

Circular Letter No: 30218 03/02/2020

General entry:

Tax Identification Number (TIN):

Your Ref:

Technician:

Dear: Gentlemen DMDs Directors of Finance
Directors Directors of Services Team Heads Customs
Multidisciplinary Heads of Financial Services
Coordinators Citizen Shops

Subject matter: VAT - Articles 45a AE 54a REGULATION OF EXECUTION (EU) No 282/2011 OF THE COUNCIL OF 15 MARCH 2011.

- PROOF OF SHIPMENT OR TRANSMISSIONS IN TRANSPORTATION OF GOODS INTRA
- SALES SYSTEM TRANSFER OF GOODS consignment INTRA

Implementing Regulation (EU) 2018/1912 of the Council of 4 December 2018 amended the Implementing Regulation (EU) No 282/2011 of the Council of 15 March 2011 (*Regulations under the VAT*) as regards certain exemptions for intra-Community operations.

These changes are intended to regulate, on the one hand, the expedition's evidence or transport of goods for the purposes of the exemption in Article 14 of the VAT Rules for Intra-community Transactions (*RITI*) and on the other, the information required in the registration data to keep the taxpayers in the sales on consignment regime provided for in Article 17a ¹ Directive 2006/112 / EC of 28 November 2006 (*VAT Directive*).

Thus, for information services and other stakeholders, communicates the following:

EXPEDITION RACE OR TRANSMISSIONS IN TRANSPORT INTRA

1. The dispatch or transport of goods from the national territory to another Member State is one of the substantive conditions for the application of the exemption in Article 14 of RITI.

In order to ensure legal certainty in the application of the exemption is introduced by Article 45a of the Regulations under the VAT, a presumption concerning the dispatch or transport of goods destined for another Member State.

Assumption on the dispatch or transport of goods

2. It is assumed performed the dispatch or transport of goods destined for a different member state of the state starting member when the following conditions are met:

The) When goods are transported or dispatched by the seller or a third party acting on your account that should be in possession of at least two pieces of evidence not

¹ Inserted by Directive (EU) 2018/1910 of the Council of 4 December 2018, which transposed into national law is expected.

contradictory from those referred to in paragraph a) of paragraph 3 of Article 45a of the Regulations under the VAT or an evidence of the referred to therein and the evidence referred to in point b) of the same paragraph 3.

- b) When the goods are transported or dispatched by the purchaser or a third party acting on their behalf, the seller must have in their possession, in addition to the evidence mentioned in the preceding paragraph, an acquirer's written statement containing the information provided for in point i), paragraph b) of paragraph 1 of Article 45a of the Regulations under the VAT.

3. The two necessary evidence shall be issued by two independent parts from each other as well as the seller and the buyer.

To that end, they are not considered independent parties taxable persons who share the same legal personality or having special relations with each other, as they are set out in paragraph 10 of Article 16 of the VAT Code.

Evidence

4. Relevant evidence to this effect, set out in paragraph 3 of Article 45a of the Regulations under the VAT, are as follows:

- a) Documents relating to the transport or shipment of goods, such as a signed CMR consignment note, bill of lading, an invoice of air freight, an invoice issued by the carrier of the goods;
- b) Other documents:
- i) An insurance policy covering the transport or shipment of the goods or supporting bank documents from the payment of transport or shipment of goods;
 - ii) Official documents issued by a public authority, for example, a notary, confirming the arrival of goods to the state target member;
 - iii) A receipt issued by a depositary in the destination Member State, to confirm the storage of goods in that Member State.

5. Exemplify up then the situations in which the dispatch or transport of goods destined for another Member State is assumed to take effect.

Dispatch or carriage performed by the seller or a third party acting on their behalf

6. The seller is in possession of:

- i) at least two non-contradictory evidence, referred to in paragraph a) of point 4, issued by two independent parts from each other, the seller and the buyer, such as:
 - *Invoice issued to the seller by the carrier of the goods;*
 - *CMR consignment note signed by the buyer.*

or

- ii) any of the elements referred to that point in conjunction with any of the non-contradictory evidence, referred to b) the point 4, confirming the transportation or shipment, issued by two independent parts from each other, the buyer and the seller, such as:

- *Invoice issued to the seller by the carrier of the goods;*
- *Official documents issued by a public authority, for example, a notary, confirming the arrival of goods to the state target member.*

Dispatch or transport made by the purchaser or a third party acting on their behalf

