

# VAT “Quick Fixes”

## What is this document about?

As from 1<sup>st</sup> January 2020, a new set of rules shall enter in force. These rules are intended to harmonize and simplify certain rules in the value added tax system for the taxation of trade between Member States. These rules, commonly referred to as “Quick Fixes” concern call-off stock arrangements, chain transactions, and further requirements for the exemption of intra-Community supplies and the recapitulative statement.

This document gives a brief overview of these rules.

## Who should read this document?

Taxable persons who are involved in cross-border trade, particularly intra-Community supplies of goods or intra-Community acquisitions could be affected by the new rules and should therefore read this document.

## Introduction

In December 2018, Council reached agreement on a package of measures intended to harmonize and simplify certain rules in the value added tax system for the taxation of trade between Member States. Accordingly, Council Directive EU 2018/1910 was published on 4<sup>th</sup> December 2018 to amend the principal VAT Directive 2006/112/EC. The amendments enter in force as from 1<sup>st</sup> January 2020.

Briefly, these amendments provide for the harmonisation of rules with regard to call-off stock arrangements, chain transactions, and the inclusion of the VAT identification number of the person acquiring goods from another Member State in the VAT Information Exchange System.

Accordingly, on the 4<sup>th</sup> of October 2019, the five legal notices indicated below have been published, transposing these provisions into the national legislation. They shall all enter in force on 1<sup>st</sup> January 2020:

[LN 251 of 2019](#) - Value Added Tax Act (Amendment of Second Schedule) Regulations, 2019

[LN 250 of 2019](#) - Value Added Tax Act (Amendment of Third Schedule) Regulations, 2019

[LN 253 of 2019](#) - Value Added Tax Act (Amendment of Fifth Schedule No. 2) Regulations, 2019

[LN 252 of 2019](#) - Value Added Tax Act (Amendment of Eleventh Schedule) Regulations, 2019

[LN 249 of 2019](#) - Value Added Tax (Recapitulative Statement of Intra-Community Transactions) (Amendment) Regulations, 2019

## Brief overview of the amendments

### LN 251 of 2019:

This LN amends the Second Schedule to the VAT Act. It introduces a new item 17A providing rules for “call-off stock” arrangements.

Under VAT legislation, a taxable person who transfers goods from one Member State to another shall be deemed to have supplied those goods to himself from the Member State of dispatch to the Member State of arrival and would have to do all the VAT compliance. He would have to register in the Member State of arrival, declare the exempt deemed intra-Community supply and the deemed intra-Community acquisition, as per item 17 of the Second Schedule, do the recapitulative statement, declare the subsequent domestic supply in the Member State of arrival, etc. However, under the new rules, subject to certain conditions, this compliance would not be necessary:

(1) Where there is a transfer by a taxable person (supplier) of goods forming part of his business assets to another Member State under call-off stock arrangements, these shall not be treated as a supply of goods for consideration.

(2) For the purposes of these rules, call-off stock arrangements shall be deemed to exist where the following conditions are met:

(a) goods are transported by a supplier (or on his behalf), to another Member State with a view to those goods being supplied there, at a later stage after arrival, to another taxable person (customer) who is entitled to take ownership of those goods in accordance with an existing agreement between both taxable persons;

(b) the supplier transporting the goods is not established nor has a fixed establishment in the Member State to which the goods are transported;

(c) the customer to whom the goods are intended is identified for VAT purposes in the Member State to which the goods are transported and both his identity and the VAT number assigned to him by that Member State are known to the supplier at the time when the transport begins;

(d) the supplier records the transfer of the goods in a special register and includes the identity of the customer and his VAT number assigned to him by the Member State to which the goods are transported in the recapitulative statement.

(3) Where the conditions laid down in point (2) above are met, the following rules shall apply at the time of the transfer of the right to dispose of the goods as owner to the customer, provided that the transfer occurs within a specific deadline:

(a) an exempt intra-Community supply of goods shall be deemed to be made by the supplier that transported the goods in the Member State from which the goods were transported;

(b) an intra-Community acquisition of goods shall be deemed to be made by the customer to whom those goods are supplied in the Member State to which the goods were transported.

(4) If, within 12 months after the arrival of the goods in the Member State to which they were transported, the goods have not been supplied to the customer for whom they were intended, and none of the circumstances referred to in point (7) below have occurred, a transfer within the meaning of item 17 of the Second Schedule shall be deemed to take place on the day following the expiry of the 12-month period with all the consequential compliance obligations for the supplier.

