



Customs Administration of the
Netherlands
Ministry of Finance

E-commerce White Paper

What's changing for your
customs business



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Introduction

Consumer behaviour has changed substantially in recent years in response to technological advancements. Worldwide shopping via the Internet has become the norm, with all the implications this has for international goods flows. In anticipation of this, the European Commission devised a VAT action plan for e-commerce a few years ago: *Towards a single EU VAT area - Time to Decide*. This formed the basis of a number of changes to the VAT and customs legislation coming into force on 1 July 2021 and will affect the e-commerce sector. This white paper explains what these changes entail, and the choices that Dutch Customs and the Tax Administration have made regarding their implementation. You will also find a detailed explanation of the systems used for declaring e-commerce shipments.

This white paper focuses primarily on the tax aspects of importing e-commerce shipments (the import of goods in relation to deliveries to consumers). However, the EU VAT Action Plan has a wider remit: it covers virtually all cross-border B-to-C transactions. For that reason, this memorandum also addresses issues not directly related to the import of goods.

Dutch legislation in relation to EU directives and regulations

Dutch legislation on value added tax (VAT) is grafted onto the EU VAT Directive. Customs legislation is laid down in European Regulations: provisions that are directly applicable in all Member States of the European Union.

Glossary:

AGS: Dutch declaration system for declarations for free circulation (import), end-use, temporary import, inward processing and export, and outward processing

Commission Delegated Regulation ucc: Commission Delegated Regulation (EU) 2015/2446 supplementing the ucc

Commission Implementing Regulation ucc: Implementing Regulation (EU) 2015/2447 laying down detailed rules for the implementation of the ucc

DECO: Dutch Customs declaration system e-commerce

DMS: Customs Management System, the Dutch declaration system

ucc: Union Customs Code, Regulation (EU) No 952/2013 of the European Parliament and of the Council

VAT Directive: Council Directive 2006/112/EC on the common system of value added tax

Venue: Dutch declaration system Simplified Declaration of E-Commerce

Customs developments

In addition to the aforementioned changes to VAT legislation there are a number of developments in the customs area that also exert an influence. Taken in combination, these factors lead to the adaptation of declaration procedures and the introduction of a new declaration system: Customs e-commerce, or DECO for short.

The following developments in the customs area play a role here:

- The expiry of the transitional measures as part of the United Kingdom's (UK) exit from the European Union (Brexit) on 1 January 2021;
- The introduction of a specific (limited) dataset (SRD) to Article 143a Regulation (EU) 2015/2446 and Annex B, column H7 (from 1 July 2021) and the VAT schemes IOSS and special arrangement;
- The obligation - for certain shipments - to file the declaration for free circulation in the country of destination, under Article 221-4 Regulation (EU) 2015/2447 (from 1 July 2021).



Adjustments to declaration procedures and systems



Adjustments to declaration procedures and systems

Normal declaration procedure

First we provide an outline of the normal declaration procedure. Declarations for release for free circulation and export declarations will generally be filed in the AGS system. A prescribed, extensive data set applies to these declarations. Customs also has two procedures for simplified declarations for release for free circulation. The first is the simplified declaration via the Venue system, specifically for e-commerce shipments. If this contains insufficient information to place the goods under the procedure, an additional declaration must be filed in AGS. This is the case when the party filing the declaration becomes liable to pay import duties.

Secondly, there is the declaration through entry in the declarant's records, where the additional declaration is filed by means of a computerised or written periodic declaration (GPA or SPA). The GPA is also suitable for making an additional declaration, if this is required after a simplified declaration in Venue. Both simplified declaration procedures mentioned above require an authorisation.

Adjustments to the normal declaration procedure

Changes are being made to the normal declaration procedure outlined above. These changes are described below:

- Extension of the option to file a return via Venue and waive an additional return in AGS or GPA for certain UK shipments on which only VAT is due
- The introduction of the DECO declaration system on 1 July 2021 for declarations in the normal procedure with a specific (limited) data set (SRD)
- Restrictions on making certain declarations for e-commerce shipments in AGS
- Ending the use of the declaration systems Venue, GPA and SPA as of 1 July 2021 for e-commerce shipments for which DECO must be used from then onwards.

Declaration in Venue

Venue is a system for filing simplified declarations for imports (free circulation, end-use, temporary import), exports and re-exports. A Venue declaration can also be filed in advance, in which case additional conditions apply.

The use of Venue requires a simplified declaration authorisation, which must be requested in advance at www.douane.nl. In Venue, a pre-declaration can also be filed, i.e. before the goods have been presented. This is only allowed if it is explicitly stipulated in the authorisation, according to the procedure included in that authorisation. A brochure on Venue can also be downloaded from the website, including information on the technical specifications of the data files and messaging.

Prior to 1 January 2017, Venue authorisations were granted to PostNL and the courier companies. These authorisations have a broader scope than Venue authorisations issued after that date. For Venue declarations, the customs duties and VAT due must be paid with an additional declaration in AGS or GPA. Therefore, payment cannot be made via Venue.



Adjustments to declaration procedures and systems

Shipments from the UK and declarations in Venue

Since 1 January 2021, it has been possible - on a one-off request basis - to account for VAT in Venue on goods originating in the UK that meet the conditions of Article 23 or 25 of Regulation (EC) 1186/2009. Once this request has been made, VAT is henceforth charged via Venue for all the shipments in question. An additional declaration in AGS is therefore no longer required. Customs duties, on the other hand, cannot under any circumstances be paid via Venue. Where no exemption from customs duties is involved, an additional declaration must be filed in AGS or GPA in all cases.

It is not possible to file declarations in Venue using IOSS or special arrangement. These declarations must be filed in DECO in all cases (including UK goods) until 1 January 2023. After this date, the relevant goods can also be declared in DMS.

