

Temporary import, customs and value added tax

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Works of art and other goods brought to a fair from abroad must pass through customs. Since most exhibitors at Art Basel come from outside Switzerland, the customs treatment of their works is a central practical question. Swiss customs law allows goods to be imported temporarily for exhibition at fairs without the payment of import duties and value added tax, provided that they are re-exported within the period allowed. The customs regime of temporary use under the Customs Act and the international system of ATA carnets, based on the Customs Convention on the ATA Carnet of 1961 and the Istanbul Convention of 1990, provide the framework. An ATA carnet allows goods to be imported temporarily into countries that are parties to the conventions with a single document, guaranteed by the chamber of commerce that issues it.¹

When a work exhibited at the fair is sold to a buyer who keeps it in Switzerland, the temporary import must be converted into a definitive import, with the payment of value added tax on the import value. Switzerland levies no customs duty on works of art, so the main charge is import VAT at the standard rate, which since 2024 has been 8.1 per cent. If the work is re-exported to the buyer's country, the Swiss authorities levy no tax, leaving the buyer to pay import tax in the country of destination. Fair organisers and their customs agents therefore operate on-site customs services at the fairground to handle the formalities for exhibitors. For a work sold to a buyer in the European Union, the applicable rate depends on the member state, several of which apply reduced rates to imports of works of art.²

The VAT treatment of art sales in Switzerland includes a margin scheme for works of art, collectors' items and antiques. Under this scheme, a dealer who has bought a work without being able to deduct input tax may calculate the tax on the difference between the purchase price and the sale price. The scheme avoids the double taxation of works that pass through

several hands. Galleries that sell works on commission for artists, or that act as agents for collectors, must analyse whether they act in their own name or in the name of the principal, since this determines the VAT treatment. These questions are technical, yet they can determine the economics of a transaction worth millions.³

1 Notes

1. On the customs procedure of temporary use (vorübergehende Verwendung) under Article 9 and Article 58 of the Customs Act (ZG, SR 631.0) and the ATA carnet under the Customs Convention on the ATA Carnet for the Temporary Admission of Goods (Brussels, 1961) and the Convention on Temporary Admission (Istanbul, 1990), see the publications of the Federal Office for Customs and Border Security and the Swiss chambers of commerce. To be verified. ↩
2. On the absence of customs duty on works of art in Switzerland, the standard VAT rate of 8.1 per cent since 1 January 2024 (Art. 25 VAT Act, MWSTG, SR 641.20), and the reduced rates for imports of works of art in EU member states under Directive 2006/112/EC as amended by Directive (EU) 2022/542, see the relevant legislation. Rates to be verified. ↩
3. On the margin taxation of works of art, collectors' items and antiques under Article 24a of the VAT Act (MWSTG) and the distinction between direct and indirect agency under Article 20 MWSTG, see the publications of the Federal Tax Administration (MWST-Branchen-Info on art) and the VAT literature. To be verified. ↩

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