

INCLUSION OF LICENSE FEES IN THE CUSTOMS VALUE

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Dear customers and partners,

The customs authorities are currently paying close attention to the inclusion of license fees in the customs value. Inspections have become more frequent due to the publication on December 25, 2020 of the [Report of the Accounting Chamber of the Russian Federation on the results of the inspection of the completeness of customs payments to the federal budget](#), which revealed a significant underpayment of license fees and a reduction of the customs value. Among the reasons for this trend the Accounting Chamber noted the lack of awareness of both the customs authorities and the importers themselves of the information on license fees. The Accounting Chamber made a recommendation to the customs authorities to check more frequently and carefully the inclusion of license fees in the customs value.

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License payments in cross-border trade include payments for the right to use the result of intellectual properties. License payments are charged in case of cross-border trade of trademark products, inventions, utility models, industrial designs, trade secrets, works of science, literature, art.

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According to Article 40 of the Customs Code of the Eurasian Economic Union (EEU), the following criteria must be considered in determining whether license fees should be included in the structure of the customs value:

1. Whether the license payments relate to the imported goods;
2. Whether the payment of license fees is a condition for the sale of imported goods for entry into the customs territory of the EEU.

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According to the aforementioned article, both criteria must be met simultaneously, but in practice the customs authorities often require that license fees be included in the customs value if only one of these conditions is met.

Due to the increasing risk of customs inspections on this issue, we recommend checking the requirements to include the license fees in the customs value by your company. For this purpose, it is necessary to pay attention to the terms of payment of license fees in the license agreement, if there is one, and/or to the terms of the formation of the value of goods in the applicable supply agreement.

In case of such a request from the customs authorities, it is required to provide an explanation of the procedure for calculating the license fees in your company. It is recommended to provide such a documented statement in advance in order to be able to respond promptly to possible requests.

We will be happy to answer your questions!

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