DMS and phasing out of Venue

From 1 January 2023, Customs will have only two systems for filing electronic declarations: DECO and DMS. This means that Venue will be phased out, and this will be done in two steps:

- As from 1 July 2021, Venue will no longer be used to declare goods complying with Article 23 or 25 of Regulation (EC) 1186/2009 (with the exception of UK shipments not covered by the IOSS or special arrangement). These goods must be declared in DECO from that date. This also applies to the same category of goods previously declared in AGS or GPA, unless they are B-to-B shipments or goods subject to prohibitions and restrictions (these must still be declared in AGS or GPA)
- As of January 1, 2023, Venue will no longer be used to declare all other goods. These must be declared in DMS from that date.



Adjustments to declaration procedures and systems

Venue for UK goods

- Since 1 January 2021 it has been possible to declare goods originating in the UK in Venue
- For UK goods that meet the conditions of Article 23 or 25 of Regulation (EC) 1186/2009, an additional declaration in AGS may be waived on request and the VAT paid via the Venue procedure. Until 1 July 2021 this concerns UK goods with a value between €22 and €150. From 1 July 2021 onwards, this will cover UK goods with a value of up to €150, the VAT exemption (\leq €22) will cease to apply as of that date. A one-off selection must be made, after which all these shipments with VAT payment are handled via Venue.

For UK goods with a value of more than €150, the information in the simplified declaration is always insufficient, even when customs duties are payable. These UK goods can be declared in Venue but the customs duties cannot be paid in Venue. For these goods, an additional declaration (for both VAT and customs duties) must therefore always be filed in AGS/GPA. This (additional) declaration for shipments with a value of more than €150 is also required if no customs duties are owed (on the basis of, for example, a zero tariff or preferential origin).

Two special VAT arrangements for bringing goods into free circulation will be introduced as of 1 July 2021. These are the special scheme for distance selling of goods imported from third countries (import regime/iOSS) and the special scheme for the declaration and payment of VAT on import (special arrangement). If these arrangements are used, the goods concerned must be declared in DECO. They cannot be declared in Venue.

A declaration in Venue may be chosen for the export of goods to the UK. This is subject to the condition that the value of the goods does not exceed €1,000. Goods with a higher value must be declared in AGS. Venue users with an authorisation issued before 1 January 2017 may also declare goods with a value of more than €1,000 for export in Venue. This does however require an additional declaration in AGS.

The declaration in Venue is a simplified declaration, which requires an authorisation. This authorisation must be applied for in advance at www.douane.nl. A brochure on Venue can also be downloaded from this website, including information on the technical specifications of the data files and messaging.



Adjustments to declaration procedures and systems

Declaration in DECO

On 1 July 2021, Customs will start using a new declaration system for the import of e-commerce goods: DECO. In this system, declarations can be filed with a specific (limited) data set (SRD), as referred to in Article 143a of Regulation (EU) 2015/2446. This dataset may be used - only in DECO - to declare goods complying with Article 23 or 25 of Regulation (EC) 1186/2009 and to which no prohibitions or restrictions apply. The contents of the SRD are set out in Annex B/Column H7 Regulation (EU) 2015/2446.

In DECO, the following declarations can be filed for free circulation:

- According to the normal procedure specific dataset (SRD)
- Under the special arrangement for distance selling of goods imported from third countries (Import regime/iOSS)
- Under the special arrangements for the declaration and payment of VAT on imports (special arrangement).

The declarations in DECO are comparable to AGS declarations. These are declarations under the normal procedure, for which no authorisation is required. The declarations must, however, meet a number of technical requirements, and an 'electronic messaging' registration is required for their submission. The specific data set (SRD) for a DECO declaration contains fewer elements than that for an AGS declaration.

As in AGS, VAT can be declared and paid in DECO, so no additional declaration is required in AGS/GPA. DECO does not provide for the levy and collection of customs duties. This is because only goods with an intrinsic value of no more than €150 can be declared in DECO, for which exemption from customs duties applies pursuant to Article 23 or 25 of Regulation (EC) No. 1186/2009.

Restrictions

DECO is the only Dutch declaration system that is suitable for processing declarations with the specific (limited) data set (SRD). The specific dataset cannot be used in Venue, AGS and the GPA.

The Netherlands will make the use of DECO obligatory as from 1 July 2021 for declarations of goods qualifying for exemption from customs duties under Article 23 or 25 of Regulation (EC) No 1186/2009.

This does not include:

- UK goods for which this exemption is requested and which are not declared using iOSS or special arrangement
- B-to-B shipments. DECO is designed to process declarations of e-commerce goods. The system does not allow for a VAT number of a Dutch trader or fiscal representative to be given for the reverse charge of VAT on import (Article 23 of the Dutch VAT Act). Declarations of B-to-B shipments are filed in AGS, GPA or possibly Venue (simplified declaration)
- Goods subject to prohibitions or restrictions. For these shipments, the specific (limited) dataset (SRD) should not be used
- Goods for which no exemption from customs duties is claimed.

In the Netherlands, declarations using iOSS or special arrangement cannot be filed in AGS, GPA or Venue (simplified declaration) according to the normal procedure with the standard (extended) data set. Goods for which an exemption from customs duties is requested and for which prohibitions or restrictions apply cannot therefore be declared in the Netherlands using iOSS or a special arrangement.



