European Council agrees on four ‘quick fixes’ to EU VAT system

On 2 October 2018, European finance ministers agreed to introduce four quick fixes to improve the current cross-border VAT regime, applicable as of 1 January 2020. The agreement did not include a fifth quick-fix that was suggested earlier this year in relation to the cost-sharing VAT exemption for the financial and insurance sectors which was discussed during in the ECOFIN Council of 22 June 2018.

The ‘quick fixes’ were initially announced as part of the proposal for a definitive VAT regime for cross border trade of goods within the EU (previous coverage in VAT alert of 5 October 2017). They are temporary measures to improve the day-to-day functioning of the current intra-EU VAT system, until the definitive VAT regime is fully agreed upon and implemented.

It should be noted that the Certified Taxable Person (CTP) concept has been removed and is no longer a condition to apply any of the four quick fixes. This concept remains an integral part of the technical proposal for the Definitive VAT Regime published in May 2018 (previous coverage in VAT alert of 29 May 2018). Member States could not yet find common ground to introduce such a concept as a condition for the ‘quick fixes’.

The following four 'quick fixes' will be implemented at European level:
1. A simplified and uniform treatment for call-off stock arrangements: the new text introduces a 12 month period in which goods have to be sold to the customer.

2. Uniform criteria to simplify VAT rules on chain transactions: there will be a presumption that the transport is allocated to supply to the intermediary operator, allowing the first supplier to exempt his supply. This will not apply if the intermediary operator communicates its valid VAT number in the country of departure to his supplier.

3. A common framework for documentary evidence of proof of transport required to claim a VAT exemption for intra-EU supplies. The vendor has to be in the possession of:
   - Two items of non-contradictory evidence relating to transport (e.g. a signed CMR, a bill of loading, an airfreight invoice, etc.) issued by two parties independent of each other, or such transport document combined with an additional non-contradictory piece of evidence (e.g. insurance policy, warehouse receipt, etc.).
   - Additionally, a written statement from the purchaser if the goods are transported by himself or on his behalf.

4. The substantial requirement that the purchaser’s valid VAT identification number is available and checked in the VIES system and that the supplier submits a recapitulative statement, in order to benefit from the VAT exemption for the intra-EU supply of goods.

Agreement was reached during the 2 October 2018 ECOFIN meeting to introduce the quick fixes on 1 January 2020, a year later than that initially proposed. The Council is expected to adopt the directive once the European Parliament has given its opinion.

A possible fifth ‘quick fix’ was discussed in earlier Council meetings, namely to reintroduce a VAT exemption, for cost sharing vehicles outside of public interest sectors, into the VAT Directive in response to recent CJEU case law that disallows the use of this VAT exemption in the financial and insurance sectors. Member States agreed that the Commission will analyse the divergence of VAT rules regarding cost sharing vehicles in a study which may result in a future legislative proposal.
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