



**ACCOUNTANCY
EUROPE.**

MODERNISING VAT

Agreed simplification measures

FACTS.

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HIGHLIGHTS

This fact sheet provides an overview of current EU initiatives in respect of VAT, for persons with a working knowledge of the European VAT system.

These measures have different objectives. Some are aimed at improving the competitiveness of the Digital Single Market and others to increase the cross-border trading activity of smaller businesses. Some provisions address weaknesses or inequalities in the current VAT system. Finally, Definitive Regime proposals have been introduced after over a quarter of a century of discussions and negotiations to modernise the European VAT system and make it more effective in the fight against fraud.

Accountancy Europe has created five fact sheets that set out the proposals according to themes and provide a summary of the current situation, the changes agreed or proposed, and an indication of the potential impact of these changes on businesses affected. This publication focusses on simplification measures that have been agreed upon at EU level.

It will be clearly marked whether the proposals have been agreed or are still under negotiation.

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INTRODUCTION

The last two years have seen an unusually large number of EU VAT legislative proposals. Some are proposed solutions to urgent issues, some are designed to improve the competitiveness of the Single Market and others are the culmination of many years' work leading towards fundamental reforms.

Taken together, they could represent a fundamental change to the European VAT system that will affect all EU businesses that trade cross-borders.

These proposals require unanimity from the Member States to become law - this process is often problematic as Member States have their own priorities and concerns. Some changes have already been approved but it is possible that some will never be approved. Here, simplification measures that have been agreed upon at EU level are outlined.

PURPOSE AND AUDIENCE

This fact sheet is intended to be a high-level summary of the legislative proposals.

The topics covered are often quite complex, and this publication is targeted at people who have a working knowledge of the European VAT system. Links to the draft and final legislation will be provided. Where the file is still undergoing negotiations, the implementation dates shown will be target dates, but the actual effective date of implementation may be considerably later, depending on the complexity of the issues.

LEGISLATION SUMMARY

The main legislative proposals recently have been:

Confirmed	In negotiation
December 2016 – Modernising Cross-Border E-Commerce	October 2017 – Proposals for the Definitive Regime
December 2016 – A Generalised Reverse Charge Mechanism	January 2018 – Special Schemes for SMEs
October 2017 – Quick Fixes	January 2018 – Liberalising VAT rates
	May 2018 – Detailed Technical Measures for the Definitive VAT System
	December 2018 – Detailed Technical measures for the transfer of payment data ¹ and supplies facilitated through electronic interfaces ²

One aspect of many of these measures is to extend the scope of the Mini-One Stop Shop (MOSS) to cover goods and services other than electronic services. Should these proposals be adopted in their entirety, the options available to businesses for reporting and paying VAT on supplies to other Member States will be greatly increased. We have prepared a graphic to summarise these options, which is available [here](#).

Broadly, the proposals cover the following themes:

- simplification measures (agreed)
- simplification measures (in negotiation)

¹ COM(2018) 812 final and COM(2018) 813 final

² COM(2018) 819 final and COM (2018) 821 final

- anti-fraud measures
- fundamental changes to the European VAT system
- VAT rates measures

The document outlines the simplification measures that have been agreed. To consult additional elements of the VAT proposals, please visit this page.

The document will outline the current position, describe the main proposed changes and indicate the degree of progress that has been made for each.

This paper is based on proposed amendments to Council Directive 2006/112/EC³ ('the VAT Directive') and supporting regulations. All reference to legislation refer to the VAT Directive, unless otherwise stated. Changes to the VAT Directive must be transposed into national legislation and their impact will differ between Member States due to existing national VAT legislation.

