



STATUTORY INSTRUMENTS.

S.I. No. 687 of 2019



EUROPEAN UNION (VALUE-ADDED TAX) REGULATIONS 2019

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I, PASCHAL DONOHOE, Minister for Finance, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), and for the purpose of giving further effect to Council Directive 2006/112/EC of 28 November 2006¹ on the common system of value-added tax as amended by Council Directive (EU) 2018/1910 of 4 December 2018², hereby make the following regulations:

1. These Regulations may be cited as the European Union (Value-Added Tax) Regulations 2019.

2. These Regulations come into operation on 1 January 2020.

3. The Value-Added Tax Consolidation Act 2010 (No. 31 of 2010) is amended -

(a) in section 2, by inserting the following definition:

“ ‘call-off stock arrangements’ means the dispatch or transport of goods from one Member State to another Member State where, at the time of the dispatch or transport of the goods to such other Member State, the identity of the person to whom those goods will be supplied at a later stage and after the goods have arrived in the Member State of destination is known to the supplier.”,

(b) in section 11, by inserting the following subsection after subsection (3):

“(4) A person who is not established in the State, and who does not have a fixed establishment in the State, shall be deemed not to have made an intra-Community acquisition or a supply of goods in the State where such person transfers goods to an accountable person in the State under call-off stock arrangements to which section 23A applies.”,

(c) in section 23 -

¹ OJ No. L347, 11.12.2006, p. 1.

² OJ No. L311, 7.12.2018, p. 3.

- (i) in subsection (1), by substituting “Subject to subsections (2) and (3),” for “Subject to subsection (2)”, and
- (ii) by inserting the following subsection after subsection (2):

“(3) Subsection (1) shall not apply to call-off stock arrangements.”,

- (d) by inserting the following section after section 23:

“Call-off stock arrangements

23A. (1) This section applies to call-off stock arrangements which meet all of the following conditions:

- (a) goods are dispatched or transported by a taxable person, or by a third party acting on his or her behalf, to the State from another Member State, with a view to the goods being supplied in the State, at a later stage and after arrival, to an accountable person;
 - (b) the accountable person is entitled to take ownership of the goods in accordance with an existing agreement with the taxable person;
 - (c) the taxable person is not established in the State and does not have a fixed establishment in the State;
 - (d) the accountable person is registered in accordance with section 65;
 - (e) the identity and registration number of the accountable person are known to the taxable person at the time when the dispatch or transport of the goods begins;
 - (f) the taxable person fulfils the requirements of Article 17a(2)(d) of the VAT Directive in the other Member State.
- (2) Subject to subsections (3) to (7), where a taxable person transfers goods forming part of his or her business assets to an accountable person in the State under call-off stock arrangements to which this

section applies, the transfer of such goods shall not be treated as a supply of goods for consideration.

(3) Where all of the conditions set out in subsection (1) are met, and provided that the transfer to the accountable person referred to in subsection (1)(a) of the right to dispose of the goods as owner occurs within the period of 12 months after the arrival of the goods in the State, then, at the time of the transfer of that right -

- (a) a supply of goods in accordance with Article 138(1) of the VAT Directive shall be deemed to be made by the taxable person referred to in subsection (1)(a) in the other Member State, and
- (b) an intra-Community acquisition of the goods shall be deemed to be made by the accountable person to whom the goods are supplied in the State.

(4) Where -

- (a) within the period referred to in subsection (3), the goods have not been supplied to the accountable person referred to in subsection (1)(a) or a person substituted for that accountable person in accordance with subsection (6), and
- (b) none of the circumstances referred to in subsection (7) have occurred,

a supply of goods shall be deemed to take place on the day following the expiry of the period referred to in subsection (3).

(5) No supply of goods shall be deemed to take place where -

- (a) within the period referred to in subsection (3), the right to dispose of the goods has not been transferred and the goods are returned to the Member State from which they were dispatched or transported, and
 - (b) the taxable person records the return of the goods in the register provided for in Article 243(3) of the VAT Directive.

- (6) Where, within the period referred to in subsection (3), the accountable person referred to in subsection (1)(a) is substituted by another accountable person, no supply of goods shall be deemed to take place at the time of the substitution, provided that -
 - (a) all other applicable conditions set out in subsection (1) are met, and
 - (b) the taxable person records the substitution in the register provided for in Article 243(3) of the VAT Directive.

- (7)
 - (a) Subject to paragraphs (b) to (d), where, within the period referred to in subsection (3), any of the conditions set out in subsections (1) and (6) cease to be fulfilled, a supply of goods shall be deemed to take place at the time that the relevant condition is no longer fulfilled.
 - (b) If the goods are supplied to a person other than the accountable person referred to in subsection (1)(a) or a person substituted for that accountable person in accordance with subsection (6), it shall be deemed that the conditions set out in subsections (1) and (6) cease to be fulfilled immediately before such supply.

- (c) 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 subsections (1) and (6) cease to be fulfilled immediately before such dispatch or transport starts.
- (d) In the event of the destruction, loss or theft of the goods, it shall be deemed that the conditions set out in subsections (1) 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.”,

(e) by inserting the following section after section 32:

“Chain transactions

32A. (1) In this section -

‘chain transaction’ means a series of successive supplies of the same goods where those goods are dispatched or transported from one Member State to another Member State, directly from the first supplier of the goods to the last customer in the chain;

‘intermediary operator’ means a supplier in a chain transaction, other than the first supplier, who dispatches or transports the goods or engages a third party to dispatch or transport the goods on his or her behalf.

- (2) Subject to subsection (3), in a chain transaction, the dispatch or transport of the goods shall be ascribed only to the supply made to the intermediary operator.

