



Changes to the rules concerning movements of goods within the EU effective from 1 January 2020

Background

For the past 12-24 months, the EU Commission has been discussing tightening up the rules concerning the intra-community movements of goods in preparation for the introduction of the taxation of supplies in the country of destination. New rule have been introduced across the European Union (“EU”) from 1 January 2020 and apply without the need to amend domestic legislation. These are commonly known as the “quick fixes”.

The UK announced its interpretation of the quick fixes just before the Christmas break, but the links to parts of the guidance were not fixed until Christmas Eve! The delay in announcing them was due to the uncertainty around the situation with Brexit and whether they would apply to UK businesses.

Below is a brief summary of the change. If your movements of goods are affected by the change, please do not hesitate to contact your usual VAT team member or our Director of Indirect Tax, Ruth Corkin. (Tel 01908 713860. Email ruth.corkin@hhllp.co.uk).

Quick Fix No. 1 – Chain Transactions

A chain transaction is one where a number of businesses successively buy and sell the same goods, but the goods are directly transported from the original supplier and delivered to the final customer. There is no upper limit to the number of businesses in the chain, but it must have a minimum of three participants which include:

- The original seller;
- The original buyer;
- A final buyer who purchases the goods.

Where the goods supplied by the original buyer in the member state of origin are transported to from that state and delivered to the final customer in a different member state of destination it follows that there is an intra-community supply. However, only one leg of the intra community supply can be treated in this way and be VAT free. In a simple chain of 3 businesses the intra community supply could be either the:

- Supply by the original seller to the original buyer or

- Onward supply by the original buyer to the final purchaser.

The new chain transaction rules set out which supply is to be treated as the intra-community supply. The rules apply for any length of chain, irrespective of the number of the intermediary buyers. The new rules do not affect supplies which do not involve a cross-border movement of goods. In those cases, the VAT rate applicable in the member state where the goods are located applies.

New approach

The rules are designed to simplify the issue of long chain intra community supplies of goods. **The default position is that the intra-community supply is the one to the person in the chain who arranges for the goods to be moved from the member state of origin to the member state of destination.**

This person can be the original buyer or a subsequent buyer in the chain. All supplies leading up to and including the intra community supply are to be treated as taking place in the member state of origin and all subsequent supplies are treated as being made in the member state of destination. The upshot of these rules is that there is the potential for registrations in member states where a business has no physical presence and an increase in VAT charged in other territories, where a separate claim will need to be made.

Quick Fix No.2 – Zero-rating for Intra-community supplies of goods

The intra-community supply of goods between businesses is nearly always zero-rated for VAT in the member state of origin and taxable as an acquisition in the member state of receipt.

Member States are allowed to set rules concerning the conditions for zero-rating to counter evasion, abuse or avoidance of the VAT system and to ensure the correct and simple application of the zero-rating.

In common with a number of Member States, the UK requires the customer to be registered for VAT in the

“

The EU Commission has been discussing tightening up the rules concerning the intra-community movements of goods in preparation for the introduction of the taxation of supplies in the country of destination.

”



HillierHopkins

Hillier Hopkins LLP
Chartered Accountants and Tax Advisers
hillierhopkins.co.uk

“friendly expertise”



Member State of receipt/destination. However, in recent court cases, the Court of Justice of the EU (“CJEU”) has concluded that this requirement does not have force of law.

Quick Fix No 2 seeks to redress this and for an intra-community supply of goods to be zero-rated from 1 January 2020, the following rules apply:

- The customer is registered for VAT a Member State other than the Member State of the origin;
- The customer has provided the supplier with that VAT number;
- The supply is reported on an EC Sales List (“ESL”).

In addition, for the UK invoicing requirements, the VAT number for the customer, including the two letter country designation must be shown on the invoice and the VAT number should be checked to ensure that it is valid.

Whilst the general requirement to submit an ESL has not changed, if a transaction is not recorded on an ESL, zero-rating of the intra-community will be denied. If it is later recorded on an ESL, zero-rating can be reinstated.

Proof of removal still has to be retained and the rules have also been simplified for this as per “Quick Fix No. 3” below.

Quick Fix No. 3 – Proof of removal of goods

Currently, Paragraph 4.3 (which has force of law) includes the requirement to keep valid commercial evidence that the goods have been removed from the UK within a 3 month time limit. If a business is unable to fulfil the new requirements can continue to rely on the rules in Paragraph 4.3 and Section 5 of VAT Notice 725.

