

## TAX BRIEFING: Monthly Insight

# Recent Developments in Tax Legislation

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## A. EU Introduces New VAT Rules for EU Cross-Border Supplies of Goods

### I. Introduction

- a. In April 2016 the EU launched a plan (VAT Action Plan) in order to transform the current VAT system and create a new definitive single EU VAT area by 2022. According to the VAT Action Plan which is effective as of 1 January 2020, all Member States are required to implement several improvement measures for the day-to-day functioning of the VAT system for cross-border B2B (business-to-business) trade.
- b. The VAT Action Plan is also referred to as 'the 4 quick fixes' and is a first step towards a new definitive single EU VAT regime. The 4 quick fixes are an attempt to:
  - i. harmonise call-off stock rules across the EU;
  - ii. harmonise EU cross-border chain transactions rules;
  - iii. harmonise the rules for documenting EU cross-border movements of goods; and
  - iv. introduce a mandatory VAT ID number check for intra-Community supplies.
- c. These measures have yet to be incorporated into Greek legislation, however Greece is expected to adopt the new EU provisions soon.

### 2. Call of Stock Rules Across the EU

- a. In general, call-off stock refers to stock that is moved within the EU Member States and is held in store to a customer or third party warehouse. The key element is that the customer is known before the goods are shipped but the

title in the goods only passes to the customer as the goods are called off. The cross-border transfer to the warehouse currently leads to an intra-Community supply for the supplier in the Member State of departure and an accompanying intra-Community acquisition in the Member State of arrival. This is followed by a domestic supply in the country of arrival when the goods are actually supplied. The supplier has to register for VAT in that country and fulfill the accompanying VAT obligations.

- b. The new rules to be applied provide a uniform regulation system which:
  - i. enables the cross-border transfer of call-off stock for a period of one year;
  - ii. prevents VAT registration and the supplier's obligation for declaration in the Member State of arrival; and
  - iii. simplifies the way a supplier registers the transfer of call-off stock in multiple Member States to his VAT administration. Any goods shipped cross-border under application of this measure are required to be reported separately in the EC Sales Listing.

### 3. EU Cross-Border Chain Transactions Rules

- a. In general, EU cross-border chain transactions consist of successive supplies of goods between traders in more than one Member State, where only one cross-border transport movement occurs, mostly from the first to the last party in the chain. Since the zero VAT rate for intra-Community supplies can only be applied to one part of the chain, the transport movement can only be assigned to one of the suppliers in the chain as well. The other suppliers in the chain usually resort to local VAT and VAT registration in the respective Member State(s).
- b. Under the new rules, the zero-rated intra-Community supply is ascribed to the supply made to an intermediary operator who arranges or has the transport arranged in his behalf. Therefore, the intermediary who arranges for the transport is deemed to perform the zero-rated intra-Community supply itself instead of its supplier and the first part of the supply is considered to be a local supply, and is subject to local VAT of the relevant Member State(s).

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## 4. Rules for Documenting EU Cross-Border Movements of Goods

- a. Under the current EU VAT regime, a business can apply the zero VAT rate for intra-Community supplies if it can prove that the goods are supplied to another business and transported to another Member State in the course of that supply. Under the new rules, the availability of the VAT identification number of the customer is mandatory. As a consequence, legal entities should obtain all VAT identification numbers from their customers, in order to include them on the invoices to be issued.

## 5. Mandatory VAT ID Number Check for Intra-Community Supplies

- a. By means of inclusion in the EU VAT implementing regulation, a common framework is introduced for the documentary proof to provide for the zero VAT rate application for intra-Community supplies.
- b. Based on the new rules, the importance of the VAT ID numbers of customers will increase. Effectively, reporting an incorrect VAT ID number of a customer in the EU Sales Listing will prevent the application of the zero VAT rate or the VAT exemption.

## B. Opinion of the Audit Firm Institute of Certified Accountants on the Imposition of Capital Registration Tax in Cases of Offsetting the Balance of the Share Premium Reserve Against Accumulated Losses

1. The Tax Committee of the Audit Firm Institute of Certified Accountants SA, issued an opinion about the imposition of capital registration tax in cases of offsetting the balance of the Share Premium reserve against the accumulated losses of a legal entity.
2. Article 35 of the Société Anonyme Law (Law 4548/2018), expressly provides for the set-off of the Share Premium reserve against accumulated losses, to the extent that these losses cannot be covered by ordinary reserves or other company funds.
3. Following the issuance of two decisions of the Council of State (ΣτΕ 3015/2009 and ΣτΕ 1774/2018), the Tax Committee concluded that the process of offsetting the balance of the Share Premium reserve against accumulated losses shall not be subject to capital registration tax, since losses should be set off before capitalization. According to the decisions of the Council of State, the difference between the nominal value of a share and the share premium is not subject to capital registration tax until the share premium is capitalised.

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