A version of Council Directive 2006/112/EC that includes the amendments should the proposed changes be enacted is also available.⁴

³ Consolidated version is available from <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:02006L0112-20160601>

⁴ https://ec.europa.eu/taxation_customs/sites/taxation/files/vat_directive_with_details_for_the_definitive_system_en.pdf

SIMPLIFICATION MEASURES (AGREED)

E-COMMERCE

These simplification measures aim to reduce barriers to cross-border e-commerce, as part of the Digital Single Market Strategy for Europe. An EU threshold to allow certain suppliers to use home country rules will be introduced with effect from 1 January 2019 to assist micro-businesses with issues arising from the introduction of the Mini-One Stop Shop (MOSS) for cross-border supplies of electronic services. It is hoped that cross-border distance sales of goods to consumers will be encouraged by extending the MOSS to cover such supplies from 2021.

Measures outlined	Implementation date
€10 000 threshold for cross-border supplies of electronic services to all EU States ⁵	1 January 2019
€10 000 threshold for cross-border supplies of goods and services ³ Existing distance selling rules withdrawn	1 January 2021
Simplified evidence requirements for cross-border electronic services ⁶	1 January 2019
Home country invoicing rules for cross-border electronic services ³	1 January 2019
No invoices required for distance sale of goods ³	1 January 2021
Extension of (M)OSS to cover cross-border supplies of goods ³	1 January 2021
Extension of (M)OSS to imports with a value of less than €150 at point of sale by sellers or market places ³	1 January 2021
Errors can be corrected on subsequent OSS returns ³	1 January 2021
Simplified arrangements for declaration and payment of import VAT where OSS not used ³	1 January 2021
Co-operation between Member States on VAT audits ⁷	1 January 2021

⁵ Council Directive (EU) 2017/2455 5 December 2017

⁶ Council Implementing Regulation 14127/17 amending Implementing Regulation (EU) No 282/2011 28 November 2017

⁷ Council Regulation amending Regulation (EU) No 904/2010 28 November 2017

€10 000 THRESHOLD FOR CROSS-BORDER SUPPLIES OF GOODS AND SERVICES – SIGNIFICANT SIMPLIFICATION FOR MICRO-BUSINESSES AND START-UPS

Current situation

Cross-border electronic services to non-taxable persons – suppliers must either register for VAT in each Member State in which they make sales or make use of the simplified reporting procedure provided by the Mini-One Stop Shop (MOSS).

Cross-border supplies of goods to non-taxable persons – suppliers must register in each country where they make supplies and charge VAT at the rate applicable in that country unless the total value of such supplies falls below the distance selling thresholds set by that country.

The changes will come in two stages.

Stage one - changes from 1 January 2019. Cross-border electronic services will be treated as domestic sales. This means that the supplier applies its home country's VAT rules and pays any VAT due to its national tax authority. Member States must give the supplier the option to apply the normal place of supply rules.

Conditions

- **location:** The supplier must be established or resident in only one Member State and the consumer must be a non-taxable person located in another Member State
- **sales threshold:** VAT exclusive annual sales from electronic services into all Member States must not exceed €10 000 in both the current year and the preceding year. If the threshold is breached during a calendar year, normal place of supply rules apply (i.e. taxation in the Member State of consumption)

Stage two - changes from 1 January 2021. This scheme is extended to all supplies of **services to non-taxable persons** and **goods** despatched or transported to another Member State. Again, the supplier can opt for the normal place of supply rules to apply.

The **conditions** for acceptance are the same as for the changes affecting the supply of electronic services.

The impact:

Affected businesses will not be required either to register for VAT in other countries or to use the MOSS/OSS

Other benefits will be country specific:

- businesses located in Member States that have VAT registration thresholds in excess of €10 000 may not have to register or pay VAT
- in other Member States, affected businesses may have simplified registration, reporting and payment procedures

SIMPLIFIED EVIDENCE REQUIREMENTS FOR CROSS-BORDER ELECTRONIC SERVICES

Current situation

Two non-contradictory items of evidence – such as the billing address of the payment card used by the customer, the country code of a mobile phone SIM card etc. - are required to determine the location of the customer (and thereby the place of supply) for certain electronic services.

From 1 January 2019: A single item of evidence is required to establish the customer's permanent address or residence.

