FAQs

Doing Business in India

EXIM

1. What is export obligation under post export EPCG Scheme and how the same is fixed?

The export obligation under post export EPCG Scheme is equivalent to eighty five percent. (85%) of six times the amount which is the sum of applicable Basic duty of customs, additional duty of customs, Education Cess and Secondary and Higher Education Cess paid on goods imported under the said authorisation, on FOB basis, which is to be fulfilled within an export obligation period of six years from the date of issue of the said authorization. However, additional duty of customs shall not be taken for computation for the purpose of fixation of export obligation when the Cenvat Credit in respect of additional duty of customs has not been taken.

2. Does the RBI provide refinance to banks on providing export?

As announced in the Sixth Bi-Monthly Monetary Policy Statement, 2014-15 dated February 3, 2015, it has been decided to merge the Export Credit Refinance (ECR) facility with the system level liquidity provision with effect from the fortnight beginning on February 7, 2015. Accordingly, no new refinancing under the ECR will be available after February 6, 2015 and the refinancing availed up to February 6, 2015 may continue till its maturity.

3. What is the new policy for import of gold by the banks?

The new policy for import of gold is yet to be notified by RBI post scrapping of 20: 80 scheme on 28th November 2014 and it is anticipated that this would also be accompanied by some change in duty structure.

4. Can we offset the payment receivable from importer towards consultancy to be paid to him?

You are permitted to capitalise the payments due from the foreign entity towards exports, fees,

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royalties or any other dues from the foreign entity for supply of technical know-how, consultancy, managerial and other services within the ceilings applicable. Capitalisation of export proceeds remaining unrealised beyond the prescribed period of realisation will require prior approval of the Reserve Bank of India.

5. We have exported in a foreign currency which does not appear in the list of customs. How can we calculate the foreign exchange received for discharging our export obligation?

In such cases, total realised value in rupee as mentioned by bank in the eBRC should be converted into $ by using the $ or INR exchange rate prevailing on the date of realisation as published by customs through notification.

6. What is the procedure for import under Government to Government agreement?

Import of goods under Government to Government agreement may be allowed without an Authorisation or CCP on production of necessary evidence to satisfaction of Custom Authorities.

7. Can we avail benefit of basic customs duty under post Exports EPCG if I am not availing CENVAT. How will the export obligation under EPCG would be fixed under post export EPCG Scheme?

Duty credit scrips issued under Post Export EPCG Scheme will be issued only in respect of basic customs duty, even when you are not availing CENVAT. Since the concession under post exports EPCG is confined to basic customs duty, the Export Obligation shall be fixed with reference to the basic customs duty paid by you. However, you will be required to furnish a certificate from Central Excise regarding non-availment of CENVAT credit. Such certificate from central excise regarding non-availing of CENVAT credit will not be required where the unit is not registered with central excise.

8. Can we discharge export obligation under EPCG by selling ITA 1 products in the domestic market?

Supply of ITA-1 items to Domestic Tariff Area, provided realization is in free foreign exchange, is considered for meeting the export obligation under EPCG Scheme and thus you can do it.

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9. Can we get refund of Service Tax on payments made for Certificates of Origin (COO) to FIEO or other Chambers of Commerce?

FIEO or EPC or Trade Association which issues COO Certificate acts as a technical inspection and certification agency, and issuance of COO attracts service tax under ‘ technical inspection and certification agency ’ service. Service tax paid on ‘ technical inspection and certification ’ of export goods is eligible for refund under Notification 17/2009-ST dated 7th July, 2009.

10. Whether export of Music Software is export of goods or services?

If the music software is exported in Physical Form (CD), it will be treated as physical export goods. However, if the same is going in soft form, it would be treated as services exports.

11. We want to export prohibited goods. Can we take advance authorization for import of inputs duty free?

You may avail advance authorization for import of inputs for manufacture of a product which is prohibited for exports. However such authorization will have to meet the following conditions, in addition to usual conditions: (i) That the export is made subject to pre-import condition which is manufactured in India using the material imported against the said authorisation; and (ii) The facility under rule 18 (rebate of duty paid on materials used in manufacture) or sub-rule (2) of rule 19 of the Central Excise Rules, 2002 should be availed.

12. What are Free Trade Agreements (FTAs)?

FTAs are arrangements between two or more countries or trading blocs that primarily agree to reduce or eliminate customs tariff and non tariff barriers on substantial trade between them. FTAs, normally cover trade in goods (such as agricultural or industrial products) or trade in services (such as banking, construction, trading etc.). FTAs can also cover other areas such as intellectual property rights (IPRs), investment, government procurement and competition policy, etc.

13. In case an EOU is procuring raw material from the indigenous market and then selling the product in the DTA then what is the amount of duty they are required to pay?