Adjustments to declaration procedures and systems

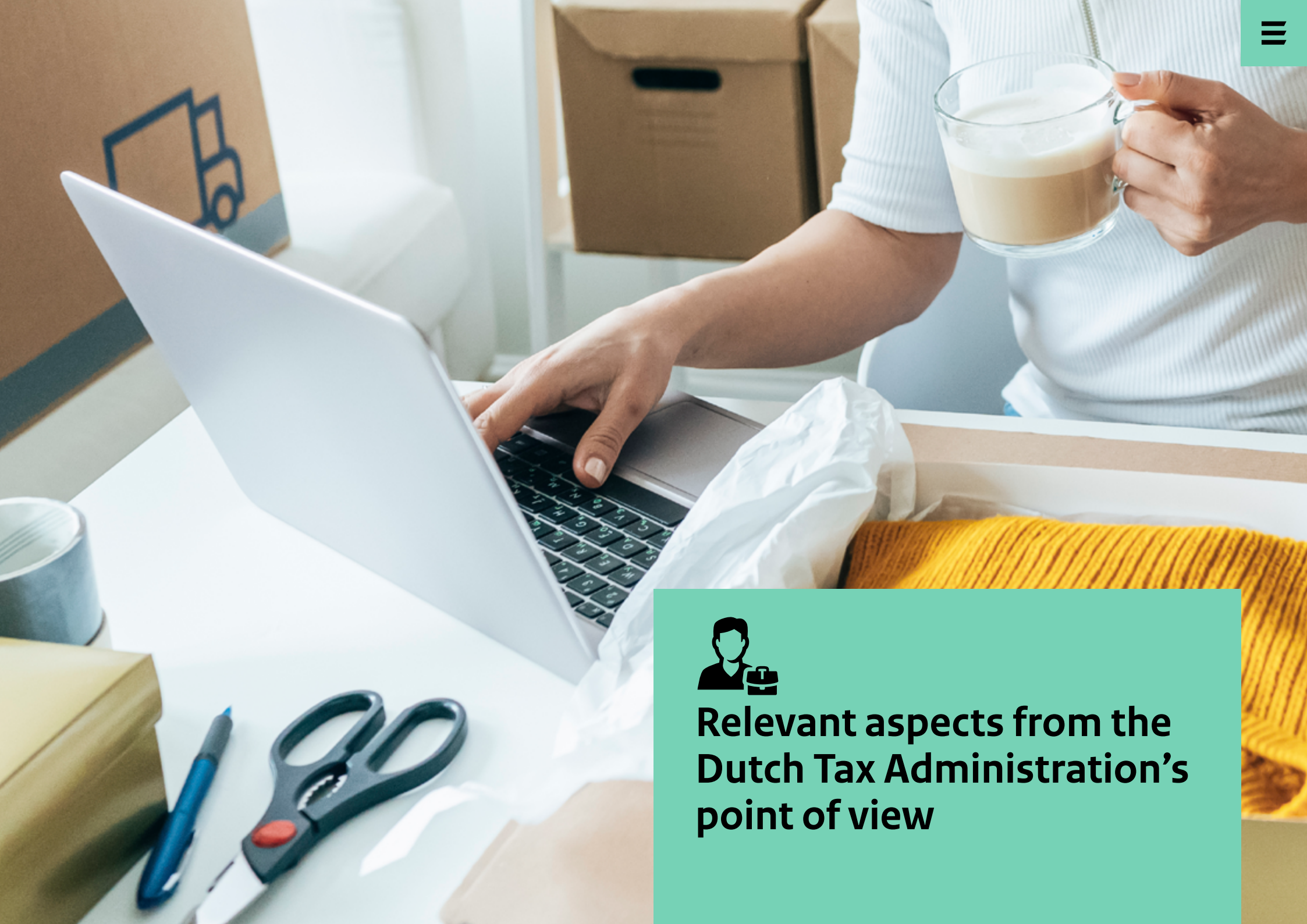
Declaration in Member State of destination

Another adjustment is that Section 221 (4) of Reg. (EU) 2015/2447 (UCC Delegated Regulation) comes into force on 1 July 2021. This Article provides that a declaration for release for free circulation of goods for which a declaration is required under Articles 23 or 25 of Regulation (EEC) No 2913/92 must be accompanied by a copy of the declaration. (EU) 1186/2009 may only be filed in the Member State in which the transport ends. As a result, e-commerce shipments of up to €150 in value, for which exemption from customs duties is claimed on import, may only be declared in the Member State where the transport ends (i.e. the Member State of establishment of the consignee - usually the consumer). This applies to all goods, irrespective of for whom they are put into free circulation. If the goods are imported into the Netherlands with a reverse charge of VAT on import to a designated entrepreneur/(limited) fiscal representative (within the meaning of Article 23 of the Dutch Turnover Tax Act) (reverse charge mechanism), then the transport always ends in the Netherlands. In that case, the tax representative makes an intra-Community delivery to the recipient trader in the Member State of destination. The goods in question may therefore always be declared in the Netherlands.

This restriction is being introduced to prevent VAT on import from 'sticking' in the Member State where the goods were declared for free circulation. The VAT will thus end up in the Member State where the consumer lives. Goods declared under the distance selling arrangements for goods imported from third countries (import regime/Ioss) are excluded from this restriction. This is because a different arrangement is made in which the VAT arrives in the Member State of destination: the tax administration of the Member State where the Ioss periodic return is filed issues the VAT to the Member State where the consumer is established.

Overview of declaration systems to be used

The above decisions taken by Customs have consequences for the declaration systems to be used as from certain dates. A distinction is made between goods originating in the UK and goods originating in other non-EU countries. These are set out in the Annex.



Relevant aspects from the Dutch Tax Administration's point of view



Relevant aspects from the Dutch Tax Administration's point of view

VAT action plan for e-commerce

Within the EU, the destination principle is the primary basis for VAT on cross-border transactions from businesses to consumers (B-to-C transactions). This covers supplies made by a trader to a consumer in one of the Member States where the trader is established in another country. This principle implies that the underlying supplies are taxed at the VAT rate of the Member State of consumption.¹ This VAT must also be declared and paid in the individual Member States. Thus, for B-to-C transactions, it actually makes no difference where the supplier is based (even if it is within or outside the EU): it is the Member State of consumption that is the determining factor for VAT.² This is intended to create a level playing field.

