



# KMLZ VAT NEWSLETTER

## Major reform of VAT on trade within the EU begins

The transitional solution for intra-Community trade introduced more than 25 years ago is to be replaced by a definitive VAT system. On 4 October 2017, the EU Commission published the first proposals for Council Directives and explained the new system's basic structure.

### 1. Transition phase / certified taxpayer

In the first phase, the taxation of intra-Community supplies is to be converted until 2022. Cross-border deliveries of goods should be handled in the same way as domestic supplies in the Member State of destination and be subject to the VAT rate applicable there. Generally, the supplier should be liable to pay the VAT in its country of establishment through a one-stop shop. However, during the first phase, as an exception and transitional solution, the VAT liability may be shifted to the acquirer if the acquirer has the status of a certified taxpayer (Art. 13a VAT Directive). In order to obtain this status, the taxpayer must not have committed (i) any serious or repeated infringements of taxation rules or customs legislation or any serious criminal

### Getting started with the final VAT system

The time has come: The EU Commission has given the go-ahead to implement the final VAT system. This is the beginning of a transition phase in which various changes are to come into force between 2018 and 2022. As a first step, EU-wide regulations for chain transactions and consignment stocks are on the agenda. With respect to intra-Community supplies, the VAT-ID no. shall become a material requirement for the VAT exemption and a uniform framework for documentary evidence shall be defined. The status of the certified taxpayer is to be introduced as a central element. Only companies having this status will be able to benefit from comprehensive simplification rules. As the coming months will bring fundamental changes, companies should start dealing with them now by drawing up a road map.

offenses relating to the economic activity. He must also be able (ii) to demonstrate a high level of control of his operations and of the flow of goods; and (iii) evidence financial solvency. If the applicant is a taxable person, who has been granted the status of an authorized economic operator for customs purposes, these criteria shall be deemed to have been fulfilled.

### 2. Final phase

In the second phase, the destination principle is to be extended to all services. Only the suppliers should then be liable to pay the VAT for all supplies of goods and services. However, this extension should take place, at the earliest, five years after the introduction and evaluation of the first phase.

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### 3. Quick Fixes

While the final VAT system is being introduced during the next few years, the current system shall be improved on a short-term in the following areas:

- **Consignment stocks** (Art. 17a VAT Directive): The intra-Community transfer of goods to the Member State of destination, followed by the local supply shall be treated as a direct intra-Community supply under certain criteria. The supplier and the customer must both be certified taxpayers.
- **VAT-ID-No.** (Art. 138 para. 1 VAT Directive): The VAT exemption for intra-Community supplies should be subject to the requirement that the customer is registered for VAT purposes in another Member State. In addition, the supply must also be included in the EC Sales list. Hence, the VAT-ID-no. listed in VIES is intended to be a material requirement for the VAT exemption.
- **Chain transactions** (Art. 138a VAT Directive): For chain transactions where the intermediary is responsible for the transport and the first supplier as well as the intermediary are certified taxpayers, uniform regulations as to how the transport is to be ascribed are to be introduced. The transport is to be ascribed to the supply of the supplier to the intermediary, if (i) the intermediary communicates the name of the Member State of destination and (ii) the intermediary is registered in a Member State other than that in which the transport begins.

These amendments are expected to come into force as of 1 January 2019.

In addition, uniform regulations for evidence of transport should be included in the EU Regulation 282/2011 for certified taxpayers.

### 4. Conclusion

The transition to the final system is the largest reform of VAT since the introduction of the EU Single Market. This results in considerable need for change, especially for sales, accounting and IT departments. Companies should therefore adapt to this new situation and draw up a road map. In particular, tax finding projects should be adapted.

Companies will also have not really another option than to apply for the status of certified taxpayer. If companies do not already have the status of an authorized economic operator for customs purposes, they should apply for it as soon as possible in order to be prepared well in advance. Alternatively, the status of certified taxpayer would need to be applied for as soon as the new regulations are adopted and implemented in to German law.

The planned new regulations on chain transactions in the German VAT Act was put on hold due to the proposal for a Council Directive. Furthermore, the German Ministry of Finance will not publish a circular prior to the implementation of the Council Directives which is to be carried out by the end of 2018.

However, a circular from the German Ministry of Finance on consignment stocks in response to the German Federal Fiscal Court case law, will reportedly be published soon.