Republic of Latvia

Cabinet

Regulation No. 86

Adopted 13 February 2018

**Regulations Regarding the Administration of Guarantees for the Debt of Customs Charges and Advance Payments**

*Issued pursuant to*

*Section 26, Paragraph two and Section 27, Paragraph four of the Customs Law, Section 85, Paragraph eight, Clause 2 of the Value Added Tax Law, and Section 32, Paragraph seven of the law On Excise Duties*

**1. General Provisions**

1. The Regulation prescribes:

1.1. the procedures for submitting, granting, applying, suspending, renewing, and annulling the guarantee for the debt of customs charges;

1.2. the types of guarantees for the debt of value added tax, the procedures for submitting, accepting, applying, determining the amount, recording and extinguishing thereof, and the requirements for the exemption of a person from submission of the guarantee for the debt of value added tax;

1.3. the procedures for submitting, administering, and extinguishing the guarantee for the debt of excise duty;

1.4. the cases where the guarantee for excise duty need not be submitted, and the conditions upon the fulfilment of which the amount of the guarantee may be reduced for a taxpayer;

1.5. the procedures for determining, recording the guarantee for the debt of customs charges and exemption from it;

1.6. the procedures for applying the waiver referred to in Article 89(9) of Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (hereinafter – Regulation No 952/2013);

1.7. the procedures by which the status of a guarantor shall be obtained within the meaning of the directly applicable customs legislation of the European Union, and the rights and obligations of a guarantor;

1.8. the procedures for deferring the time limit for the payment of the debt of customs charges and for the control and accounting of the payment of the deferred debt of customs charges;

1.9. the procedures by which a deposit shall be paid, repaid, and transferred into the State budget;

1.10. the procedures for administering customs charges transferred in advance (hereinafter – the advance payment) into the account of the deposited financial resources of the State Revenue Service (hereinafter – the account of the deposited financial resources).

2. A debt of customs charges which has incurred or may be incurred shall be secured by a guarantee in customs clearance of goods.

3. In applying a customs procedure or temporary storage, a customs authority of the State Revenue Service shall monitor a guarantee for the debt of customs charges which has incurred or may be incurred, and shall determine the amount thereof in accordance with Articles 89 and 90 of Regulation No 952/2013, the Value Added Tax Law, and the law On Excise Duties.

4. The guarantee may be submitted to the State Revenue Service by the following:

4.1. a person who is liable for the debt of customs charges (hereinafter – the debtor) in accordance with the laws and regulations in the field of customs;

4.2. a person who may become liable for the debt of customs charges which may be incurred;

4.3. a person who, in accordance with the provisions of Regulation No 952/2013, submits to the State Revenue Service an application for receipt of the authorisations specified in Article 148 or Article 211 of Regulation No 952/2013;

4.4. any other person in accordance with Article 89(3) of Regulation No 952/2013.

5. In accordance with Article 97 of Regulation No 952/2013, several guarantees may be submitted for a single debt of customs charges, and guarantees may be submitted by several persons referred to in Paragraph 4 of this Regulation. In such cases the abovementioned persons shall, in accordance with Article 84 of Regulation No 952/2013, be liable for the debt of customs charges in proportion to the provided share of the guarantee.

6. In applying special customs procedures (except for customs procedures – transit or temporary admission with total relief from import duty) or temporary storage, a guarantee shall be used for the debt of customs charges which may be incurred. In such case the debt of customs charges which may be incurred shall include the following:

6.1. the customs debt;

6.2. the debt of excise duty.

7. In applying a customs procedure – temporary admission with total relief from import duty –, a guarantee shall be used for the debt of customs charges which may be incurred, except for the case where, in accordance with Article 89(8)(c) of Regulation No 952/2013 and Article 81 of Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code (hereinafter – Regulation No 2015/2446), the guarantee shall not be provided. In cases where the guarantee shall be provided for temporary admission, the debt of customs charges which may be incurred shall include the following:

7.1. the customs debt;

7.2. the debt of value added tax.

8. In releasing replacement products for consumption concurrently with the release thereof for free circulation under a customs procedure – outward processing – prior to taking out the defective goods, a guarantee shall be used for the debt of customs charges which may be incurred. In such case the debt of customs charges which may be incurred shall include the following:

8.1. the customs debt;

8.2. the debt of excise duty.

9. In applying a customs procedure – release for free circulation and end-use –, a guarantee shall be used for the debt of customs charges which has incurred. In such case the debt of customs charges which has incurred shall include the following:

9.1. the customs debt;

9.2. the debt of value added tax.

10. If a payment of a deposit is used as a guarantee for the debt of customs charges which may be incurred, the debt of customs charges which may be incurred shall include the following:

10.1. the customs debt;

10.2. the debt of excise duty;

10.3. the debt of value added tax.

11. In applying a customs procedure – transit –, a guarantee shall be used for the debt of customs charges which may be incurred. In such case the debt of customs charges which may be incurred shall include the following:

11.1. the customs debt;

11.2. the debt of excise duty;

11.3. the debt of value added tax.

12. In applying customs procedures (except for the customs procedures – transit, release for free circulation, and temporary admission with total relief from import duty) or temporary storage, the person referred to in Sub-paragraph 4.2 of this Regulation shall apply the waiver referred to in Article 89(9) of Regulation No 952/2013 to the debt of customs charges which may be incurred by drawing up one or several customs or temporary storage declarations if the total amount of the debt of customs charges to be secured over the entire time period while the debt of customs charges may be incurred does not exceed the statistical value threshold referred to in Article 89(9) of Regulation No 952/2013.

13. If a person applies the waiver referred to in Paragraph 12 of this Regulation to temporary storage, it shall submit to the State Revenue Service, together with a temporary storage declaration, a signed calculation of the debt of customs charges which may be incurred. The calculation shall indicate the number and date of issue of an invoice, and also the value of goods from which the debt of customs charges which may be incurred is calculated.