The measures resulting from the EU VAT Action Plan for e-commerce contribute to this level playing field: from an EU and non-EU perspective, similar transactions are taxed more equally - i.e. with the same VAT rules. The scope of the One-Stop-Shop scheme will be considerably extended and the fictitious platform will be introduced. These measures are detailed below.

Amendments to promote a level playing field

Based on the EU's VAT Action Plan for e-commerce, the following changes are being made:

- Elimination of the VAT exemption on the import of non-EU goods with a maximum value per shipment of no more than €22
- Elimination of individual Member State thresholds for distance sales (these thresholds currently differ)³
- Introduction of the 'small enterprises' scheme. There will be one threshold of €10,000 per year for (distance and TEB services combined, where appropriate)⁴ the whole EU. Only if sales are below this threshold can a business renounce the application of the country of destination principle.

Expansion of One-Stop-Shop and introduction of the fictitious platform

These changes will have an impact on suppliers. Many entrepreneurs are facing a changing VAT tax liability and necessary adjustments to their sales organisation/administration. This is because many entrepreneurs will be subject to VAT in the different Member States. Therefore, their sales organisation/administration will have to support the application of the different Member State rates (if not already foreseen).

1 As a general rule, in distance selling the final destination of the goods determines the Member State of consumption. In the case of services, VAT legislation specifies for each type of service whether the destination country principle applies and how it should be applied. If the destination country principle does not apply, the country of origin principle applies. The services are then taxed at the VAT rate of the Member State in which the supplier is established (and declared and remitted in that Member State).

2 Although the destination country principle is also the starting point for B-to-C distance sales of non-EU goods with a value of more than €150, this principle can be departed from.

3 For a turnover below the threshold amounts per Member State, the supplier was allowed to apply the national VAT rate.

4 TEB services means: telecommunications services (Telecom), electronic services (Electronic) and radio and television broadcasting services (Broadcasting).



Relevant aspects from the Dutch Tax Administration's point of view

To accommodate entrepreneurs with the increased compliance burden (and to 'concentrate' tax liability, so to speak), the EU has included some additional changes in the VAT Action Plan for e-commerce:

- Expansion of the existing One-Stop-Shop. The current voluntary Mini-One-Stop-Shop (MOSS) scheme will be succeeded by schemes that can be widely used in relation to B-to-C transactions. This concerns B-to-C distance sales of EU goods, B-to-C distance sales of non-EU goods (with a value of up to €150) and B-to-C services provided by EU and non-EU operators (insofar as the destination country principle applies to the underlying services). In short, the application of this voluntary scheme means that the aforementioned B-to-C transactions can be declared via a One Stop Shop in all Member States of the EU. The VAT due in each Member State is declared and accounted for in the One Stop Shop country. The One Stop Shop is responsible for the further processing of declarations and associated payments to all Member States concerned
- Introduction of the fictitious platform If some specific B-to-C distance sales⁵ make use of an electronic interface (marketplace/platform), the transaction is "attributed" to the platform. In that case, there is a fictitious supply by the supplier to the platform (B-to-B transaction; supply exempt, with right to deduct) and a fictitious supply by the platform to the consumer (B-to-C transaction; VAT-taxed supply).

Explanation of the fictitious platform

With the fictitious platform, a distinction is made between indirect and direct sales:

- Indirect sales. The fictitious platform applies to a 'qualifying' B-to-C distance sale via a marketplace/platform, or to a B-to-C distance sale using a feature/service of a marketplace/platform. According to the EU VAT Action Plan for e-commerce, in these cases the suppliers concerned (fictitiously) supply the goods to the marketplace/platform. The marketplace/platform then (fictitiously) delivers the goods to the consumer. Because of the intervention of the platform, such transactions are also referred to as 'indirect sales'.⁶

⁵ This concerns distance sales of EU goods by non-EU companies and non-EU goods with a value of up to €150 (sold by both EU and non-EU suppliers).

⁶ The provision of electronically supplied services is also a fiction clause: the commissioner's fiction. Thus, indirect sales and fiction clauses may also apply to the aforementioned TEB services.

Indirect B-to-C distance sales that fall under the fictitious platform are:

- Sales of non-EU goods with a maximum value of €150
- Sales of EU goods by non-EU suppliers.
- Direct sales. In the case of 'direct' B-to-C distance selling, the entrepreneur himself remains responsible. This concerns sales between supplier and consumer, without the intervention or use of a marketplace/platform.

Explanatory note One-Stop-Shop

The EU VAT Action Plan for e-commerce includes three voluntary schemes⁷

- The Union Scheme
- The Non-Union Scheme
- The Import Scheme/iOSS.

One or more of these schemes can be used to settle VAT obligations, depending on the place of establishment of the supplier and the nature of the B-to-C transaction.

The Import Regulations/iOSS (and the conditions for use that must be met) are explained in more detail in a later section.

The diagram on the next page shows the possible applications of the various schemes, with a distinction being made between indirect and direct B-to-C sales.

⁷ As the current Union scheme and non-Union scheme will be extended to the new scope as part of the legislative amendment, existing MOSS participants will 'automatically' be transferred to the new scheme.