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In case an EOU making a product by procuring 100% raw material indigenously, then such product can be sold in the domestic market on payment of basic duty. Department of Revenue Notification No. Cicrular No. 85/2001-Cus., dated 21/12/2001, may please be seen. For more. go to link.

14. How can EOUs get star status?

As per the present provision given in Chapter 3, paragraph 3.21 of the Foreign Trade Policy, exporters are given recognition as a 1 star export house, 2 star export house, 3 star export house, 4 star export house and 5 star export house etc. The eligibility criteria is:- (1) One Star Export House -3 million $ (2) Two Star Export House – 25 million $ (3) Three Star Export House - 100 million $ (4) Four Star Export House -500 million $ (5) Five Star Export House – 2000 million $.

15. What are the different kinds of duties of custom levied on imported goods?

Different kinds of duties of customs levied on imported goods are (i) Basic Customs Duty (ii) Additional levies like Countervailing duty, Anti dumping duty, safe guard duty etc. In addition, cess duty is leviable on certain goods. Section 12 of the Customs Act, 1962 authorises the Customs Officers to levy and collect these duties.

16. What is custom duty and its different types ?

Customs duty is the duty charged on goods on their importation into India or exportation out of India. There are two types of rates of duty of Customs: 1. Ad valorem rate i.e., the duty is charged on the basis of value. 2. Specific rate i.e., on the basis of quantity/number/ volume

17. Can an Indian company invoice in Indian Rupees? Will such a company be eligible for exports benefits?

As per para 2.52 FTP 2015-20, all export contracts and invoices shall be denominated either in freely convertible currency or Indian rupees but export proceeds shall be realized in freely convertible currency. However, export proceeds against specific exports may also be realized in rupees, provided it is through a freely convertible Vostro account of a non resident bank situated in any country other than a member country of Asian Clearing Union (ACU) or Nepal or Bhutan. Additionally, rupee payment through Vostro account must be against payment in free foreign

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currency by buyer in his non-resident bank account. Free foreign exchange remitted by buyer to his non-resident bank (after deducting bank service charges) on account of this transaction would be taken as export realization under export promotion schemes of FTP.

18. What is provisional assessment?

When an importer/ exporter is unable to produce necessary documents or information for assessment of duty on goods, or when the necessary documents are needed to produce but the proper officer of customs may deem it necessary to make further enquiry for assessing the duty, he may resort to provisional assessment, pending such enquiry a provisional assessment of goods maybe be requested.

19. What are ‘ Project Imports ’ ? What are the advantage of importing under project import regulation?

Project Imports are the imports of machinery, instruments, and apparatus etc., required for initial sating up of a unit or for substantial expansion of an existing Unit. The exported goods are charges duty at a flat rate of duty under the same tariff heading. Project Imports assessment is a scheme of assessment which is designed to help expeditious and easy assessment of variety of industrial goods falling under different chapters of the Customs Tariff.

20. What are the documents to be filled to clear the imported goods for home consumption?

1) Supplier ’ s invoice. 2) Import Authorisation, if applicable 3) Bill of lading (original and non-negotiable). 4) Packing list (2 copies). 5) If invoice is for FOB, freight charges and insurance premium amount certificate should be attached. 6) Catalogue/write/up/drawing for machinery items. 7) If second hand machinery is being imported then Chartered Engineers certificate is necessary as per the Import Export Policy 8) If steel is being imported then analysis certificate from manufacturers. 9) In the case of chemicals & allied products like synthetic resin wax, literature showing chemical composition. Apart from the above the importers are also required to file declaration in the prescribed form by the importers regarding correctness of the contents and the value of the goods.

21. When should the bill of entry be filed and what are its different kinds?

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Bill of entry can normally be filed to clear the goods after the Import General Manifest (IGM) is presented to the Customs Officers by the Steamer Agents / Airlines, as the case may be. The following are the types of Bill of Entry •Home consumption Bill of entry: This has to be filed when the importer wants to clear the goods on payment of duty and remove them to his premises immediately. •Into bond Bill of entry: It is also known as Warehousing Bill of Entry. This has to be filed when the importer does not want to pay duty immediately but prefers to keep the goods in a warehouse and pay the duty subsequently and clear the goods for home consumption. •Ex-bond Bill of entry: This has to be filed when the importer wants to clear the warehoused goods for home consumption on payment of duty

22. What are Rules of Origin (ROO)?

They are the criteria needed to determine the of a product for purposes of international trade. It is important because duties and restrictions in several cases depend upon the source of imports. Rules of origin are used: to implement measures and instruments of commercial policy such as antidumping duties and safeguard measures;, whether imported products shall receive most-favoured-nation (MFN) treatment or preferential treatment, for trade statistics; for the application of labelling and marking requirements; and for government procurement.

