ECOFIN reached agreement on VAT "quick fixies"

On 2 October 2018, the ECOFIN reached an agreement on several VAT measures aimed at fixing specific issues concerning intra-EU commerce. In particular, the ECOFIN agreed on a number of "quick fixes", which, if approved by the Council, would apply as from 1 January 2020.

Such "quick fixes" are aimed at enhancing cross-border B2B trade from a VAT perspective. They concern, in particular: (i) the use of VAT identification numbers in the context of the exemption for intra-EU supplies, (ii) call-off stock arrangements, (iii) chain transactions and (iv) the proof of goods transportation for the purpose of applying the exemption for intra-EU supplies.

With regard to (i) the VAT identification number of the customer, its inclusion in the VAT Information Exchange System (VIES) would become a substantive condition for applying the exemption to intra-EU transactions. An additional new substantial requirement would concern the submission of the Intrastat/EU listings. These requirements would be added to the general requirement laid down by Art. 138 of Directive 2006/112/EC.

Call-off stock arrangements under (ii) would be no longer deemed to involve a supply of goods and an intra-EU acquisition carried out by the vendor, followed by a "domestic" supply in the Member State of arrival.

As far as (iii) chain transactions are concerned, the VAT exemption will be allocated to the first leg of the supply, if the middleman is not registered for VAT purposes in the Country where the transport begins.

With regard to (iv) the burden of proof, suppliers will need to have at least two items of non-contradictory evidence, such as a signed CMR document or note, a bill of lading, an airfreight invoice or an invoice from the carrier of the goods.

The ECOFIN also approved a generalized "reverse charge" mechanism, as an optional regime subject to authorization by the Council, in order to tackle carousel frauds. Such a measure could be applied only (i) in respect of domestic supplies of goods and services above a threshold of €17,500 per transaction, (ii) until 30 June 2022 and (iii) if 25% of the VAT gap is due to carousel fraud. Furthermore, Member States would be required to establish appropriate and effective electronic reporting obligations.

Finally, Member States would be authorized to apply reduced, super-reduced or zero VAT rates to electronic publications, provided that the same regime is already in force for physical publications.

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