



**EUROPEAN COMMISSION**  
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Indirect Taxation and Tax Administration  
**Value Added Tax**

**VAT Expert Group**  
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**VAT EXPERT GROUP**

**VEG N° 079**

**VAT “quick fixes” legislative package**

**Call-off stock**

## **1 INTRODUCTION**

On 4 December 2018, the Council adopted the VAT “quick fixes” legislative package, which consists of:

- a) Council Directive (EU) 2018/1910 of 4 December 2018 amending Directive 2006/112/EC as regards the harmonisation and simplification of certain rules in the value added tax system for the taxation of trade between Member States;
- b) Council Regulation (EU) 2018/1909 of 4 December 2018 amending Regulation (EU) No 904/2010 as regards the exchange of information for the purpose of monitoring the correct application of call-off stock arrangements;
- c) 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.

The purpose of the present document is to provide, for discussion, an outline of the provisions within that legislative package relating to the **call-off stock** arrangements.

The Commission services have provided detailed explanations on those provisions that it considered most pertinent. However, in case members wish to discuss other provisions, they are invited to inform the Commission services by e-mail ([TAXUD-VAT-EXPERT-GROUP@ec.europa.eu](mailto:TAXUD-VAT-EXPERT-GROUP@ec.europa.eu)) **at the latest on 8 March 2019** about any further issues to be discussed. The received requests will be circulated before the meeting.

## **2 SUBJECT MATTER**

The wording “call-off stock arrangements” makes reference to a situation in which a taxable person dispatches or transports goods to a stock in another Member State for an intended acquirer whose identity and VAT identification number are known at the time of the transport or dispatch and who has the right to take goods out of this stock at his own discretion, at which time the property on the goods is transferred.

Under the current VAT rules, a business (a taxable person) moving his goods from one Member State to a stock located in another Member State is deemed to have made an exempt intra-Community supply in the Member State of departure of the goods. At the same time, this business has to account for VAT on the intra-Community acquisition of goods in the Member State where the goods arrive. In practice, it means that a business, moving goods to another Member State, has also to comply with the VAT obligations in the Member State of arrival (registration for VAT purposes, filing of a VAT return and accounting of the VAT due on the intra-Community acquisition in that return).

Where the goods are transferred from one Member State to a stock located in another Member State with a view to supplying them at a later stage to a customer, the business transferring and supplying these goods, apart from declaring an intra-Community acquisition of goods, normally also has to account for the VAT on the (domestic) supply in the Member State where the stock is located (unless the reverse charge mechanism is applicable, normally on the basis of Article 194 of the VAT Directive).

The simplification for call-off stock arrangements, adopted by the Council, does away for businesses, moving goods between two Member States in view of supplying them at a later stage to an already known intended acquirer, with the administrative burden linked with the obligation to fulfill VAT requirements in the Member State of the location of the stock.

The simplification does **not** cover the situation whereby a business transfers goods from one Member State to another without knowing yet the intended acquirer in that latter Member State.

The adopted solution establishes that:

- no intra-Community supply/intra-Community acquisition takes place at the time of dispatch or transport of the goods to the stock located in another Member State;
- an exempt intra-Community supply in the Member State of departure and a taxed intra-Community acquisition in the Member State where the stock is situated, only take place at the later stage when the acquirer takes ownership of the goods.

In order to use this simplification for call-off stock arrangements, certain conditions have to be fulfilled:

- both the supplier and the intended acquirer are taxable persons;
- the supplier has not established his business nor does he have a fixed establishment in the Member State to which the goods are dispatched or transported;
- the supplier records the dispatch/transport of the goods to the stock in a register held by him;
- the supplier mentions the identity and VAT identification number of the intended acquirer in his recapitulative statement (only that, not the value of the goods) submitted for the period of the transport of the goods.
- the intended acquirer is identified for VAT purposes in the Member State to which goods are transferred;
- the acquirer's identity and VAT identification number are known by the supplier at the time when dispatch or transport begins;
- the goods are transported from one Member State to another, excluding imports, exports and supplies within a single Member State from the simplification;
- the goods are supplied after arrival at a later stage.

To note that there are also obligations the non-fulfilment of which does not imply that the simplification could not (or no longer) be applied (although national penalties may apply). This is in particular the case for the obligation of the stock keeper to indicate the arrival of the goods in the stock in the register to be held by him (Article 243(3), second subparagraph of the VAT Directive and Article 54a(2) of the VAT Implementing Regulation).

The articles of the VAT Directive, on which the call-off stock simplification is based, are:

- **Article 17a:** (main provision) containing the simplification rules;
- **Article 243(3):** addition of the obligation to keep a register;

- **Article 262:** addition of the obligation to mention the identity of the intended acquirer in the recapitulative statement and to inform about any changes that might happen in that regard.

