



Briefing paper: Customs/AEO in Aviation

The United Kingdom's Aircraft, Engine and Parts Manufacturing industry is only exceeded in size by that of the United States of America. This is according to IBISWorld's industry research, which expects overall revenues to rise at a compound annual rate of 4.4% to £30 billion over the five years ending 2017-18.

The aviation sector plays an important role in the European economy – a fact recognised by EU Customs authorities. The 2016 Union Customs Code (UCC), provides for Customs Procedures and provisions that offer relief of customs duty liabilities for imported aircraft and parts. The UCC, however puts a sharp focus on ensuring strict compliance with the terms of these Reliefs.

Customs Special Procedures and Reliefs

Although often overlooked, there are a number of Customs Special Procedures (CSP's) and Reliefs that businesses in the sector should be aware of.

- **Certificate of Airworthiness (CofA).** This allows goods to be imported free of customs duty with the presentation of a Certificate of Airworthiness at the time of importation.
- **Inward Processing or IP.** This is a CSP, which allows for dutiable materials or parts to be processed for aviation use. The Customs duty and import VAT are suspended and never become payable provided the procedure is compliantly discharged.
- **End Use.** Another CSP which allows for the importation of parts or aircraft with the customs duty suspended until the aircraft, or the aircraft the parts are fitted to, meets its End Use. The relief is discharge once the End Use is met.
- **Customs Warehousing.** This can benefit a business that imports goods that are likely to be subject to significant storage as it defers customs duty and/or import VAT) until the goods leave the customs warehousing or enter another customs procedure (which may or may not continue to suspend the customs duty and/or import VAT).
- **Authorised Economic Operator (AEO).** An accreditation which offers benefits including a waiver for potential Customs debts, and a reduction for the guarantee for actual Customs debts.

Due to the nature of aircraft, they may be transferred

to places outside the EU for maintenance, repair or overhaul. In order to ensure this economic activity remains in the EU, the Reliefs above have been made available to EU based businesses.

Potential duty

The UCC introduced the new concept of '*potential duty*'. This is where duty might become owed to the Customs authority if a suspensive regime, such as End Use is not correctly discharged. Until the point of discharge, Customs duty may become due on goods held within a CSP, and, as such, there is the potential for a customs debt.

The UCC introduced a requirement to provide a financial guarantee for this potential duty. With the high value of aircraft, and in the absence of any waiver, there can be a requirement to guarantee a significant amount of duty liability, which, in many cases has the potential to be a financial burden on the business.

The impact of potential duty

With the high value of aircraft, the potential customs duty impact of the importation into a CSP can be enormous. By way of illustration.

- An aircraft is valued at £25million.
- The customs duty rate is 2.7% *ad valorem*.
- The customs duty payable is £675,000.

An importer, is required to either provide the guarantee in cash, or provide a guarantee underwritten by a financial institution.

- Assuming that a financial institution charges 5% to provide the guarantee.
- The cost to secure the guarantee is £33,750.

If multiple aircraft are held in a customs suspensive

regime, the potential aggregate customs duty liability could become prohibitive to the business.

Authorised Economic Operator

Aware of the potential customs debt, and the requirement to provide security for the debt, in the form of guarantees, HMRC does provide for a waiver of the requirement. It is available to you, but only if you are able to demonstrate a high level of Customs compliance with the CSP that you operate.

To obtain this waiver an importer must meet the AEO criteria, the basics of which are:

- An absence of any serious customs infringements.
- A high level of control and record keeping, including a robust accounting system for the management of customs formalities.
- Good financial solvency.
- Practical standards of competence in customs matters.

If the business meets these requirements, an application for AEO accreditation can be made, although a formal application is not required to apply for a potential duties waiver. Once granted, it will not only allow the business to apply to waive the requirement to provide a guarantee for potential duty, but will also allow a 70% discount on any actual duty guarantee - which is currently referred to as a duty deferment account.

UCC transitional arrangements

A business that is operating under an existing authorisation issued prior to 1 May 2016 can continue to do so until the expiry on 30 April 2019 or until a '*substantive change*' is made to the authorisation.

Preparation for AEO

The AEO application form is relatively straightforward, but the underlying business processes need to be fully compliant with Customs legislation in order to complete the authorisation process.

When applying for AEO, we recommend following the following process:

- Analyse customs compliance for strengths and weaknesses.
- Improve the processes to ensure compliance with Customs legislation.
- Implement these strengthened processes.
- Apply when the processes are sufficiently robust.

HMRC has recently stated that 95% of AEO applications are rejected in the first instance.

AEO application and consideration

On a best-case scenario, a business has until 30 April 2019 to complete the reauthorisation process for the CSP that it currently operates. For most Customs procedures, HMRC has 30 days in which to issue an authorisation, but we recommend that any applications is submitted to HMRC well before the existing authorisations expire.

Do bear in mind that an associated Customs Comprehensive Guarantee (CCG) application takes up to 120 days, even in the instance of a waiver application.

For AEO applications, however HMRC has 120 days, from the date on which the application is accepted, in which to make a decision. Should HMRC uncover any errors it can '*stop the clock*' and suspend the time limit until the error is rectified.

Depending on the business' level of Customs compliance and record keeping, it can take a significant amount of time to prepare for submission of the AEO application. Our advice is to delay submitting an AEO application until there is a reasonable prospect of success as this may alert HMRC to potential Customs non-compliance.

Time to act

In order to prepare for the impact of potential duty guarantees, you should give serious consideration to AEO. On being granted such authorisation, you will not be required to lodge a potential duty guarantee, as a waiver will have been granted, allowing you to broadly operate as you are doing now.

Failure on your part to act will result in you having to operate your CSPs under the burden of a potential duty guarantee.

Given the timescales involved in ensuring procedures are adequate, and to ensure that HMRC has sufficient time to process applications, we would recommend that you do not delay in considering and applying the CSPs and Reliefs.

Our specialist advisers can assist you with applications for CSPs and AEO. Please contact one of our tax specialists for further information:

Karen Robb
Partner
T +44 (0) 207 728 2556
E Karen.Robb@uk.gt.com

Riaan de Lange
Manager
T +44 (0) 207 728 2041
E Riaan.V.De.Lange@uk.gt.com