 8 (2) of Regulation (EC) No 638/2004;
3. make the data collected within the "Intrastat" system available to the National Statistical Institute;
4. make aggregated data available to government institutions and organizations, where so provided for in a statutory instrument or in pursuance of agreements concluded therewith;
5. inform the Intrastat operators of the obligations thereof in connection with the "Intrastat" system in accordance with the requirements of Article 8 (3) of Regulation (EC) No 638/2004;
6. control the fulfilment of obligations by the Intrastat operators, ascertain administrative violations and impose administrative sanctions under this Act;
7. use the available data on intra-Community trading of goods, collected or received according to the procedure established by the Value Added Tax Act and through the European VAT Information Exchange System (VIES), as well as additional data from other administrative sources, to determine the obligations of the Intrastat operators and the control of the correctness of the data provided within the "Intrastat" system in accordance with the requirements of Article 8 (2) of Regulation (EC) No 638/2004;
8. set up and maintain a register of the operators responsible under the "Intrastat" system.

(3) The National Customs Agency shall provide the National Statistical Institute with data on the goods from the customs declarations (SAD) in accordance with the requirements of Article 5 (2) of Regulation (EC) No 638/2004.

Article 4. The thresholds for declaring and the types of declarable data referred to in Item 1 of Article 3 (1) herein shall be defined by order of the President of the National Statistical Institute, which shall be promulgated in the State Gazette not later than the 31st day of October of the current year. The thresholds for declaring defined by the said order and the types of additional data shall be valid for the entire succeeding year.

Article 5. (1) The National Revenue Agency and the National Customs Agency shall provide the National Statistical Institute with all available data on intra-Community trading of goods as shall be necessary for the fulfilment of the obligations of the said Institute under this Act, including identifying particulars specified in Article 9 (1) and (2) of Regulation (EC) No 638/2004.

(2) The types of data referred to in Paragraph (1), the structure thereof, the manner and periodicity of the provision thereof to the National Statistical Institute shall be determined by joint instructions of the President of the National Statistical Institute and of the Executive Director of the National Revenue Agency or of the Director of the National Customs Agency, respectively.

Chapter Three

"INTRASTAT" SYSTEM

Article 6. (1) The "Intrastat" system shall apply for the collection of data on intra-Community dispatches from or arrivals on the territory of the Republic of Bulgaria of European Union goods.

(2) The procedure for application of the "Intrastat" system, including the submission and receipt of Intrastat declarations and other documents or data subject to submission and the checking and correcting of the data provided, shall be established by an ordinance of the Minister of Finance.

Article 7. The persons responsible for submission of declarations within the "Intrastat" system: Intrastat operators, shall be the persons registered under the Value Added Tax Act who or which carry out intra-Community trading of goods in annual volumes expressed in a value above the thresholds for declaring under Item 1 of Article 3 (1) herein, separately for each trade flow: dispatches or arrivals according to Article 7 (1) of Regulation (EC) No 638/2004.

Article 8. (1) Intrastat declarations shall be of the following types:

1. monthly declarations on arrivals or dispatches;
2. correcting declarations on arrivals or dispatches.

(2) Where the Intrastat operator has not carried out intra-Community arrivals or dispatches during a certain period, the monthly declaration shall not contain records of trade data (zero declaration).

(3) Correcting declarations may contain records solely in respect of previously accepted monthly declarations.

Article 9. (1) Intrastat declarations, the notification referred to in Article 10 herein, as well as other documents or data subject to submission by Intrastat operators, shall be submitted to the National Revenue Agency in electronic form, signed by qualified electronic signature.

(2) By exception, in the cases of technical incapacity on the part of an Intrastat operator or of the National Revenue Agency, provided for in the ordinance referred to in Article 6 (2) herein, it shall be admissible to submit Intrastat declarations, a notification, documents or data at the competent territorial directorate of the National Revenue Agency on a machine-readable data medium allowing a reliable reproduction of information and satisfying the entry format requirements.

(3) The standard forms of Intrastat declarations and other documents or data subject to submission shall be endorsed by the Executive Director of the National Revenue Agency or by a person empowered thereby and shall be published on the Internet site of the Agency.