Conditions

This applies where the total value of electronic services made by a business does not exceed €100 000 in both the current and preceding calendar year. It applies to all electronic services except those supplied through:

- fixed land lines
- mobile networks
- a decoder or similar device

The impact:

Being able to use a single item of evidence to establish the location of the customer should be a significant reduction in administrative burden for businesses.

Requiring two non-contradictory items of evidence is considered very burdensome, particularly for smaller businesses that may not have the resources for sophisticated software solutions.

HOME COUNTRY INVOICING RULES FOR CROSS-BORDER ELECTRONIC SERVICES

Current situation

The invoicing rules that are applied to the supply of goods or services are typically those of the place where they are delivered (with limited exceptions). For cross-border transactions, this would typically be the country in which the consumer is located.

From 1 January 2019: the rules applying to invoicing of certain electronic services shall be those of the country where the supplier is registered to use the MOSS.

As mentioned above, additionally for **goods** supplied under the OSS (Section 3 - Chapter 6, Title XII), an invoice will not be required from 1 January 2021.

The impact:

Businesses will no longer need to know and comply with the invoicing requirements of every Member State into which they make supplies. This will help streamline the invoicing procedure for many companies, especially SMEs.

It should be noted that these changes apply to businesses making use of any of the special schemes referred to in Chapter 6 of Title XII of the VAT Directive – not just to electronic services. Consequently, when the MOSS is extended from 1 January 2021 the home country rules for invoicing will also apply to distance sales of goods and other services.

EXTENSION OF (MINI) ONE STOP SHOP TO COVER CROSS-BORDER SUPPLIES OF GOODS - SIMPLIFIES DISTANCE SALES RULES FOR EU AND 3RD COUNTRY SUPPLIERS

Current situation

Cross-border supplies of goods to non-taxable persons – suppliers must register in each country where they make supplies and charge VAT at the rate applicable in that country unless the total value of such supplies falls below the distance selling thresholds set by that country.

Goods imported from third countries – VAT is charged in the Member State where the goods enter the EU.

Cross border supplies of other services to non-taxable persons – generally, suppliers must account for VAT in the country in which the service has been supplied. This would normally be the Member State where the supplier is established but if the services are supplied in a different Member State (i.e. services are supplied where performed) then the supplier must register for VAT in that Member State.

Cross-border supplies of goods to taxable persons with a valid VAT number – the supplier does not charge VAT.

Changes from 1 January 2021. Current distance selling rules (Art 34) will be withdrawn. The MOSS becomes the One Stop Shop as the *special schemes* under Sections 2 and 3 of Chapter 6 of Title XII will be extended to cover:

- distance sales of goods and services from suppliers in one Member State to another Member State (Section 3 - Chapter 6, Title XII)
- services supplied by taxable persons not established in the EU (Section 2 - Chapter 6, Title XII)
- distance sales of goods imported from 3rd countries in consignments with an intrinsic value of up to €150 (Section 4 - Chapter 6, Title XII)

Consequently, where the criteria are met, suppliers will have the option to use a single electronic portal to register and to declare and pay the VAT due in all Member States within which they make supplies. They will still have the option to register for VAT in every country in which they operate.

For each of these *special schemes* based around the OSS, the deadline for the submission of the VAT return has been extended from 20 days to 1 month following the end of the tax period covered by the return.

Additionally, for each of the *special schemes*, it will be possible to correct errors on subsequent returns - the current rules require that the original return is corrected. The correction must be made within 3 years of the date on which the initial return was due and specify the relevant Member State of consumption, the tax period and the amount of VAT of the correction.

No invoice will be required for the **distance sales of goods** using the special scheme set out in Section 3 Title XII, Chapter 6.

At this stage, it still will not be possible for the supplier to deduct input VAT incurred in the Member State of consumption from output VAT declared through the OSS (albeit the input VAT can be recovered in accordance with Council Directive 2008/9/EC). Provisions discussed in the Definitive Regime section may lead to recovery of input vat through the OSS in the future.

In some circumstance, a taxpayer must be registered in a Member State for activities not covered by the OSS whilst also making supplies covered by the OSS in that same Member State. If this this is the case, the taxpayer must offset the VAT arising from these OSS activities from VAT due on the non-OSS activities.

