

Documentary evidence for VAT exemption on intra-Community supplies (2/50/19)

Council Implementing Regulation (EU) 2018/1912 of 4 December 2018 amending Implementing Regulation (EU) No. 282/2011 as regards certain exemptions for intra-Community transactions is taking effect from 2020. As member states have put up various preconditions for applying these VAT exemptions, which cause complications and legal uncertainty for businesses, the new Regulation specifies and aligns the conditions to be satisfied for an exemption.

Section 43(4)(2) of the VAT Act has so far provided that an intra-Community supply may be zero-rated if goods have been dispatched or transported from Latvia to a destination in another member state as confirmed by the supplier's transport documents, without naming any documents that qualify for this purpose. Here is a summary of the new Regulation's evidence requirements to support an exemption:

The seller or a third party in his name has dispatched or transported the goods, and the seller holds –

at least two documents relating to dispatch or transportation (e.g. a signed CMR, waybill, consignment note, air freight invoice, or carriage invoice);

or

one of the above and one of the following documents:

- an insurance policy, or bank documents confirming payment, for the dispatch or transportation;
- official documents issued by public-sector bodies (or officers such as notaries) confirming arrival of goods in the country of destination (a Latvian court bailiff is authorised to note this);
- a warehouse keeper's proforma invoice in the country of destination confirming storage in that member state.

The buyer or a third party in his name has dispatched or transported the goods, and the seller holds –

the buyer's letter which states that either he or a

third party in his name has dispatched or transported the goods and names the country of destination, and at least two documents relating to dispatch or transportation (e.g. a signed CMR, waybill, consignment note, air freight invoice, or carriage invoice);

or

one of the above and one of the following documents:

- an insurance policy, or bank documents confirming payment, for the dispatch or transportation;
- official documents issued by public-sector bodies (or officers such as notaries) confirming arrival of goods in the country of destination;
- a warehouse keeper's proforma invoice in the country of destination confirming storage in that member state.

These pieces of evidence must not be mutually contradictory and must be issued by two different parties that are not dependent on each other, on the seller, or on the buyer.

The buyer's letter should state –

- the date of issue;
- the buyer's name and address;
- the amount and type of goods;
- the date and place of arrival;
- in the case of supplying a vehicle – its identification number;
- identification of the person taking delivery in the buyer's name.

The new Regulation does not prohibit member states from specifying any additional evidence of carriage and the carrier. We have no information about Latvia planning to adopt any tighter requirements.

A missing piece of evidence does not necessarily mean that a zero-rating is denied, and the supplier may be allowed time for putting right any shortcomings.

As the new Regulation comes into force, considerably more requirements will have to be met to qualify for an exemption on intra-Community supplies. As part of their controls, the State Revenue Service is expected to focus on whether the required documents exist and have been drawn up properly.

To continue the expansion of our range of service offerings, PwC has developed a new service that involves –

- examining your supply chain documentation for compliance with the new Regulation's requirements and assessing any procedures you have in place for preparing your documents and organising your document flows;
- recommending ways of improving your documentation and document flows;
- training your staff on documentation requirements and their significance.

In collaboration with PwC Lithuania, PwC Latvia is developing software to automate the generation of buyer letters prescribed by the new Regulation in accordance with its requirements. If your company is faced with these issues, please reach out to our VAT expert Ilze Rauza (ilze.rauza@pwc.com).