Article 10. (1) Where an Intrastat operator will not carry out intra-Community trading of European Union goods for a certain period of time, the said operator may notify in writing the Executive Director of the National Revenue Agency. The Intrastat operator shall be exempted for submission of Intrastat declarations for the said period.

(2) The Intrastat operator shall be obligated to resume the submission of Intrastat declarations within the time limit referred to in Article 11 (1) herein where the said operator has carried out intra-Community trading of any European Union goods within the period referred to in Paragraph (1). The submission of any such declaration shall revoke the effect of the notification referred to in Paragraph (1).

Article 11. (1) Intrastat operators shall submit an Intrastat declaration on or before the 14th day of the month next succeeding the reference period.

(2) Intrastat operators in respect of whom or which a current obligation has arisen shall submit an Intrastat declaration on or before the 20th day of the month next succeeding the first reference period. For the further reference periods, the time limit shall be that referred to in Paragraph (1).

Article 12. (1) The National Revenue Agency shall inform Intrastat operators of any errors detected in an Intrastat declaration as submitted.

(2) Upon failure to submit Intrastat declarations or upon late submission of such declarations or upon detection of any errors in any such declarations, the National Revenue Agency may require from the Intrastat operators to present accounting, business and other documents and data media, as well as to prepare data sheets for the purpose of establishment of the correctness of the data declared.

(3) The communications referred to in Paragraphs (1) and (2) shall be transmitted in electronic form, signed by qualified electronic signature.

(4) Errors in a monthly or correcting declaration as submitted shall be cured by the Intrastat operator by means of submission of a correcting declaration.

(5) Upon the occurrence of any intervening circumstances, corrections may be made for a period of up to six past reference periods.

(6) An Intrastat operator shall have fulfilled the obligation thereof to submit a monthly Intrastat declaration in due time if any errors committed have been cured within the time limits referred to in Article 11 herein.

(7) An Intrastat operator shall provide the documents, data and data sheets referred to in Paragraph (2) or, respectively, shall submit a correcting declaration under Paragraphs (4) and (5), within seven days after the date of receipt of the communication from the National Revenue Agency or, respectively, from the date of occurrence of the circumstances referred to in Paragraph (5).

Article 13. (1) The National Revenue Agency shall inform Intrastat operators of any circumstances detected which diverge from the circumstances as declared for the relevant reference period, on the basis of the powers vested therein under Item 7 of Article 3 (2) herein and shall require from the said operators to provide additionally documents and data, as well as to submit a correcting declaration for the same period. The Intrastat operators shall provide the documents and the data and shall submit a correcting declaration within seven days after the date of receipt of the communication.

(2) Acting ex officio, the National Revenue Agency may make corrections of the data in the Intrastat declarations as submitted after consultation with the Intrastat operators or comparison with sources of data established upon implementation of the control activity under Item 6 of Article 3 (2) herein.

(3) Upon a subsequent validation, the National Statistical Institute shall inform the National Revenue Agency of the Intrastat operators in respect of whom or which the steps referred to in Paragraph (1) and Item 6 of Article 3 (2) herein are to be taken.

Chapter Four

CONFIDENTIALITY.

OBLIGATION TO SAFEGUARD SECRECY

Article 14. The data and/or evidentiary material collected according to the procedure established by this Act may be used solely for statistical purposes. The data on the commodity flows shall be disseminated in such a way that makes it impossible to identify the providers of the said data.

Article 15. (1) An Intrastat operator may approach the President of the National Statistical Institute with a request for extension of statistical confidentiality regarding the code of the Combined Nomenclature, established by Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff, identifying a specific commodity and trade flow in the cases where the annual value of the relevant trade of the person with Member States of the European Union and with third countries:

1. represents more than 85 per cent of the total value of the external trade of the Republic of Bulgaria for the relevant year in the relevant commodity and within the said flow;

2. summed with the trade of another operator or another two operators, provided that the said other or another two operators have likewise requested declaration of confidentiality, the said value represents more than 85 per cent of the total value of the external trade of the Republic of Bulgaria for the relevant year in the relevant commodity and within the said flow.

(2) The following shall be attached to the request referred to in Paragraph (1):

1. information on the code of the Combined Nomenclature, established by Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff, and the flow for which extension of confidentiality is requested;

2. justification of the reasons for the request.