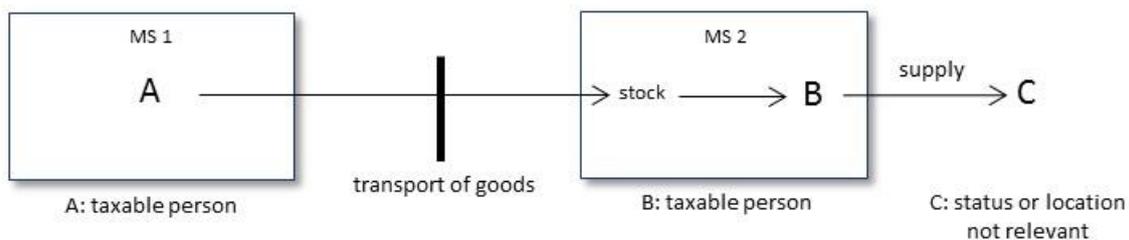
**Article 54a** of the VAT Implementing Regulation provides more detailed rules on registers when the goods are moved under the call-off stock arrangements.

Finally, in **Article 21** of the Administrative Cooperation Regulation, two amendments are included specifying which additional information each Member State should store and grant access to in the context of the call-off stock arrangements.

### 3 FUNCTIONING OF THE SIMPLIFICATION

The purpose of this section is to present, on the basis of a number of examples, the practical functioning of the new simplification system and the corresponding VAT treatment, in particular as regards the obligations of the parties involved.

#### 3.1. General case covered by the simplification



##### Situation:

- Business A, established in Member State 1 (and not in Member State 2), transports goods in January under a call-off stock arrangement to Member State 2. These goods are intended for business B which is identified (established or otherwise) in Member State 2.
- In September of the same year, B takes ownership (of part) of the goods.
- B might use the goods in e.g. his production process or sell them onwards to C (situation in the graph). C's status (taxable person or private individual) and his place of establishment/residence are not as such relevant for the application of the call-off stock arrangements.

##### VAT treatment of the call-off stock:

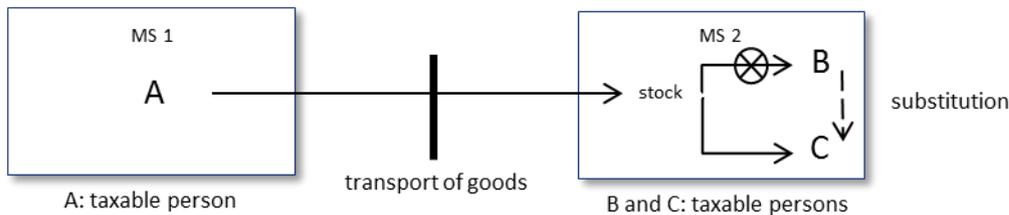
- In January, A has to indicate the transport of the goods in the register held by him (Article 243(3), first subparagraph of the VAT Directive and Article 54a(1) of the VAT Implementing Regulation).
- In his recapitulative statement, A has to mention B as the person for whom goods have been sent under the call-off stock arrangements (Article 262(2) of the VAT Directive).
- In January, the stock keeper (B or third party) has to indicate the arrival of the goods to the stock in the register held by him (Article 243(3), second subparagraph and Article 54a(2) of the VAT Implementing Regulation).

- In September, A is deemed to make an exempt intra-Community supply in Member State 1 and B an intra-Community acquisition in Member State 2 (Article 17a(3) of the VAT Directive).
- Chargeability for VAT purposes will occur no later than on 15 October (Articles 67 and 69 of the VAT Directive).
- A will have to declare the intra-Community supply in his VAT return and include the transaction in his recapitulative statement by indicating B as the person acquiring the goods as well as the value of the goods.
- B will have to account for the VAT due on the intra-Community acquisition via his VAT return.
- A will have to make the necessary indications in the register held by him in order to keep it updated (Article 243(3), first subparagraph of the VAT Directive and Article 54a(1)(f) of the VAT Implementing Regulation).
- B will have to indicate the goods acquired by him in a register held by him at the time he takes ownership of the goods (Article 243(3), second subparagraph of the VAT Directive and Article 54a(2)(d) of the VAT Implementing Regulation).

#### Other observations

- The supply from B to C, of the goods taken out of the stock, follows its own rules ('domestic' supply in Member State 2, intra-Community supply, export) and is outside the scope of the simplification measure for call-off stock.

