

Council Directive (EU) 2018/1910 of 4 December 2018 amending Directive 2006/112/EC as regards the harmonisation and simplification of certain rules in the value added tax system for the taxation of trade between Member States

*Article 1*

Directive 2006/112/EC is amended as follows:

(1) the following Article is inserted:

*Article 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 Article, 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 point (b) at the time when the dispatch or transport begins;
- d the taxable person dispatching or transporting the goods records the transfer of the goods in the register provided for in Article 243(3) 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 262(2).

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

- a a supply of goods in accordance with Article 138(1) 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 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 point (c) of paragraph 2 and paragraph 6, and none of the circumstances laid down in paragraph 7 have occurred,

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a transfer within the meaning of Article 17 shall be deemed to take place on the day following the expiry of the 12-month period.

5 No transfer within the meaning of Article 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 paragraph 4; and
- b the taxable person who dispatched or transported the goods records their return in the register provided for in Article 243(3).

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

- a all other applicable conditions in paragraph 2 are met; and
- b the substitution is recorded by the taxable person referred to in point (b) of paragraph 2 in the register provided for in Article 243(3).

7 Where, within the time limit referred to in paragraph 4, any of the conditions set out in paragraphs 2 and 6 ceases to be fulfilled, a transfer of goods according to Article 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 point (c) of paragraph 2 or in paragraph 6, it shall be deemed that the conditions set out in paragraphs 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 paragraphs 2 and 6 cease to be fulfilled immediately before such dispatch or transport starts.

In the event of the destruction, loss or theft of the goods, it shall be deemed that the conditions set out in paragraphs 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.;

(2) in Section 2 of Chapter 1 of Title V, the following Article is inserted:

*Article 36a*

1 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.

2 By way of derogation from paragraph 1, 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.

3 For the purposes of this Article, ‘intermediary operator’ means a supplier within the chain other than the first supplier in the chain who dispatches or transports the goods either himself or through a third party acting on his behalf.

4 This Article shall not apply to the situations covered by Article 14a.;

(3) Article 138 is amended as follows:

(a) paragraph 1 is replaced by the following:

1. Member States shall exempt the supply of goods dispatched or transported to a destination outside their respective territory but within the Community, by or on behalf of the vendor or the person acquiring the goods, where the following conditions are met:

- a the goods are supplied to another taxable person, or to a non-taxable legal person acting as such in a Member State other than that in which dispatch or transport of the goods begins;
- b the taxable person or non-taxable legal person for whom the supply is made is identified for VAT purposes in a Member State other than that in which the dispatch or transport of the goods begins and has indicated this VAT identification number to the supplier.;

(b) the following paragraph is inserted:

1a. The exemption provided for in paragraph 1 shall not apply where the supplier has not complied with the obligation provided for in Articles 262 and 263 to submit a recapitulative statement or the recapitulative statement submitted by him does not set out the correct information concerning this supply as required under Article 264, unless the supplier can duly justify his shortcoming to the satisfaction of the competent authorities.;

(4) in Article 243, the following paragraph is added:

3. Every taxable person who transfers goods under the call-off stock arrangements referred to in Article 17a shall keep a register that permits the tax authorities to verify the correct application of that Article.

Every taxable person to whom goods are supplied under the call-off stock arrangements referred to in Article 17a shall keep a register of those goods.;

(5) Article 262 is replaced by the following:

*Article 262*

1 Every taxable person identified for VAT purposes shall submit a recapitulative statement of the following:

- a the acquirers identified for VAT purposes to whom he has supplied goods in accordance with the conditions specified in Article 138(1) and point (c) of Article 138(2);
- b the persons identified for VAT purposes to whom he has supplied goods which were supplied to him by way of intra-Community acquisition of goods referred to in Article 42;
- c the taxable persons, and the non-taxable legal persons identified for VAT purposes, to whom he has supplied services other than services that are exempted from VAT in the Member State where the transaction is taxable and for which the recipient is liable to pay the tax pursuant to Article 196.

2 In addition to the information referred to in paragraph 1, every taxable person shall submit information about the VAT identification number of the taxable persons for whom goods, dispatched or transported under call-off stock arrangements in accordance with the conditions set out in Article 17a, are intended and about any change in the submitted information.;

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- (6) Articles 403 and 404 are deleted.