(3) The President of the National Statistical Institute shall pronounce on the request within thirty days by a reasoned decision, thereby granting an extension of the confidentiality of the statistical data on external trade or rejecting the request.

(4) The decision referred to in Paragraph (3) shall be appealable according to the procedure established by the Administrative Procedure Code.

(5) After rendition of the decision on extension of confidentiality, the data shall be disseminated according to Chapter Six of the Statistics Act.

(6) Extension of confidentiality shall be revoked by a decision of the President of the National Statistical Institute:

1. at the request of the Intrastat operator;

2. ex officio, in case the conditions covered under Paragraph (1) were not fulfilled in two successive calendar years.

(7) Before revoking the extension of confidentiality according to the procedure established by Item 2 of Paragraph (6), the President of the National Statistical Institute shall notify the Intrastat operator that the said operator may lodge an objection or may submit a new request within fifteen days after receipt of the notification.

Article 16. (1) The competent authorities for the implementation of this Act shall ensure the protection of individual and personal data and the prevention of abuse of such data according to the procedure established by the Statistics Act.

(2) The competent authorities shall be obligated to take the organizational and technical measures necessary for fulfilment of the requirements of Paragraph (1).

(3) The persons who have access to any information protected by this Act shall sign a declaration pledging to safeguard the secrecy of the said information and not to use the said information for any purposes other than for the direct discharge of the official duties thereof.

Chapter Five

ADMINISTRATIVE PENALTY PROVISIONS

Article 17. (1) Any Intrastat operator, who or which fails to submit an Intrastat declaration, who or which fails to submit any such declaration within the time limits as provided for, or who or which states inexhaustive or untrue particulars in an Intrastat declaration, shall be liable to a fine or to a pecuniary penalty of BGN 500 or exceeding this amount but not exceeding BGN 5,000.

(2) Any person, who or which, upon request by the National Revenue Agency, fails to provide the information under Article 12 (2) or Article 13 (1) herein within the time limit set, shall be liable to a fine or to a pecuniary penalty of BGN 200 or exceeding this amount but not exceeding BGN 2,000.

(3) Upon repeated commission of the violations referred to in Paragraphs (1) and (2), the sanction shall be imposed in a double amount.

(4) Upon systematic commission of the violations referred to in Paragraphs (1) and (2), the sanction shall be imposed in a treble amount.

Article 18. Any person having access to any information protected under this Act, who uses, provides or discloses any such information for any purposes other than for the direct discharge of the official duties thereof, shall be liable to a fine of BGN 1,000 or exceeding this amount but not exceeding BGN 2,000, unless the act constitutes a criminal offence.

Article 19. (1) The violations under this Act shall be ascertained by written statements drawn up by officials designated by the

Executive Director of the National Revenue Agency, and the penalty decrees shall be issued by the Executive Director of the National Revenue Agency or by officials designated thereby.

(2) The ascertainment of violations, the issuance, appeal and enforcement of penalty decrees shall follow the procedure established by the Administrative Violations and Sanctions Act.

SUPPLEMENTARY PROVISIONS

§ 2. Within the meaning given by this Act:

1. "Value" shall be the taxable amount of the supply determined according to the procedure established by the Value Added Tax Act, with the exception of the specific movements and goods described in the ordinance referred to in Article 1 (2) herein.

2. "Reference period" shall be the calendar month of dispatch or arrival of the goods. Application of reference periods other than the reference period referred to shall be possible for certain specific goods and movements of goods.

3. "Repeated violation" shall be any violation committed within one year after the entry into effect of a penalty decree whereby a sanction for a violation of the same type has been imposed on the offender concerned.

4. "Systematic commission" shall be the commission of three or more violations in the course of two years.

5. "Validation" shall be the conduct of an examination for conformity of the data in Intrastat declarations through comparison of the said data with other data and circumstances.

6. "Intervening circumstances" shall be documents or facts which became known after the submission of the monthly declaration.

7. "Competent territorial directorate of the National Revenue Agency" shall be a directorate designated in accordance with Article 8 of the Tax and Social-Insurance Procedure Code.

TRANSITIONAL AND FINAL PROVISIONS

§ 3. The Act on Statistics Relating to Intra-Community Trade in Goods (promulgated in the State Gazette No. 51 of 2006; amended in No. 84 of 2007 and No. 100 of 2010) is hereby superseded.

