

News on formalities related to international trade !

The VAT Authorities have recently published two decisions, one concerning the mention of the VAT number of the exporter in the export document; the second with respect to the evidence of the intra-community supplies.

VAT consequences of the entry into force of the new Union Customs Code (Decision E.T. 129.169 dd. May 20, 2016)

On May 1, 2016, the new Union Customs Code has entered into force. This new legislation provides a new definition of the « exporter of record » that, now, must be established within the customs territory of the European Union. On the other hand, the VAT rules allow a taxpayer non established within the European Union to exempt their exports of goods. In case of an export of goods by a taxpayer non established within the European Union or in case of an Ex Works supply where the customer is taking care of the export formalities, the exporter for customs purposes is then different from the exporter for VAT purposes.

But a taxpayer who claims the application of the exemption for export of goods must be able to provide the VAT Authorities with a customs document designating him as exporter of the goods.

As the box 2 of the export document is dedicated to the Customs Authorities, this box can only display the VAT number of the exporter for customs purposes. Therefore, the exporter for VAT purposes can only be mentioned in box 44. Please note that it is possible that the same person is mentioned in boxes 2 and 44 of the export document.


In box 44, it should be mentioned :

- The individual BE VAT number of the supplier established in Belgium or abroad;
- The global BE VAT number of the represented supplier that is not registered in Belgium;
- The EU VAT number of the supplier that is not required to register for VAT in Belgium;
- No VAT number when the supplier is established outside the EU and is not VAT registered in any EU Member State.

As from now, the intracommunity supplies of goods can be demonstrated with a « destination document » (Decision E.T. 129.460 dd. July 1, 2016)

In principle, in order to exempt an intracommunity supply of goods, the taxpayer must be able to prove that the goods have been delivered from Belgium to another Member State where

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the acquirer has declared and paid the VAT due on the intracommunity acquisition of the goods.

Before July 1, 2016, to prove the transport of the goods from Belgium to another Member State, the taxpayer should keep the transport documents (e.g.: CMR) for all the intracommunity supplies of goods. However, in practice, it was sometimes difficult for the taxpayer to keep and retain such documents. The VAT Authorities, aware of these difficulties, gave the possibility to the taxpayers to prove the transport of the goods with a destination document.

- **Conditions**

To use this alternative proof of transport of the goods outside Belgium, the following conditions should be fulfilled:

1. For each intracommunity supply of goods, the supplier is free to use or not this alternative proof.
2. The destination document certifies that the goods, subject of the intracommunity supply, are in the possession of the buyer at a location outside Belgium but within the European Union, regardless of the agreed conditions of the delivery.
3. The destination document can cover all the intracommunity supplies of goods to the same customer related to a period of maximum 3 consecutive months.
4. The destination document is established by the supplier. However, in some cases, the VAT Authorities, accept that the document is established by the customer.
5. Specific mentions should be reported on the destination document (see attached document).
6. A person, due to its administrative function within the customer company (e.g.: in charge of the accounting department) attests the accuracy of the information reported on the destination document.
7. The destination of documents can be sent and confirmed electronically (e.g.: email) provided that the authenticity of the signer is guaranteed. Exchanged documents must be kept as such as well.
8. The supplier must ensure that he receives the signed destination document.

In order to take advantage of the destination document, the supplier must be able to provide the VAT Authorities with the sales invoice, the proof of payment and the invoice for the transport (if the transport was performed on his behalf). As for all intracommunity supplies of goods, the supplier must report these sales in its European Sales Listing and must have taken reasonable measures to ensure that he is not involved in any tax fraud.

- **Entry into force**

As from July 1, 2016, the taxpayers can use the destination document. It is however important to note that this simplification measure is implemented as a testing phase. Indeed, should the VAT Authorities consider that the conditions are not met or that there is an abusive use of the simplification, they could either withdraw the simplification or either refuse its application towards certain suppliers (individually identified).

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- **Annex (destination document example)**

Confirmation of the arrival of intracommunity supplies of goods (articles 138, paragraph 1 of the 2006/112/CE Directive) at the plant in Germany							
Period : April – June 2016							
<u>Supplier :</u>							
- Name : SA X							
- Address : Avenue du Parc Industriel 1, 4041 Herstal							
- VAT number : BE 999.999.999							
<u>Buyer :</u>							
- Name : GmbH Y							
- Address : Strasse ..., Köln, Germany							
- VAT number : DE 999.999.999							
<u>Received supplies :</u>							
Invoice number	Invoice date	Zinc (in tons)	Nickel (in tons)	Copper (in tons)	Reception date of the goods by the acquirer or on his behalf	Arrival place	Price in EUR (VAT excl.)
663	06.04.2016	1			April 2016	Aix-la-Chapelle	1.405,27
687	27.04.2016			3	May 2016	Aix-la-Chapelle	12.384,25
715	12.05.2016		1		May 2016	Aix-la-Chapelle	7.909,36
734	10.06.2016		1,5		June 2016	Aix-la-Chapelle	11.939,72
		1,2			June 2016	Aix-la-Chapelle	1.738,26
785	21.06.2016			2	June 2016	Aix-la-Chapelle	8.792,83
<u>Confirmation of the correctness of the destination document :</u>							
- Name and first name : Z (e.g.: accountant of Y)							
- Received on behalf of Y							
- Date : 06.07.2016							
- Signature of X							

RSM Belgium informs you

If you would like to receive additional information on this VAT news, the VAT team of RSM Belgium is at your disposal.

RSM Intertax

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