

## **BE WARY OF TAXMAN'S POWERS TO SEIZE GOODS: By Jonathan Hore**

Back then when I was a Customs Officer, I used to get adrenalin rush when I had to seize a taxpayer's goods for breach of Customs laws. It made me feel so powerful and full of authority. Looking back, I realise that I was excited simply because I had recently graduated from varsity and all of a sudden had some powers conferred on me by the Customs Act. In reality, there was nothing to be excited about. It had nothing to do with me and there was no need for the adrenalin rush. I want to discuss the taxman's powers to seize goods and show you why this may be done. In this article, words importing the masculine shall be deemed to include the feminine.

### **Notice of seizure**

A notice of seizure is a document that is issued by the taxman as and when he seizes goods from a taxpayer. The document technically takes away possession of the goods from the taxpayer, unless and until it is lifted. It is a document which derives its powers from section 375 of the Customs Act 2018 and once issued, it cannot be broken except if it is established that the seizure was erroneous or if the fault is rectified. Technically, the notice may even be issued way after goods are imported.

### **Why this notice?**

The notice of seizure may be issued if someone is caught trying to import banned goods such as marijuana or cocaine. In such cases, the goods then become the subject of litigation and the matter can only be solved by the courts of law. Sometimes, goods may be detained by taxman because the taxpayer was trying to import or export them without a licence, as may be prescribed in law. A good example is the importation of animals which requires permits from the ministry responsible for agriculture or the importation of medical drugs which needs approval from the health authorities.

Goods may also be seized way after importation if the taxpayer fails to produce proof that the goods were properly cleared for Customs. Some of you may remember that the taxman seized a lot of imported cars, the so-called fong kongs a few months back. In such cases, the goods can only be released upon furnishing the taxman with correct proof of importation. Goods may also be detained or seized if they overstay in the country.

Goods may be seized and taken to a Customs office or where this cannot be done, they may be seized 'in situ.' A 'seizure in situ' is applied to goods which are not easily movable or which are hazardous to move such as explosives. These may be sized wherever they are found, i.e. 'in situ.'

### **Reacting to a seizure**

Taxpayers need to know that the taxman is authorized by the Customs Act to seize goods and the next thing to do when goods are seized is to engage a tax or customs consultant. Sometimes, the seizure may be premised on some misunderstanding and when the taxman gets a written submission, he may thereafter release the goods. Further, if the goods would have overstayed in the country, it is possible to negotiate for their release on condition that they are exported after paying a fine.

### **Conclusion**

To avoid the seizure of goods, ensure that the goods are properly cleared for Customs purposes and that you have all the permits that may be required by law. I can assure you that getting your goods seized by the taxman can be a nasty experience, especially if it becomes public. The best thing is to avoid it by playing the Customs game safe.

Well folks, I hope that was insightful. As Yours Truly says goodbye, remember to pay to Caesar what belongs to him. If you want to join our Tax whatsapp group or know more about our 8 Tax e-books, send me a text on the number below.