

VAT alert

VAT 'Quick Fixes' approved by European Council

October 2018

Summary

Readers will be aware that the European Commission has announced that the EU is to move to a definitive VAT regime. The system currently in place within the EU is based on the principle of taxation in the Member State of origin. However, the Commission's proposal is to move away from this temporary arrangement to a system based on the principle of taxation in the Member State of destination.

The Commission has published a Directive which is intended to implement these changes over the medium term on a gradual basis. However, the Commission considers that there are a number of changes that require more immediate attention.

In early October, the European Council agreed with the Commission's proposals to amend the VAT Directive in relation to specific areas of VAT law. The legislative process will be completed when the European Parliament issues its opinion in relation to the proposals and, if adopted, the measures will come into effect on 1 January 2020.

The areas under scrutiny are areas relating to 'call-off stock', simplification of 'chain' transactions, the intra-community transportation of goods. These measures should provide more certainty to businesses and help to combat VAT fraud within the EU.

Council agrees on VAT 'quick fix' proposals

The European Council has agreed to proposals from the European Commission to apply four 'quick fixes' to the current EU VAT system. Assuming that the European Parliament issues a favourable opinion in relation to these proposals, the Commission's proposed VAT Directive will become effective throughout the EU on 1 January 2020.

Call-off stock

The first 'quick fix' relates to the VAT treatment of so called 'call-off' stock. Under the existing VAT regime, where goods are transferred by a business to another Member State and the goods are held for later 'call-off' by a specific customer, the business supplying the goods is deemed to supply them when the transport of the goods takes place and to, simultaneously acquire them in the Member State of destination. When the goods are 'called-off' from stock by the customer, the supplier is then deemed to make a domestic supply of the goods in the other Member State. This analysis requires the supplier to register and account for VAT in the other Member State. Under the new proposals, provided that certain conditions are met, the transfer of the goods will be deemed to be an 'exempt' supply in the country of departure followed by an intra-Community acquisition by the purchaser.

Chain transactions

The second 'fix' relates to 'chain' transactions – where there is more than one supply of goods but only a single movement of the goods. A typical scenario consists of a supply of goods from 'A' to 'B' and then a supply from 'B' to 'C' but with only a single movement of the goods from 'A' to 'C'. Under the current rules, Member States have operated differing interpretations of the VAT Directive. The question of which leg of a chain transaction can be exempt from VAT (as an intra-Community supply) has been the subject of a number of Court of Justice cases. From January 2020, the new provisions will simplify the procedure by ascribing the transport of the goods to the first supply in the chain ('A' to 'B') unless the intermediary supplier ('B') provides his VAT identification number to the first supplier ('A') and 'A' and 'B' are identified in the same Member State. In such circumstances, the intra-Community supply will be deemed to be the supply from 'B' to 'C'.

Intra-Community supplies of goods

Thirdly, the Commission proposes to make the obtaining of a customer's VAT identification number issued by another Member State a substantive condition of the supplier's exemption of an intra-Community supply. Currently, the obtaining of a VAT identification number is merely a formal condition and Member States cannot deny exemption for a supply if the supplier fails to obtain it. From 1 January 2020, Member States will be able to deny exemption for an intra-Community supply if the supplier does not obtain the VAT identification number.

Comment – although trailed as a 'quick-fix', these amendments to EU VAT law will actually not come into force until 2020 by which time the UK may have actually left the European Union. Nevertheless, businesses with a pan-European supply chain or those trading with other Member States of the EU will still need to understand the VAT regime post 2020 and, where necessary, comply with EU VAT law.

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