14. A guarantee for the customs debt which has incurred or may be incurred shall not be submitted:

14.1. if the customs debt is not notified in accordance with Section 8 of the Customs Law;

14.2. if the State Revenue Service has, in accordance with Paragraph 12 of this Regulation, waived the requirement for provision of the guarantee to the person referred to in Sub-paragraph 4.2 of this Regulation;

14.3. when importing goods in the free zones.

15. A guarantee for the debt of customs charges regarding excise duty shall not be provided in the following cases:

15.1. where a relief from excise duty is applied to the goods in accordance with Chapter V of the law On Excise Duties;

15.2. for the excisable goods for which the guarantee is not provided in accordance with Section 8, Paragraph three of the law On Excise Duties;

15.3. if the person referred to in Sub-paragraph 4.2 of this Regulation is an authorised economic operator in accordance with Article 39 of Regulation No 952/2013 (except for the case where a customs procedure – transit – is applied);

15.4. when importing goods in the free zones.

16. A guarantee for the debt of customs charges regarding value added tax shall not be provided in the following cases:

16.1. if a debtor uses a special value added tax arrangement in the import of goods when applying customs procedures – release for free circulation and end-use;

16.2. if the person referred to in Sub-paragraph 4.2 of this Regulation is, in accordance with Article 39 of Regulation No 952/2013, an authorised economic operator when applying a customs procedure – transit –, and secures the debt of customs charges which may be incurred by a comprehensive guarantee;

16.3. when importing goods in the free zones.

17. A person shall submit to the State Revenue Service the applications referred to in this Regulation and any documents related thereto in paper form or in the form of an electronic document or by using the Electronic Declaration System of the State Revenue Service (except for the applications submitted in accordance with Paragraph 61 of this Regulation).

18. All decisions taken in accordance with this Regulation shall be notified to the persons referred to in Paragraph 17 of this Regulation in the Electronic Declaration System of the State Revenue Service and the electronic system for the exchange and storage of information referred to in Article 6(1) of Regulation No 952/2013 (hereinafter – the Customs Decisions System), provided that an application for the receipt of authorisation is submitted in the Customs Decisions System.

**2. Granting, Suspension, and Annulment of the Status of Guarantor and Liability of the Guarantor**

19. In accordance with Article 94(1) of Regulation No 952/2013, a guarantor shall be any of the following persons:

19.1. a person who has received an authorisation for the operation of a credit institution or a licence for the operation of an insurance or reinsurance company in the European Union;

19.2. a person who has been granted the status of guarantor by the State Revenue Service.

20. If a person wishes to acquire the status of guarantor referred to in Sub-paragraph 19.2 of this Regulation, it shall submit to the State Revenue Service an application for the granting of the status of guarantor and a confirmation issued by a bank regarding the deposit account referred to in Sub-paragraph 21.7 of this Regulation. The application shall indicate the amount of the guarantee and activities for which the person wishes to provide the guarantee.

21. The State Revenue Service shall grant the status of guarantor to the person referred to in Paragraph 20 of this Regulation, provided that the following conditions are met:

21.1. the person has been registered in the Republic of Latvia;

21.2. the person has registered its economic activity and has been continuously performing it domestically since the day of registration thereof for at least two years prior to the day of submitting the application for the granting of the status of guarantor to the State Revenue Service;

21.3. the person has been in sound financial condition for the last two years and has sufficient current assets for the fulfilment of obligations. It shall be assessed by calculating the following according to the data indicated in the statements of the last two years:

21.3.1. the overall liquidity ratio. The relevant ratio shall not be less than 2;

21.3.2. the financial stability ratio – the rate of liabilities in the balance sheet. The relevant ratio may not exceed 1;

21.4. the person does not have debts of taxes, duties, and other mandatory payments stipulated by the State or time limits for the relevant payments have been extended (deferred, divided) in accordance with Section 24 of the law On Taxes and Duties, and it makes payments according to the decision of the tax administration (payment schedule), or enforcement of the decision of the tax administration has been suspended in accordance with Section 80 of the Administrative Procedure Law or Section 11, Paragraph three of the Customs Law;

21.5. the person has not been punished for violations of conditions of the procedures for calculating or paying taxes within a period of one year prior to the submission of the application for the granting of the status of guarantor;

21.6. a founder, member of the board or council of the person (legal person) has not been found guilty of a criminal offence regarding laundering of the proceeds from crime, misappropriation, accepting prohibited benefits, commercial bribery, accepting bribes, giving of bribes, misappropriation of a bribe, or intermediation in bribery, and also a coercive measure has not been applied to the person (legal person) for the relevant criminal offences in accordance with the Criminal Law;

21.7. a deposit account with a monetary accumulation has been opened for guarantee operations in the amount of the guarantee for the coverage of the possible debt of customs charges.

22. The guarantor shall:

22.1. within five working days, notify the State Revenue Service of the cancellation of an undertaking by the guarantor;

22.2. within 10 working days after receipt of a request from the State Revenue Service, submit information and certified copies of documents regarding an undertaking by the guarantor which it has issued in accordance with Article 151 of Regulation No 2015/2447.

23. The State Revenue Service shall, upon request of the guarantor or the person who has provided the guarantee, perform the necessary verifications and provide information regarding the undertaking (to the full extent or partly) from which the guarantor has been released.

24. If the State Revenue Service has, in accordance with Article 48 of Regulation No 952/2013, initiated a verification of customs declarations with regard to which the guarantor has provided a guarantee for the coverage of the debt of customs charges, the State Revenue Service shall, within 30 days after initiation of the verification, inform the guarantor in writing (electronically) of the fact that the verification has been initiated.

25. If the debt of customs charges is established, the State Revenue Service shall, within the time limit stipulated in laws and regulations, take a relevant decision and notify the debtor of the claim to pay the debt of customs charges. The State Revenue Service shall at the same time inform the guarantor, whose guarantee undertaking is valid when applying customs procedures or temporary storage, about the claim to pay the debt of customs charges notified to the debtor.

26. If a debtor has failed to pay the debt of customs charges in accordance with the procedures laid down in laws and regulations governing the field of customs matters and taxes and within the time limit specified in a written warning of the State Revenue Service when applying a customs procedure (except for the customs procedures – transit and customs warehousing) during validity period of the relevant guarantee, the State Revenue Service shall, not later than within one year from the day of notification of the debt of customs charges, send a claim to the guarantor to pay the principal debt of customs charges which does not exceed the amount of the guarantee.

