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Strategies for U.S. businesses in Europe- Trade, Customs and VAT

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Topics

- About Greenberg Traurig, LLP
- European logistics via the Netherlands
- Main Customs and VAT principles in the EU
- Customs planning
- VAT planning

About Greenberg Traurig, LLP in Amsterdam

- Greenberg Traurig is an International law firm with 30 offices in the USA, Europe and Asia
- We provide legal, tax, customs and civil notarial
- In the Amsterdam office we have specialists in the areas of e.g. employment, IP, M&A, personal and corporate income tax, International taxation, VAT and customs
- The Amsterdam GT office is an integrated part of the GT Network
- “The legal gateway to Europe”

Logistics via the Netherlands

4 basic but important questions:

- Is it required to set up a branch office or separate legal entity? *No*
- Does importing and distribution via the Netherlands result in a Dutch corporate income tax liability? **Not necessarily**
- Can a US company be the importer of merchandise into the EU? *Yes*
- Will Value Added Tax become payable when importing into the Netherlands? *Not necessarily*

Main Customs principles in the EU

- From a customs duty perspective, it makes no difference whether goods are imported via the Netherlands or another EU Member State
- Interpretation of Customs legislation can however differ between the countries
- After customs clearance in one EU country, goods can be distributed to other EU locations without any customs interference (“free circulation within the EU”)
- In general: centralizing import and Customs compliance is recommendable

Main VAT principles in the EU

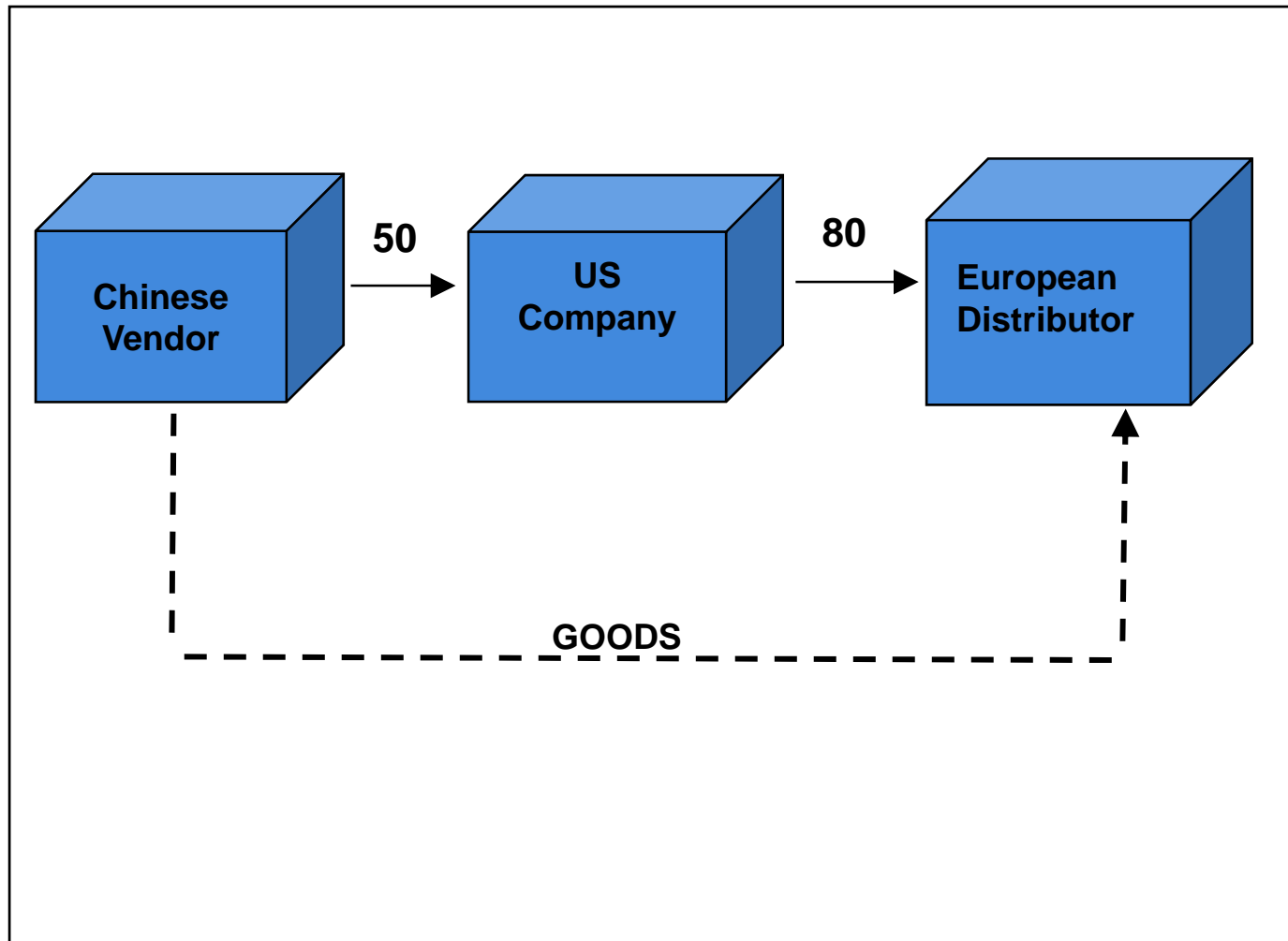
- VAT rules can be found in both EU Directives and national legislation
- Differences in VAT regimes in the EU Member States when it concerns compliance, simplified regimes, moment of VAT payments and refunds, etc
- VAT is in principle due when goods and services are supplied by VAT entrepreneurs and when goods are imported
- Most VAT entrepreneurs can reclaim all VAT due, so VAT is not an actual cost
- VAT planning is required to avoid actual payments and compliance related problems