§ 4. The statutory instruments of secondary legislation issued in pursuance of Article 1 (4) and Article 13 (2) of the Act on Statistics Relating to Intra-Community Trade in Goods as hereby superseded shall continue in effect.

§ 5. The instructions issued in pursuance of Article 26 (2) of the Act on Statistics Relating to Intra-Community Trade in Goods as hereby superseded shall continue in effect.

§ 6. Any dispatches and arrivals which take place after the date of entry into force of this Act, in respect of which the reference period within the meaning given by this Act is prior to that date, shall likewise be declared according to the procedure established by this Act.

§ 7. Any dispatches and arrivals which take place until the date of entry into force of this Act, in respect of which the reference period is after that date and which have been declared according to the procedure of the Act as hereby superseded, shall not be declared according to the procedure established by this Act.

§ 8. Any corrections of any data declared under the Act on Statistics Relating to Intra-Community Trade in Goods as hereby superseded shall be made according to the procedure established by this Act.

§ 9. Any Intrastat declarations for the last reference period prior to the entry into force of this Act shall be submitted within the time limits referred to in Article 11 herein.

§ 10. The thresholds for declaring under the "Intrastat" system and the type of additional declarable information within the meaning given by Article 9 (2) of Regulation (EC) No 638/2004, determined in pursuance of the Act on Statistics Relating to Intra-Community Trade in Goods as hereby superseded, shall apply for 2012.

§ 11. In the Corporate Income Tax Act (promulgated in the State Gazette No. 105 of 2006; amended in Nos. 52, 108 and 110 of 2007, Nos. 69 and 106 of 2008, Nos. 32, 35 and 95 of 2009, No. 94 of 2010 and Nos. 19, 31, 35, 51, 77 and 99 of 2011), in § 2 of the Supplementary Provisions , after the words "employees" the conjunction "and" shall be replaced by a comma and there shall be added at the end "and of Council Directive 2011/96 of 30 November 2011 on the common system of taxation applicable in the case of parent companies and subsidiaries in different Member States (OJ L 345/8 of 29 December 2011)".

§ 12. (Effective 29.05.2012 - SG No. 40/2012) In the Tax and Social-Insurance Procedure Code (promulgated in the State Gazette No. 105 of 2005; amended in Nos. 30, 33, 34, 59, 63, 73, 80, 82, 86, 95 and 105 of 2006, Nos. 46, 52, 53, 57, 59, 108 and 109 of 2007, Nos. 36, 69 and 98 of 2008, Nos. 12, 32, 41 and 93 of 2009, Nos. 15, 94, 98, 100 and 101 of 2010, Nos. 14, 31, 77 and 99 of 2011 and No. 26 of 2012), in the Transitional and Final Provisions of the Act to Amend and Supplement the Tax and Social-Insurance Procedure Code (State Gazette No. 99 of 2011), § 23 shall be amended to read as follows:

"§ 23. (1) Any audit proceedings under Article 114 (1) to (3) [of the Tax and Social-Insurance Procedure Code], which are not completed at the date of entry into force of this Act, regardless of the date of commencement thereof, shall be completed according to the hitherto effective procedure within five months after the entry into force of this Act.

(2) Any audit proceedings under Article 114 (1) to (3) [of the Tax and Social-Insurance Procedure Code], which are suspended at the date of entry into force of this Act, shall be completed according to the hitherto effective procedure within three months after the date of resumption of the said proceedings.

(3) The time limits referred to in Paragraphs (1) and (2) may be extended according to the procedure and under the terms established by Article 114 (4) [of the Tax and Social-Insurance Procedure Act].

(4) The time limits referred to in Paragraphs (1) and (2) shall not apply to any audit proceedings whereof the time limit has been extended according to the procedure established by Article 114 (4) [of the Tax and Social-Insurance Procedure Act] prior to the entry into force of this Act."

§ 13. This Act shall enter into force as from the 1st day of July 2012, with the exception of § 12 herein, which shall enter into force as from the day of promulgation of the Act in the State Gazette.

This Act was passed by the 41st National Assembly on the 16th day of May 2012 and the Official Seal of the National Assembly has been affixed thereto.