(5) No transfer within the meaning of item 17 of the Second Schedule shall be deemed to take place where the following conditions are met:

(a) the supply does not take place and those goods are returned to the Member State from which they were transported within 12 months from their arrival; and

(b) the supplier records their return in the special register.

(6) Where, within the 12 month period referred to in point (4), the customer is substituted by another taxable person, no transfer within the meaning of item 17 of the Second Schedule shall be deemed to take place at the time of the substitution, provided that:

(a) all other applicable conditions in point (2) are met; and

(b) the substitution is recorded by the supplier in the special register.

(7) Where, within the 12 month limit any of the conditions set out in points (2) and (6) ceases to be fulfilled, a transfer of goods according to item 17 of the Second Schedule shall be deemed to take place at the time that the relevant condition is no longer fulfilled.

If the goods are supplied to a person other than the customer referred to in point (2) or in point (6), it shall be deemed that the conditions set out in points (2) and (6) cease to be fulfilled immediately before such supply.

If the goods are transported to a country other than the Member State from which they were initially moved, it shall be deemed that the conditions set out in points (2) and (6) cease to be fulfilled immediately before such transport starts.

In the event of the destruction, loss or theft of the goods, it shall be deemed that the conditions set out in points (2) and (6) cease to be fulfilled on the date that the goods were actually removed or destroyed, or, if it is impossible to determine that date, the date on which the goods were found to be destroyed or missing.

#### LN 250 of 2019:

This LN amends the Third Schedule to the VAT Act.

It introduces a new paragraph (d) to item 1 of Part One of the Schedule, providing for the place of supply of goods from one Member State to another in the course of a chain transaction so that:

(a) 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, the dispatch or transport shall be ascribed only to the supply made to the intermediary operator; but

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

(c) For the purpose of this rule, 'intermediary operator' means a supplier within the chain who dispatches or transports the goods either himself or through a third party acting on his behalf.

#### LN 253 of 2019:

This LN amends the Fifth Schedule to the VAT Act.

It introduces a new proviso in sub-item 3.(1) of Part One of the Schedule.

Under VAT legislation, an intra-Community supply is exempt subject that the customer identifies himself for the purpose of that supply with a valid VAT number of a Member State other than that where the transport of the goods begins, in our case, other than a Maltese VAT number. This rule is now being complemented with a further requirement. That is, if the supplier fails to comply with his obligations to declare the supply in the recapitulative statement required in terms of article 30 of the VAT Act, or if he submits incorrect information, the exemption shall not apply.

In other words, a supplier who fails to comply with the recapitulative statement obligations and exempts an intra-Community supply, shall be subject to a VAT assessment.

#### LN 252 of 2019:

This LN amends the Eleventh Schedule to the VAT Act with regard to the keeping of records.

It provides a new paragraph "k" in sub-item 1.(1) requiring the keeping of a special register for those taxable persons who transfer goods under call-off stock arrangements referred to earlier in this document and, the keeping of another register by those persons who have goods supplied to them under the same call-off stock arrangements.

#### LN 249 of 2019:

This LN amends the Value Added Tax (Recapitulative Statement of Intra-Community Transactions) Regulations.

A new sub-regulation 3.(4) is introduced requiring that every taxable person shall also submit information about the VAT numbers of customers to whom he has supplied goods under call-off stock arrangements referred to earlier in this document, including also any changes to the information submitted.

#### **Further information**

There are additional important implementing rules on these amendments which are found in Council Implementing Regulation (EU) 2018/1912 of 4<sup>th</sup> December 2018 amending Implementing Regulation (EU) 282/2011.

Furthermore, in a few weeks time, the Commission's DG Taxud is expected to publish a comprehensive guideline: "*Explanatory Notes on the EU VAT changes in respect of call-off stock arrangements, chain transactions and the exemption for intra-Community supplies of goods ("2020 Quick Fixes")*" which will give a deeper insight on the new rules for better understanding and uniform application.

The Commissioner for Revenue reserves the right to substitute, alter or withdraw these guidelines as necessary at any time.

Issued on 9<sup>th</sup> October, 2019.

**DISCLAIMER** These notes are published for information purposes and as guidance for further exploration. Utmost care has been taken to ensure that the information given is correct. This notwithstanding, it is to be pointed out that they are not legally binding and should not serve as a legal document providing legally binding rulings. If further information is required, one should either refer to the legal text or contact the Office of the Commission for Revenue.