



VAT alert Belgium

Tax authorities allow simplified proof of transport for Intra-Community Supplies

A [decision](#) published on 12 July 2016 simplifies the proof of transport for Intra-Community supplies through the introduction of a so-called "destination document" as alternative evidence for the cross border transport of goods. In this document, the customer attests the arrival of goods in the destination Member State for VAT purposes. It will serve as rebuttable proof of transport if certain conditions are met. This is a welcome relief measure for companies involved in EXW or FCA supplies who often struggle to gather sufficient transport documents to substantiate the VAT exemption for their supplies.

One of the conditions to exempt a supply of goods to another Member State as an Intra-Community supply is for the supplier to prove that the goods have been transported from Belgium to another Member State.

Currently, such transport must be certified by a set of corresponding documents (order forms, payment documents, transport documents, etc.). While every piece of evidence is acceptable, no single piece of evidence is in itself sufficient.

In practice, VAT inspectors mostly require actual transport documents (e.g. a CMR for road transport) signed by the recipient as a key piece of evidence. In scenarios where transport is arranged by or on behalf of the customer, it is often hard to gather transport documentation. Such supplies

have therefore been a source of VAT exposure for many companies, and the need to relieve the burden of proof is a longstanding demand from business associations.

In its decision nr. E.T. 129.460 dated 1 July 2016, the Belgian VAT authorities introduce an alternative proof of transport in scenarios where the transport document (e.g. CMR) is not available. The so-called "destination document" is accepted as rebuttable proof of transport to another Member State, if certain conditions are fulfilled.

Conditions

A "destination document" must contain the following:

- Identification data of the supplier and seller
- Confirmation of arrival
- Month and year of arrival
- City of arrival
- Period covered by the document (max. 3 consecutive months)
- A description of the goods supplied (usual name and quantity)
- Reference to the invoices issued (invoice number and date) or to order forms or delivery notes if no invoice was already issued
- Price of goods in Euros.

This document must be drafted by the supplier claiming VAT exemption for intra-Community supply, or by his buyer. The destination document must be signed by a person appointed in advance by the buyer. This will normally be a person within the buyer's organisation. With chain supplies, an example in the decision seems to allow for an additional party (party C) in the chain to sign the document on behalf of the customer (party B). Such alternative might be difficult to implement as a reference to the sales invoice between party A and B, as well as the sales price of the goods, is mentioned in the "destination document".

For the destination document to be accepted as evidence in lieu of a transport document, the supplier must be able to present the sales invoice and proof of payment of said invoice. The transport invoice must also be available only if transport is arranged on behalf of the supplier. If the supplier additionally included the supplies in his European Sales Listing, and is able to demonstrate that all reasonable steps were taken to avoid fraud, the supplier is considered to have provided rebuttable proof that the goods have been transported to another Member State.

The authorities allow that a destination document groups sales to the same customer up to a period of three calendar months. Within a period of three months following the period to which the document relates, the document should be confirmed, dated and signed by an authorised person within the customer's organisation. It is important to note that the supplier should already be fully aware of the identity of the person signing in advance. .

Harmonisation on a European level?

The decision is similar to Germany's introduction of the so-called "Gelangensbestätigung" on 1 January 2014. However, the implementation details differ and it has the benefit of being an alternative evidence method, which is not mandatory for suppliers preferring the existing approach.

It anticipates possible developments at EU level, where the EU VAT Committee is contemplating changes to the current burden of proof. There are recommendations from, amongst others, the European VAT Expert Group who plead for the use of existing commercial documents rather than the creation of new types of document.

Conclusion

The decision is a welcome relief for suppliers involved in transactions where transport is arranged by or on behalf of the customer (under EXW or FCA delivery conditions). Combined with a sales invoice and proof of payment, the "destination document" serves them as rebuttable proof of transport to another Member State. The tax authorities dampen this relief by explicitly stating that they can still request other documents in order to verify transport, meaning that taxpayers are still forced to retain other pieces of proof (order forms, transport invoices, contracts, etc.) in relation to their cross-border transactions.

As the decision applies with retroactive effect from 1 July 2016, companies can already start implementing the procedure to establish compliant "destination documents".

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