Additional more detailed rules covering reporting requirements, identification, exclusion, VAT returns and payments have been proposed in respect of the *special schemes* (new and amended Articles 57a to 63c Council Implementing Regulation No 282/2011)⁸

Conditions for distance sales of goods and services from suppliers in one Member State to another Member State (Section 3):

- the rules of this scheme are based on existing Articles 369a to 369k. Existing references to ‘telecommunications, broadcasting or electronic services’ have been replaced with ‘intra-Community distance sales of goods and any taxable person not established in the Member State of consumption supplying services’
- the scheme applies to all distance sales of goods and services to **non-taxable** persons
- a single quarterly VAT return is used to record distance sales of both goods and services. The return will detail the total value of supplies made and the VAT due in respect of every Member State of consumption
 - from 1 July 2022, businesses with an annual EU turnover exceeding €2 500 000 may have to submit monthly returns, by the end of the month following the relevant tax period (this provision is not yet agreed⁹)

Conditions for services supplied by taxable persons not established in the EU (Section 2):

- the rules of this scheme are based on existing Articles 368 to 369. Existing references to ‘telecommunications, broadcasting or electronic services’ have been replaced with ‘services’
- this scheme is available to any supplier not established in the EU who supplies services to a non-taxable person in the EU
- a quarterly VAT return is required, whether or not any relevant services have been provided in the period

Conditions for Distance sales of goods imported from 3rd countries in consignments with an intrinsic value of up to €150 (Section 4):

- this is a completely new scheme, described in Articles 369l to 369w
- it covers the distance sale of all goods imported from third countries in consignments whose intrinsic value does not exceed €150. It cannot include goods subject to excise duties (e.g. tobacco, alcohol etc.)
- the scheme can be utilised by taxable persons:
 - established in the EU
 - not established in the EU but who are represented by an intermediary established in the EU
 - established in a third country with which the EU has negotiated an agreement on mutual assistance

A list of applicable third countries is to be provided at a later date by the European Commission

- for supplies under this scheme, VAT becomes chargeable when the payment has been received
- registration and deregistration requirements for the taxable person or intermediary are similar to the two special schemes in Sections 2 and 3
- monthly VAT returns are required, whether or not any relevant supplies have been provided in the period

⁸ COM(2018) 821 final Proposal for a Council Implementing Regulation amending Implementing Regulation (EU) No 282/2011 as regards supplies of goods or services facilitated by electronic interfaces and the special schemes for taxable persons supplying services to non-taxable persons, making distance sales of goods and certain domestic supplies of goods

⁹ Proposed revised Art. 369f(2) Com(2018) 329 Final

- the supplier or intermediary must retain transactional records for 10 years from the end of the year during which the transaction occurred. These records must be made available electronically on request to both the Member State of identification and of consumption

The impact:

Affected businesses will not be required to register for VAT in all the Member States of consumption for such supplies and will be able to deal with all their VAT reporting and payment obligations through a single electronic portal, presumably easing language issues.

Distance sellers of goods imported from third countries in consignments not exceeding €150 despatched directly from a third country will benefit from a simplification of import procedures. The VAT becomes due when the payment is accepted rather than at the time of import, which has potential cash flow advantages for importers.

SIMPLIFIED ARRANGEMENTS FOR DECLARATION AND PAYMENT OF IMPORT VAT WHERE OSS NOT USED

Current situation

Except where covered by the existing low value consignment relief, VAT is usually charged in the country of entry into the EU when custom clearance procedures are completed.

Changes from 1 January 2021. Special arrangements to simplify the declaration and payment of import VAT where an importer chooses not to use the OSS for the import of goods in small consignments. These mirror many of the simplifications available under the Section 4 special scheme.

Under this scheme VAT would not be charged when the goods are presented to customs but rather is paid by the final consumer on receipt of the goods.

Member States have the **option** to permit that the standard rate of VAT of the Member State of importation is that charged to the final consumer in the Member State of consumption.

