As part of the European Commission’s Action Plan on VAT, four “VAT Quick Fixes” in relation to intra-EU trade will take effect from 1 January 2020. Businesses involved in the cross border trade of goods should now take steps to ensure they understand the new rules and their implications.

The four VAT Quick Fixes concern the following areas:

► Treatment of call-off stock
► Mandatory VAT identification number to apply the zero VAT rate to intra-EU supplies
► Evidence of intra-EU supplies
► Chain transactions

Quick Fix 1 – Intra-EU call off stock arrangements

Under the current VAT rules, when a supplier transfers goods to the warehouse or premises of a customer in another EU Member State under ‘call-off stock’ arrangements, the supplier should make a deemed intra-Community supply in its own Member State and a deemed intra-Community acquisition in the EU Member State of arrival. When the customer takes the goods out of the call-off stock, the supplier would be considered to perform a domestic supply in the EU Member State that the goods are located. This may trigger a VAT registration for the supplier in that EU Member State. Currently, most EU Member States have VAT simplification arrangements allowing for call-off stock arrangements without requiring the supplier to VAT register in the country of arrival of the goods. However the application of the simplification arrangements differ per country.
This Quick Fix is aimed at harmonizing legislation across the EU by adding a specific reference to call-of stock arrangements in new art. 17a EU VAT Directive. Under the new rules, the transfer of goods to a warehouse or the premises of a customer in another EU Member State no longer qualify as a deemed intra-Community supply and a deemed acquisition (for a maximum period of 12 months). Its only when the customer takes the goods out of the stock, that the supplier makes an intra-Community supply to the customer. The supplier will have to declare the intra-Community supply in its VAT return and include the transaction in its VIES statement by indicating the customer as the person acquiring the goods as well as the value of the goods.

The supplier will 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 goods register that complies with specific conditions.

The supplier will be required to mention the identity and VAT identification number of the intended acquirer in its VIES statement (only that, not the value of the goods) submitted for the period of the transport of the goods. If a supplier does not comply with all the conditions for call-off stock, it must still register for VAT purposes.

**What should businesses do now?**

- Review their current position in EU Member States: Are there call-off stock arrangements? Should call-off stock arrangements be newly considered in light of a uniform set of rules throughout the EU?
- Review current call-off stock arrangements and align them with the future rules where needed.
- Review if certain EU VAT registrations can be made redundant by implementing call-off stock arrangements.

**Quick Fix 2 – Customer VAT number as substantive requirement for zero rating of Intra-EU supply**

Obtaining a customer’s valid VAT number is a formal requirement for applying the zero %VAT rate to intra-Community supplies of goods. However, recent European case law provides, in principle, that 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 number from its customer.

Under the new rules, obtaining a valid VAT number that the customer provides to the supplier will be regarded as a material requirement for applying the zero %VAT rate. If the supplier fails to include the customers VAT number on invoices, it should not be possible to apply the zero %VAT rate.

Zero rating will also be dependent on the supply of the goods being included in the supplier’s EC Sales List (VIES return).

**Quick Fix 3 – Documentary proof for zero rating of intra-EU supplies of goods**

In order to apply the zero %VAT rate on intra-Community supplies, a supplier should be able to provide evidence that the goods were dispatched from one EU Member State to another. EU Member States have discretion over the evidence that is required to prove that the goods were dispatched which can lead to uncertainty and additional costs for businesses with cross-border trade.

Under the new rules, it will be presumed that goods were transported to another EU Member State if the supplier can provide at least two independent, non-contradictory documents evidencing the transport of the goods such as a bill of lading or an airfreight invoice.

**What should businesses do now?**

- Review their current processes around collecting and archiving documentary proof for intra-EU supplies and amend where necessary.
- Review their current arrangements with both vendors and buyers and align with the revised requirements where necessary.

**Quick Fix 4 – Intra-EU chain transactions**

Intra-EU chain transactions refer to a situation where:

- The same goods are supplied successively and
- Those goods are dispatched or transported from one Member State to another Member State directly from the first supplier to the last customer in the chain.

Currently the VAT treatment of intra-EU chain transactions is based on case law established by the CJ EU. However where a middle party in the chain arranges for transportation, there is still uncertainty and a lack of harmonization as to which supply the cross-border movement of the goods should be allocated to.
The revised VAT Directive will include a specific regulation for chain transactions. Notably, the Quick Fix will only deal with the scenario of a middle party in the chain arranging for the transportation (referred to as “intermediary operator”):

► As a rule, the dispatch or transport shall be ascribed only to the supply made to the intermediary operator.

► By way of derogation from the above, the dispatch or transport shall be ascribed only to the supply of goods by the intermediary operator where he has communicated to his supplier the VAT identification number issued to him by the Member State from which the goods are dispatched or transported.

What should businesses do now?

► Review their involvement in EU chain transactions and the respective VAT treatment applied.

► Review current arrangements involving chain transactions and whether they are in line with the future rules or require revision.

► Review if certain EU VAT registrations can be made redundant by implementing the revised rules for chain transactions.

How EY can help

Businesses should carefully consider the impact of these upcoming changes. EY can assist companies by reviewing current supply chains and cross border transactions and provide advice on how to optimise current supplies and limit risk. EY can also provide access to our VAT number validation tool which provides quick and easy access to verify the VAT registration numbers of all EU customers. Should you have queries in relation to these changes, please contact a member of our Indirect tax team.

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