### **3.2. Substitution of the customer**



#### Situation:

- Business A, established in Member State 1 (and not established in Member State 2), transports goods in January under a call-off stock arrangement to Member State 2. These goods are intended for business B which is identified (established or otherwise) in Member State 2.
- In September of the same year, the call-off contract between A and B is changed (or even terminated). However, the (part of the) goods which were not already sold to B stay in Member State 2. At the same time, A agrees a call-off stock arrangement with business C, also identified (established or otherwise) in Member State 2, covering the remaining (part of the) goods that are in the stock in Member State 2<sup>1</sup>. The goods may be transported to another storage place in Member State 2 or they could physically remain in the same storage place whereby only the contractual arrangements between A - B and A - C would change.

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<sup>1</sup> This contract could e.g. also cover goods still situated in Member State 1. However, these goods will not be covered by the 'substitution' rules but by the overall arrangements of the call-off stock scheme.

VAT treatment of the call-off stock:

- In January, A has to indicate the transport of the goods in the register held by him (Article 243(3), first subparagraph of the VAT Directive and Article 54a(1) of the VAT Implementing Regulation).
- In his recapitulative statement, A has to mention B as the person for whom goods have been sent under the call-off stock arrangements (Article 262(2) of the VAT Directive).
- In January, the stock keeper (B or a third party) has to indicate the arrival of the goods to the stock in the register held by him (Article 243(3), second subparagraph of the VAT Directive and Article 54a(2) of the VAT Implementing Regulation).
- Concerning the goods for which B has taken ownership before the alteration or termination of the call-off stock contract, the rules set out under section 3.1 above apply.
- In September, when the call-off contract is altered/terminated, there is neither an intra-Community supply nor an intra-Community acquisition in the relation between A and B for the part of the goods for which B is not taking ownership.
- As regards the substitution (replacement) of B by C, no transfer by A is deemed to take place from Member State 1 to Member State 2 provided that two conditions are fulfilled (Article 17a(6)(b) of the VAT Directive):
  - 1] The general conditions of the call-off stock simplification apply in relation to C. This implies, inter alia, that C, on the basis of an existing agreement with A, is entitled to take ownership of the goods. Although not stipulated in the VAT Directive, the ‘substitution’ seems to imply that B is contractually no longer in a position to take ownership of the goods and that, to that end, the necessary arrangements were made with A. Further, C must be a taxable person identified in Member State 2.
  - 2] A records the substitution of B by C in the register held by him (Article 243(3), first subparagraph of the VAT Directive and Article 54a(1)(e) of the VAT Implementing Regulation) and mentions the identity (VAT identification number) of C in his recapitulative statement (Article 262(2) of the VAT Directive, since this is a “change in the submitted information”<sup>2</sup>).
- Depending whether, at the moment of substitution, the goods are moved from one stock to another or not, the relevant registers may need to be updated.

Other observations

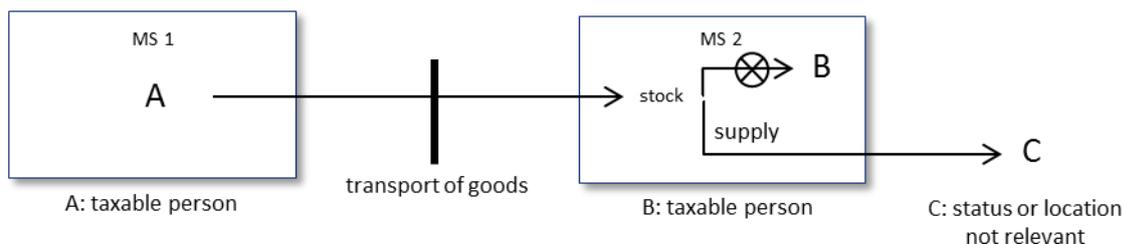
- For the described situation it is necessary that the substitution (B being replaced by C) takes place before the goods are called-off by C (i.e. supplied to C).
- It is also required that at the moment when the call-off stock arrangements with B cease to exist A has already identified the intended acquirer C who substitutes B.
- The period of 12 months referred to in Article 17a(4) of the VAT Directive (see also section 3.5) does not restart at the time of substitution. That period starts at the time of the initial arrival of the goods in the Member State to which they were dispatched or transported. It is the only applicable time-limit and has not been extended by the provision on substitution (Article 17a(6) of the VAT Directive) or by any other provision. Moreover, the rule regarding the possible non-fulfilment of the conditions for substitution (Article 17a(7) of the VAT Directive) explicitly

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<sup>2</sup> See also section 4.

refers to the ‘time limit referred to in paragraph 4’ (i.e. Article 17a(4) of the VAT Directive) which reaffirms that this is the only relevant period. This is again confirmed by the fact that a reference to the VAT identification number of the person substituting the initial intended acquirer is to be mentioned in the register held by the supplier but not to the date of the substitution itself (Article 54a(1)(e) of the VAT Implementing Regulation).

