

Quick fixes from January 2020

From January 1, 2020, a package of changes to EU law in the field of VAT, called "Quick fixes", will enter into force. These are amendments to the existing EU VAT regulations, which are aimed at unifying and facilitating VAT settlements in individual EU countries, but at the same time introducing new rules for documenting EU transactions, which tightens the conditions for applying a zero VAT rate for intra-Community transactions.

SCOPE OF QUICK FIXES

The "Quick fixes" package covers four areas of changes in EU law in the field of VAT:

1. Presumption of EU delivery (intra-Community supply of goods) and new, more stringent documentation requirements to demonstrate intra-Community supplies,
2. Requirements for VAT registration of the buyer for intra-Community transactions and new, more stringent EC sales list reporting requirements in the recapitulative statements (new condition for applying 0% rates for EU deliveries),
3. Uniform rules to simplify chain transactions in EU,
4. Simplifications in the functioning of consignment warehouses („call-off stock”).

NEW DOCUMENTS CONFIRMING EU DELIVERY (INTRA-COMMUNITY SUPPLY OF GOODS)

Regulation (EU) No. 282/2011, amended since January 1, 2020, defines documents that are accepted as proof of delivery to another EU country (shipping or transport):

Category A – documents relating to the dispatch or transport of goods, such as:

- the signed CMR (Consignment Note),
- the bill of lading,
- invoice for air freight, or
- an invoice from the goods carrier.

Category B – other documents:

- insurance policy in respect of the dispatch or transport of goods,
- bank documents confirming payment for the shipment or transport of goods,
- official documents issued by a public authority, such as a notary, confirming the arrival of goods in the Member State of destination,
- an acknowledgment of receipt issued by the warehouse-keeper in the Member State of destination confirming the storage of the goods in that Member State.

PRESUMPTION OF EU DELIVERY AND REQUIRED DOCUMENTS

EU regulations presume that goods have been shipped or transported from a Member State to a destination outside its territory but within the Community. The tax authority will be able to rebut the above presumption if it proves that the goods have not been exported to another EU country.

Transport organized by the Seller. It is presumed that there has been an EU delivery if the goods have been:

1. **dispatched or transported by the seller or** a third party acting on his behalf, and
2. the seller is in possession at least:
 - a. **two non-contradictory category A evidence** that was issued by two different parties which are independent of each other, the seller and the buyer, or
 - b. the seller is in possession of **any single evidence** referred to in **category A**, together with any single non-contradictory evidence referred to in **category B** confirming the **dispatch or transport that has been issued by two different parties** which are independent of each other, from the seller and the buyer.

Transport organized by the Buyer. It is presumed that EU delivery (intra-community supply of goods) has occurred if the seller is in possession of:

1. **a written statement from the buyer** confirming that the goods **have been sent or transported by the buyer** or by a third party acting on behalf of the buyer, and indicating the Member State of destination of the goods, and
2. **at least two** non-contradictory evidence referred to in **category A** which has been issued by two different parties which are independent of each other, the seller and the buyer, or
3. **any single evidence** referred to in **category A**, together with any single non-contradictory evidence referred to in **category B** confirming transport or shipment which has been issued by two different parties which are independent of each other from seller and buyer.

Pursuant to the provisions of the regulation, the buyer's written statement specifies: the date of issue; name or address and address of the buyer; quantity and type of goods; date and place of arrival of goods; in the case of delivery of means of transport, identification number of means of transport; and the identification of the person receiving the goods to the buyer.

The buyer shall provide the seller with a written statement by the tenth day of the month following the month in which delivery took place.

The EU regulation is directly applicable in Poland and does not require implementation into national legislation. At present, the amendment of the Polish VAT Act is under processing. It should be emphasized that the currently applicable documentation requirements in Poland for the application of a zero VAT rate for EU delivery are not as strict as the requirements resulting from the EU regulation.

<p>BUYER'S VAT REGISTRATION AND REQUIREMENT TO SHOW EU DELIVERY IN THE RECAPITULATIVE STATEMENT (EC SALES LIST)</p>	<p>As part of the "Quick fixes" package, from January 1, 2020, EU Directive 2006/112 / EC introduced two additional material conditions for applying the 0% rate for EU delivery:</p> <ol style="list-style-type: none"> 1. The buyer must be identified for VAT purposes in a Member State other than the country where the dispatch or transport of the goods begins and will provide the supplier with this VAT identification number, 2. The seller (taxpayer) shall show intra-Community delivery of goods in the recapitulative statement (EC sales list) submitted within the deadline and the recapitulative statement submitted will contain correct information regarding intra-Community supplies of goods, unless the taxpayer duly explains the deficiency in writing to the head of the tax office. <p>The provisions of Directive 2006/112 / EC require implementation into national legislation to be mandatory in Poland. At present, the amendment of the Polish VAT Act is under processing. It should be emphasized that the regulations currently in force in Poland in this respect are not as strict as the requirements resulting from the amendment of the EU directive.</p>
<p>CHAIN TRANSACTIONS WITHIN THE EU</p>	<p>The amendments to EU law within the framework of "Quick fixes" introduce from January 1, 2020 to Directive 2006/112 / EC simplification in the scope of settlement of chain transactions. For goods that are the subject of a chain transaction that is shipped or transported from the territory of one Member State to the territory of another Member State, the shipment or transport of these goods is only attributable to a delivery made to an intermediary.</p> <p>However, where the intermediary has provided its supplier with VAT identification number for intra-Community transactions assigned to it by the Member State from which the goods are dispatched or transported, the dispatch or transport shall only be assigned to the supply of goods by the intermediary.</p> <p>The intermediary entity referred to above means, other than the first in the chain, a supplier of goods who sends or transports the goods alone or through a third party acting on his behalf.</p> <p>The provisions of Directive 2006/112 / EC require implementation into national legislation to be mandatory in Poland. At present, the amendment of the Polish VAT Act is under processing. It should be emphasized that currently applicable regulations in the area of chain transactions in Poland are more complicated than simplification resulting from the amendment of the EU directive.</p>
<p>THE „CALL-OFF STOCK” ARRANGEMENTS</p>	<p>The changes introduced as part of the "Quick fixes" package simplify the rules for settling transactions carried out via "call-off stock" arrangements within the EU. EU regulations introduce uniform terms and conditions of operations for this type of arrangements, avoiding the obligation to register supplier of goods for VAT purpose in other EU countries.</p> <p>The movement by a taxable person of goods to another Member State under a "call-off stock" arrangements is not considered to be a supply of goods. Such a transfer of goods from another EU country to the "call-off stock" warehouse in Poland is not subject to VAT as intra-Community acquisition of goods. The obligation to report intra-Community acquisition of goods is transferred to the buyer when the goods are released from the "call-off stock" warehouse. As a consequence, a supplier using the "call-off stock" arrangements will avoid both VAT registration, recognition of intra-Community acquisition of goods in Poland, as well as settlement of local VAT on domestic sales.</p> <p>The "call-off stock" arrangements can be used provided that the supplier knows the buyer of the goods when transporting goods to another EU country.</p> <p>The EU regulation is directly applicable in Poland and does not require implementation into national legislation. At present, the amendment of the Polish VAT Act is under processing.</p>

Compared to the regulations on consignment stocks currently in force in Poland, **the new regulations shorten the period of storage of goods in a call-off stock warehouse from 24 to 12 months.** At the same time, new regulations make it possible to cover goods also for commercial goods (currently Polish regulations regarding goods for production and service activities).

CONTACT US

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Lukasz Korbas

Partner

+48 603 558 869

lukasz.korbas@tpa-group.pl

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