Relevant aspects from the Dutch Tax Administration's point of view

VAT levy (based on the destination country principle)

| | EU Entrepreneur | Non-EU-Entrepreneur | EU-platform/ interface | Non-EU-platform/ interface |
|--|--|--|---|--|
| Distance sales | | | | |
| Indirect (via platform) | | | | |
| EU goods | Union Scheme | Fictitious platform <i>Fictitious delivery to platform (B2B)</i> | Union Scheme <i>Fictitious delivery by platform (B2C)</i> | Union Scheme <i>Fictitious delivery by platform (B2C)</i> |
| Non-EU goods ≤ €150 | Fictitious platform <i>Fictitious delivery to platform (B2B)</i> | Fictitious platform <i>Fictitious delivery to platform (B2B)</i> | Import Scheme <i>Fictitious delivery by platform (B2C)</i> | Import Scheme** <i>Fictitious delivery by platform (B2C)</i> |
| Non-EU goods > €150 | Regular import/VAT* | Regular import/VAT* | - | - |
| Direct | | | | |
| EU goods | Union Scheme | Union Scheme | - | - |
| Non-EU goods ≤ €150 | Import Scheme* | Import scheme*/** | - | - |
| Non-EU goods > €150 | Regular import/VAT* | Regular import/VAT* | - | - |
| Cross-border services | | | | |
| Indirect (via interface) | | | | |
| TEB services | Fictitious brokerage <i>Fictitious delivery to platform (B2B)</i> | Commissionairsfictie <i>Fictitious delivery to platform (B2B)</i> | Union Scheme <i>Fictitious delivery by platform (B2C)</i> | Non-Union Scheme <i>Fictitious delivery by platform (B2C)</i> |
| Direct | | | | |
| TEB services | Union Scheme | Non-Union Scheme | - | - |
| Other services (destination country principle) | Union Scheme | Non-Union Scheme | - | - |
| Other services (country of origin principle) | Regular Country of Origin levy | Regular Country of Origin levy | - | - |

Note: VAT on the sale of an entrepreneur's own goods by a platform/interface is paid as described under 'direct distance sales or services'.

* Import can be settled by an LSP.

** Non-EU entrepreneurs/platforms (with the exception of treaty countries) are obliged to engage an intermediary.



Relevant aspects from the Dutch Tax Administration's point of view

Voluntary schemes: choice possible, but within a scheme it is 'all or nothing'

The One-Stop-Shop is voluntary, and as mentioned above, is primarily intended to help entrepreneurs meet the increased compliance burden. If an entrepreneur decides to make use of a voluntary scheme, he must apply it to all B-to-C transactions falling within the scope of the scheme. That means, for example, that he cannot choose to declare TEB services under the Union scheme but not distance sales. In other words: it is all or nothing when applying one or more voluntary schemes.

Please note: distance sales of non-EU goods with a value of more than €150 always go through the regular import process (subject to the payment of import VAT). After all, the voluntary scheme for these B-to-C transactions only applies to shipments with an intrinsic value of up to €150.

Explanation of the Import regime/iOSS

Various types of entrepreneurs can make use of the Import Scheme/iOSS (see Diagram page 13). The 'all or nothing' principle also applies to this scheme: an entrepreneur who chooses to do so must apply it to all his B-to-C distance sales from third-country territories or goods imported from third countries with a value of up to €150. Excisable goods are excluded from the scheme.

A company must register to use the Import Scheme/iOSS. Non-EU entrepreneurs cannot do this themselves unless they have a branch or permanent establishment in the Netherlands. If this is not the case, a representative/intermediary established in the Netherlands can see to the registration. This person has been designated as 'the person liable for payment of VAT and who must fulfil the obligations relating to the import scheme in the name and on behalf of the taxable person'.

Practical use of the Import Scheme/iOSS

Roughly speaking, the following steps must be taken in the business process when using the Import regulation/iOSS:

- 1 Registration for the Import Scheme/iOSS
- 2 Conclusion of distance selling (the sales price includes VAT at the rate for the country of destination)
- 3 Payment of the goods by the consumer (including invoiced VAT)
- 4 Shipment of goods to the EU
- 5 Declaration for import of the goods concerned under the exemption from import VAT, stating the registration number for the Import Scheme/iOSS (iOSS number)
- 6 Verification of the iOSS number provided by Customs using the validation database⁸
- 7 Delivery of the goods to the consumer
- 8 Monthly periodic reporting and remittance of VAT via the one-stop-shop system in the Member State of registration (iOSS reporting to the Tax Office)
- 9 Periodic upload of customs import data into a central repository (an EU database)
- 10 EU-wide distribution of input data from the EU database
- 11 Checking by the Tax Administration of the match between the data in the iOSS notification and the input data (by iOSS number).

These process steps should ensure that:

- The consumer pays the VAT at the time of sale
- The supplier settles the administrative VAT process with the iOSS notification
- The goods in question can be imported free of VAT
- The claim for the import exemption is checked against the iOSS notification made.

If the import scheme is not used, the VAT on import is settled in the logistics process at the time of import. You can choose between the regular import process and the use of special arrangements..

⁸ According to the Tax Administration, the validation database for checking iOSS numbers in the Netherlands will be ready in time. This enables Customs to check the validity (existence) of the iOSS numbers stated on import declarations from 1 July 2021.