- (3) Where the intermediary operator provides to his or her supplier a value-added tax identification number, issued to that intermediary operator by the Member State from which the goods are dispatched or transported, the dispatch or transport of the goods shall be ascribed only to the supply made by that intermediary operator.”,

(f) in section 82 -

- (i) by substituting the following subsection for subsection (2):

“(2) An accountable person shall, not later than the deadline fixed by this section, lodge with the Revenue Commissioners a statement -

- (a) of the person’s intra-Community supplies of goods,
- (b) prepared in accordance with, and containing such particulars as may be specified in, regulations (if any), and
- (c) including information about the value-added tax identification number of the taxable person to whom goods are intended to be supplied, where those goods are dispatched or transported by the accountable person under call-off stock arrangements referred to in Article 17a of the VAT Directive, and any subsequent change to such information.”,

and

- (ii) in subsection (3)(a), by inserting “, or the transfer of goods under call-off stock arrangements in accordance with the conditions set out in Article 17a of the VAT Directive,” after “goods”,

(g) in section 85, by inserting the following subsection after subsection (3):

“(4) An accountable person who transfers goods under call-off stock arrangements referred to in Article 17a of the VAT Directive shall keep full and true records for the purposes of verification by the Revenue Commissioners of the correct application of the said Article 17a.”,

and

(h) in Part 1 of Schedule 2, by substituting the following subparagraph for subparagraph (1) of paragraph 1:

“(1) The supply of goods dispatched or transported from the State to a person registered for value-added tax in another Member State, provided that the supplier of the goods has complied with section 82 or, where the supplier has failed to so comply, he or she has justified such failure to the satisfaction of the Revenue Commissioners.”.



GIVEN under my Official Seal,
23 December, 2019.

PASCHAL DONOHOE,
Minister for Finance.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations transpose into Irish VAT law Council Directive (EU) 2018/1910. This Directive amends the EU VAT Directive (2006/112/EC), to introduce new rules for call-off stock arrangements, chain transactions and intra-Community supplies of goods.

Transposition is effected by way of amendment of the Value-Added Tax Consolidation Act 2010. These amendments will come into force from 1 January 2020.

An explanation of the Regulations is set out below.

Regulation 1 gives the title of the Regulations.

Regulation 2 sets out the date of coming into effect of the Regulations.

Regulation 3 amends sections 2, 11, 23, 82, 85 and paragraph 1(1) of Part 1 of Schedule 2 of the Value-Added Tax Consolidation Act 2010. This Regulation also inserts a new section 23A on the simplification for call-off stock arrangements and a new section 32A on chain transactions.

The following describes each of the amendments.

Paragraph (a) amends section 2 to include a definition of call-off stock arrangements.

Paragraph (b) amends section 11 to clarify that where a non-established supplier transfers goods under section 23A to an accountable person in the State, then that supplier will not be regarded as having made an intra-Community acquisition or a supply of goods in the State.

Paragraph (c) amends section 23 to exclude call-off stock arrangements from the application of that section.

Paragraph (d) inserts a new section 23A on call-off stock arrangements and the application of simplification measures to those arrangements. The following describes the function of each subsection within section 23A.

Subsection (1) sets out the conditions that must be fulfilled for the simplification measures provided for in this section to apply.

Subsection (2) provides that where a non-established supplier transfers goods to an accountable person in the State under call-off stock arrangements, the transfer of the goods will not be treated as a supply of goods by that supplier in the State.

Subsection (3) provides that where the conditions for applying the simplification are met there is a deemed intra-Community supply of goods made by the supplier and the customer in the State will be deemed to make an intra-Community acquisition of those goods. This occurs at the time of transfer of ownership of the goods when the customer removes the goods from stock. The transfer of ownership of the goods must take place within 12 months of the arrival of the goods in the State.

Subsection (4) provides that if the goods have not been supplied to the intended customer, or a person substituted for that customer, and the circumstances in subsection (7) do not apply, then a supply will be deemed to take place on the day following the expiry of the 12-month period.

Subsection (5) provides that the simplification can continue to apply where there is no supply of the goods within 12 months of their arrival into stock, but within that time the goods are returned to the Member State of dispatch.

Subsection (6) provides that the simplification can continue to apply where within 12 months of the arrival of the goods into stock the original customer has been substituted for another customer and all other conditions continue to be met.

Subsection (7) provides for when the conditions for simplification are deemed to cease in certain circumstances.

Paragraph (e) inserts a new section 32A on chain transactions. The following describes the function of each subsection within section 32A.

Subsection (1) is a definitions section setting out the meaning of chain transaction and intermediary operator.

Subsection (2) provides the general rule for ascribing the intra-Community transport in a chain transaction and confirms that the transport is to be ascribed to the supply made to the intermediary operator.

Subsection (3) provides an exception to the general rule and confirms that where an intermediary operator provides their supplier with their VAT registration number issued by the Member State of dispatch of the goods, then the intra-Community transport of the goods will be ascribed to the supply made by that intermediary operator.

Paragraph (f) amends section 82(2) to introduce an obligation for a supplier making supplies of goods under call-off stock arrangements to enter details about the transport of those goods in their recapitulative statement. It also amends section 82(3)(a) to include the transfer of goods under call-off stock arrangements within the application of that provision.

Paragraph (g) amends section 85 to include record-keeping obligations for suppliers transferring goods under call-off stock arrangements.

Paragraph (h) amends paragraph 1(1) of Part 1 of Schedule 2 to include the obligation of the supplier to file a recapitulative statement as a condition for applying the zero-rate of VAT to intra-Community supplies.

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