

COMPARISON OF AN AEO IN THE LEGISLATION OF THE CUSTOMS UNION AND THE EURASIAN ECONOMIC UNION

СРАВНЕНИЕ УПОЛНОМОЧЕННОГО ЭКОНОМИЧЕСКОГО ОПЕРАТОРА В ЗАКОНОДАТЕЛЬСТВЕ ТАМОЖЕННОГО СОЮЗА И ЕВРАЗИЙСКОГО ЭКОНОМИЧЕСКОГО СОЮЗА

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The status of an Authorized Economic Operator (AEO) is a convenient opportunity to carry out foreign economic activities. On the 1st of January, a new Customs Code of the Eurasian Economic Union entered into force. Nowadays the AEOs carry out about 75% of Belarusian export and 40% of import based on its statistical value. Belarus has the most developing system of an AEO on the territory of the Eurasian Economic Union and has the 1st position among 323 representatives.

The Customs Code of the Eurasian Economic Union has absolutely reformed and expanded institution of an AEO. One of the main novelties is that there are three types of certificates for an AEO as opposed to the Customs Code of the Customs Union where there was only one type of certificate. Each of these types in the Eurasian Economic Union has different specific list of conditions for inclusion in the register and a set of special simplifications. The very status of the AEOs is recognized throughout the Union.

As for the Customs Union, it had five simplifications, but a new code provides with 16 simplifications. Also at the territory of the Customs Union activities in the status of an AEO were carried out only by importers. But with the entry into force of the Eurasian Economic Union Customs Code, producers, exporters, brokers, carriers, port, airport and terminal operators, warehouse owners and other legal entities involved in foreign economic activities are able to obtain such status.

Let's turn to the conditions for inclusion in the registry of AEOs in the Customs Union and in the Eurasian Economic Union. Article 39 of the Customs Code of the Customs Union had the following terms for the legal entity to obtain the status of the AEO:

1. provision customs payments, taxes for the amount equivalent to one million euros
2. carrying out foreign trade activities at least for one year before the day of applying to the customs body

3. absence on the day of applying to the customs body of unfulfilled obligations in customs payments, interest, penalties

4. compliance with other requirements.

As for the Eurasian Economic Union Customs Code, there are the conditions for inclusion in the registry divided into types of certificates (article 433). The first type:

1. carrying out by this entity foreign economic activities as a customs broker, a temporary storage warehouse owner, a customs warehouse owner for at least 3 years

2. there are no facts of bringing the entity to administrative liability in all the Member States, within 1 year before the date of registration of the application by the customs authority

3. a goods' recording system that conforms to the requirements established by the legislation of the Member States on customs regulation, allowing to compare the data provided to the customs authorities. For the second type:

1. conforming to the conditions mentioned below

2. compliance of the financial sustainability of this entity

3. having outdoor areas intended for temporary storage of goods.

For the third type:

1. conforming to the conditions mentioned below

2. the entity is included in the registry of AEOs with issuance of the certificate of the first or the second type for at least 2 years prior to the date of registration of the application by the customs authority.

The first type of certificates is simpler than the others, because there is no need to satisfy financial stability requirements, safety and reliability. This type is more interesting for an entity, who hasn't own areas for storage of goods, and an entity, who is interested in failure to provide security for payment of transit customs fees, for clearance of goods before filling a declaration and so on.

The second type of certificates for an AEO provides simplifications in customs control and is desirable for entities, who want to reduce costs, connected with storage and identification of goods. An AEO can deliver goods to the customs control zone, which are on their own outdoor areas/constructions/buildings, make customs operations connected with the completion of the customs procedure for customs transit.

The Eurasian Economic Union envisages that the customs body gives an entity the first type of certificates at implementation obligations for payment of customs duties, taxes, safeguard, anti-dumping and countervailing duties, penalties, interest (1 million euros). It is possible to reduce the amount of obligations depending on the time of the second or third type of certificates – 700 000 euros (2 years), 500 000 euros (4 years), 300 000 euros (5 years),

150 000 euros (6 years). The entities, who have got a status of an AEO according to the conditions of Customs Union, keep this status for 2 years after the date of entering into force of a new Code.

What about special simplifications granted to the AEO, Article 41 of the Customs Code of the Customs Union regulated this question. The AEO enjoyed the following special simplifications:

1. temporary storage of goods in the rooms, an open sites and other territories of the AEO
2. release of goods before submission of the customs declaration
3. carrying out customs operations of release of goods in the rooms, on the open sites and other territories of the AEO
4. other special simplifications envisaged in the customs legislation of the Customs Union.

Both the conditions of inclusion in the register and special simplifications provided to the AEO are divided into types of certificates in the legislation of the Eurasian Economic Union.

For the first type:

1. release of goods prior to submission of the declaration of goods
2. conducting of customs control in the case of its assignment in the form of a customs inspection or customs examination with priority
3. non-determination of the route of goods transportation in respect of the goods to be transported by an AEO
4. conducting by the carrier, which is an AEO, of unloading, reloading and other cargo handling operations with the goods under customs control and exported from the customs territory of the Union;
5. recognition by the customs authorities of the seals affixed by an AEO to the cargo spaces of vehicles or parts thereof as identification means.

For the second type:

1. temporary storage of AEOs' goods in constructions or at outdoor areas of the AEO
2. temporary storage of goods of persons that are non-AEO in constructions or at outdoor areas of the AEO
3. conducting of customs control in constructions or at outdoor areas of the AEO
4. delivery of goods to the customs control zone created in constructions or at outdoor areas of the AEO, their placement in this customs control zone
5. performing customs operations related to the customs declaring and release of goods at the customs authority, other than the customs authority, in the region of the activity the goods.

The certificate of the third type entitles the AEO to enjoy the special simplifications referred to the first and second type.

Thanks to complying with the high standards of control over the goods being moved, the operator receives substantial benefits in the work. At the end of the comparison, it is necessary to mention that the Customs Code of the Eurasian Economic Union broadens value of an AEO, allows entities to choose a type of certificates (the conditions of getting the first type is simpler than others), helps to reduce obligations of payment during existence of an AEO (from 1 million to 150 000 euros), widens simplifications (from 5 to 16) in contradistinction to the Customs Union.

Литература

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