

## TAXES

**General Resolution 2937**  
**O.G. 11/15/10**

**Value Added Tax. Law as amended in 1997 and its amendments. Tax collection system. Final import operations on movable items General Resolution N° 3431 (Argentine Tax Authority) [DGI, as per its Spanish acronym], as amended and supplemented. Its substitution. Updated text.**

Buenos Aires, 10/07/2010

IN VIEW OF the SIGEA Proceedings N° 10462-225-2005 of the Registry of this Federal Administration, and

### WHEREAS:

General Resolution N° 3431 (DGI), as amended and supplemented, set forth a VAT collection system regarding final imports of movable items.

The purpose of this Federal Administration is to make it easy for taxpayers and responsible parties to consult, apply and meet the statutory regulation.

It is consequently advisable to substitute the aforementioned general resolution, as amended and supplemented, by making a single regulatory body and by arranging, revising, and updating the current regulations on the subject.

The Legislation Directorate (Dirección de Legislación), the General Sub-directorates of Legal Affairs (Subdirección General de Asuntos Jurídicos), of Revenue (Subdirección General de Recaudación), of Control (Subdirección General de Fiscalización) and of Services to Taxpayer (Subdirección General de Servicios al Contribuyente), the General Technical Legal Tax Sub-directorate (Subdirección General Técnico Legal Impositiva), the General Technical Legal Customs Sub-directorate (Subdirección General Técnico Legal Aduanera), Tax Authority (Dirección General Impositiva) and Customs Administration (Dirección General de Aduanas) have made the intervention as it corresponds to them.

This resolution is passed by virtue of powers granted by Section 27 of the Value Added Tax Law, as amended in 1997 and its amendments, by Section 22 of Law N° 11,683, as amended in 1998 and its amendments, and by Section 7 of Executive Order N° 618, dated July 10<sup>th</sup>, 1997, as amended and supplemented.

### THEREFORE,

THE FEDERAL ADMINISTRATOR  
OF THE FEDERAL PUBLIC REVENUE ADMINISTRATION  
DETERMINES:

### SCOPE

**Section 1** — A value added tax collection system that will become effective upon final import of movable items, levied by such tax, shall be established.

The system also comprises final imports performed from the duty-free zone to the general or special customs territory, unless they are exempted, as per pertaining legal regulations.

### EXEMPTIONS

**Article 2** — The following final import operations shall be excluded from this system, regarding levied movable items:

a) Whose destination is importer's particular use or consumption, provided that importer is a natural person.

b) That are comprised in Section 26 of the Value Added Tax Law, as amended in 1997, and its amendments.

c) That are regarded by importer as property, plant and equipment, including those subject to "leasing" agreements that may be similar to lease operations. — Section 4 of Executive Order N° 1038/00—, unless importers are those contemplated in subsection b) of Section 7. To that end, "property, plant and equipment" shall be understood as those goods whose useful life is longer than TWO (2) years, for purposes of the amortization contemplated in the income tax.

d) That are bovine cattle, provided that importer acts in the capacity as VAT-registered taxpayer and is owner, lessee, tenant, dealer or any other title-holder under whose name and legal and economic responsibility the slaughtering establishment operates, whether importer is a natural or legal person —including national, provincial and municipal bodies, and bodies from the Government of the Autonomous City of Buenos Aires—.

e) That are introduced in the customs territory through border customs, pursuant to Executive Order N° 161/99 and its supplementary regulations, by means of which the Optional Simplified Import System (Régimen Simplificado Opcional de Importación) was embodied.

f) That are inputs, parts and/or pieces included in the tariff item numbers of the MERCOSUR Common Nomenclature, solely destined to repair or build boats and/or floating devices, provided that importer is VAT-registered taxpayer, and its business is repairing or building boats and/or floating devices, contemplated in the tariff item numbers of the MERCOSUR Common Nomenclature.

g) That have natural gas.

h) That are performed to the Southern duty-free zone from the general or special customs territory.

i) That are especially treated or treated as an exemption in this system, pursuant to general regulations or specific laws in force.

**Article 3** — The aforementioned exemptions shall be listed and published in the institutional website (<http://www.afip.gov.ar>) for users' consultation.

For each situation, this information shall consist of particulars of the applicable regulation, the description of the concept or the condition that the situation shall gather for exemption application and treatment granted in the MARIA Computer System (SIM), by indicating, if pertinent, the declaration codes related to the detailed destinations and the reasons for the particular summary allocations (PART).

### PERSONS SUBJECT TO COLLECTION

**Article 4** — The persons that conduct final imports of movable items shall be subject to collection set forth by this resolution.

Should such subjects be settled in the general customs territory, beneficiaries of promotion systems that grant release or deferral of the value added tax shall be comprised by this system solely regarding the non-beneficiary party.

**Article 5** — Regarding the exemption set forth in subsection f) of Section 2, importers shall submit a notice before the Office of this Federal Administration in charge of controlling tax liabilities, pursuant to the manner and the conditions set out in the General Resolution N° 1128, for the purpose of accompanying a copy certified by an Argentine notary public or enforcement authority. Such copy shall be a copy of the certificate of registration as dockyard in the following registries:

a) National Industrial Registry (Registro Industrial de la Nación), of the Secretariat of Industry, Commerce and Small and Medium-sized Business (Secretaría de Industria, Comercio y de la Pequeña y Mediana Empresa).

b) Company Registry (Registro de Empresas), constituted by the Division of the Company Registry of the Argentine Naval Prefecture (División de Registro de Empresas de la Prefectura Naval Argentina).