27. If a debtor has failed to pay the debt of customs charges in accordance with the procedures laid down in laws and regulations governing the field of customs matters and taxes and within the time limit specified in a written warning of the State Revenue Service when applying a customs procedure – transit –, the State Revenue Service shall, within the time limit specified in Article 85(2) of Regulation No 2015/2446, send a claim to the guarantor to pay the principal debt of customs charges which does not exceed the amount of the guarantee.

28. If a debtor has failed to pay the debt of customs charges in accordance with the procedures laid down in laws and regulations governing the field of customs matters and taxes and within the time limit specified in a written warning of the State Revenue Service when applying temporary storage or a customs procedure – customs warehousing –, the State Revenue Service shall, not later than within one year from the day of notification of the debt of customs charges, send a claim to the guarantor whose undertaking is valid when applying temporary storage or customs procedure – customs warehousing – to pay the principal debt of customs charges which does not exceed the amount of the guarantee.

29. If a debtor has failed to pay the debt of customs charges in accordance with the procedures laid down in laws and regulations governing the field of customs matters and taxes and within the time limit specified in a written warning of the State Revenue Service, and during the time when, in accordance with Paragraphs 26, 27 and 28 of this Regulation, the State Revenue Service is entitled to claim payment of the relevant debt of customs charges the debtor has been declared insolvent by a judgement of a court or a decision of a court to initiate a case of legal protection proceedings of the debtor has entered into effect, the State Revenue Service has the right to address the guarantor with the claim to pay the principal debt of customs charges which does not exceed the amount of the guarantee.

30. The guarantor shall, within 30 days from the day of notification of the claim of the State Revenue Service referred to in Paragraph 26, 27, 28 or 29 of this Regulation, pay the principal debt of customs charges.

31. If the time limit referred to in Paragraph 30 of this Regulation is not conformed to, the guarantor shall pay a late payment charge for each day late amounting to 0.1 % of the amount of the principal debt of customs charges that is notified to the guarantor in accordance with Paragraph 26, 27, 28 or 29 of this Regulation, but not exceeding 100 % thereof.

32. The claim referred to in Paragraphs 26, 27, 28, 29, 30, and 31 of this Regulation shall be deemed an administrative act, and compulsory enforcement thereof shall be performed after the time limit of 30 days laid down for voluntary payment has elapsed for recovery of late tax payments on uncontested basis specified in the law On Taxes and Duties on the basis of a decision to recover the late tax payments.

33. If the guarantor has paid the debt of customs charges of the debtor but then the guarantor or the debtor proves with documents that the relevant debt of charges has not been justified, the State Revenue Service shall repay the guarantor the amount of the charges paid by it. A request for repayment of the amount of charges not recovered correctly shall be submitted not later than within three years from the day of entry into effect of a court ruling which provides grounds for the request to repay the amount of charges not recovered correctly.

34. The State Revenue Service shall take the decision to suspend the status of guarantor which has been granted in accordance with Paragraph 21 of this Regulation if any of the following conditions are established:

34.1. the guarantor fails to meet the requirements referred to in Paragraph 21 of this Regulation;

34.2. the guarantor has failed to fulfil any of the requirements referred to in Paragraph 22 of this Regulation.

35. If the guarantor has rectified the reasons for the suspension of the status of guarantor specified in the decision referred to in Paragraph 34 of this Regulation within 30 days from the day of notification thereof, the State Revenue Service shall take the decision to restore the status of guarantor.

36. The State Revenue Service shall take the decision to annul the status of guarantor which has been granted in accordance with Paragraph 21 of this Regulation if any of the following conditions are established:

36.1. the guarantor has failed to rectify the reasons for the suspension of the status of guarantor specified in the decision referred to in Paragraph 34 of this Regulation within 30 days from the day of notification thereof;

36.2. the guarantor has not fulfilled the requirements referred to in Paragraph 30 of this Regulation;

36.3. an application of the guarantor has been received for the annulment of the status of guarantor.

**3. Types of Guarantee**

**3.1. Deposit**

37. If the person referred to in Sub-paragraphs 4.1, 4.2 or 4.4 of this Regulation secures the debt of customs charges which may be incurred by a guarantee in the form of a payment of a deposit, the deposit shall be paid into the account of the deposited financial resources.

38. The amount of the deposit shall be equivalent to 100 % of the calculated debt of customs charges which may be incurred.

39. If, in accordance with Article 244 of Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (hereinafter – Regulation No 2015/2447), the State Revenue Service has doubts as to the information provided in a customs declaration when performing control of the information provided in the customs declaration for release of goods for free circulation and when verifying the customs declaration, accompanying documents and declared goods, the person referred to in Sub-paragraphs 4.1, 4.2 or 4.4 of this Regulation shall, upon request of a customs authority, pay the deposit – the difference between the amount of customs charges calculated on the basis of the information provided in the customs declaration and the amount of customs charges which should be paid for the goods after the verification thereof.

40. In the case referred to in Paragraph 39 of this Regulation the State Revenue Service shall perform a verification after release of goods for free circulation accompanied by the deposit in accordance with Article 48 of Regulation No 952/2013 and as a result of the verification take the decision to transfer the paid deposit to the State budget, repay or partially repay it to the person referred to in Sub-paragraph 4.1, 4.2 or 4.4 of this Regulation.

41. If, in accordance with Article 223(2)(d) of Regulation No 952/2013, in the case of outward processing procedure it is allowed to import processed products obtained from equivalent goods before the export of the goods they are replacing, the person referred to in Sub-paragraph 4.3 of this Regulation shall pay the deposit. In such case the debt of customs charges which may be incurred shall include the customs debt, the debt of excise duty, and the debt of value added tax. If the person has obtained an authorisation specified in Section 85 of the Value Added Tax Law to apply a special tax arrangement for transactions of import of goods with regard to the determined payment of deposit, the value added tax shall not be calculated.