Annex

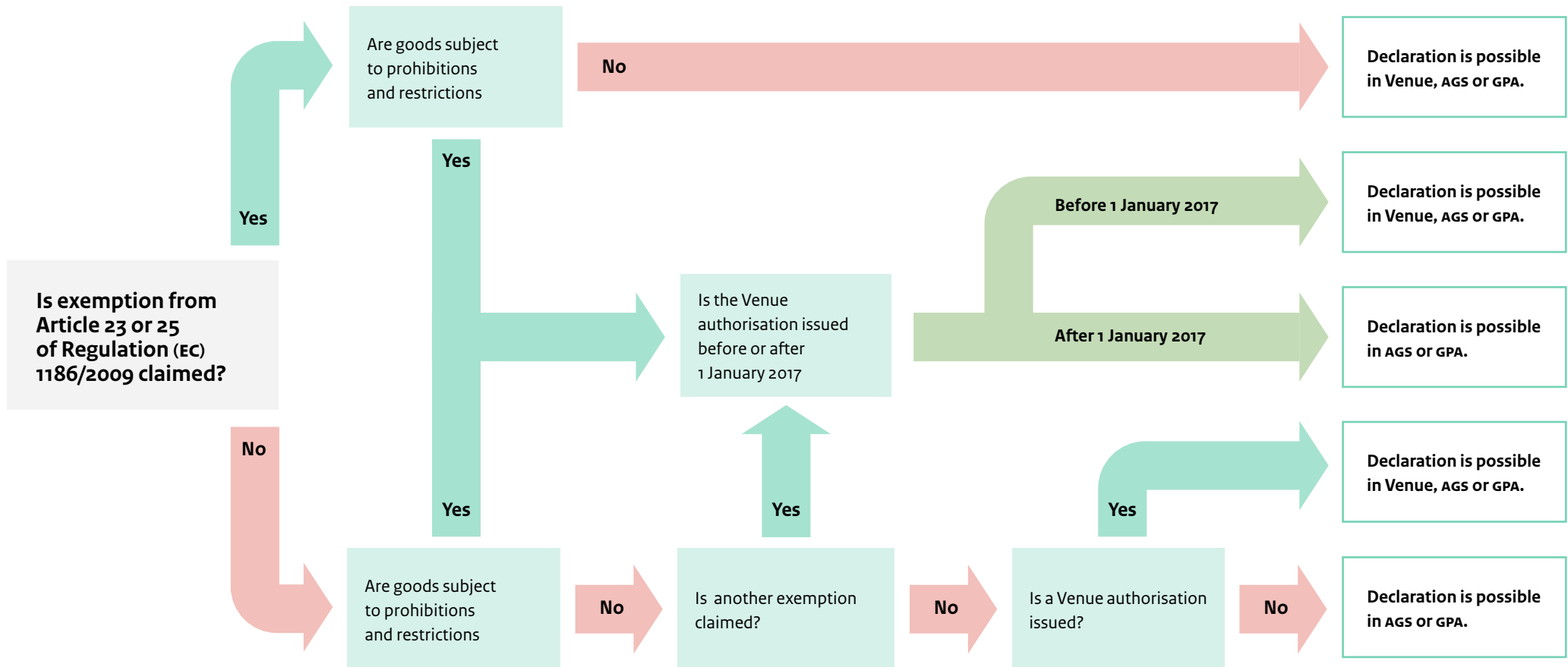
**Overview of declaration systems
to be used**



Overview of declaration systems to be used



Goods originating in the UK
from 1 January to 30 June 2021



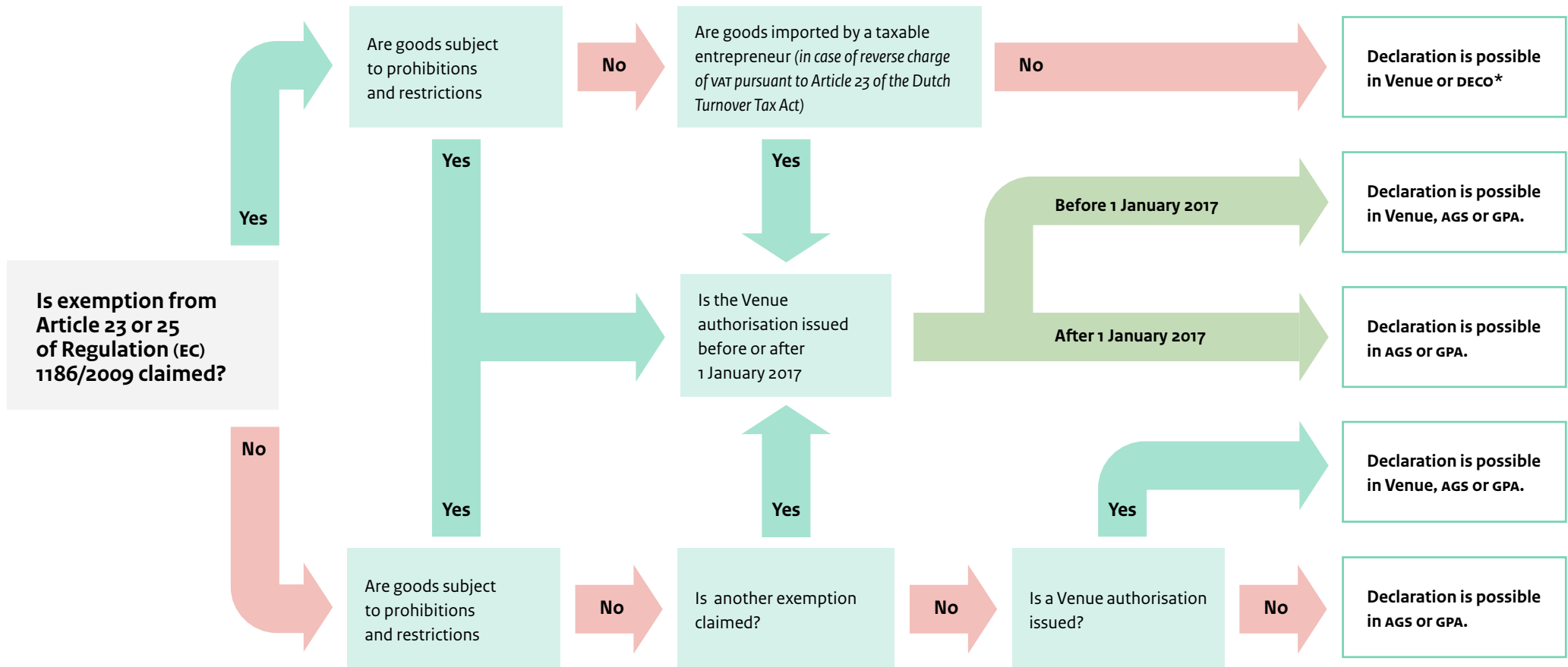


Overview of declaration systems to be used



Goods originating in the UK
from 1 July 2021 to 31 December 2022

* From 1 July 2021, all declarations for UK goods under ioss or special arrangement must be filed in DECO. From 1-1-2023 these declarations can also be filed in DMS.

