



1 Administrative Circular, Explanatory Notes and Guidelines

Some concerns currently exist as to the practical application of the Quick Fixes. An administrative circular regarding these issues is expected from the German Federal Ministry of Finance, however, it may be several weeks until it is published. Until then, the only available guide for companies is the Explanatory Notes published by the EU-Commission on 20.12.2019. The final version of the Explanatory Notes only differs from the draft by the inclusion of a few additional points, which are discussed below. Among other things, some guidelines resulting from the meeting of the VAT Committee on 03.06.2019 have been included. Neither the Explanatory Notes nor the guidelines have any binding effect. However, as the VAT Committee is composed of representatives of the EU-Commission and the Member States, some importance must be attached to the guidelines, at least concerning those points that were decided unanimously.

2 Consignment Stocks – Bulk goods (Explanatory Notes)

Initially, it was doubtful whether the simplification rule could be applied to bulk goods. In the meantime, however, the EU-Commission has gone so far as to allow liquids stored in one tank for several intended acquirers to fall within the scope of the application. Despite this, it is still important that the items are identified as being destined for a particular intended customer. This is a kind of contradiction.

3 Consignment Stocks – Register (Explanatory Notes)

The simplification rule requires that the supplier keep a register. The EU-Commission expects the Member States to accept electronic registers. It also expects that all forms of electronic registers will be accepted. It is only important that the



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relevant data is easily accessible and can be retrieved by the tax administration without any problems. It should also be possible, for example, to keep a register for several warehouses, provided that the data for each warehouse and each intended acquirer is listed separately.

4 Consignment Stocks – Losses (Guidelines / Working Paper 973)

Loss, theft or destruction of stored goods is considered harmful. The VAT Committee considers that small losses occurring due to the nature of the goods, unforeseen circumstances or an authorisation or instruction issued by the competent authorities should not be harmful. "Small losses" should be understood to mean less than 5% of the value or quantity of the stock. For this purpose, the value of the stock on the day on which the loss occurred or, at the latest, when it was detected, is the relevant date for assessment.

5 Consignment Stocks – Establishment (Guidelines / Working Paper 974)

The simplification rule does not apply if the supplier is established in the country of arrival. If the warehouse is not owned and operated by the supplier, the VAT Committee considers that this cannot result in the supplier being established. However, if the warehouse is owned or rented by the supplier and he also operates it using his own staff in the country, the warehouse should be regarded as his fixed establishment.

6 Consignment Stocks – EC Sales Lists

The Federal Tax Office has had difficulties in adapting the EC Sales List in order to allow the declarations required by the simplification rule. It has therefore now developed a separate form and last week made it available on the Federal Finance Administration's server. The Federal Ministry of Finance also published a letter on 28.01.2020 in which it was pointed out that this form should be used as a transitional measure.

7 Triangular transactions (Guidelines / Working Paper 975)

In contrast to what is laid down in the German Administrative VAT Circular, the VAT Committee considers that the simplification rule for triangular transactions is also applicable at the beginning or in the middle of a chain transaction involving more than three parties. It only requires that all of the conditions of Art. 141 of the VAT Directive be fulfilled.

8 Chain transactions – communication of the VAT-ID

Up to now, the EU-Commission seemed to want to generally accept the subsequent communication of the VAT-ID of the country of departure by the intermediary for the allocation of the transport. In the meantime, the wording in the Explanatory Notes has been amended and now only refers to a situation where the intermediary has mistakenly communicated an incorrect VAT-ID and corrects this retrospectively.

9 Valid VAT-ID

In the Explanatory Notes a loose view is sometimes taken as regards the importance of the correct VAT-ID. However, the communication of an invalid VAT-ID is likely to be problematic, particularly from the perspective of the German tax authorities, in terms of the VAT exemption of intra-Community supplies. And other questions remain unanswered, for example, what are the consequences if an incorrect VAT-ID is recorded in the warehouse register when replenishing the warehouse or when replacing the customer? Against this background, it still seems advisable to check VAT-IDs regularly. Tools for automated VAT-ID queries such as the VAT-ID Verifier developed by us can provide valuable assistance here.