

Simplification of rules about consignment stocks to be expected

by Karla Sinai

On 4th December 2018, EU Directive¹ 2018/1910 on the fiscal treatment of consignment stocks was adopted, which will result in simplification not only for Romanian companies, but for all active in the EU.

According to the Directive, all member states must implement the changes in their national laws up to the end of 2019 and apply these regulations as from 1st January 2020.

Current Regulations

The current changes imply that a company supplying consignment stock located in another EU member state makes (on shipment of the goods) an intra-Community delivery in the country of departure and an intra-Community acquisition in the country of arrival. The subsequent delivery to the customer in the country of arrival represents a separate local delivery. The supplier from the other EU state must be registered for tax purposes in the country of arrival and must fulfill the necessary obligations in that particular country. In certain circumstances, simplifications can be applied, based on reciprocal treatment².

Anticipated Changes

The new directive simplifies such transactions under certain conditions. The supply of a consignment stock will be regarded as a tax-free delivery in the country of departure and an intra-Community acquisition in the state of arrival. The conditions in this sense are the following:

- On transporting the goods to the other member state, the supplier must know the identity of the purchaser to whom these goods will be delivered before their arrival in the country of destination.
- Between the supplier and the customer there must be an agreement giving the recipient the right to take over the goods from the consignment stock.
- The supplier may not have the headquarters of its commercial activity nor a permanent establishment in the member state of destination.
- The purchaser must have a VAT registration number in the country of destination and must communicate this number to the supplier when the consignment starts.
- Both the supplier and the purchaser must keep a register to enable the tax authorities to verify the observance of the legal provisions. In this register, both parties will register all the transactions carried out with regard to the consignment stock. The identity and the VAT registration number must be included.

¹Directive 2018/1910 regarding the harmonisation and simplification of certain rules in the value added tax system for the taxation of trade between Member States

² i.e. the mutual application of simplifications in the relationship between both member states

If the power of disposition³ is not transferred to the recipient within 12 months, the shipment will be regarded as an intra-Community purchase for the supplier in the country of destination; the latter must be registered for VAT purposes in the country of destination if the goods were not returned to the country of departure.

If the recipient is replaced during the above mentioned period of time, the simplification will still be applied as long as the same conditions are met and the replacement is entered in the register of the consignment stock.

The conditions will no longer be met in the case of destruction, loss or theft. The transport of the goods to the consignment stock will then be regarded as an intra-Community acquisition from the occurrence of the event (or if this moment is unknown, from the moment the event is identified).

Conclusion

The new regulations will simplify greatly the administrative requirements to establish consignment stocks abroad, because the suppliers, in certain circumstances, will no longer have to register for VAT purposes in the country of destination.

The efforts to regulate all possible situations with regard to the consignment stock are obvious. However, in practice, some questions arise, such as those related to the transition to the new regulation (for transport performed in 2019, for which the transfer of the power of disposition will be applied in 2020).

Another important aspect is the fact that the failure to meet the necessary conditions with regard to the consignment stock will result in the previous complicated requirements being applied.

It remains to be seen when and in what way the implementation of the directive in the Romanian legislation will take place. Till then no other measures are known to be taken in this regard.

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³ i.e. the ability to dispose of the goods like an owner