42. After the export of goods, the person referred to in Sub-paragraph 4.3 of this Regulation shall submit to the State Revenue Service an application for the repayment of deposit. After assessing the relevant application and performance of the customs procedure, the State Revenue Service shall take the decision to transfer the paid deposit to the State budget, repay or partially repay it to the person.

43. If, in accordance with Article 56(4) of Regulation No 952/2013, a tariff quota applied for in a customs declaration for release of goods for free circulation is critical, the person referred to in Sub-paragraph 4.1, 4.2 or 4.4 of this Regulation shall pay the deposit – the difference between the amount of customs charges calculated in applying an autonomous conventional rate of the European Union Common Customs Tariff import customs duty or another preferential import customs duty rate available for the import of these goods and the amount of customs charges calculated by applying the reduced or zero import duty rate determined for the quota.

44. After receipt of the European Commission’s response with regard to allocation, non-allocation or partial allocation of the requested tariff quota, the State Revenue Service shall take the decision to transfer the paid deposit to the State budget, repay or partially repay it to the person referred to in Sub-paragraph 4.1, 4.2 or 4.4 of this Regulation.

45. If a provisional anti-dumping duty, in accordance with Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union, and a provisional countervailing duty, in accordance with Regulation (EU) 2016/1037 of the European Parliament and of the Council of 8 June 2016 on protection against subsidised imports from countries not members of the European Union, are applied to goods declared in a customs declaration when releasing them for free circulation, the person referred to in Sub-paragraph 4.1, 4.2 or 4.4 of this Regulation shall pay the deposit in the amount of a provisional anti-dumping duty or provisional countervailing duty respectively and in the amount of value added tax which is calculated from the provisional anti-dumping duty and provisional countervailing duty.

46. If the person liable for the payment of the deposit referred to in Paragraph 45 of this Regulation has obtained an authorisation specified in Section 85 of the Value Added Tax Law to apply a special tax arrangement for transactions of import of goods, the value added tax shall not be calculated from the provisional anti-dumping duty and provisional countervailing duty.

47. If a final anti-dumping duty or final countervailing duty is determined for the goods for which the deposit referred to in Paragraph 45 of this Regulation had been paid, the State Revenue Service shall take the decision to transfer the paid deposit to the State budget, repay or partially repay it to the person referred to in Sub-paragraph 4.1, 4.2 or 4.4 of this Regulation.

48. When applying for a customs procedure, a person who has paid the deposit shall submit to a customs authority an application for the repayment of deposit by specifying details of a recipient of the payment and an account of a credit institution to which the deposit is to be repaid after taking of the relevant decision (Annex 1).

49. An application for the repayment of deposit may also be completed in Russian or English.

50. If the State Revenue Service receives evidence which confirms the fact of completion of the applied customs procedure, it shall take the decision to repay the paid deposit.

51. If the applied customs procedure is not completed or is completed by establishing non-compliance of the goods with the information provided in the customs documents, the State Revenue Service shall take the decision to transfer a deposit proportionate to the non-compliance to the State budget.

52. The State Revenue Service shall repay or partially repay the deposit within 15 days after taking of the decision to repay or partially repay the paid deposit.

**3.2. Individual Guarantee Provided as an Undertaking by the Guarantor**

53. An individual guarantee shall be used to apply a single customs procedure or single temporary storage once.

54. An individual guarantee provided as an undertaking by the guarantor in accordance with Article 151(5) of Regulation No 2015/2447 shall be registered with the State Revenue Service prior to submission of a customs declaration or a temporary storage declaration. In order to register the individual guarantee, a person to whom an individual guarantee document has been issued or an authorised representative thereof shall submit two copies (original copies) of the individual guarantee document to any customs control point of the State Revenue Service.

55. The State Revenue Service shall make a note in the individual guarantee documents regarding the registration number assigned by the Electronic Customs Data Processing System of the State Revenue Service or Customs Information System. One copy of the individual guarantee document shall be issued to a person who has submitted the individual guarantee document or to an authorised representative thereof.

56. The individual guarantee shall cease to be valid if the validity period of the individual guarantee has expired or the guarantor has revoked its undertaking.

**3.3. Comprehensive Guarantee, Including Possible Reduction and Waiver**

57. An authorisation to provide a comprehensive guarantee, including possible reduction and waiver (hereinafter – the comprehensive guarantee authorisation) may be used for securing any customs procedure or temporary storage in accordance with the procedures for applying the relevant customs procedure or temporary storage.

58. A reference amount associated with the comprehensive guarantee authorisation shall be determined by the State Revenue Service by taking into account calculations which, in accordance with provisions of Article 155(4) of Regulation No 2015/2447, have been made by a person who wishes to receive the comprehensive guarantee authorisation.

59. In order to receive the comprehensive guarantee authorisation, a person shall submit the following:

59.1. an application for the provision of the comprehensive guarantee, including possible reduction or waiver (hereinafter – the application for the comprehensive guarantee) in compliance with the requirements laid down in Titles I and VI of Annex A “Common data requirements for applications and decisions” to Regulation No 2015/2446 (hereinafter – Annex A to Regulation No 2015/2446) and Annex A “Formats and codes of the common data requirements for applications and decisions” to Regulation No 2015/2447 (hereinafter – Annex A to Regulation No 2015/2447);

59.2. a comprehensive guarantee provided as an undertaking by the guarantor in accordance with Article 151(6) of Regulation No 2015/2447 by using a form indicated in Annex 32-03 to Regulation No 2015/2447 (hereinafter – the comprehensive guarantee). This form may be completed and submitted to the State Revenue Service in the form of an electronic document signed with a secure electronic signature in accordance with the provisions laid down in the Electronic Documents Law.

60. If the comprehensive guarantee has been submitted to secure customs procedures – release for free circulation and end-use –, a person shall, in addition to the application for the comprehensive guarantee, submit an application in order to defer the payment of the tax to be paid in accordance with Titles I and VII of Annex A to Regulation No 2015/2446 and Annex A to Regulation No 2015/2447 (hereinafter – the application for the deferment of payment). The following information shall be indicated in section “Additional information” in the application for the deferment of payment:

60.1. the preferred time period for which to aggregate amounts of taxes calculated in customs declarations (for a calendar week or calendar month respectively);

60.2. the information on the person to whom the relevant users’ rights will be granted in the Electronic Declaration System of the State Revenue Service (given name, surname, personal identity number, electronic mail address, and telephone number).