### 3.3. Supply to another person



#### Situation:

- Business A, established in Member State 1 (and not in Member State 2), transports goods in January under a call-off stock arrangement to Member State 2. These goods are intended for business B which is identified (established or otherwise) in Member State 2.
- In September, A instead supplies the goods to business C (e.g. because C is willing to pay a higher price) and, as a result, ends the call-off stock contract with B. It could also happen in the example that A and B keep the call-off stock contract for other (types of) goods than those that are being supplied to C.
- A does not transport the sold goods back to Member State 1. The goods are moved directly to C who was not indicated as an intended acquirer at the time the goods were originally moved from Member State 1 **and** who did not substitute the initial intended acquirer in accordance with Article 17(6) of the VAT Directive.

#### VAT treatment of the call-off stock:

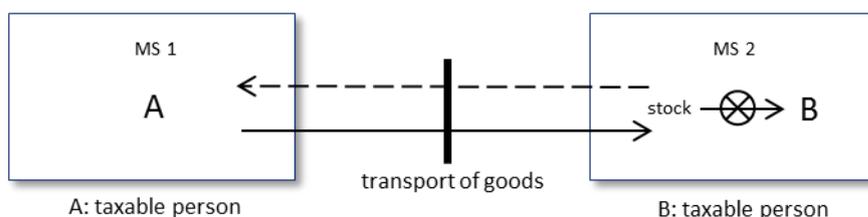
- In January, A has to indicate the transport of the goods in the register held by him (Article 243(3), first subparagraph of the VAT Directive and Article 54a(1) of the VAT Implementing Regulation).
- In his recapitulative statement, A has to mention B as the person for whom goods have been sent under the call-off stock arrangements (Article 262(2) of the VAT Directive).
- In January, the stock keeper (B or a third party) has to indicate the arrival of the goods to the stock in the register held by him (Article 243(3), second subparagraph of the VAT Directive and Article 54a(2) of the VAT Implementing Regulation).
- Concerning the goods for which B has taken ownership before the alteration or termination of the call-off stock contract, the rules set out under section 3.1 above apply.
- In September, when the call-off stock contract is altered/terminated, there is neither an intra-Community supply nor an intra-Community acquisition in the relation between A and B for the part of the goods for which B is not taking ownership. Where necessary, B or the stock keeper will have to adapt the register held by one or the other in relation to the goods supplied to C.

- In September, when the goods are instead supplied to C, the conditions for the call-off stock arrangements cease to be fulfilled in relation to these goods. Since A and C agreed a sale of goods and not a call-off stock contract, the provisions concerning substitution set out under section 3.2 do not apply in relation to the goods supplied to C. Therefore, a transfer of goods is deemed to take place from Member State 1 to Member State 2 for the goods supplied to C. Since the conditions cease to be fulfilled for these goods, a transfer is deemed to take place in case (and at the time) the call-off stock contract between A and B is terminated and, in any case, at the latest immediately before the supply to C (Article 17a(7), second subparagraph of the VAT Directive).
- The concept of “immediately before”, although not explicitly explained in the Directive, is to be seen, within the overall functioning of the system, as being on the same day as the day of the supply made by A to C.
- In relation to the goods sold to C, A is deemed to make an exempt intra-Community supply in Member State 1 and an intra-Community acquisition in Member State 2 (as mentioned above, other goods could remain under the call-off stock contract between A and B). The taxable event takes place in September and the chargeability will occur no later than on 15 October. In order to declare his intra-Community acquisition in Member State 2, A will have to be identified for VAT purposes in Member State 2.
- A will have to declare the intra-Community supply in his VAT return in Member State 1 and include the transaction in his recapitulative statement by indicating himself, under his VAT identification number in Member State 2, as well as the value of the goods.
- A will also have to account for the VAT due on his intra-Community acquisition via his VAT return in Member State 2.
- A will have to make the necessary indications in the register held by him in order to keep it updated (Article 243(3), first subparagraph of the VAT Directive and Article 54a(1)(g) of the VAT Implementing Regulation).

#### Other observations

- The supply from A to C follows its own rules (‘domestic’ supply in Member State 2, intra-Community supply, export) and is outside the scope of the simplification measure for call-off stocks.