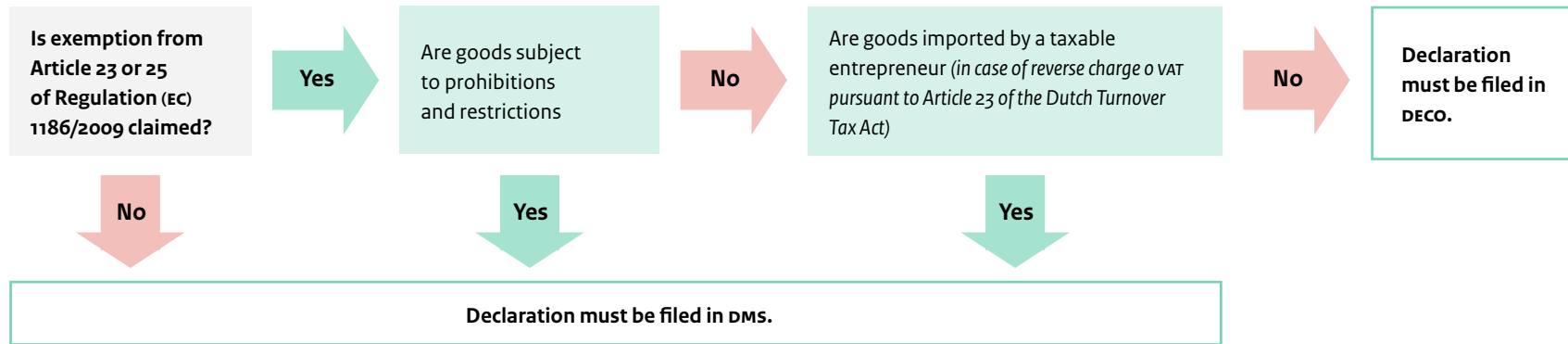




Overview of declaration systems to be used



Goods originating in the UK
as from 1 January 2023

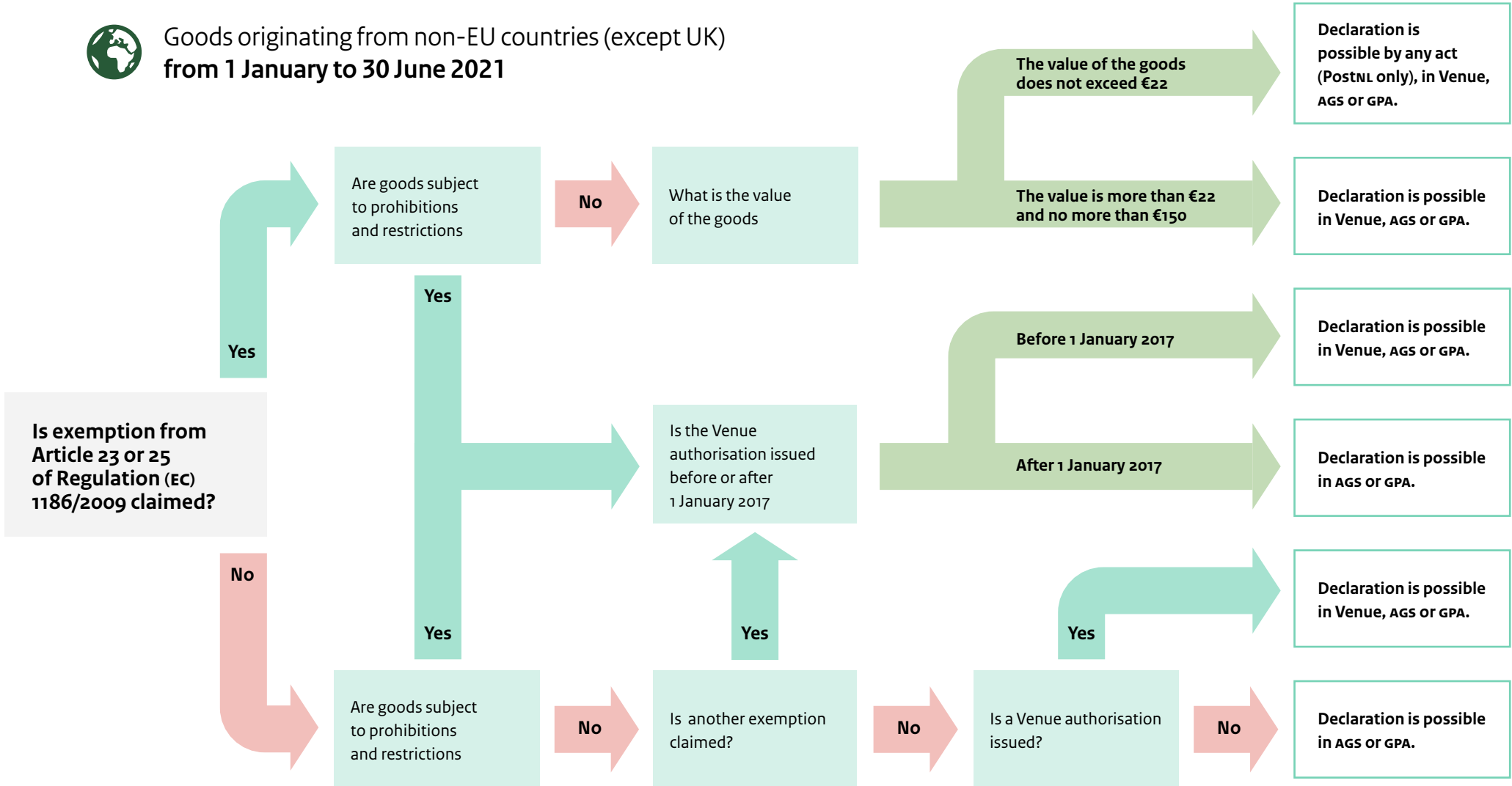




Overview of declaration systems to be used



Goods originating from non-EU countries (except UK)
from 1 January to 30 June 2021