61. The application for the comprehensive guarantee and the application for the deferment of payment shall be submitted to the Customs Decisions System by using the Electronic Declaration System of the State Revenue Service.

62. The State Revenue Service shall take the decision to issue the comprehensive guarantee authorisation provided that a submitter of the application for the comprehensive guarantee meets the requirements laid down in Article 95 of Regulation No 952/2013, Article 158 of Regulation No 2015/2447, and Article 84 of Regulation No 2015/2446, and a reference amount of the comprehensive guarantee submitted to receive the comprehensive guarantee authorisation has been determined in accordance with Paragraph 58 of this Regulation.

63. If an undertaking by the guarantor in the comprehensive guarantee submitted to receive the comprehensive guarantee authorisation is provided in the amount of 100 % of the reference amount, the State Revenue Service shall take the decision within 30 days from the day of acceptance of the application for the comprehensive guarantee. The time limit for taking the decision specified in this Paragraph shall not be applicable to the case referred to in Article 13(4) of Regulation No 2015/2446.

64. A holder of the comprehensive guarantee authorisation that uses the comprehensive guarantee to secure customs procedures – release into free circulation and end-use – shall defer the time limit for the payment of the debt of customs charges referred to in Paragraph 9 of this Regulation.

65. The State Revenue Service shall aggregate the amounts of the debt of customs charges referred to in Paragraph 9 of this Regulation from customs declarations presented in a calendar week or calendar month respectively (according to the period specified in the application for the deferment of payment), and prepare an invoice electronically (Annex 2).

66. The State Revenue Service shall stipulate a time limit for the payment of the invoice referred to in Paragraph 65 of this Regulation in accordance with Article 111(6) of Regulation No 952/2013.

67. The State Revenue Service shall electronically send the invoice referred to in Paragraph 65 of this Regulation to a holder of the comprehensive guarantee authorisation to the e-mail address specified in the application for the deferment of payment.

68. The holder of the comprehensive guarantee authorisation shall transfer an amount of the debt of customs charges indicated in the invoice referred to in Paragraph 65 of this Regulation to the account of the deposited financial resources within the time limit specified in the invoice.

69. In applying a customs procedure – transit – a guarantee waiver shall be valid for one year from the day of issue of the comprehensive guarantee authorisation. If a person has received an authorised economic operator authorisation in accordance with Regulation No 952/2013, a guarantee waiver shall be valid for two years from the day of issue of the comprehensive guarantee authorisation.

70. The State Revenue Service shall take the decision to suspend the comprehensive guarantee authorisation if a holder of the comprehensive guarantee authorisation fails to meet the conditions referred to in Paragraph 62 of this Regulation.

71. If the State Revenue Service takes the decision to suspend the comprehensive guarantee authorisation, a holder of the comprehensive guarantee authorisation shall be liable for the completion of all customs procedures and temporary storage which were commenced prior to suspension of the comprehensive guarantee authorisation.

72. If a holder of the comprehensive guarantee authorisation complies with the requirements laid down in a decision to suspend the comprehensive guarantee authorisation within a time limit specified in the decision in accordance with Article 17 of Regulation No 2015/2446, the State Revenue Service shall take the decision to restore the comprehensive guarantee authorisation.

73. The State Revenue Service shall take the decision to revoke the comprehensive guarantee authorisation if:

73.1. the holder of the comprehensive guarantee authorisation has failed to comply with the requirements laid down in the decision to suspend the comprehensive guarantee authorisation;

73.2. the guarantor has notified of the cancellation of an undertaking by the guarantor in accordance with Sub-paragraph 22.1 of this Regulation;

73.3. an application for revocation of the comprehensive guarantee authorisation has been received from the holder of the comprehensive guarantee authorisation.

74. The State Revenue Service shall take the decision to annul the comprehensive guarantee authorisation in accordance with provisions of Article 27 of Regulation No 952/2013.

75. If the State Revenue Service has taken the decision to suspend, restore, revoke or annul the comprehensive guarantee authorisation, it shall inform the guarantor in writing within two working days from the taking of the relevant decision.

76. In order to request amendments to the comprehensive guarantee authorisation, a holder of the authorisation shall submit to the State Revenue Service an application for the comprehensive guarantee regarding the necessary changes in compliance with the requirements laid down in Paragraphs 59 and 61 of this Regulation. The State Revenue Service shall, within 15 days from the receipt of the application, take the decision to make amendments to the comprehensive guarantee authorisation, except for the case where amendments are related to the examination of applications and taking of decisions to reduce an amount of the debt of excise duty in accordance with Sub-chapter 3.4 of this Regulation.

**3.4. Reduction of the Amount of the Debt of Excise Duty when Calculating the Reference Amount of the Guarantee**

77. The State Revenue Service may, by calculating the reference amount of the guarantee, reduce the amount of the debt of excise duty in the following amount:

77.1. by 30 %, provided that:

77.1.1. a person has been registered with the State Revenue Service Value Added Tax Taxable Persons Register for at least three years;

77.1.2. a person has had a permit for the operation of a customs warehouse or for the operation of temporary storage facilities for at least five consecutive years, and operation of this permit has not been suspended;

77.1.3. the overall liquidity ratio of a person is not less than 1;

77.1.4. the rate of current liabilities of a person does not exceed 0.5;

77.1.5. the comprehensive guarantee submitted for the receipt of the comprehensive guarantee authorisation amounts to 100 % of the reference amount which is provided for securing a customs warehousing procedure or temporary storage, and it is not less than EUR 200 000;

77.2. by 50 %, provided that:

77.2.1. a person has been registered with the State Revenue Service Value Added Tax Taxable Persons Register for at least three years;

77.2.2. a person has had a permit for the operation of a customs warehouse or for the operation of temporary storage facilities for at least five consecutive years, and operation of this permit has not been suspended;