The customer has the **option** to choose the standard import procedure where the Member State of importation does not allow the application of reduced rates under this scheme.

Conditions

- the intrinsic value of the consignment in question must not exceed €150 and the goods must not be subject to import or excise duties
- the person importing the goods must take steps to ensure that the VAT is paid by the consumer
- the VAT collected under this scheme is reported through a monthly electronic declaration and is due for payment by the end of the month following the importation. Adequate records must be kept, based on the requirements of the Member State of importation

The impact:

This scheme should speed up the importation and delivery of goods to the final consumer.

It is also likely to result in increased reporting obligations for couriers, national post services and customs agents who will have to have systems in place to record and report the VAT arising when the customer pays for the imported item.

CO-OPERATION BETWEEN MEMBER STATES ON VAT AUDITS

Current situation

Where suppliers have registered for VAT in Member States other than their Member State of identification, they are potentially subject to audit on the same supplies by both the Member State of identification and the Member State of consumption.

Changes from 1 January 2021. Rules have been introduced covering access to taxpayer information and the opening of an administrative enquiry. These rules require Member States to communicate to each other before contacting the taxpayer. The contact with the taxpayer will primarily be in contact with the Member State of identification. The Member State of consumption will not deal directly with the taxpayer.

Access to the records held by a taxable person or intermediary – the request is first made by the Member State of consumption to the relevant body in the Member State of identification.

On receipt, the Member State of identification must transmit the request electronically and without delay. The taxable person or intermediary must submit the requested records electronically via a standard form. These must then be immediately passed on to the Member State of consumption.

If no response has been received within 30 days of the request, the Member State of consumption can take any action in accordance with its national legislation to obtain the information.

Administrative enquiries - where the Member State of identification opens an enquiry into a taxpayer or intermediary, it is obliged to inform all other Member States. Where a Member State of consumption wants to open an enquiry, it must first contact the Member State of identification and if the need for an enquiry is agreed, the Member State of identification must inform all other Member States. These requirements do not prevent Member States taking any action that is in accordance with their own legislation.

Conditions

These rules only apply to taxpayers or intermediaries using the special schemes for distance sales – i.e. the OSS. These provisions are part of an extension to existing administrative co-operation rules required by the increased requirements for information transferred between Member States arising from the increased scope of the OSS over the MOSS.

The impact:

This will reduce the likelihood of simultaneous requests for information or enquiries from the tax authorities of multiple Member States.

QUICK FIXES

These are short-term proposals to alleviate certain practical difficulties encountered by businesses in cross-border transactions until the Definitive Regime provides the long-term solution.

Measures outlined	Status	Implementation date
Simplified treatment for call-off stock ¹⁰	Agreed	1 January 2020
VAT exemption for certain intra-EU transactions ⁷	Agreed	1 January 2020
Standard criteria for chain transactions ⁷	Agreed	1 January 2020
More clarity for the documentary evidence required for the VAT exemption for intra-EU supply of goods ⁷	Agreed	1 January 2020
VAT exemption for groups of independent persons that pool services and share costs ⁷	Council negotiation	1 January 2020*

* Application date from the draft proposals

There is disagreement on the proposal for pooled services, which was introduced during Council negotiations. This is discussed in further detail in the section covering simplification measures that have not been approved.

¹⁰ Council Directive, amending Directive 2006/112/EC as regards harmonising and simplifying certain rules in the value added tax system and introducing the definitive system for the taxation of trade between Member States
<https://www.consilium.europa.eu/media/36518/st12564-en18.pdf>

SIMPLIFIED TREATMENT FOR CALL-OFF STOCK

Current situation

'Call-off stock' describes the arrangement where suppliers deliver inventory to a customer's premises, or to a location close to the customer's premises, but keeps legal title of the goods until the customer calls-off the stock for use or sells it. It is common in many retail and manufacturing businesses. It doesn't just apply to larger businesses – smaller suppliers may provide call-off stock to large retailers or wholesalers to promote new products or enter into new markets.