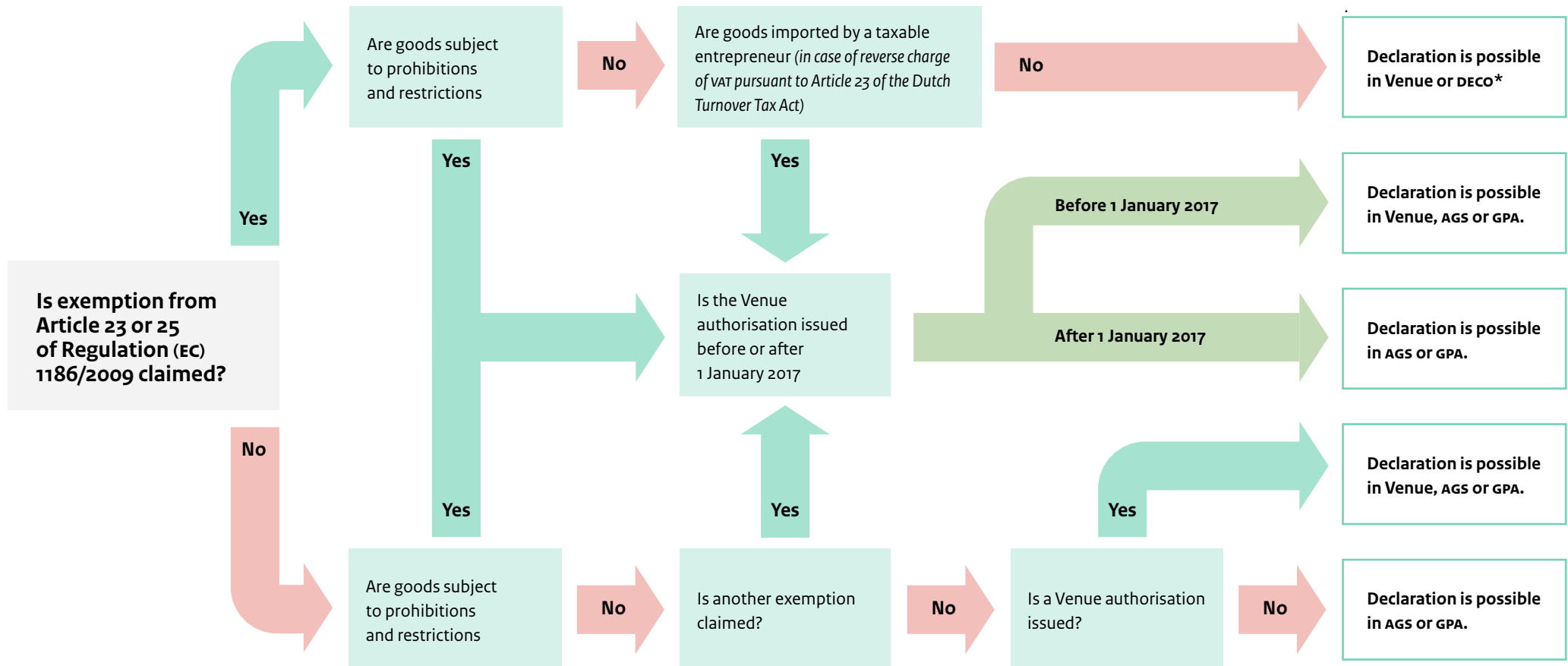


Overview of declaration systems to be used



Goods originating from non-EU countries (except UK)
from 1 July 2021 to 31 December 2022

* From 1 July 2021, all declarations for non-EU goods (including UK goods) under ioss or special arrangement must be made in DECO. From 1-1-2023 these declarations can also be filed in DMS.

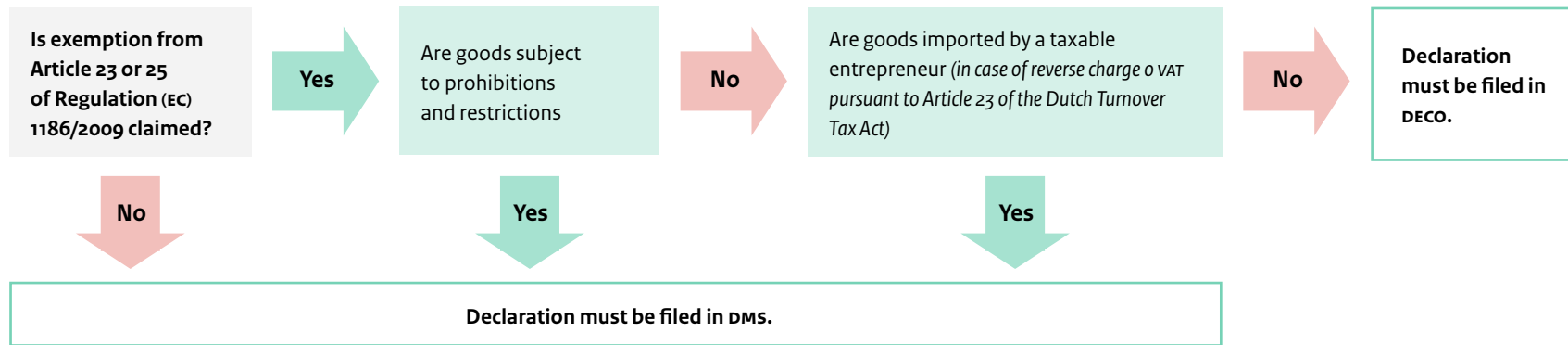




Overview of declaration systems to be used



Goods originating from non-EU countries (except UK)
as from 1 January 2023





Colophon

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www.douane.nl/e-commerce

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