77.2.3. the composition of the board of a person has not changed within a period of one year prior to submission of an application for the reduction of the amount of the debt of excise duty to be secured;

77.2.4. the overall liquidity ratio of a person is not less than 1;

77.2.5. the rate of current liabilities of a person does not exceed 0.5;

77.2.6. a person has had profit in a taxation period prior to the calculation of the corporate income tax;

77.2.7. the comprehensive guarantee submitted for the receipt of the comprehensive guarantee authorisation amounts to 100 % of the reference amount which is provided for securing a customs warehousing procedure or temporary storage, and it is not less than EUR 200 000;

77.3. by 80 %, provided that:

77.3.1. a person has been registered with the State Revenue Service Value Added Tax Taxable Persons Register for at least three years;

77.3.2. a person has had a permit for the operation of a customs warehouse or for the operation of temporary storage facilities for at least five consecutive years, and operation of this permit has not been suspended;

77.3.3. the composition of the board and shareholders of a person has not changed within a period of one year prior to submission of an application for the reduction of the amount of the debt of excise duty to be secured;

77.3.4. the overall liquidity ratio of a person is not less than 1;

77.3.5. the rate of current liabilities of a person does not exceed 0.5;

77.3.6. a person has had profit in a taxation period prior to the calculation of the corporate income tax;

77.3.7. the average labour income of employees of a person in the first three quarters of the year over a period of the last four quarters of the year until submission of an application is not less than the average labour income of employees in the relevant economic sector (at the two-digit level of the NACE Rev. 2 classification) in the country in the relevant period;

77.3.8. the comprehensive guarantee submitted for the receipt of the comprehensive guarantee authorisation amounts to 100 % of the reference amount which is provided for securing a customs warehousing procedure or temporary storage, and it is not less than EUR 200 000.

78. In order to request reduction of the amount of the debt of excise duty referred to in Paragraph 77 of this Regulation when calculating the reference amount of the guarantee, a person shall, in addition to the application for the comprehensive guarantee, submit to the State Revenue Service an application for reduction of the amount of the debt of excise duty to be included in the reference amount of the guarantee (hereinafter – the application for the reduction of debt). The application for the reduction of debt shall be accompanied by a calculation of the reference amount of the guarantee which is made in accordance with Paragraph 58 of this Regulation and identifies a calculation of the amount of the debt of excise duty separately. If the application for the reduction of debt which meets the conditions referred to in this Paragraph is not submitted concurrently with the application for the comprehensive guarantee, it may be submitted during operation of the comprehensive guarantee authorisation.

79. The State Revenue Service shall take the decision to reduce the amount of the debt of excise duty not later than within 60 days after receipt of the application for the reduction of the debt referred to in Paragraph 78 of this Regulation.

80. A validity period of the decision to reduce the amount of the debt of excise duty shall conform to the validity period of the comprehensive guarantee referred to in Sub-paragraphs 77.1.5, 77.2.7, and 77.3.8 of this Regulation but may not exceed one year.

81. The State Revenue Service shall not review the decision referred to in Paragraph 80 of this Regulation in order to determine reduction of the amount of the debt of excise duty in another amount, and it is not entitled to determine reduction of the amount of the debt of excise duty in another amount during validity period of this decision other than that determined initially.

82. The State Revenue Service shall revoke the decision to reduce the amount of the debt of excise duty if a holder of the comprehensive guarantee authorisation fails to meet the conditions referred to in Paragraph 77 of this Regulation. The revoked decision to reduce the amount of the debt of excise duty shall not be restored.

83. In order to apply for the reduction of the amount of the debt of excise duty referred to in Paragraph 77 of this Regulation when calculating the reference amount of the guarantee after revocation of the decision or for the following time period, a person shall re-submit an application for the reduction of debt and comply with the requirements laid down in Paragraph 77 of this Regulation.

**3.5. Assumption of an Undertaking by the Guarantor**

84. The guarantors referred to in Sub-paragraph 19.1 of this Regulation have the right to assume an undertaking by another guarantor – the comprehensive guarantee.

85. If another guarantor assumes an undertaking by the guarantor – the comprehensive guarantee – approved previously in accordance with Article 151(1) of Regulation No 2015/2447, a holder of the comprehensive guarantee authorisation shall submit to the State Revenue Service the following documents:

85.1. an application;

85.2. a comprehensive guarantee provided by another guarantor which has been given under the conditions referred to in Sub-paragraph 59.2 of this Regulation and corresponds to all purposes and reference amounts thereof according to the undertaking by the guarantor approved previously;

85.3. a confirmation regarding assumption of an undertaking by the guarantor signed by the guarantor who assumes the undertaking by another guarantor approved previously.

86. In order to approve an undertaking by a guarantor which is assumed by another guarantor instead of the guarantor approved previously, the State Revenue Service shall:

86.1. take the decision regarding assumption of the undertaking by the guarantor;

86.2. within 10 working days from the day of taking of the decision referred to in Sub-paragraph 86.1 of this Regulation, notify the previous guarantor of release from the guarantee provided by it previously.

**4. Guarantee Records**

87. A holder of the comprehensive guarantee authorisation shall register each case when a guarantee is used to secure the debt of customs charges which may be incurred (except for the cases where it is used to secure a customs procedure – transit).

88. A holder of the comprehensive guarantee authorisation shall, upon request of the State Revenue Service, provide all information regarding each case where a guarantee is used, and also regarding the fact whether the secured debt of customs charges which has incurred and the debt of customs charges which may be incurred correspond to the amount of the guarantee.

89. A holder of the comprehensive guarantee authorisation shall inform the State Revenue Service of any change in the breakdown of the reference amount of the comprehensive guarantee or guarantee waiver between the customs procedures or temporary storage.

**5. Administration of the Customs Charges Transferred in Advance into the Account of the Deposited Financial Resources**

90. The State Revenue Service shall grant a person the status of an advance payer on the basis of information indicated in the application of the person for the use of advance payments transferred into the account of the deposited financial resources to cover the debt of customs charges (given name, surname, personal identity number, and electronic mail address of the person who will be granted users’ rights to use the electronic database of the State Revenue Service).