### **3.4. Return of the goods**



#### Situation:

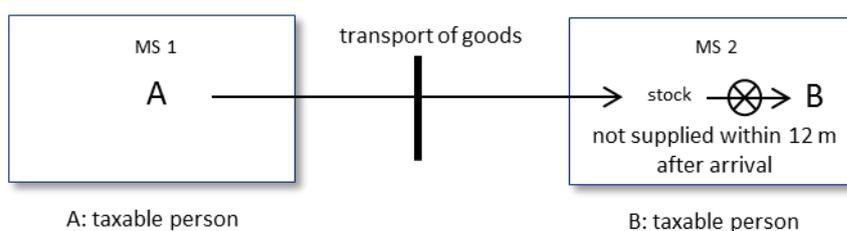
- Business A, established in Member State 1 (and not in Member State 2), transports goods in January under a call-off stock arrangement to Member State 2. These goods are intended for business B which is identified (established or otherwise) in Member State 2.

- In September of the same year, it is agreed that A will take back the remaining goods that were not sold or used by B and transport them from Member State 2 back to Member State 1.

#### VAT treatment of the call-off stock

- In January, A has to indicate the transport of the goods in the register held by him (Article 243(3), first subparagraph of the VAT Directive and Article 54a(1) of the VAT Implementing Regulation).
- In his recapitulative statement, A has to mention B as the person for whom goods have been sent under the call-off stock arrangements (Article 262(2) of the VAT Directive).
- In January, the stock keeper (B or a third party) has to indicate the arrival of the goods to the stock in the register held by him (Article 243(3), second subparagraph of the VAT Directive and Article 54a(2) of the VAT Implementing Regulation).
- Concerning the goods for which B has effectively taken ownership, the rules set out under section 3.1 above apply.
- Regarding those goods for which B did not take ownership, there is neither an intra-Community supply nor an intra-Community acquisition in the relation between A and B.
- Regarding the returned goods, there is also no transfer by A deemed to take place from Member State 1 to Member State 2 and/or from Member State 2 to Member State 1 if A records the return of the goods in the register held by him as provided for in Article 243(3), first subparagraph of the VAT Directive and Article 54a(1)(h) of the VAT Implementing Regulation (Article 17a(5) of the VAT Directive) and mentions his identity (VAT identification number) in his recapitulative statement (Article 262(2) of the VAT Directive, since this is a “change in the submitted information”<sup>3</sup>).
- The stock keeper (B or a third party) will have to adapt the register held by him.

### **3.5. Exceeding of the period of 12 months**



#### Situation:

- Business A, established in Member State 1 (and not in Member State 2), transports goods on 5 January of year N under a call-off stock arrangement to Member State 2. The goods arrive in Member State 2 on that same date. These goods are intended for business B which is identified (established or otherwise) in Member State 2.
- A year later, the goods or part of them have not yet been supplied to B but are still on the territory of Member State 2.

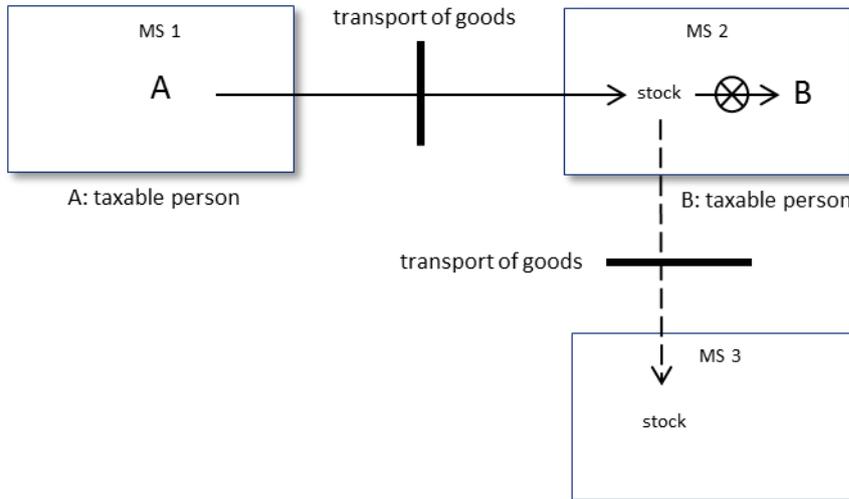
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<sup>3</sup> See also section 4.