Section 5 of VAT Notice 725 lists the documents which are acceptable and a combination of such documentation can be used as evidence. It is the responsibility of the business to prove to HMRC that the evidence is sufficient and this has led to many disputes, particularly over the requirement to show the means of transport used.

There are simplified rules that apply across the EU which apply from 1 January 2020. There is a presumption of removal if the following conditions are met:

- The supplier confirms the dispatch or transport by the production and retention of the two items of non-contradictory acceptable evidence from List A or
- Any single item from List A, along with any single item of non-contradictory evidence from List B.

In addition, where the purchaser/acquirer arranges transport of the goods, the supplier must be in possession of a written statement from the acquirer, stating that the goods have been dispatched or transported by the acquirer, or by a third party acting on behalf of the acquirer, and identifying the destination member State. This statement should be provided by 10th day of the month following the supply.

HMRC can challenge the presumption and if the conditions have been met, the onus is on HMRC to prove that the goods have not been transported from the UK.

Quick Fix No 4 – Call Off Stocks

Call off stocks are goods which are transported to another Member State but the goods are used at a later date by another party. Technically, the supplier is making a movement of goods which it would normally be required to be registered in the Member State where the goods are located.

However, call off stocks are only made available to a known person and some Member States have operated a simplification where the known buyer acts as the owner of the goods and accounts for acquisition VAT at the time the stock is drawn down.

New rules apply from 1 January 2020 across the EU. Call off stock arrangements will deem to exist where:

- Goods are dispatched or transported to another Member State by the supplier or a third party acting on behalf and with a view to those goods being supplied there at a later date to another business who is entitled to take ownership of those goods in agreement of an existing agreement between the parties;
- The supplier dispatching or transporting the goods has no permanent or fixed establishment in the Member State to which the goods were transported;



HillierHopkins

Hillier Hopkins LLP
Chartered Accountants and Tax Advisers
hillierhopkins.co.uk

“friendly expertise”



- The business which will eventually take title to the goods is registered for VAT in the Member State to which the goods are moved;
- The supplier keeps a record of the movement of the goods and identifies the purchaser in those records;
- The goods are taken into ownership of the purchaser within 12 months of the removal to that business;

The issue of an establishment in the Member State where the goods are stored on behalf of the purchaser has to be treated carefully. The goods may be stored in a warehouse owned by the purchaser, by a third party operated on behalf of the supplier or purchaser or in a warehouse owned by the supplier.

In the case of a ware house owned by the purchaser or operated by a third party on behalf of the customer, no establishment exists for the supplier. The same applies if the goods are stored in a ware house owned and operated by a third party on the behalf of the supplier. However, if the warehouse is owned by or rented to the supplier, it is considered that there is a fixed establishment of the supplier and that supplier needs to register for VAT in the Member State where the warehouse is located.

List A of documents for evidencing zero-rating for intra-community supplies of goods

- A signed [CMR](#) document of note;
- A bill of lading;
- An airfreight bill;
- An invoice from the carrier of the goods;

List B of documents for evidencing zero-rating for intra-community supplies of goods

- An insurance policy with regard to the dispatch or transport of the goods or bank documents proving payment for the dispatch or transport of the goods;
- Official documents issued by a public authority, such as a notary, confirming the **arrival** of the goods in the Member State of destination;
- A receipt issued by a warehouse keeper in the destination Member State, confirming the storage of the goods in that Member State.

Contents of the written statement where the acquirer arranges for the transport of goods

- Date of issue;
- Name and address of the supplier;
- The quantity and nature of the goods
- The date and place of the arrival of the goods
- The means of transport and identification number of that means of transport;
- The identification of the individual accepting the supply of the goods on behalf of the acquirer.

For a free initial consultation please contact:

Ruth Corkin
Director
+44 (0)1908 713 860
ruth.corkin
@hhllp.co.uk

Offices

London
Milton Keynes
Watford

Registered to carry on audit work in the UK by the Institute of Chartered Accountants in England and Wales and authorised and regulated by the Financial Conduct Authority

This newsletter is written for general interest only and is not a substitute for consulting the relevant legislation or taking professional advice. The authors and the firm cannot accept any responsibility for loss arising from any person acting or refraining from acting on the basis of the material included herein.