## COLLECTION AGENT

**Article 6** — The Customs Administration shall always act in the capacity as collection agent.

## TAX BASE APPLICABLE RATE

**Article 7** — The collection amount shall be determined by applying, for each situation, the following rates on the tax base defined by Section 25 of the Value Added Tax Law, as amended in 1997, and its amendments:

### a) VAT-registered taxpayers:

1. TEN PER CENT (10%), for final import operations on movable items, subject to the general rate set out in the first paragraph of Section 28 of the law on the aforementioned tax.

2. FIVE PER CENT (5%), for final import operations on movable items, subject to a rate equivalent to FIFTY PER CENT (50%) of the rate set out in the first paragraph of Section 28 of the law on the aforementioned tax.

b) Persons that do not evidence their exempted capacity or that are not subject to the value added tax:

1. TWELVE POINT SEVENTY PER CENT (12.70%), for final import operations on movable items, subject to the general rate set out in the first paragraph of Section 28 of the law on the aforementioned tax.

2. FIVE POINT EIGHTY PER CENT (5.80%), for final import operations on movable items, subject to a rate equivalent to FIFTY PER CENT (50%) of the rate set out in the first paragraph of Section 28 of the law on the aforementioned tax.

Goods regarded as property, plant and equipment by importer shall be included in this subsection.

Should persons be comprised in the systems set forth by General Resolutions N° 2238 — “Certificate of Validation of Importers’ Data” (CVDI, as per its Spanish acronym) — and N° 1908 and its amendments —Under-invoicing of goods—, the rates mentioned in the aforementioned paragraph shall be replaced with those set forth by the quoted systems for each situation.

The collection amount shall be liquidated along with the value added tax pertaining to the import, pursuant to provisions of the fourth paragraph of Section 27 of the aforementioned law, and shall be paid as per the procedure established for customs liabilities recorded in the MARIA Computer System (SIM) in the General Resolution N° 1917.

**Article 8** — The amount of collections performed shall have the nature of paid tax, for VAT-registered taxpayers. Such amount shall be calculated by them in the affidavit for the fiscal year to which tax credits generated by final import operations that give rise to collection are attributable.

Should persons be those indicated in subsection b) of Section 7, they may calculate collections performed to them against the tax debit determined by operations made before the date on which they formalize their registration, upon becoming VAT-registered taxpayers.

In such events in which collections generate a credit balance, it shall be regarded as direct income and may be used as per provisions of the second paragraph of Section 24 of the Value Added Tax Law, as amended in 1997, and its amendments.

Should the situation mentioned in the aforementioned paragraph result permanent, the taxpayer may request the exemption certificate set forth by the General Resolution N° 2226.

## IMPORTERS’ OBLIGATIONS

**Article 9** — When any exemption indicated in Section 2 and published in the institutional website (<http://www.afip.gob.ar>) —

pursuant to Section 3 of this Resolution— is verified, the declaration code in the import destinations for consumption registered through MARIA Computer System (SIM), by means of detailed statements, or the reason code in the summary statements (Summary Allocation PART) shall be stated regarding the invoked exemption, as it corresponds.

Statements so performed shall be regarded as affidavit for all legal purposes.

Should there be failure to comply with such liabilities, Customs Administration shall perform the collection pursuant to provisions of subsection b) of Section 7°.

## GENERAL PROVISIONS

**Article 10** — Should this Federal Administration detect deviations in the import destination on account of which access to the exemption system was granted or the existence of tax non-compliances, by means of subsequent control procedures, the responsible party shall be excluded from such system.

**Article 11** — General Resolutions N° 3431 (DGI), N° 3507 (DGI), N° 3955 (DGI) and N° 3964 (DGI), the amendments introduced to General Resolution N° 3431 (DGI) by General Resolution N° 3975 (DGI), Sections of 2 to 10 of General Resolution N° 3474 (DGI), General Resolutions N° 256, N° 317, N° 1021, N° 1048, N° 1100, N° 1748, N° 2103, Section 1 of General Resolution N° 157, Section 1 of General Resolution N° 213, Letter N° 1262/91 and item 2 of Letter N° 1345/96 shall be rendered ineffective as from effective date hereof, notwithstanding application to facts and situations occurred during its effectiveness.

**Article 12** — Provisions of this general resolution shall become effective as from the first day of the second month, subsequent to the month of its publication in the Official Gazette.

Every quote made in current regulations regarding General Resolution N° 3431 (DGI), as amended and supplemented, shall be understood as referred to this general resolution, for which applicable regulatory adaptations shall be considered in each situation —if pertinent.

**Article 13** — Be registered, submitted to the National Directorate of the Official Registry (Dirección Nacional del Registro Oficial) for its publication. Be published in the Bulletin of the Customs Administration and be filed. — Ricardo Echegaray