VAT treatment of the call-off stock

- A has to indicate the transport of the goods on 5 January of year N in the register held by him (Article 243(3) of the VAT Directive and Article 54a(1) of the VAT Implementing Regulation).
- In his recapitulative statement, A has to mention B as the person for whom goods have been sent under the call-off stock arrangements (Article 262(2) of the VAT Directive).
- The stock keeper (B or a third party) has to indicate the arrival of the goods on 5 January of year N to the stock in the register held by him (Article 243(3), second subparagraph of the VAT Directive and Article 54a(2) of the VAT Implementing Regulation).
- Concerning the goods for which B has taken ownership before the termination of the call-off stock contract, the rules set out under section 3.1 above apply.
- By 5 January of year N+1, B has not taken ownership of the goods or part of them. For these remaining goods, there is neither an intra-Community supply nor an intra-Community acquisition in the relation between A and B.
- As from 6 January of year N+1, the day following the expiry of the 12-month period, the conditions for the call-off stock arrangements are no longer fulfilled and a transfer by A of the remaining goods is deemed to take place from Member State 1 to Member State 2 (Article 17a(4) of the VAT Directive).
- A is deemed to make an exempt intra-Community supply in Member State 1 and an intra-Community acquisition in Member State 2. The taxable event takes place on 6 January of year N+1 and the chargeability will occur no later than on 15 February of year N+1 (Articles 67 and 69 of the VAT Directive). In order to declare his intra-Community acquisition in Member State 2, A will have to be identified for VAT purposes in Member State 2.
- A will have to declare the deemed intra-Community supply in his VAT return in Member State 1 and include the transaction in his recapitulative statement by indicating himself, under his VAT identification number in Member State 2, as well as the value of the goods.
- A will have to account for the VAT due on his intra-Community acquisition via his VAT return in Member State 2.
- A will have to make the necessary indications in the register held by him in order to keep it updated (Article 243(3), first subparagraph).

### 3.6. Goods sent to another Member State



#### Situation:

- Business A, established in Member State 1 (and not in Member State 2), transports goods in January under a call-off stock arrangement to Member State 2. These goods are intended for business B which is identified (established or otherwise) in Member State 2.
- In September of the same year, A takes back (part of) the goods that were not supplied to B from the stock but does not transport them back to Member State 1. Instead, the goods are transported to Member State 3 where the goods are stored on behalf of A (situation in the graph).
- This situation is different from the situation whereby the remaining goods are transported in the context of a sale to C, a business established in Member State 3 (situation covered by section 3.3 above).

#### VAT treatment of the call-off stock

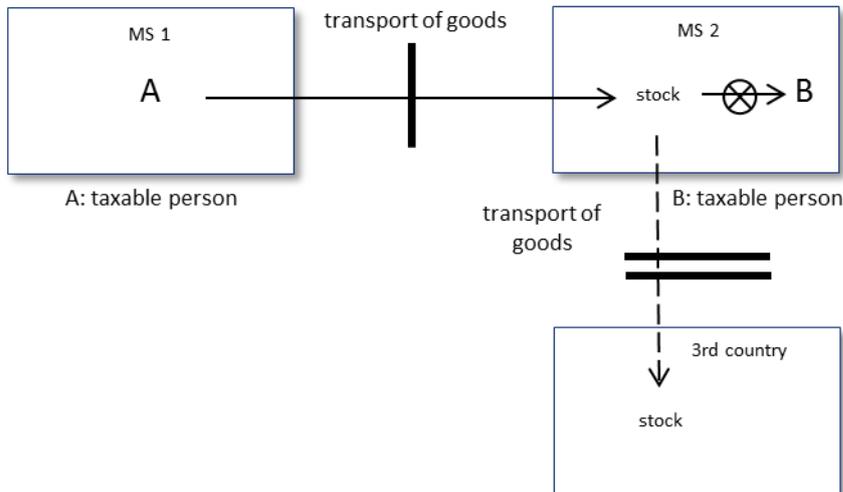
- In January, A has to indicate the transport of the goods in the register held by him (Article 243(3), first subparagraph of the VAT Directive and Article 54a(1) of the VAT Implementing Regulation).
- In his recapitulative statement, A has to mention B as the person for whom goods have been sent under the call-off stock arrangements (Article 262(2) of the VAT Directive).
- In January, the stock keeper (B or a third party) has to indicate the arrival of the goods to the stock in the register held by him (Article 243(3), second subparagraph of the VAT Directive and Article 54a(2) of the VAT Implementing Regulation).
- Concerning the goods for which B has effectively taken ownership, the rules set out under section 3.1 above apply.
- In September, when the remaining goods are transported to Member State 3, the conditions for the call-off stock arrangements, regarding the transport from Member State 1 to Member State 2, cease to be fulfilled. Therefore, a transfer of goods from Member State 1 to Member State 2 will be taking place. The conditions cease to be fulfilled, and the transfer is therefore deemed to take place, immediately before the dispatch or the transport to Member State 3 starts (Article 17a(7), third subparagraph of the VAT Directive).

