

**L.N. 251 of 2019**

**VALUE ADDED TAX ACT  
(CAP. 406)**

**Value Added Tax Act (Amendment of Second Schedule)  
Regulations, 2019**

IN EXERCISE of the powers conferred by articles 6 and 75 of the Value Added Tax Act, the Minister for Finance, has made the following regulations:-

1. (1) The title of these regulations is the Value Added Tax Act (Amendment of Second Schedule) Regulations, 2019 and these regulations shall be read and construed as one with the Second Schedule to the Value Added Tax Act, which Second Schedule is hereinafter in these regulations referred to as "the Second Schedule".

Citation, scope and commencement.

Cap. 406.

(2) These regulations shall bring into force the provisions of Article 1 of Council Directive (EU) 2018/1910 of the 4<sup>th</sup> December 2018 amending Directive 2006/112/EC as regards the harmonization and simplification of certain rules in the value added tax system for the taxation of trade between Member States.

(3) These regulations shall come into force, on the 1<sup>st</sup> January 2020.

2. Immediately after item 17 of the Second Schedule there shall be added new item 17A as follows:-

Adds new item 17A to the Second Schedule.

*"Call-off stock arrangements"*

17A. (1) The transfer by a taxable person of goods forming part of his business assets to another Member State under call-off stock arrangements shall not be treated as a supply of goods for consideration.

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

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

(b) the taxable person dispatching or transporting the goods has not established his business nor has a fixed establishment in the Member State to which the goods are dispatched or transported;

(c) the taxable person to whom the goods are intended to be supplied is identified for VAT purposes in the Member State to which the goods are dispatched or transported and both his identity and the VAT identification number assigned to him by that Member State are known to the taxable person referred to in paragraph (b) at the time when the dispatch or transport of goods begins;

(d) the taxable person dispatching or transporting the goods records the transfer of the goods in the register provided for in paragraph (1)(k) of item 1 of the Eleventh Schedule and includes the identity of the taxable person acquiring the goods and the VAT identification number assigned to him by the Member State to which the goods are dispatched or transported in the recapitulative statement provided for in article 30(3).

(3) Where the conditions laid down in sub-item (2) 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 taxable person referred to in paragraph (c) of sub-item (2), provided that the transfer occurs within the deadline referred to in sub-item (4):

(a) a supply of goods in accordance with item 3(1) of Part One of the Fifth Schedule shall be deemed to be made by the taxable person that dispatched or transported the goods either by himself or by a third party on his behalf in the Member State from which the goods were dispatched or transported;

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

(4) If, within twelve (12) months after the arrival of the goods in the Member State to which they were dispatched or transported, the goods have not been supplied to the taxable person for whom they were intended, referred to in paragraph (c) of sub-item (2) and sub-item (6), and none of the circumstances laid down in sub-item (7) have occurred, a transfer within the meaning of item 17 shall be deemed to take place on the day following the expiry of the twelve (12) month period.

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

(a) the right to dispose of the goods has not been transferred, and those goods are returned to the Member State from which they were dispatched or transported within the time limit referred to in sub-item (4); and

(b) the taxable person who dispatched or transported the goods records their return in the register provided for in paragraph (1)(k) of item 1 of the Eleventh Schedule.

(6) Where, within the period referred to in sub-item (4), the taxable person referred to in paragraph (c) of sub-item (2) is substituted by another taxable person, no transfer within the meaning of item 17 shall be deemed to take place at the time of the substitution, provided that:

(a) all other applicable conditions in sub-item (2) are met; and

(b) the substitution is recorded by the taxable person referred to in paragraph (b) of sub-item (2) in the register provided for in paragraph (1)(k) of item 1 of the Eleventh Schedule.

(7) Where, within the time limit referred to in sub-item (4), any of the conditions set out in sub-items (2) and (6) ceases to be fulfilled, a transfer of goods according to item 17 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 taxable person referred to in paragraph (c) of sub-item (2) or in sub-item (6), it shall be deemed that the conditions set out in sub-items (2) and (6) cease to be fulfilled immediately before such supply.

If the goods are dispatched or 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 sub-items (2) and (6) cease to be fulfilled immediately before such dispatch or transport of goods starts.

In the event of the destruction, loss or theft of the goods, it shall be deemed that the conditions set out in sub-items (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."

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