

As of January 1, 2020: 'VAT quick fixes' to simplify international trade

At the end of 2018 the European Council formally approved the proposals for four 'VAT quick fixes' to simplify international trade. These will take effect on January 1, 2020 and will have a considerable impact on businesses trading in international goods. It concerns the following four changes:

1. Simplified treatment for call-off stock
2. Uniform rules to simplify chain transactions
3. Mandatory VAT identification number to apply the zero VAT rate
4. Simplified proof of intra-Community supplies

These changes will affect different facets within a business, such as changes to the ERP systems and the Tax Control Framework. This could include the updating of administrative processes, VAT compliance procedures, billing processes, but also matters such as contracts and the order process with your customers and suppliers.

Because these VAT changes are important for internationally operating businesses, Meijburg & Co is organizing a series of round table meetings in Amstelveen. The first of these will take place in the spring, on Friday May 24, 2019.

The main features of the pending VAT changes are explained below.

1. Simplified treatment for call-off stock

To shorten delivery times it is becoming increasingly common for suppliers to transfer stock to a warehouse or other location (for example, a store or showroom) of a regular customer in another EU Member State. The goods remain the property of the supplier until they are picked up by the customer (also referred to as 'call-off stock'). Under the current VAT rules, when a supplier transfers the goods to the call-off stock it performs a deemed intra-Community supply in its own EU Member State and a deemed intra-Community acquisition in the EU Member State of arrival. As soon as the customer takes the goods out of the call-off stock, the supplier performs a domestic supply. Generally, the supplier will have to register for VAT purposes in the EU Member State where the warehouse is located. At present, most EU Member States have VAT simplification arrangements for call-off stock, but these differ per country.

Under the new harmonized rules, the transfer of goods to a warehouse in another EU Member State will no longer qualify as a deemed intra-Community supply and a deemed acquisition (for a maximum period of one year). As soon as the customer takes the goods out of the stock, the supplier performs a direct intra-Community supply to the customer. The supplier will then not have to register for VAT purposes in the EU Member State of arrival of the goods. The supplier and customer that use this simplification must keep a register that complies with specific conditions. In addition, the supplier must report on the EC Sales List that it transported goods to foreign stock. If a supplier does not comply with all the conditions for call-off stock, it must in principle still register for VAT purposes.

2. Uniform rules to simplify chain transactions

In the case of a chain transaction with consecutive supplies of goods among three or more taxable persons in different EU Member States, the intra-Community goods transport can only be attributed to one link in the chain. This means that the zero VAT rate for intra-Community supplies only applies to one supply. The other supplies are local supplies of goods. In practice, there is often discussion about which link must be attributed to the intra-Community goods transport.

Under the new rules, the starting point is that the intra-Community supply takes place in the link in which the goods are supplied to the taxable person that arranges the intra-Community transport or has this arranged. This is usually the first supply in the link A-B. Exceptions to this fiction are possible, for example if intermediary B, which arranges the transport or has this arranged, provides the supplier with a VAT identification number of the EU Member State of dispatch of the goods. In that case, the intra-Community goods transport is attributed to the link between the taxable person arranging the transport or that has this arranged and its customer (in this example the link B-C).

3. VAT identification number for application of zero VAT rate

A customer's valid VAT identification number is currently a formal requirement for applying the zero VAT rate to intra-Community supplies of goods. However, it is now settled case-law of the Court of Justice of the European Union that, in principle, a taxable person only has to comply with the material conditions in order to apply the zero VAT rate. Therefore, the zero VAT rate cannot formally be refused due to the mere fact that a taxable person did not receive a valid VAT identification number from its customer.

Under the new rules, the use of a valid VAT identification number that the customer communicated to the supplier, will be regarded as a material requirement for applying the zero VAT rate. If a supplier fails to state the customer's valid VAT identification number on the invoice, it will no longer be possible to apply the zero VAT rate as of January 1, 2020. Furthermore, as a condition for applying the zero VAT rate the taxable person must file an EC Sales List.

4. Simplified proof of intra-Community supplies

The fourth quick fix provides for the harmonization and simplification of the rules on proof of transport for the purposes of applying the zero VAT rate to intra-Community supplies. To be eligible for the zero VAT rate, taxable persons must, for example, prove that the goods were dispatched from one EU Member State to another EU Member State. EU Member States currently maintain different rules to prove this transport. This leads to uncertainty and significant administrative expense for businesses with cross-border trade.

According to the new rules, there is a rebuttable presumption of transport to another EU Member State if the supplier can provide at least two non-contradictory evidential documents that were prepared independently from one another. This may include signed

CMR documents, together with a copy of payment for transport issued by the bank. Logistics service providers are expected to play an even more important role under the new rules in respect of the provision of proof for the purposes of applying the zero VAT rate.

What should you do now?

If you are involved with cross-border goods transport, we recommend that you examine how the new VAT rules will impact your business as of January 1, 2020. It is essential that you act promptly, because organizing the administrative and order processes as well as the ERP systems will require the necessary time and resources. And not forgetting the fact that tax authorities worldwide are tending more toward digitalization. The requirements for the collection, analysis and actual retention of data are rapidly increasing. This means that tax authorities expect taxpayers to implement changes to regulations promptly and correctly within their business.

How can Meijburg & Co help?

In light of the pending VAT changes, Meijburg & Co can help you with matters such as:

- identifying your current supply chain and advising on how to optimize it, as well as limiting risks. This could include assessing your current contracts and order processes with suppliers and customers, as well as with logistics service providers;
- reviewing and advising on how your order processes should be properly organized for VAT purposes and how transactions should be dealt with in your ERP system;
- the implementation of an automatic and real time check of the validity of VAT identification numbers in your ERP system and how this should be documented;
- updating the Tax Control Framework, including the description of administrative processes and the internal control;
- providing in-house training courses, on both the pending VAT legislative amendments and the anticipated impact on your business and how your ERP system should be organized for VAT purposes.

Meijburg & Co would be pleased to provide any assistance needed. Please contact your designated contact at Meijburg or one of the specialists of the Meijburg Indirect Tax Group and/or Tax Technology Group.

Meijburg & Co
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