

VAT Update

December 2019

Quick Fixes effective 1 January 2020

In 2016 the EU launched a plan to transform the current VAT system and create a single EU VAT Area by 2022. Several actions have already been set in motion, such as the special scheme for small businesses and taxation of e-commerce relating to platforms and distance sales, but it is expected the 2022 deadline will be pushed back several years.

Effective 1 January 2020 Member States are required to implement four quick fixes aiming to improve the day-to-day functioning of the VAT system for cross-border B2B trade.

In anticipation of the Greek provisions that will incorporate the quick fixes into the domestic legislation, we provide below an overview of these measures, taking into account that the local rules could not be significantly different from the EU Provisions.

Quick fix 1: Call-off stock

In case of call-off stock a supplier moves goods to a warehouse/stocking location of a known customer, in order to be able to quickly supply goods to that customer when needed. Without a local simplification measure, the cross-border transfer to the warehouse currently leads to a (deemed) intra-Community supply for the supplier in the Member State of departure and an accompanying intra-Community acquisition in the Member State of arrival. This is followed by a domestic supply in the country of arrival when the goods are actually supplied. The supplier by default needs to register for VAT purposes in that country and fulfill the accompanying VAT obligations.

The new rules serve to provide a uniform regulation which enables the cross-border transfer of call-off stock for a period of one year maximum whilst preventing a VAT registration and declaration obligation for the supplier in the Member State of arrival. It is also made possible for the supplier to account for the transfer of call-off stock in multiple Member States in one simplified way in its VAT administration, although separate reporting is required. Any goods shipped cross-border under application of this simplification need to be reported separately in the EC Sales Listing.

Quick fix 2: Chain transactions

Chain transactions consist of successive supplies of goods between traders in more than one Member State, where only one cross-border transport movement occurs, mostly from the first to the last party in the chain. This transport movement can only be assigned to one of the supplies in the chain and hence the zero VAT rate for intra-Community supplies can only be applied to one leg of the chain. The other supplies in the chain often lead to 'local' VAT and VAT registration in the respective Member State(s).

The assignment of the transport movement to one of the supplies often leads to discussions with local tax authorities in the Member States involved as there is no single harmonised approach. This leads to uncertainty for businesses and increased administrative obligations. This is especially true, if a middle man arranges the transport, which has been the topic of numerous European Court of Justice cases.

Under the new rules the zero-rated intra-Community supply is assigned to the supply to the intermediary operator who arranges or has the transport arranged in his own name. This is different when that middle man provides a VAT identification number of the Member State in which the dispatch commences. Then, the middle man who arranges for the transport is deemed to perform the zero-rated intra-Community supply itself instead of its supplier and the first leg is a local supply, normally subject to local VAT.

Quick fix 3: VAT identification number as a substantive requirement

Currently, a business can apply the zero VAT rate for intra-Community supplies if it can be proved that the goods are supplied to another business and are transported to another Member State. According to case law, the VAT identification number of the customer is not a substantive requirement to apply the zero VAT rate and in bona fide cases, the zero VAT rate can also be applied without it. This will change under the new rules, which makes the availability of the VAT identification number of the customer mandatory.

As a practical consequence, there is an increased need for businesses to include all VAT identification numbers of customers in their ERP systems in order to include it on the invoices issued to these customers. Moreover, it is important to validate these VAT identification numbers on a periodical basis or even before each shipment in order to prove that at the time of performing the intra-Community supply, the zero VAT rate has been applied on the basis of a valid VAT identification number of the customer. Also the submission of a recapitulative statement with correct information is required in order to apply the zero-rate.

All businesses should also (continue to) ensure that they make their VAT identification number available to their suppliers in time to prevent that foreign VAT is charged unnecessarily. PwC has several solutions available to ready your business for the 2020 fixes and provide a tailor-made approach.

Quick fix 4: Proof for zero VAT rate of intra-Community supplies

By means of inclusion in the EU VAT implementing regulation, a common framework is introduced for the documentary proof to provide for the zero VAT rate application for intra-Community supplies. Since it is part of the Regulation, it does not require implementation by Member States and as such has direct effect.

In case of transport by or on behalf of the supplier the proof should consist of two independently prepared documents, such as a signed CMR in combination with the policy of the transport insurance for the respective supply of goods. In case the buyer arranges for the transport, the supplier should also possess a written statement from the buyer/acquirer.

It is important to emphasize that all proof which is currently allowed based on national tax authority policy and ECJ /national case law, will also remain valid and that this should be considered as evidence which in any case suffices to substantiate the zero VAT rate for intra-Community supplies.

Legal certainty is enhanced for taxpayers by this Quick Fix and it enables taxpayers to standardise their approach EU-wide to retaining evidence in this respect.

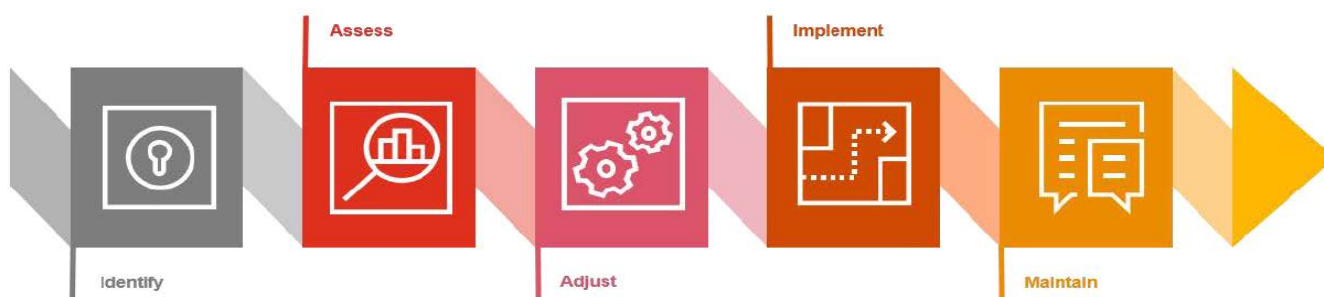
Prepare your business

The above-mentioned changes will be effective as of 1 January 2020 and have an impact on the VAT treatment of supply chains and the proof for zero VAT rated supplies.

We advise businesses to assess the current VAT treatment of the supply chains and gain insight into the steps to be taken to comply with the VAT treatment under the Quick Fixes. We also advise to review the (transport) documentation to proof the zero VAT rate on intra-Community supplies and the validation of VAT identification numbers of your customers to substantiate the application of the zero VAT rate or reverse charge mechanism. Document governance is key to be VAT compliant in the future.

PwC has several solutions available to make your business proof for the 2020 fixes and provide a tailor-made approach.

Way of Working



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