91. After using advance payments to cover the debt of customs charges calculated in a customs declaration, the State Revenue Service shall credit the advance payments paid into the account of the deposited financial resources to revenue accounts of the State budget.

92. If a customs declaration is declared invalid, an advance payment used to cover the debt of customs charges calculated in the customs declaration which has been declared invalid shall further be used as an advance payment to cover the debt of customs charges calculated in the next customs declarations.

93. The State Revenue Service shall, within 15 days from receipt of an application from a person for the repayment of a payment accumulated in the account of the deposited financial resources or for the directing thereof to cover other tax charges, repay to the person the payments accumulated in the account of the deposited financial resources by transferring them to a current account specified in the application or divert them to cover the tax charges specified by the person respectively.

94. The State Revenue Service shall, in accordance with the procedures laid down in the law On Taxes and Duties, notify its decision to register a person as an advance payer, to repay or not to repay the accumulated payment, and to direct or not to direct the accumulated payment.

**6. Closing Provisions**

95. The comprehensive guarantee authorisations issued until 30 April 2016 and not re-registered until the day of coming into force of this Regulation shall be valid until expiry of the validity period indicated therein but not longer than until 1 May 2019.

96. The status of guarantor obtained until the day of coming into force of this Regulation shall remain valid. Starting from the day of coming into force of this Regulation, this Regulation shall be applicable to the status of guarantor.

97. Paragraphs 12 and 13, Sub-paragraphs 14.1, 14.2, 15.1, 15.2, and 15.3 of this Regulation shall come into force on 4 June 2018.

98. The condition referred to in Paragraphs 26 and 28 of this Regulation with regard to the time limit for the notification of the debt of customs charges shall not be applicable to the requirements to pay the debt of customs charges which the State Revenue Service sends to the guarantors until 30 September 2018.

99. Section 53 of this Regulation shall be applicable until re-registration of customs authorisations in accordance with Articles 250 and 251 of Regulation No 2015/2446 and Article 345 of Regulation No 2015/2447 (i.e. until 1 May 2019):

99.1. when applying customs procedures for the application of which an authorisation should be obtained in accordance with Article 211 of Regulation No 952/2013;

99.2. when applying temporary storage for the application of which an authorisation should be obtained in accordance with Article 148 of Regulation No 952/2013.

100. Paragraph 76 of this Regulation shall be applicable to the comprehensive guarantee authorisations for the request of which applications for the comprehensive guarantee have been submitted after 2 October 2017 and which are registered in the Customs Decisions System.

101. In order to request amendments to the comprehensive guarantee authorisation which has been issued before 2 October 2017, a holder of the relevant authorisation shall submit to the State Revenue Service an application by indicating information regarding the necessary changes and appending the following, if necessary:

101.1. the calculation of the reference amount of the guarantee in accordance with the conditions of Article 155(4) of Regulation No 2015/2447;

101.2. the comprehensive guarantee.

102. The State Revenue Service shall take the decision to make amendments to the comprehensive guarantee authorisation which have been requested in accordance with Paragraph 101 of this Regulation.

103. Applications for the comprehensive guarantee which have been submitted before 2 October 2017 but the examination of which has not been completed and a decision has not been taken until the day of coming into force of this Regulation shall not be registered in the Customs Decisions System.

104. The comprehensive guarantee authorisations which have been issued prior to the day of coming into force of this Regulation or in accordance with Paragraph 103 of this Regulation and the validity period of which expires after 1 May 2019 or which are of unlimited duration shall be registered by the State Revenue Service in the Customs Decisions Systems by 1 May 2019. Holders of the comprehensive guarantee authorisations referred to in this Paragraph shall, upon request of the State Revenue Service, provide information which is necessary for registration in the Customs Decisions System.

105. Sub-chapter 3.5 “Assumption of an Undertaking by the Guarantor” of this Regulation with regard to the comprehensive guarantees that may be used in more than one European Union Member State entered into effect in accordance with Article 147(2) of Regulation No 2015/2447.

Prime Minister, Acting for the Minister for Health Māris Kučinskis

Minister for Finance Dana Reizniece-Ozola

**Annex 1**

Cabinet Regulation No. 86

13 February 2018

To the Customs Board of the State Revenue Service

AIZPILDA DRUKĀTIEM BURTIEM

заполняется печатными буквами / to be completed in block letters

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|  |
| (iesniedzējs\*– nosaukums, juridiskā adrese un reģistrācijas numurs vai vārds, uzvārds, adrese,  personas kods/personas identifikācijas numurs vai pases numurs /  заявитель\* – наименование, юридический адрес и регистрационный номер или имя, фамилия, адрес,  персональный код/индивидуальный идентификационный номер или номер паспорта физического лица /  applicant\* – name, registered office and registration number or name, surname, address,  personal identification number or passport number) |

**IESNIEGUMS**

**par drošības naudas atmaksu**

**ЗАЯВЛЕНИЕ о возврате денежного залога /**

**APPLICATION regarding repayment of security**

Lūdzu drošības naudu\_\_\_\_\_\_ EUR apmērā, kas ieskaitīta Valsts ieņēmumu dienesta deponēto naudas līdzekļu uzskaites kontā, atmaksāt:

Прошу вернуть залоговую сумму в размере \_\_\_\_\_\_ EUR, зачисленную на расчётный счёт депонированных денежных средств Службы государственных доходов, на:

Please return the security paid into the deposit account of the State Revenue Service in the amount of EUR \_\_\_\_\_\_:

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|  |
| (juridiskās personas nosaukums, juridiskā adrese un reģistrācijas numurs vai vārds, uzvārds, tēva vārds\*\*, adrese, personas kods/personas identifikācijas numurs vai pases numurs /  наименование юридического лица, юридический адрес и регистрационный номер или имя, фамилия, отчество\*\*, адрес, персональный код/индивидуальный идентификационный номер или номер паспорта физического лица /  name, registered office and registration number of legal person or name, surname, father’s name\*\*, address,  personal identification number or passport number) |