- The concept of “immediately before”, although not explicitly explained in the Directive, is to be seen, within the overall functioning of the system, as being on the same day as the start of the dispatch or the transport to Member State 3.
- A is deemed to make an exempt intra-Community supply in Member State 1 and an intra-Community acquisition in Member State 2 of the remaining goods. The taxable event takes place in September and the chargeability will occur no later than on 15 October (Articles 67 and 69 of the VAT Directive). In order to declare his intra-Community acquisition in Member State 2, A will have to be identified for VAT purposes in Member State 2.
- A will have to declare the supply in his VAT return in Member State 1 and include the transaction in his recapitulative statement by indicating himself, under his VAT identification number in Member State 2, as well as the value of the goods.
- A will have to account for the VAT due on his intra-Community acquisition via his VAT return in Member State 2.
- A will also have to make the necessary indications in the register held by him in order to keep it updated (Article 243(3), first subparagraph of the VAT Directive).

#### Other observations

- A makes another transfer, from Member State 2 to Member State 3, in relation to the transport of the goods to Member State 3 in September. Therefore, A is deemed to make an exempt intra-Community supply in Member State 2 and an intra-Community acquisition in Member State 3. For the latter taxable event, he will have to be identified for VAT purposes in Member State 3. Declarations in VAT returns and recapitulative statements follow the normal rules and are, as such, not linked to the call-off stock simplification rules.
- It might happen that this second transport of the goods from Member State 2 to Member State 3 falls under the rules on call-off stock arrangements provided that all the conditions for that are met. That would however require for A not to be established in Member State 3; there would have to be an existing agreement with an intended customer who would have to be identified in Member State 3, A would have to record the transport in the register held by him and A would also have to mention the new intended acquirer in the recapitulative statement submitted in Member State 2. Any such new situation will need to be subject to an entirely separate assessment.
- In case that the goods are directly sold to C in Member State 3, the intra-Community supply in Member State 2 and the intra-Community acquisition in Member State 3 follow the normal rules and are, again, not linked to the call-off stock simplification rules (see also section 3.3)

### 3.7. Goods exported



#### Situation:

- Business A, established in Member State 1 (and not in Member State 2), transports goods in January under a call-off stock arrangement to Member State 2. These goods are intended for business B which is identified (established or otherwise) in Member State 2.
- In September of the same year, A, regarding the goods that were not supplied to B, exports them in view of further activities outside the European Union.

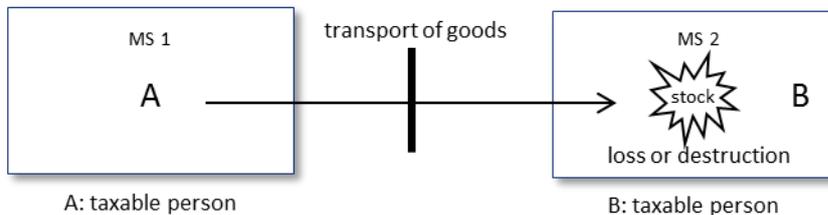
#### VAT treatment of the call-off stock

- In January, A has to indicate the transport of the goods in the register held by him (Article 243(3), first subparagraph of the VAT Directive).
- In his recapitulative statement, A has to mention B as the person for whom goods have been sent under the call-off stock arrangements (Article 262(2) of the VAT Directive).
- In January, the stock keeper (B or a third party) has to indicate the arrival of the goods to the stock in the register held by him (Article 243(3), second subparagraph of the VAT Directive and Article 54a(2) of the VAT Implementing Regulation).
- Concerning the goods for which B has effectively taken ownership, the rules set out under section 3.1 above apply.
- In September, when the remaining goods are transported outside the European Union, the conditions for the call-off stock arrangements cease to be fulfilled. Therefore, a transfer of those remaining goods will be taking place from Member State 1 to Member State 2. Since the conditions cease to be fulfilled upon exportation, the transfer is deemed to take place immediately before the dispatch or the transport (Article 17a(7), third subparagraph of the VAT Directive).
- The concept of “immediately before”, although not explicitly explained in the Directive, is to be seen, within the overall functioning of the system, as being on the same day as the start of the dispatch or the transport.
- A is deemed to make an exempt intra-Community supply in Member State 1 and an intra-Community acquisition in Member State 2. The taxable event takes place in September and the chargeability will occur no later than on 15 October (Articles 67 and 69 of the VAT Directive). In order to declare his intra-Community

acquisition in Member State 2, A will have to be identified for VAT purposes in Member State 2.