23. What are the goods eligible for being financed under the LOCs?

Under the LOCs, export of capital goods, plant and machinery, industrial manufactures, consumer durables and any other items eligible for being exported under the 'Exim Policy' of the Government of India can be financed.

24. What are the benefits of the LOC to the overseas importer of Indian goods and services?

Exim Bank has been using the LOC mechanism for promoting India's exports to the traditional as well as new markets in developing countries, which need deferred credit for buying Indian machinery, goods and services. As the LOC is extended by Exim Bank on internationally competitive terms, the overseas importer of Indian goods is allowed access to the credit facility at competitive interest rates. The overseas importer and the Indian exporter do not have to negotiate credit terms separately as the credit arrangement between Exim Bank and the overseas borrower financial institution is already in place.

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25. What is the procedure for import of items which is governed through exclusive or special privileges granted to State Trading Enterprises (STE)(s)?

Any goods, import of which is governed through exclusive or special privileges granted to State Trading Enterprises (STE(s)), may be imported by STE(s) as per conditions specified in ITC (HS). DGFT may, however, grant an Authorisation to any other person to import or export any of these goods under CHAPTER 2 of the Foreign Trade Policy 2015-2020. More details can be obtained from : Link

26. What is the validity of an import authorization?

Validity period of Import / Export Authorisations varies from 12 months to 24 months, depending on type or authorisation and Items. However, DGFT may decide to issue specific authorisation/ class of authorisations for a longer/shorter validity period. For details you may refer para 2.16 of the document : Link

27. How do I find HS Code for my product?

If you want to know the HS Code, Click on ‘ ITC HS Based Policy ’ on the website of DGFT. A new window will open as ITC(HS) Query Form. Insert the name of the product in the description option to know the HS Code of your product. Similarly, if you want to know the product and are already aware of the HS Code, enter the ITC(HS) Code (e.g. 0324) option to know the product.

28. What are ITC(HS) Codes?

ITC(HS) Code or better known as Indian Trade Classification (Harmonized System) Code was adopted in India for import – export operations. ITC (HS) is a compilation of codes for all merchandise / goods for export/ import. Goods are classified based on their group or sub-group at 2/4/6/8 digits. ITC (HS) is aligned at 6 digit level with international Harmonized System goods nomenclature maintained by World Customs Organization Link. However, India maintains national Harmonized System of goods at 8 digit level which may be viewed through the following Link

29. Can a Public Limited Co. / Private Limited Co./ Partnership obtain different IECs for different concerns owned by it ?

No. However, the name of each concern owned by such a company may be included in the IEC of the

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firm in whose name PAN exists, as a branch.

30. What is the procedure for transfer of imported goods?

Freely importable goods can be transferred by sale or otherwise by importer freely. Transfer of imported goods, which are subject to actual user condition and have become surplus to the needs of actual user, shall be made only with prior permission of DGFT (HQ). For details relevant para 2.43 of Handbook of Procedures may be seen.

31. What is the procedure for import of prototypes?

Import of new / second hand prototypes / second hand samples may be allowed on payment of duty without an authorisation to an actual user (Industrial) engaged in production of or having industrial licence / letter of intent for research in item for which prototype is sought for product development or research, as the case may, upon a self – declaration to that effect, to satisfaction of customs authority.

32. What are restricted items and what is the procedure to import them ?

All goods, import of which is permitted only with an authorisation / permission / license or in accordance with the procedure prescribed in a notification / public notice are ‘ restricted ’ goods. For import of goods mentioned in Schedule 1 of ITC (HS) Classification of Export & Import 2012, an application for grant of an Import Authorisation may be made to the concerned Regional Authority of DGFT in Aayaat Niryaat Form 2B(ANF 2B) along with documents prescribed therein, with two copies of the complete set to DGFT(HQ) at Udyog Bhawan, New Delhi. The requests for such imports are considered by Inter Ministerial Committee meeting.

33. What are the basic requirements to import goods?

The requirements are as follows :- •submit an application to the Directorate General of Foreign Trade and obtain Importer and Exporter Code (IEC) number •IEC has to be indicated in the documents filed with the Customs for clearance of the imported goods •In the case of 100% EOUs / EPZs the importer and Exporter Code (IEC) numbers are allocated by the Development Commissioner of Export Processing Zone concerned. •Every good imported shall be in conformity with Section 11 of the Customs Act 1962, Foreign Trade (Development & Regulation) Act 1992 read with the EXIM policy in force.

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34. Can an IEC number be modified?

Yes, Modifications in IEC number are applied online in ANF 2A.

35. Does IEC need to be revalidated after a period of time?

No, IEC need not be revalidated if the PAN is incorporated in it, but the same needs to be updated for changes in name / address / constitution.