Call-off stock is differentiated from 'consignment stock' because in call-off stock transactions the supplier knows the identity of the customer at the time when the goods are despatched.

Where call-off stock transactions involve a transfer of goods to another Member State, the supplier is deemed to have made a VAT exempt supply of goods in the Member State of departure. The arrival of the goods gives rise to an intra-Community acquisition made by the business that transferred the goods which is – in general - subject to acquisition VAT in that other Member State.

The business that has transferred the goods is obliged, as a rule, to be identified for VAT purposes in the Member State of arrival to be able to declare the intra-Community acquisition in its VAT return. When the goods are taken out of the stock and delivered to the acquirer a second supply occurs, the place of supply of which is the Member State in which the stock is situated.

Simplification measures regarding these transactions have been introduced by some Member States but they are not consistent across the EU.

Changes from 1 January 2020. The call-off stock arrangements are treated as a single exempt supply in the Member State of dispatch and a single intra-EU acquisition in the Member State where the stock is subsequently situated. The provisions are contained in new Article 17a, a new Para 3 of Article 243 and a replacement to Article 262.

Example:

Car Manufacturer M in Member State M uses electrical components produced by supplier S in Member State S. The manufacturing occurs "just in time", i.e. the components must be at hand when needed. M wants to remain flexible with respect to the production and does not want to acquire large amounts of components which may become obsolete if production changes. Therefore, M arranges with S that the latter keeps – at M's expense – a stock of various components on M's premises, to which M has access.

Under the old rules, S would have recorded an exempt Intra-Community despatch in Member State S and an Intra-Community acquisition of goods in Member State M. When M calls-off stock, S would account for a domestic supply in Member State M and M would account for a domestic acquisition. S would have to register for VAT in Member State M in order to comply with its reporting and payment obligations.

Under the new rules, the no supply takes place on the initial despatch of goods from Member State S to Member State M. At the point M calls-off stock, S records an exempt despatch and M an Intra-Community acquisition for the goods called-off.

Conditions

- the goods are despatched by a taxable person to another Member State and another taxable person is entitled to take ownership of the goods in accordance with an existing agreement
- the taxable person despatching the goods is not established in the Member State to which the goods are transported
- the taxable person despatching the goods knows the identity and VAT identification number of the customer and records this information, together with details of the transaction, in a relevant register
- if the transported goods have not been supplied to the taxable person due to receive the goods within 12 months of despatch, these arrangements will cease to apply. In such circumstances, a supply of goods for consideration is deemed to take place on the day following the expiry of the 12-month period
- if the goods are supplied to a different person other than that originally intended, these arrangements will cease to apply, unless:
 - the conditions specified above (i.e. those in para 2 Article 17a) are met and
 - the substitution is recorded by the supplier in the register
- both taxable persons keep a register of all goods supplied under these arrangements
- the taxable person despatching the goods shall submit a recapitulative statement providing the VAT identification number of the taxable person to which it supplies goods under the call-off stock arrangements

The impact:

These arrangements will provide a reduction in administrative burdens for the supplier as the supplier will not have to be identified in every Member State where goods have been shipped as part of the call-off arrangement – subject to the time limits above.

VAT EXEMPTION FOR CERTAIN INTRA-EU TRANSACTIONS

Current situation

An interpretation by the European Court of Justice states that the VAT identification number is a formal condition for the supplier to exempt an intra-EU supply. Failure by the supplier to check for a valid VAT identification number of the customer and failing to record it on the VAT Information Exchange System (VIES), can both result in administrative penalties but not the refusal of the exemption (under article 138 of the Directive) itself.

Changes from 1 January 2020. It will be a substantive condition (i.e. a requirement) for the application of the exemption that the acquirer must be registered for VAT in different Member State from that where the dispatch of the goods begins.

Furthermore, the correct filing of the VIES listing will be a substantive condition for the exemption.

The provisions are contained in a revised Para 1 and a new Para 1a of Article 138.

