

# VAT treatment of chain supplies (3/15/18)

As we analyse the rulings made by the Court of Justice of the European Union (CJEU) we are aware that some of our clients still find it difficult to correctly determine the place of supply and the VAT treatment of chain supplies in which goods are supplied to a person established in another member state, and title passes to the customer in Latvia, but the supplier takes little or no responsibility for transportation. Special care is required where a supply involves Group E or F of Incoterms. This article explores the triangulation simplification arrangements.

## The triangulation simplification arrangements

The parties to a transaction often mistakenly assume that for triangulation simplification purposes it is enough to have a transaction involving three parties, each registered for VAT in its own member state, and goods moving from the supplier's country to the customer's country. Let us think about the reasons for the triangulation simplification arrangements. Here's a classic example.

### *Example 1*

A Latvian company (B) uses its Latvian VAT identification number to order goods from a French manufacturer (A) for delivery to an Estonian customer (C). B takes title to the goods in France and arranges transportation from France to Estonia, where title passes to C.



In this example, two consecutive supplies take place: A's supply to B and B's supply to C. According to transport documents, A makes a supply to B in Estonia, followed by B's domestic supply to C in Estonia. Since the transportation ends in Estonia, Latvian company B has made an intra-Community acquisition in Estonia.

The idea of triangulation simplification is to help B avoid having to register for Estonian VAT on the intra-Community acquisition and to account for Estonian VAT on the domestic supply to C. Article 141 of the VAT directive and section 54(3-4) of the Latvian VAT Act exempt such an intra-Community acquisition and require C to account for VAT on B's supply in Estonia.

To determine whether the triangulation simplification arrangements can be applied to the transaction, we should carefully assess all the terms of the transaction to see whether two consecutive supplies take place and whether in the case of a single intra-Community transportation, the first transaction is an intra-Community supply followed by a domestic supply, and which of the parties has made an intra-Community acquisition with an onward domestic supply.

It is important to answer the following questions:

- The timing of each consecutive supply, i.e. the timing of title transfer;
- Which is an intra-Community acquisition, characterised by obtaining the owner's right to deal with movable goods that are dispatched or transported by the supplier or customer, or by a third party on their behalf, to the customer's destination in a member state that is not the member state in which the dispatch or transportation began?

- Which of the consecutive supplies is covered by the transportation? Where is the place of supply according to this assessment?

### *Example 2*

Using its Latvian VAT identification number, Latvian company B buys goods in France and sells them unmoved to Estonian customer C, who arranges transportation from France to Estonia. Documentary evidence of removal from France to Estonia is presented to A.



To apply the triangulation simplification arrangements, the first supply, involving a transfer of title, must be an intra-Community supply, and the goods must leave the member state of supply. Under CJEU case law, if there are two consecutive supplies and only one intra-Community transportation, the transportation is applicable to either supply, not both (CJEU ruling C-386/16 of 26 July 2017).

In this example, where title passes to B in France, but transportation only takes place during the second supply after a transfer of title to C, there is no reason to believe that an intra-Community supply takes place during the first supply, and so this example does not qualify for the triangulation simplification arrangements.

We'll be writing more about triangulation simplification measures and zero-rated supplies soon.