- A will have to declare the intra-Community supply in his VAT return in Member State 1 and include the transaction in his recapitulative statement by indicating himself, under his VAT identification number in Member State 2, as well as the value of the goods.
- A will have to account for the VAT due on his intra-Community acquisition via his VAT return in Member State 2.
- A will have to make the necessary indications in the register held by him in order to keep it updated (Article 243(3), first subparagraph of the VAT Directive).

### 3.8. Destruction or loss of the goods



#### Situation:

- Business A, established in Member State 1 (and not in Member State 2), transports goods in January under a call-off stock arrangement to Member State 2. These goods are intended for business B which is identified (established or otherwise) in Member State 2.
- In September of the same year, and before B took ownership of all the goods received, the remaining part of the goods are destroyed in a fire.

#### VAT treatment of the call-off stock:

- In January, A has to indicate the transport of the goods in the register held by him (Article 243(3), first subparagraph of the VAT Directive).
- In his recapitulative statement, A has to mention B as the person for whom goods have been sent under the call-off stock arrangements (Article 262(2) of the VAT Directive).
- In January, the stock keeper (B or third person) has to indicate the arrival of the goods to the stock in the register held by him (Article 243(3), second subparagraph of the VAT Directive and Article 54a(2) of the VAT Implementing Regulation).
- Concerning the goods for which B has effectively taken ownership, the rules set out under section 3.1 above apply.
- In September, when the remaining goods are destroyed, the conditions for the call-off stock arrangements cease to be fulfilled. Therefore, a transfer of goods is deemed to take place from Member State 1 to Member State 2. Since the conditions for the call off stock simplification cease to be fulfilled, the transfer is deemed to take place at the time the goods were actually destroyed (Article 17a(7), fourth subparagraph of the VAT Directive).
- A is deemed to make an exempt intra-Community supply in Member State 1 and an intra-Community acquisition in Member State 2 of the destroyed goods.
- The taxable event takes place in September and the chargeability will occur no later than on 15 October (Articles 67 and 69 of the VAT Directive). In order to

declare his intra-Community acquisition in Member State 2, A will have to be identified for VAT purposes in Member State 2.

- A will have to declare the intra-Community supply in his VAT return in Member State 1 and include the transaction in his recapitulative statement by indicating himself, under his VAT identification number in Member State 2. The taxable amount is the purchase price or, in absence of such price, the cost price of the goods (Article 76 of the VAT Directive).
- A will have to account for the VAT due on his intra-Community acquisition via his VAT return in Member State 2. Article 185(2) of the VAT Directive will apply and no exclusion or limitation of the right to deduct the VAT on the intra-Community acquisition will arise out of the destruction of the goods, provided that such destruction is “duly proved or confirmed”.
- A will have to make the necessary indications in the register held by him in order to keep it updated (Article 243(3), first subparagraph of the VAT Directive and Article 54a(1)(g) of the VAT Implementing Regulation).

#### **4 CONCEPT OF “CHANGE IN THE SUBMITTED INFORMATION”**

Article 262 of the VAT Directive stipulates that, under the call-off stock arrangements, the supplier has to mention the identity and VAT identification number of the intended acquirer (without the value of the goods) in his recapitulative statement. Further the supplier has to mention in his recapitulative statement “*any change in the submitted information*”.

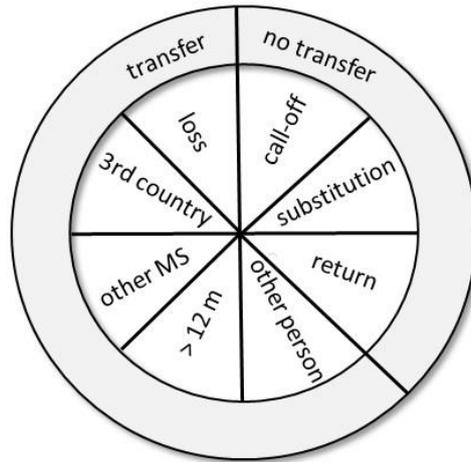
This last part, added by the Council, implies in practice that not only the intended acquirer of the goods should be mentioned in the recapitulative statement. Further, where such cases arise, the following information will also have to be mentioned in the recapitulative statement:

- 1] substitution (see section 3.2.)
- 2] return of the goods (see section 3.4.)

The necessary adaptation of the VIES system so as to enable the introduction of call-off stock related information in the system is underway.

#### **5 SUMMARY GRAPH OF THE POSSIBLE SITUATIONS**

The different situations as described above are hereunder summarised in a single graph that indicates whether a ‘transfer’ from Member State 1 to Member State 2 takes place or not.



## 6 QUESTIONS TO THE MEMBERS

Members are invited to express their views on the comments made by the Commission services regarding the call-off stock provisions.

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