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Luxembourg Newsflash - 22 January 2020

VAT “Quick Fixes”: simplifications and challenges for Luxembourg businesses

On 23 December 2019, the Luxembourg VAT authorities issued Circular n°799, outlining the main legislative changes in Luxembourg VAT law effective as from 1 January 2020. Among them, the transposition of the « *Quick Fixes* » legislative package will impact the activities of businesses active in international trade of goods.

Harmonised regime for call-off stock arrangements

A harmonised regime¹ for call-off stock arrangements is welcome, since it avoids suppliers being required to register for VAT in the EU Member State where the stock is located under certain conditions (such as the identification of the final acquirer, the inscription of the transfer of goods into a register and the reporting in the recapitulative EU statements). Luxembourg VAT law has for a long time included such a simplification measure, but this was either not shared by all EU Member States or subject to different conditions of application. Through this harmonisation, taxpayers may now rely on a more robust system with a higher level of legal certainty.

Harmonised approach for chain transactions

In a chain transaction with consecutive supplies between taxable persons established in different Member States, there is only one supply which qualifies as a VAT-exempt intra-Community supply of goods, whereas other supplies qualify as domestic supplies of goods requiring therefore a supplier's VAT registration in the concerned Member States (except under the simplified triangulation scheme). In this respect, discussions often arise regarding the correct assignment of the VAT-exempt intra-Community supply qualification as there was no harmonised approach among the Member States.

Under the new rules, the qualification of VAT-exempt intra-Community supply will be ascribed to the supply made to the intermediary operator that arranges the transport of the goods (either itself or through a third party acting on his behalf).

VAT identification number for zero VAT rate intra-Community supplies of goods

As per the new rules, the use of a valid VAT identification number communicated by the customer constitutes a material condition for the application of the VAT exemption on intra-Community supply of goods. This means that failing to indicate a VAT identification number, or indicating an erroneous VAT identification number, will prevent a supplier from applying such an exemption, leading to a refusal of the input VAT deduction on related costs.

Furthermore, even if a supplier receives a valid VAT identification number from its recipient, the VAT exemption on intra-Community supply of goods would be denied if the supplier does not fully comply with its obligation relating to the submission of recapitulative statements.

Harmonisation of rules for proving the intra-Community transport of goods

As from 1 January 2020, in order to prove that goods are effectively dispatched to another EU Member State for the purposes of the application of the VAT exemption, suppliers benefit from a presumption of transport if they can provide two items of non-contradictory evidence which were issued by two different parties that are independent to each other. Nevertheless, the new provision does not apply in situations where the dispatch or transport was performed either by the supplier itself or by the acquirer of the goods (using their own means of transport).

In conclusion, although the « *Quick Fixes* » provisions bring some clarification and simplification to some existing rules, they also increase the administrative and compliance burden of businesses active in the international trade of goods, and the risks in relation thereto.

How can we help you?

Our VAT team is at your disposal to further discuss in detail any impact of these changes might have on your business.

¹ Following the transposition of Council Directive (EU) 2018/1910 of 4 December 2018 amending Directive 2006/112/EC as regards the harmonisation and simplification of certain rules in the value added tax system for the taxation of trade between Member States into domestic law

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