7. The seller is in possession of:

- i) a written statement of the buyer indicating that the goods were transported by him or dispatched, or a third party acting on behalf of the purchaser, and mentioning the destination Member State of the goods and the date of issue, the name and address of the purchaser, quantity and nature of the goods, the date and place of arrival of goods and, in the case of supplies of means of transport, the identification number of means of transport, and to identify the person accepting the goods on behalf of the purchaser;

and

- ii) at least two contradictory evidence not referred to in paragraph a) of point 4, issued by two independent parts from each other, the seller and the buyer, such as:

- *A bill of lading (Bill of lading);*
- *Invoice issued by the purchaser of the goods conveyor*

or

- iii) any of the elements referred to in paragraph a) of point 4, in conjunction with any of these in b), confirming the transportation or shipment, issued by two independent parts from each other, the seller and acquirer such as:

- *A bill of lading (Bill of lading);*
- *An insurance policy issued to the purchaser on the transport or shipment of goods.*

Note that the buyer must give the seller a written declaration referred to in subparagraph i) by the tenth day of the month following that in which the goods were placed at their disposal.

8. The presumption that occurred the dispatch or transport of the goods may be rebutted by the Tax and Customs Authority should it have information that contradicts the veracity of the evidence presented, fitting in this case the taxpayer to demonstrate that they met the conditions for applying the exemption provided for in Article 14 of RITI.

THE SCHEME SALES CONSIGNMENT AND TRANSFERS OF ASSETS INTRA

9. Article 17a² of the VAT Directive provides for the existence of a sales system on consignment and intra-Community transfers of goods.

In this regard, the Regulations under the VAT, mandatory and immediate in all Member States, in the respective Article 54a governs the registration of conditions that must be maintained either by taxpayers to transfer the goods to the under consignment sales system, either by taxable persons to whom those goods are delivered.

10. Subject to the necessary administrative instructions to disclose when transposing into national law of the relevant rules of the VAT Directive, it is made clear that from January 1, 2020, taxable persons efetuam those transfers of goods or those to whom the same delivered must keep track of which shall contain the following information:

10.1 For taxable persons who transfer assets:

- a) the Member State from which the goods were dispatched or transported, and the date of dispatch or transport of goods;
- b) The VAT identification number of the taxable recipient of the goods, issued by the Member State for which the goods are dispatched or transported;
- c) the Member State to which the goods are dispatched or transported, the VAT identification number of the depositary, the warehouse address where the goods are stored on arrival and date of arrival of the goods to the warehouse;
- d) the amount, description and quantity of the goods received at the warehouse;
- e) the VAT identification number of the taxable person replacing the person referred to in point b) of this paragraph, under the conditions referred to in Article 17a, paragraph 6 of Directive 2006/112 / EC;
- f) taxable amount, the description and quantity of the goods or the date on which is effected delivery of the goods referred to in Article 17a, paragraph 3 of Directive 2006/112 / EC and the VAT identification number of the buyer;
- g) The taxable value, the description and quantity of the goods and the date of occurrence of any of the conditions and its justification under Article 17a, paragraph 7 of Directive 2006/112 / EC;
- h) The value, description and quantity of the goods forwarded goods and the date of dispatch of goods referred to in Article 17a, paragraph 5 of Directive 2006/112 / EC.

10.2 On taxable persons to whom the goods are delivered:

- a) the VAT identification number of the taxable person transfers goods under the system of sales on consignment;
- b) the description and quantity of goods which are intended;

² See footnote 1

- c) the date of arrival at the warehouse of goods which are intended;
- d) The taxable value, the description and quantity of the goods that are delivered to the taxpayer and the date on which it is made the intra-Community acquisition of goods referred to in Article 17a
A, paragraph 3, subparagraph b) of Directive 2006/112 / EC;
- e) a description and quantity of the goods and the date on which the goods are removed from storage order of the taxpayer referred to in point a);
- f) the description and quantity of goods destroyed or lost, and the date of destruction, loss or theft of goods which have already been entered into the warehouse or the date when it is detected the destruction or loss of property.

If the goods are transported or shipped under sales arrangements on consignment for a different keeper taxable person to whom the supply of goods, registration of the taxable person need not contain the information referred to in paragraphs c), e) f).

REVOCATION OF ADMINISTRATIVE INSTRUCTIONS

It is repealed Official Circular No. 30009 of December 10, 1999, the VAT Services Directorate.

Best regards.

The Deputy Director General