

# New intra-EU call-off stock arrangements for VAT

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## INTRODUCTION AND CURRENT TREATMENT

With effect from 1 January 2020, a new arrangement for call-off stock within the EU VAT area has been brought in to simplify VAT treatment. The UK continues to remain within the EU VAT area and so the changes also apply to UK businesses.

A “Call-off stock” arrangement is when goods are transferred from a supplier in one EU member state (known as the Member State of origin) to a business customer in another EU member state (known as the Member State of destination). The goods are sent to the customer’s warehouse or storage facility, but title and ownership of the goods remain with the seller. The customer has control of the storage and may take ownership of the stock at any time. When the customer takes the stock, this is ‘calling off’ the stock.

The pre-existing VAT treatment for call-off stock arrangements differs slightly between countries, with the default position being:

- A deemed supply by the **supplier** takes place in the Member State of origin, being a zero-rated supply of intra-EU goods;
- A deemed intra-EU acquisition by the **supplier** takes place in the Member State of destination;
- A domestic supply by the **supplier** to the **customer** takes place in the Member State of destination;

As a result, the supplier is required to be VAT registered in the Member State of destination to account for VAT on the domestic supply. The UK is one country which had a slightly different treatment meaning that rather than the deemed supplies above being undertaken by the supplier, it is the customer who accounts for the deemed supplies. However, where the non-UK party is based in a country which does not have an equivalent rule, the UK business has to apply the default treatment.

## NEW TREATMENT

The new rules are part of a set of simplification measures which are intended to make the VAT treatment of cross-

border transactions uniform across the EU. The simplification allows the intra-EU supply of goods to be treated as occurring only when the goods are “called-off.”

Under the new provisions, the physical movement of goods does not give rise to a supply. It is only when the customer calls-off the goods, that the following VAT treatment applies:

- A supply by the **supplier** takes place in the Member State of origin, being a zero-rated supply of intra-EU goods;
- An intra-EU acquisition by the **customer** takes place in the Member State of destination, meaning the customer accounts for acquisition tax;

The supplier does not have to register for VAT in the Member State of destination.

## 12-MONTH RULE

The supply must be made, i.e. the goods “called-off” within 12 months of the arrival of the goods into the warehouse in the Member State of destination for the simplified treatment to apply.

If 12 months pass from the date of arrival, there is deemed to be:

- A supply supply by the **supplier** in the Member State of origin;
- An acquisition by the **supplier** in the Member State of destination (an acquisition of own goods);

Any subsequent supply of the goods will be a domestic supply in the Member State of destination. It is likely that the supplier will be required to register for VAT in that country.

## CONDITIONS THAT MUST BE MET FOR THE SIMPLIFICATION MEASURES TO APPLY

When the supplier removes the goods from the Member State of origin to the Member State of destination, the following conditions must be met, otherwise the existing rules apply:

- A call-off stock agreement is in place with the customer (see further detail below);
- The supplier is removing the goods to the Member State of destination with the intention of transferring title of those goods to the customer after the goods arrival in the Member State of destination;
- The supplier does not have a business establishment or other fixed establishment in the destination Member State (see further detail below);
- The customer is VAT registered in the Member State of destination and the supplier knows the customer's identity and VAT registration number;
- The supplier records the removal of the goods in the register referred to as the "Call-off stock register" (see further detail below);
- The customer's VAT registration number in the Member State of destination is reported on the supplier's EC Sales List.

## CALL-OFF STOCK AGREEMENT

This is a written agreement, which could be included within the commercial contract, setting out the call-off arrangements. HMRC recommend that this specifically states that the supplier will remove the goods from the Member State of origin to the Member State of destination, and that the goods are to be located in the Member State of destination when they are to be called-off. They suggest that an express provision is entered into the contract stating that the parties wish for Article 17a of Directive 2006/112/EC to apply.

They also suggest the contract states how each party intends to fulfil the record keeping requirements below, including how the necessary information is to be communicated between the parties.

## BUSINESS ESTABLISHMENT AND FIXED ESTABLISHMENT

For the purpose of these rules, a business is said to be established in a Member State if:

- The business is registered at Companies House (or the Member State equivalent);
- The business has premises in the Member State that allow for business to be conducted;
- The warehouse where the call-off stock is to be located is owned/rented by the supplier and directly run by the supplier by their own employees;

## CALL-OFF STOCK REGISTER

Both the supplier and customer must maintain a Call-off Stock Register and preserve records for 6 years. Details of what needs to be included in the register can be found in Article 54a of Council Implementing Regulation 282/2011.

## LEAVING THE EU

Whilst the UK has left the EU it will remain part of the EU VAT area during the transition period until the end of 2020. The UK should therefore be treated as a Member State for the purposes of these rules. At the time of writing it is not known whether the status quo will continue into 2021. UK businesses trading with businesses in other EU Member States should monitor advice from HMRC for potential changes which could come into effect on 1 January 2021.

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