

New rules on EU call-off stock

(Lecture B1185 – 10.04 minutes)

Call-off stock v Consignment stock

Call-off stock - is the term used to describe trading in goods where the customer for the goods is known to the supplier at the time when they are moved from one EU country to another. These procedures were subject to change at EU level with effect from 1 January 2020. The UK is obliged to comply with these new rules until at least 31 December 2020, i.e. when the temporary Brexit withdrawal deal expires.

Consignment stock – these arrangements are completely different: in this situation, goods arrive in another EU country, and the identity of the final customer is unknown. In most cases, the UK business storing goods in the other EU country will need to register for VAT in that country, so that domestic VAT can be charged when the goods are supplied onwards to the final customer.

Call-off stock – new legislation from 1/1/20

To avoid the need for the supplier to register for VAT in the Member State of destination, Article 17a of Directive 2006/112/EC sets out the new rules which permit the intra-community supply of the goods to be treated as occurring when the goods are called-off and the final supply is made to the customer.

That means that the physical movement of the goods from the Member State of origin (plus the UK until 31 December 2020) to the Member State of destination does not give rise to an intra-community supply. The goods that are held as call-off stock in the Member State of destination are considered, for VAT purposes, to still be within the scope of VAT in the Member State of origin.

The intra-community supply takes place when the goods are called off by the customer. At that point, the normal VAT accounting rules for a cross border sale of goods apply i.e. the customer accounts for acquisition tax and the sale is zero-rated for the supplier.

HMRC has published draft legislation in order to implement the new rules but has confirmed that there is no obligation for a business to change its arrangements to meet these new conditions.

However, where a UK business wishes to access this simplification for dealing with call off stock arrangements with its EU customers and ensure a VAT registration in another EU state is not triggered solely from engaging in this type of arrangement, the regulations would need to be followed.

The changes will be included in the next Finance Act, so the legislation will have retrospective effect.

Call-off Stock Register

This register should be maintained by suppliers, giving details of all call-off stock movements and the dates when stock is 'called off' by the customer. In other words, the supplier has an on-going record of all goods held and transferred under call off arrangements. The following details must be kept in the register:

- a) the VAT registration number of the customer of the goods subject to the call-off stock arrangements;
- b) the description and quantity of the goods intended for him;
- c) the date on which the goods intended for him arrive in the warehouse – this becomes relevant for the 12-month rule considered below;
- d) the taxable amount, description and quantity of the goods supplied to him and the date on which the customer's intra-community acquisition of the goods is made;
- e) the description and quantity of the goods, and the date on which the goods are removed from the warehouse by order of the supplier;
- f) the description and quantity of the goods destroyed or missing and the date of destruction, loss or theft of the goods or the date on which the goods were found to be destroyed or missing.

Contracts

The wording of contracts or trading terms between customers and suppliers should cover call-off stock arrangements. In the past, contracts might have been silent on these issues but it is important that both the supplier and customer are aware of the VAT procedures that are in place;

Business establishment

Call off arrangements only apply when the supplier does not have a business establishment in the EU country where the goods are stored.

If a supplier opens a business establishment in an EU country where call-off stock is held (this is different to a warehouse storing goods – a business establishment has the physical and human presence necessary to run a business), then the supplier would become VAT registered in that country and the call-off arrangements would cease. Domestic VAT would then be charged on future sales to customers in that country;

EC Sales Lists

The ESLs will reflect the sales of goods under these arrangements;

Substitute customer

- If the call-off stock will instead be sold to another customer in the same EU country, i.e. not the original customer for whom the stock was intended, this does not create a trigger for the supplier to get a VAT number in the country where the goods are held. The call-off arrangement can continue with the new customer – however, certain conditions apply:
- The supplier must decide not to supply the goods to the original customer and at the same time decide to supply them to the substitute customer;
- The substitute customer must at that time be registered for VAT in the Member State of destination;
- The supplier must include the substitute customer's VAT registration number in its EC Sales List;
- The supplier must record the intention to supply goods to the substitute customer in the Call-off Stock Register, noting the customer's VAT registration number.

Note - the introduction of a substitute customer does not change the application of the 12-month rule which applies to the goods and not to the customer – see para 3.6. The substitution can be in respect of the all or some of the goods held.

12-month deadline –

If goods are not called off by the customer within 12 months of their arrival into that country, then the supplier will need to register for VAT in that EU country and account for domestic VAT. In other words, a deemed supply has taken place in the country where the goods are held. This is an important change which means that the call-off stock register should clearly show the movement dates for all stock. For practical purposes, HMRC has confirmed that the date when the goods arrive into the warehouse in the country of destination can be used as the relevant arrival date as far as the 12-month deadline is concerned.

Other relevant events

The guidance refers to other situations where a call-off arrangement will end and the supplier will be deemed to be acquiring goods in the EU country where they are held and will therefore need to register for VAT in that country. For example, if the customer receiving the call-off stock deregistered from VAT in his country, this would be a relevant event because the customer can no longer account for acquisition tax if he is not registered for VAT. Another relevant event would be if a 'substitute customer' is not based in the same EU country as where the goods are held.

VAT returns

A sale will be made when the customer calls-off the stock, the customer accounting for acquisition tax on their own return. The sale by the supplier will be zero-rated as an intra-EU supply (including the UK until 31 December 2020) between VAT registered businesses.

Summary

Overall, the supply of goods from a business in the UK to a VAT registered business customer in another EU state remains one on which no UK VAT should be chargeable. It is a question of ensuring that UK suppliers hold all of the required details to evidence and monitor goods under a call-off arrangement and that all of the required conditions (such as keeping details of the VAT registration number of the business customer and a call-off stock register) – are met.

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