

TAX ALERT
01/08/2003

/new obligations and powers of the customs authorities/

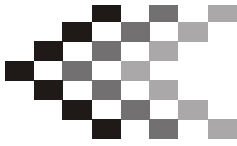
Since the Provincial Tax Colleges Act dated 27 June 2003 has taken effect and resulted in amendments to the Customs Code Act dated 9 January 1997 and the Customs Service Act dated 24 July 1999, as of **1 September 2003** the customs authorities will e.g. take over, from the tax authorities, powers related to the assessment of excise duty and goods and services tax (VAT). Directors of customs chambers and heads of customs offices will obtain powers of the tax authorities as regards excise duty in domestic trade. They will obtain similar powers as regards the assessment of the goods and services tax in the case of importation, supervision over the trade in excise goods and verification of the legality of foreigners' stay and work in Poland.

The tax authorities in charge of excise duty will be the customs authorities only (heads of customs offices and directors of customs chambers). Excise duty returns will be submitted to such authorities. Thus, the customs authorities will issue decisions on the amount of tax due in respect of importation of excise goods and on the taxation of domestic trade in such goods.

As a consequence of the customs authorities taking over of tasks specified in the amended Customs Service Act, new regulations on special excise supervision have been adopted. For the customs authorities, the supervision will constitute a tool to exercise control over production, importation, exportation and trade in certain excise goods. Special excise supervision will also apply to any actions related to the trade in excise goods including manufacture, processing, reworking, usage, contamination, bottling, accepting, storing, releasing and carriage. Moreover, the customs authorities will take over control over trade in excise marks, including control over marking goods with excise marks and destruction of such marks.

The performance of the tasks entrusted to the customs authorities as part of the special excise supervision is to be ensured by way of granting customs officers authorisation to control the quantity and quality of goods subject to special excise supervision, course of technological processes and trade in goods and to verify whether the related documents are correct and whether the excise duty is paid on time.

Under amendments effective as of 1 September 2003, directors of customs chambers remain the authority to enforce the payment of customs duty and goods and services tax due in respect of importation of goods. The directors will also become the authority to enforce the payment of excise duty due. They will be authorised to apply any enforcement measures apart from enforcement against real estate. As an enforcement authority the directors will be entitled to demand the performance, by way of administrative enforcement proceedings, of obligations arising under decisions, rulings or penalty tickets issued by heads of customs offices as well as obligations arising under customs declarations accepted by heads of customs offices. The authority will be able to obtain necessary information concerning taxpayers from the banks and investment fund associations.



Under the new wording of the Customs Service Act, as of 1 September 2003 the customs authorities will become the tax authorities authorised to assess and collect goods and services tax. As to date, it will be the taxpayer who will be required to calculate and report goods and services tax in a customs declaration. If however, as a result of verification of the declaration, the customs authority finds any irregularities in this respect, the head of the customs office will issue a decision assessing the correct amount of the goods and services tax.

The taxpayer who, after the declaration is accepted, finds it incorrect as regards goods and services tax or excise duty, is authorised to apply, within a month of the tax collection, to the head of the customs office for finding the declaration incorrect in its part concerning those taxes.

It may prove essential for taxpayers that as of 1 September 2003 all manufacturers of excise goods will need to register with the customs offices, no matter whether they had already been registered or not. The existing VAT-R return submitted to the tax offices will no longer be sufficient. As soon as some competencies of the tax authorities are taken over by the customs authorities, AKC excise duty return forms will be changed. Such new forms will apply starting from the return for September 2003. The change however will apply to taxpayers at a later date, since the existing forms will also be used until they are exhausted, however not later than until the return for December 2003 is filed.

Most changes will apply as late as of 1 September 2003, hence they will refer to the settlement period of 1 - 30 September 2003. Excise duty returns for August 2003 will be still filed with competent tax offices, while returns for September 2003 will be filed with the customs office. The taxpayers will be required to file a registration application form together with the September return.

This document is aimed at highlighting amendments to the law and making you aware of their extent.

This document **does not constitute** advice, opinion or clarification on tax obligations (tax advisory services) within the meaning of art. 2 of Tax Advice Act of 5 July 1996 or legal advice or opinion (legal assistance) referred to in art. 6 of the Legal Counsel Act of 6 July 1982. Before taking any decisions or actions, we recommend that you consult your advisor in order to obtain an opinion or advice of the scope of application of the law and proposed solutions.