

Substantive Requirements for zero-rating intra-Community supplies

This document should be read in conjunction with Council Implementing Regulation (EU) 2018/1912 which amends Implementing Regulation (EU) 282/2011 and paragraph 1(1) of Schedule 2 to the VAT Consolidation Act 2010 (VATCA)

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Introduction

This guidance sets out the substantive requirements for the application of the zero-rate of VAT to an intra-Community supply (ICS) of goods and the evidence required to be retained by the supplier of the goods relating to the transport of the goods. These new measures take effect from 1 January 2020.

1 Substantive requirements

The place of supply of an ICS of goods is the place where the transport begins.

The zero rate of VAT can apply to the ICS of goods if all of the following substantive requirements are met:

- the customer must be registered for VAT in another Member State
- the customer's VAT registration number (including country prefix) must be obtained and retained by the supplier
- the supplier's VAT number and the customer's VAT number must be quoted on the sales invoice
- the goods must be dispatched or transported to another Member State, and
- correct [VIES](#) Returns must be made by the supplier.

2 The presumption that goods have been transported

The condition that goods are dispatched or transported to another Member State is a critical condition for the application of the zero-rate to an ICS. The new amendment to the Implementing Regulation outlines circumstances where it will be presumed that the goods have been transported from one Member State to another, provided certain information or documentation is available. The other conditions contained in paragraph 1(1) of Schedule 2 to the VATCA must also be fulfilled for the zero-rating to apply to the supply.

3 Obligations regarding the presumption that goods have been transported

In order for the presumption that goods have been transported to apply in the context of an ICS, the supplier of the goods must retain the relevant documents, as outlined below.

The documentation required differs depending on which party to the transaction organised the transport of the goods. In both scenarios however, the supplier is the person who must retain the relevant documents in order for the presumption that transport has taken place to apply. This presumption may be rebutted by Revenue.

The information to be retained by the supplier is not a substantive condition for the zero-rating of an ICS. Instead, the information is required for it to be presumed that the transport of the goods from the State to another Member State has, in fact, taken place.

Where the conditions for the presumption to transport of goods are not met, this does not automatically mean that the zero-rating provided for in paragraph 1(1) of Schedule 2 to the VATCA does not apply. In that case, it will be up to the supplier to prove that all the conditions contained in paragraph 1(1) of Schedule 2 to the VATCA, including the transport of the goods have been met, as the presumption would not have arisen.

3.1 Supplier organises transport of goods

Where the supplier is responsible for organising the transport of the goods, there are two sets of proof which they can produce. The supplier may:

- have two pieces of evidence from column A of the table at 3.1.1, from two unconnected parties, or
- one piece of evidence from column A, along with another non-contradictory piece of evidence from column B, from two unconnected parties.

An unconnected party is one which is independent of the supplier, the customer, and the other unconnected party who provides documents.

3.1.1 Table of Documentation

Column A

Two documents relating to the dispatch or transport of goods, such as:

- A signed CMR (Convention Relative au Contrat de Transport International de Marchandises par la Route) document/CMR note
- A bill of lading
- An airfreight invoice
- An invoice from the carrier/transporter of the goods

Column B

One of the documents below, as well as one document from column A:

- An insurance policy relating to the transport of the goods
- A bank document proving payment for dispatch/ transport
- Official documents, for example from a notary, confirming the arrival of the goods in the MS of destination
- A receipt from a warehouse keeper in the Member State of destination, confirming the goods are being stored there

The items contained in Column A are not prescriptive or exhaustive. The items contained in column B are prescriptive.

3.2 Customer organises transport of goods

Where the customer of the goods is responsible for organising transport, the supplier remains responsible for retaining the relevant documents for the purposes of availing of the presumption of transport.

In this scenario, the supplier must retain:

- two pieces of evidence from column A of the table at 3.1.1, from two unconnected parties, or,
- one piece of evidence from column A of the table at 3.1.1, along with another non-contradictory piece of evidence from column B, from two unconnected parties.

3.2.1 Statement from the customer

Where the customer organises the transport of the goods, the supplier must also retain a statement from the customer that goods have been transported by them or on their behalf which identifies the MS of destination.

The statement must contain the following:

- the date of issue (of the statement)
- the name and address of the customer
- the quantity and nature of the goods, and
- the date and place of arrival of the goods.

Furthermore, where the supply of goods is a 'means of transport', the statement must also include:

- the identification number of the 'means of transport' e.g. the vehicle identification number or boat identification number, and
- the identification of the individual accepting the goods on behalf of the customer.

Note that this additional information in the statement is for **all** 'means of transport', and not just for '**new** means of transport' as defined in section 2 of the VATCA.

The customer of the goods must furnish the statement containing the information above to the supplier of the goods by the tenth day of the month following the supply.

4 Rebuttal of Presumption of Transport

Where the supplier has provided the required documents outlined above but Revenue has evidence that the goods in question have not, in fact, been transported, Revenue may rebut the presumption that transport has occurred.