

EDITORIAL

Dear Sir or Madam

In our newsletter series we have already pointed out the upcoming changes as of 1.1.2020 due to the EU VAT action plan.

In this issue we would like to present the new regulations on the obligation to provide evidence, in particular with regard to documentary evidence for intra-EU supply of goods. To clarify the upcoming changes we have formulated and answered some useful questions.

You will need to assess how the coming changes will affect your company, train your employees and adapt your processes and IT systems. We will support you with our recommendations for action.

Please feel free to contact us, we will be happy to assist you with the implementation of these changes.

With best wishes

Your HLB Stückmann VAT team

New regulation

In the first part of our newsletter series we have already pointed out the new regulations concerning the requirements for tax-free intra-EU supply of goods.

Evidence of these requirements must be provided by the supplying business. Proof that the supplied goods have reached the EU country of destination is provided by means of a corresponding document.

Within the member states of the European Union there are different regulations as to which documents are suitable as evidence. In Germany, for example, the so-called "Gelangensbestätigung" (confirmation of receipt) is regarded as evidence of intra-EU supplies.

The VAT action plan has created a uniform system throughout Europe. The new regulations regarding documentary evidence were introduced as part of an amendment to the VAT Implementing Regu-

lation. The new regulation therefore applies directly in all European countries. However, the German legislator has included this regulation in the VAT Implementing Regulation and has left the previous regulations unchanged.

As of 1.1.2020 German businesses will be able to provide documentary evidence as follows:

Documentary evidence pursuant to the VAT Implementing Regulation

For the purposes of documentary evidence, a distinction is made as to which of the parties is responsible for the transport of the goods.

Transport or dispatch by the supplying business:

- a) two transport or dispatch documents or
- b) one transport or dispatch document and one other document (i.e. bank documents, transport insurance, confirmation of a public authority or warehouse owner)

The documentary evidence must be issued by different parties, independent of each other, the supplying business and the customer and must not contradict each other.

Transport or dispatch by the acquiring party:

In the case of transport or dispatch by the acquiring party, a confirmation of receipt is required in addition to the documents shown above. According to the VAT Implementing Regulation, this is almost identical to the already known confirmation of arrival. However, there is a difference with regard to the signature of the purchaser. This is not provided for in the confirmation of receipt according to the Value Added Tax Implementing Regulation.

However, the German VAT Implementing Regulation places this confirmation of receipt at the same level as the already known confirmation of receipt, which generally requires a signature from the customer.

If this documentary evidence is available in full, there is a presumption that the item has reached the other EU country. However, the tax authorities can contest this presumption.

Alternative evidence

The documentary evidence can be carried out using the documents known up to now, the duplicate of the invoice and one other document. The confirmation of receipt can be used for this purpose in any case of transport or dispatch by the **supplying business** or the **acquiring party**. In the case of dispatch by the **acquiring party**, the forwarding agent insurance can be used alternatively. The simplest form of evidence in the case of dispatch by the **supplying business** is, for example, the signed CMR consignment note or other customary document with the necessary details.

Questions and answers

Which regulations must be observed regarding documentary evidence?

The provisions of the VAT Implementing Regulation and the amended Sales Tax Implementing Regulation coexist. The business owner can choose how the evidence is to be kept for the purposes of documentary evidence.

How is the documentary evidence for intra-EU supply in other European countries to be provided?

For other EU countries, the VAT Implementing Regulation is also directly applicable as a law. If evidence is provided in this respect, the presumption rule applies accordingly. The regulations of the VAT Implementing Regulation represent the maximum requirements for documentary evidence. Higher requirements should not be made by the individual EU countries.

However, as in Germany, it may be that the EU countries have lower requirements for documentary evidence.

Recommendations for action

1. Check compliance with the obligation to provide documentary evidence

Especially with regard to the increased material requirements for intra-EU supply, we recommend ensuring that documentary evidence is provided correctly. Make sure that you can provide the relevant documents quickly and easily at any time.

2. Decision as to how documentary evidence is to be provided

In order to make the processes in your company as simple as possible, we recommend that you define how documentary evidence is to be provided. Clear instructions on how to create and archive documents are helpful.

3. Application of the VAT Implementing Regulation only makes sense for certain businesses

Due to the higher requirements of the VAT Implementing Regulation regarding the supporting documents, in some cases it does not seem to be possible to provide such documentary evidence. However, this can be useful for internationally operating companies that want to standardise processes for the entire European area. Since the VAT Implementing Regulation is a directly

applicable law in all European countries, documentary evidence can be provided in accordance with these requirements - without a separate examination of the legal situation in the respective EU country.

Should you have any further questions, simply contact us. We would also be happy to support you in adapting your internal processes to the changes.

NOTICE

On our own behalf:

For up-to-date information on VAT please visit:

<https://www.stueckmann.de/sales-tax-consulting>

You can also contact us directly via our contact form there.

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