Conditions

The supply of goods despatched to destinations from one Member State to another are automatically exempt where all of the following apply:

- the goods are supplied to another taxable, or a non-taxable legal person acting as such, in another Member State from which the dispatch begins

- the recipient of the goods has been identified for VAT in another Member State from that where the goods are dispatched and has provided the supplier with their VAT identification number
- reference is made to the person acquiring the goods in the recapitulative statement

The impact:

This is not a simplification measure but rather an anti-fraud measure. There is no practical difference in what suppliers must do - the supplier will still have to verify the status of their customer through the VIES before applying the exemption. However, failure to correctly follow the procedures could lead to the effective taxation of the exempt supply in the country of departure rather than just the imposition of administrative penalties.

STANDARD CRITERIA FOR CHAIN TRANSACTIONS

Current situation

'Chain transactions' describe the situation where business A contracts with business B to supply goods, but business B has contracted to supply the same goods to business C. The goods are then transported directly from business A to business C, with any one of the three parties to the arrangements organising the transport. In such circumstances, A may or may not be aware that C is the final consumer of the goods.

The arrangements can be considerably more complex than that described above, with additional businesses being in the chain and circumstances where the goods end up in a different Member State to any of the parties involved in the transactions.

In the context of this simplification, there must be a cross-border supply of goods. Currently, where there are successive supplies of goods subject to a single intra-EU transport, only one supply should benefit from the VAT exemption on intra-EU supplies. The other supplies should be taxed. There are currently different approaches to chain transactions within the EU which may lead to double or non-taxation.

Changes from 1 January 2020. Providing that certain conditions are met, it is proposed that the exempt intra-EU transport will be that made by the provider of the goods to the intermediary operator. If the conditions are not met, then the exempt intra-EU transport will be ascribed to be that between the intermediary operator and the customer.

The provisions are contained in a new Article 36a.

Conditions

- the intermediary operator communicates the name of the Member State of arrival of goods to the provider of the goods
- the intermediary operator must communicate to the supplier the VAT identification number that has been granted to the intermediary operator by the Member State from which the goods are to be despatched

The impact:

This measure will provide greater legal certainty for those suppliers engaged in intra-EU chain transactions. However, intermediary operators which are not registered for VAT in the EU cannot benefit from these measures.

MORE CLARITY FOR THE DOCUMENTARY EVIDENCE REQUIRED FOR THE VAT EXEMPTION FOR INTRA-EU SUPPLY OF GOODS

Current situation

There are no specific requirements in the VAT Directive for the records required to prove that goods have been dispatched from one Member State to another, and thereby qualify for the VAT exemption for intra-EU supplies of goods. Consequently, Member States have introduced their own divergent requirements.

Changes from 1 January 2020. From that date, it is proposed that there will be two rebuttable presumptions that goods have been transported outside of one Member State to another Member State.

Conditions

The two rebuttable presumptions are:

- where the supplier arranges transport, the supplier indicates that the goods have been dispatched from their Member State and has either
 - two items of non-contradictory evidence specified in para 3(a) of Article 45a of Council Implementing Regulation (EU) No 282/2011, such as bills of lading, an invoice from the goods carrier and other documents relating to the transport or
 - a single item of non-contradictory evidence specified in para 3(a) plus another piece of non-contradictory evidence specified in para 3(b). The pieces of evidence in all cases must be from parties independent of the customer and supplier and from the organisations that provide the other piece of evidence. Evidence under para 3(b) includes relevant insurance documents, official documents issued by a public body confirming arrival of the goods, or a receipt from the warehouse of destination confirming arrival
- where the customer arranges transport, the vendor has both
 - a written statement from the acquirer stating that the goods in question have been transported by or on behalf of them, which states the Member State to which the goods are destined and other information about the transport, and
 - two items of non-contradictory evidence specified in para 3(a)
 - a single item of non-contradictory evidence specified in para 3(a) plus another piece of non-contradictory evidence specified in para 3(b)

A tax authority may rebut a presumption in either circumstance.

The impact:

This measure will reduce the administrative burden and provide greater legal certainty for those suppliers engaged in intra-EU supplies of goods.



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