Customs duties due:

Customs Value X Duty Rate = Duties due

- So lowering the value and/or rate immediately leads to savings
- The EU knows a number of important saving opportunities (including exemptions)
- In the Netherlands all savings can be ruled with Customs, so secured for a number of years

Sourcing from a third party vendor (i.e. in China) – Customs valuation



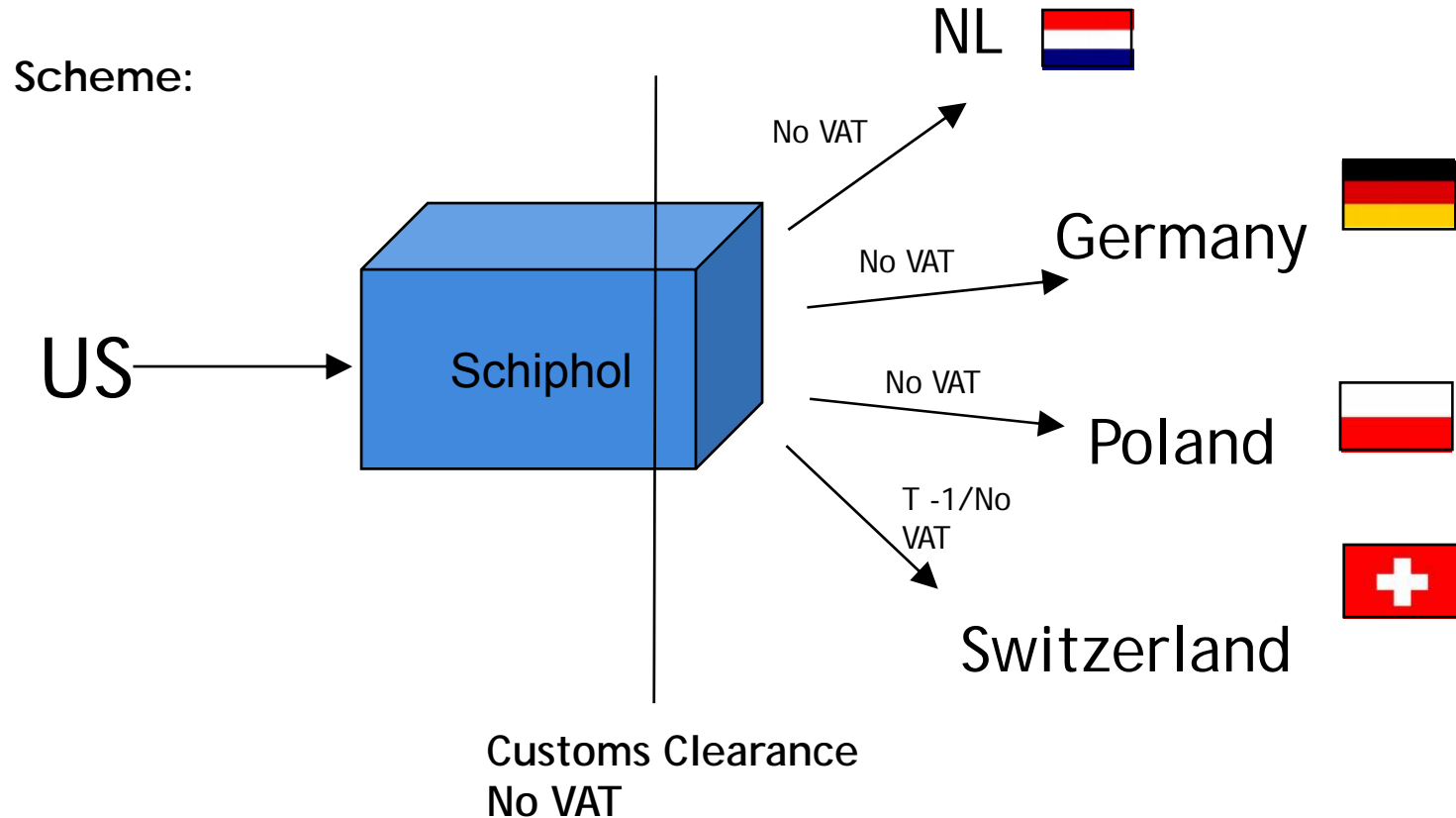
Customs duty rate

- Classification in EU Combined Nomenclature (which is based on the Harmonized system)
- Rule classification with Customs: Binding Tarrif Information
- Duty suspension – if no or limited product available on EU market
- Duty zero rate for “green products”?

VAT consequences European distribution via the Netherlands

- No VAT at import. VAT deferred to periodical VAT return. No VAT paid to Customs
- Fiscal representative may be needed
- No VAT due on sales to EU entrepreneurs established outside the Netherlands
- No VAT due on sales to non-EU customers
- If US company sells to Dutch company, no VAT due on domestic sale

Example VAT consequences European distribution



Internet sales (B2C)

- Special regime for B2C sales
- When EU customers are supplied from the Netherlands, Dutch VAT is due
- If sales to customers in a EU Member State exceed a threshold (different per country) regime changes. Suppliers should register in the EU Member State in which customer is established and local VAT is due.
- Consequences for VAT compliance

Conclusions

- From a customs and VAT point of view it is beneficial to organize European distribution via the Netherlands
- Customs duty savings are available and can be ruled with Customs
- Dutch VAT at import regime is huge advantage
- Proper set up is important – Ensure compliance



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Thank you

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