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**Indirect Tax -
VAT Package**

The global landscape for indirect taxes continues to change rapidly. Indirect taxes — and VAT in particular — are becoming many jurisdictions' most important instruments for raising tax revenues. However, current EU VAT legislation is still based on a temporary system which does not account for current logistic and technical developments. In order to simplify and adapt the system to current demands, and to avoid VAT fraud (which is estimated to be over USD 50 billion yearly), the EU introduced the **VAT-action plan**. This plan will build a more robust system and will result in significant changes as of 2020 and 2021.

In order to work towards this plan on such a short notice, the European Commission has developed four '**Quick Fixes**' to improve the day-to-day functioning of the current VAT system. These four Quick Fixes will come into force as of 1 January 2020. This creates new opportunities as well as challenges within a short period for businesses trading goods particularly within the EU. Below you can find an overview of the important changes and challenges which will impact businesses throughout the EU.

Quick Fix 1: Simplify VAT treatment of chain transactions



An Intra-Community supply (ICS) is a supply of goods which are transported between two Member States. ICS are subject to 0% VAT and the recipient must report an Intra-Community acquisition in the Member State of the arrival of the goods and pay local VAT.

A Chain Transaction is when two or more consecutive supplies of goods are subject to one single transport between two or more Member States (not applicable when importing the goods). For the chain transaction:

- i. an Intra-Community supply can only be attributed to one of the supplies in the chain (A-B or B-C);
- ii. the other supply(s) should be deemed to be a local supply subject to local VAT.

Current rules

Following current case law, the allocation of the ICS should be determined based on whether the seller or recipient arranges the transport of the goods. However, there is little certainty on where the ICS takes place in case party B arranges the transport. This leads to uncertainty, potentially resulting in double or non-taxation and discussions with the tax authorities.

Quick fix 1

In order to ensure more legal certainty, there are now rules implemented which prescribe that if an **intermediary** arranges the transport, that specific intermediary performs the Intra-Community **acquisition**, i.e., the ICS takes place in the transaction towards this intermediary. This is also the case in longer supply chains. However, if the intermediary communicates to A their VAT identification number of Member State A, the transport of the goods will be attributed to the supply made by the intermediary.

Challenges

- As of 2020, there will be less flexibility as to which supply the transport can be attributed. Current supply chains in place need to be reviewed to ensure that the new legislation does not trigger undesired VAT consequences;

- It is unclear as to how certain simplification rules, such as the triangulation simplification, relate to these new rules as of 2020. Also, in longer chains featuring multiple Member States, complexity on taxation may increase;
- Businesses should reconsider their current setup of IT/ERP systems, contracts and processes before 1 January 2020.

Quick Fix 2 and 3: Harmonize rules on Intra-Community supply requirements



In order to make a 0% rated Intra-Community supply, a business should meet the following conditions:

- A supply of goods;
- To a customer acting as a taxable person in another EU Member State than that from which the goods are sent;
- The supply results in the goods being transported to the territory of another EU Member State (transport requirement).

However, when it comes to (additional) formal requirements, rules differ per EU Member State. Two Quick Fixes address the most common uncertainties, relating to VAT identification and proof of transport.



VAT identification number

Current rules

As mentioned above under (ii), the use of the 0% rate is subject to the condition that the customer acts as taxable person in another EU Member State than the one from which the goods are sent. This condition is met if the customer is VAT registered in such other EU Member State. However, under the current EU rules, the 0% rate cannot be rejected based solely on the reason that a valid VAT identification number is missing on the invoice. This leads to legal uncertainty and possibly to fraud.

Quick Fix 2

As of January 2020, a supplier may only use the 0% rate when its customer has provided its (valid) VAT identification number issued by an EU Member State other than that from which the goods are sent. The supplier must mention this customer VAT identification number on its invoices and report this number in its recapitulative (sales) listings.

Challenges

Business will incur additional administrative burdens such as:

- obtaining and checking all the VAT identification numbers of their customers
- reconsidering the current setup of IT/ERP systems, contracts and processes
- risk of having to charge and remit local VAT if no correct customer VAT identification number is obtained or when sales listing is incorrectly filed



Proof of transport

Current rules

As mentioned above under (iii), goods must be transported from one EU Member State to another EU Member State in order to apply the 0% VAT rate. Currently, Member States use different criteria for the proof of transport (i.e., proof that the goods have left the Member State of departure). This leads to legal uncertainty and a disproportionate administrative burden.

Quick fix 3

Suppliers can prove that the goods have left the Member State of departure by providing at least two items of non-contradictory evidence, issued by two different independent parties. For example:

- documents relating to the transport
- bank statements/POs
- official documents issued by public authority
- receipt of warehouse keeper

Challenges

Currently, the rules regarding the proof of transport are less strict in some of the Member States. Arrangements with vendors and suppliers should be further harmonized or revised in order to apply an Intra-Community supply.

Quick Fix 4: Harmonized Call-of Stock simplifications



Due to the changing economy and globalization, more and more suppliers are transferring their goods to a stock in another Member State in advance to ensure fast delivery. For example: a business (A) moves their goods from one EU Member State to a stock in another EU Member State for an intended acquirer (B) whose identity and VAT identification number are known at the moment of the transport of the goods. The acquirer has the right to take goods out of this stock at his own discretion. Currently, Member States apply different VAT rules and simplifications to these so-called **call-off stock arrangements**, thus causing difficulties.

Under the current rules (with no call-off stock simplification regime), business A needs to register in both Member States, and the following transactions take place:

1. An Intra-Community supply of own goods from Member State of departure (A) which is subject to 0% VAT, and in Member State of arrival (B) which is subject to local VAT.
2. A supply of goods to acquirer (C) which is subject to local VAT rules.

This will result in an additional VAT registrations and administrative obligations in the Member State where the stock is held.

Quick Fix 4

The Intra-Community transfer of own goods to the Member State where the stock is held (point 1 above) is disregarded for VAT purposes and therefore no longer a taxable transaction. Instead, an Intra-Community supply takes place at a later stage when the customer takes the goods out of the stock (2). In this way, a uniform VAT treatment on call-off stock supplies is imposed in all EU Member States.

Challenges

- Some Member States that already have similar simplifications in place will have to comply with stricter rules for call-off stock arrangements. For example, under the new rules a business can only benefit from the simplification rules if the stock is pulled out of storage within 12 months.

Reconsidering the setup of IT/ERP systems and invoicing is required, as well as keeping registers of goods. Current VAT registrations in place may need to be deregistered.

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