

## VAT treatment of chain supplies (3) (2/17/18)

To continue our previous article, here we explore some more consecutive supplies and their VAT implications.

An interrupted triangle

B, a Latvian company, uses its Latvian VAT ID number and asks company A in France to manufacture goods that will be supplied to a customer in Estonia unknown to B at the time of placing the order. B takes title to the goods in France and arranges transportation from France to B's leasehold warehouse in Estonia:



Although the situation is quite similar to the classic triangle, the VAT treatment differs significantly. The conditions for triangulation simplification laid down by article 141 of the VAT directive 2006/112/EC are not met in this case because the goods are not dispatched directly to the final customer. B might just as well find a customer in another member state, e.g. Finland, resulting in a different procedure for accounting for VAT. 

For VAT purposes the transactions are analysed as follows:

1. Company A makes an intra-Community supply to B, which may be zero-rated because B is registered for VAT in another member state and because he dispatches and removes the goods to another member state – his leasehold warehouse in Estonia.
2. Unlike the classic triangle involving an intra-Community acquisition of goods that would be exempt for B, while C (instead of B) would account for VAT on a domestic supply, in this case the intra-Community acquisition is taxable. Under article 41 of the VAT directive (section 16(3) of the VAT Act) with transportation the place of acquisition is the member state whose VAT ID number the customer used for the acquisition (i.e. Latvia) because B is initially unable to prove that VAT has been charged in the member state where the dispatch or transportation ends. Thus, unlike the classic triangle, B should account for an intra-Community acquisition of goods in Latvia. It is important to note that B cannot deduct the input VAT on the intra-Community acquisition in Latvia (i.e. reverse the VAT) until an onward supply has been made in Estonia or to another member state, and B is unable to prove that the customer has accounted for the acquisition (see the considerations for the CJEU ruling on joined cases *C 536/08 X and C-539/08 Facet BV/ Facet Trading BV*, paragraph 42 in particular).
3. If B finds a customer in Finland, or in any member state other than France or Latvia, and makes a supply, then B can deduct the input VAT on the intra-Community acquisition in Latvia and account for an intra-Community supply to the Finnish taxable person (the supply appearing on line 48.2 of the VAT return and in VAT2 under the code "S").
4. If B is to deduct the input VAT on the intra-Community acquisition in Latvia, he needs evidence to prove the supply and movement of the goods to the Finnish customer.

Supplies might also flow as follows:



The same as before:

1. Company A makes an intra-Community supply to B, which may be zero-rated because B is

registered for VAT in another member state and because he dispatches and removes the goods to another member state – his leasehold warehouse in Estonia.

2. B accounts for an intra-Community acquisition of goods in Latvia but cannot deduct the input VAT until he proves that an onward supply in Estonia or to another member state or an export has been made.
3. If B makes a supply (an export) to a Russian company, we believe B should enter the transaction on line 48.2 of the Latvian VAT return because the export is treated as made outside Latvia. B can deduct the input VAT on the intra-Community acquisition in Latvia once he has made the export in his own name to the Russian company.
4. B needs evidence to prove that he has made the export in his own name from Estonia.

We would recommend checking with each member state to see if you are liable to register for national VAT before making such intra-Community acquisitions and exports.