Lūdzu veikt atmaksājamās drošības naudas pārskaitījumu EUR uz:

Прошу произвести перечисление уплаченной залоговой суммы в валюте EUR на: / Please return the security paid in EUR currency to:

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|  |
| (saņēmēja bankas nosaukums, SWIFT kods (11 zīmes) un konta numurs /  наименование банка получателя, SWIFT-код (11 цифр) и номер счёта /  name of the recipient’s bank, SWIFT code (11 characters) and account number) |
|  |
|  |
| (korespondentbankas nosaukums,SWIFT kods (11 zīmes) un konta numurs /  наименование банка-корреспондента, SWIFT-код (11 цифр) и номер счёта /  name of the correspondent bank, SWIFT code (11characters) and account number) |

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Drošības nauda iemaksāta, lai segtu muitas maksājumu parādu, kas radies/var rasties | | | | | | | |
|  |  | |  | | (nevajadzīgo svītrot) | |  |
| par precēm, kuras deklarētas 20\_\_\_. gada \_\_\_\_. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | | | | | | | |
|  |  | muitas deklarācijā Nr. | |  | |  | |
|  |  |  | | (muitas deklarācijas numurs) | |  | |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Залоговая сумма была внесена для погашения задолженности по таможенным платежам,  которая возникла/может возникнуть за товары, задекларированные в | | | | | |
|  | | (ненужное зачеркнуть) | |  | |
| таможенной декларации № \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ от \_\_\_. \_\_\_. 20\_\_. | | | | | |
|  |  | | (номер таможенной декларации) | |  |

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| --- | --- | --- | --- | --- | --- |
| The security was paid to cover debt of customs duties that has arisen/may have arisen | | | | | |
|  |  | | (delete that which does not apply) | |  |
| in respect of goods declared in the  customs declaration No \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_of \_\_\_. \_\_\_. 20\_\_. | | | | | |
|  |  | (number of the customs declaration) | |  | |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  |  |  |  |  |
| (vārds, uzvārds)  (имя, фамилия)  (name, surname) |  | (paraksts)  (подпись)  (signature) |  | (datums)  (число)  (date) |

|  |
| --- |
| Kontaktinformācija: |
| Контактная информация: / Contact details: |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| tālrunis |  |  | e-pasta adrese |  |
| телефон / phone |  |  | адрес э-почты / e-mail |  |

|  |
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| \* Ja piemēro Savienības tranzīta procedūru, – Savienības tranzīta procedūras izmantotājs.  \*\* Ja pārskaitījumu veic uz Krievijas Federāciju.  **N. B. Izmaksas par pārskaitījuma veikšanu un valūtas konvertāciju, kā arī izmaksas par noraidītu maksājumu, ja norādīti nekorekti saņēmēja rekvizīti, tiek segtas no iemaksātās drošības naudas.**  Ja iesniegumā norādīto informāciju ir nepieciešams papildināt vai precizēt, lūdzu precizēto informāciju, norādot muitas deklarācijas datumu un numuru, sūtīt uz e-pasta adresi: **MP.lietvediba@vid.gov.lv** |

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| \* B случае применения процедуры транзита Сообщества – держатель процедуры транзита Сообщества.  \*\* B случае, если перечисление осуществляется в Российскую Федерацию.  **N. B. Издержки за осуществление перевода и конвертацию валюты, а также за отклонённый платёж в случае указания неверных реквизитов получателя покрываются из уплаченных залоговых денег.**  Если информацию, указанную в заявлении, необходимо дополнить или уточнить, просьба уточнённую информацию с указанием номера и даты декларации направить на адрес электронной почты: **MP.lietvediba@vid.gov.lv** |

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| \* In case of application of the Union transit procedure – holder of the Union transit procedure.  \*\* In case where transfer has to be made to the Russian Federation.  **N. B. Costs of transfer and currency conversion, as well as costs incurred as a result of rejected payment due to provision of incorrect details of the recipient, shall be borne by the security lodged.**  If there is a need to supplement or update the information provided in the application, please send the revised information indicating the date and number of customs declaration to the following email address: **MP.lietvediba@vid.gov.lv** |

Minister for Finance Dana Reizniece-Ozola

**Annex 2**

Cabinet Regulation No. 86

13 February 2018

REPUBLIC OF LATVIA

STATE REVENUE SERVICE

**Invoice No. RE \_\_\_\_\_\_**

Issued on \_\_\_\_\_\_\_\_\_\_\_

|  |  |  |
| --- | --- | --- |
| **Payer:** |  | **Recipient:** |
| Name |  | Name |
| Taxpayer’s registration code |  | Taxpayer’s registration code |
| Legal address |  | Bank  BIC code |
| Identification number |  | Account number |
|  |  | **Amount** |
|  |  | **Time limit for the payment\*** |

**Calculated taxes**

Time period from \_\_\_\_\_\_\_\_\_\_\_\_\_\_ to \_\_\_\_\_\_\_\_\_\_\_\_\_

(EUR)

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Code and name of the type of payment |  |  |  |  | Total |
| Calculated amount |  |  |  |  |  |

**Breakdown of the calculated amounts included in the invoice by types of payments**

(EUR)

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | 05130\*\* | 06110 | 06130 | 06140 |  | Total |
| Document number | Calculated amount | | | | | |
|  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |
| Total |  |  |  |  |  |  |

Notes.

1. \* Day of the payment of tax shall be the day when the State budget receives a tax charge which it is entitled to receive in accordance with Section 23.1, Paragraph two of the law On Taxes and Duties.

2. \*\* A calculation of value added tax has been included in the invoice on the basis of Section 85, Paragraph one and Section 123, Paragraph one of the Value Added Tax Law.

3. The invoice is prepared electronically and is valid without a signature.

4. The number of the invoice for which the payment is made shall be indicated in the payment purpose field.

|  |  |  |
| --- | --- | --- |
| Prepared by |  |  |
|  | (given name, surname) |  |

|  |  |  |
| --- | --- | --- |
| Telephone |  |  |

|  |
| --- |
| Prepared on \_\_\_ pages |

Minister for Finance Dana Reizniece-Ozola