36. Can I surrender Import Export Code number if I do not wish to operate as Exporter Importer?

If an IEC holder does not wish to operate allotted IEC number, he may surrender same by informing issuing authority. On receipt of such intimation, issuing authority shall immediately cancel it and electronically transmit it to DGFT and Customs authorities.

37. What is the validity of IEC?

An IEC allotted to an applicant shall have permanent validity unless cancelled by the competent authority. The IEC will cover all branches / divisions / units / factories of the applicant.

38. What documents does a foreign national need to provide for obtaining Import Export Code?

Non-resident Indians (NRI) have to follow the normal application procedure while applying for IEC. In addition, permission from RBI/ FIPB is needed in some cases. Further the following documents are also required for IEC code: • Board Resolution • Memorandum of Association • copy of Passport • All documents prescribed for Indian Citizen/ company/ Proprietorship firm For more information, click here.

39. What is the duration to get an IEC after filing application for Import Export Code number?

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Normally IEC number is issued within two to three days, if all documents are in order.

40. Is PAN Number / PAN card essential for IEC? What are the alternatives?

After introduction of GST, PAN is the IEC.

41. What are the documents needed for an Importer Exporter Code application?

The following documents to be submitted/ uploaded along with the application for IEC: A. Entity seeking the IEC: (1) PAN of the business entity in whose name import/export would be done (Applicant individual in case of Proprietorship firms). (2) Address proof of the applicant entity. (3) LLPIN /CIN/ Registration Certification Number (whichever is applicable). (4) Bank account details of the entity. Cancelled cheque bearing entity ' s pre-printed name or Bank certificate in prescribed format ANF2A(I). B. Proprietor/ Partners/ Directors/ Secretary or Chief Executive of the Society/ Managing Trustee of the entity: (1) PAN (for all categories) (2) DIN/DPIN (in case of Company /LLP firm) C. Individual/ signatory applicant: (1) Identity proof (2) PAN (3) Photograph More details on documents can be obtained from the following Link C. Individual/ signatory applicant: (1) Identity proof (2) PAN (3) Photograph More details on documents can be obtained from the following Link

42. What is the procedure to apply for an Importer Exporter Code?

The necessary application for Import Export Code number can be downloaded from the website of the Directorate General of Foreign Trade (DGFT) through the following url: http://dava.gov.in:8080/dgftiec/panSearch.jsp

43. Where to obtain an IEC ?

IEC number is issued by Directory General of Foreign Trade at each regional offices where the exporter/importer is situated. DGFT has recently introduced the facility of issuing Importer Exporter Code in electronic form (e-IEC). For issuance of e-IEC an application can be submitted online on DGFT website: Link. Applicants can upload the documents and pay the required fee through Net banking.

44. Can more than one IECs be obtained under a single PAN?

No, only one IEC could be issued against a single Permanent Account Number (PAN). If any PAN

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card holder has more than one IEC, the extra IECs shall be disabled. For more information, click here.

45. Which categories do not need an Importer Exporter Code (IEC)?

Few categories are exempted from IEC, such as: Ministries/ Departments of Central or State Government, Persons importing or exporting goods for personal use not connected with trade or manufacture or agriculture etc. Detailed lists of exempt categories and corresponding permanent IEC numbers are given in the section named " IEC No. Exempted Categories" in the link provided below. For more information, click here

46. Can Export /Import be made without Importer Exporter Code?

No person is allowed to make any import or export without an IEC. IEC forms a primary document for recognition by Govt. of India as an Exporter/ Importer. However, there are a few exceptions listed down by the Directorate General of Foreign Trade. For more information, click here.

47. Importer Exporter Code (IEC) is mandatory in which cases?

Any bona fide person/ company starting a venture for International trade or any foreign transfers on account of business, IEC number is mandatory. For more information, click here.

48. What does IEC stand for?

IEC Stands for Importer Exporter Code. For more information, click here.

49. Does my product fall under the restricted list of export or import regulations?

The Directorate General of Foreign Trade publishes a general list of restricted imports that can be accessed from this link.

50. How to set up an import export unit in India?

For an individual/ business unit to avail incentives under the Foreign Trade Policy, it must first

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register itself as an EXIM unit. Following are the broad steps to register as an EXIM unit: Incorporation of Company To open a current account Obtain Import export code/PAN Obtain registration cum membership certificate Get risk coverage policy For more information, click here.

51. Which is the issuing authority for Import Export Code?

IEC number is issued by Directorate General of Foreign Trade at each regional office where the exporter/importer is situated. It has recently introduced the facility of issuing Importer Exporter Code in electronic form (e-IEC). For issuance of e-IEC an application can be submitted online on DGFT website. Applicants can upload the documents and pay the required fee through net banking. For more information, click here.

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