

## Conditions for zero rating exports (Lecture B1400 – 10.41 minutes)

Where a GB company makes a direct export of goods to an overseas company, provided that certain conditions are met, the supply will be zero rated for VAT.

Where the relevant conditions are not met, the supply is standard rated.

### *Conditions for zero rating direct exports*

The term 'direct export' means that it is the GB company that arranges the transportation of the goods.

The zero-rated conditions are within VAT Notice 703 Para 3.3, have force of law and require that the goods are exported from the UK within the specified time limits and that the company both:

- obtains official or commercial evidence of export, as appropriate, within the specified time limits; and
- keeps supplementary evidence of the export transaction.

The time limit referred to is normally three months but can be extended to six months where the goods are moved within Great Britain to be processed into other goods before being exported abroad.

In April 2023, we reported on a case *Pavan Trading Limited v HMRC (TC08712)*, where an HMRC officer believed the evidence had to be provided to HMRC within three months. As the company had failed to do so HMRC raised assessments.

The VAT notice states that the evidence must be obtained and kept by the taxpayer. There is no mention of it being sent to HMRC. The First Tier Tribunal were not very sympathetic to the officer's erroneous view!

### *Commercial evidence*

This evidence describes and so proves the physical movement of the goods and can include:

- authenticated sea waybills;
- authenticated air waybills;
- PIM/PIEX International Consignment Notes;
- master air waybills or bills of lading;
- certificates of shipment containing the full details of the consignment and how it left the UK;
- International Consignment Notes/Lettre de Voiture International (CMR) fully completed by the consignor, the haulier and the receiving consignee,

or Freight Transport Association own account transport documents fully completed and signed by the receiving customer.

### *Supplementary evidence*

Supplementary evidence is also required and is likely to be held within the accounting system. It includes some or all of the following:

- customer's order;
- sales contract;
- inter-company correspondence;
- copy of export sales invoice;
- advice note;
- consignment note;
- packing list;
- insurance and freight charges documentation;
- evidence of payment or evidence of the receipt of the goods abroad.

This evidence proves that a supply has taken place.

### *What details must the evidence show?*

The evidence you obtain as proof of export, whether official or commercial, or supporting must clearly identify:

- the supplier;
- the consignor (where different from the supplier);
- the customer;
- an accurate and full description of the goods including quantities;
- an accurate and consistent value of the goods;
- the export destination; and
- the mode of transport and route of the export movement.

Vague descriptions of goods, quantities or values are not acceptable.

### *Clarification*

Is it still possible to zero rate the sale if the goods are:

- sold but exported after three months?
- exported within three months but the evidence is obtained outside of the three month window?

VAT Notice 703 provides useful guidance at paras 11.2 and 11.3 and the case of *Musashi Autoparts Europe Ltd* (2003) provides clarification.

#### *VAT Notice 703 Para 11.2*

This states:

‘If you make an export you can zero rate the supply in your records when the goods are supplied to your customer. You must account for VAT accordingly if the supply would normally be standard-rated in the UK and you do not:

- obtain and hold the required evidence of export;
- make sure the goods have been exported within the relevant time limit for the supply.

You must amend your VAT records and account for VAT on the taxable proportion of the invoiced amount or consideration you have received. For a VAT rate of 20% the VAT element would be calculated at one-sixth.’

So you can zero rate the export at point of sale but you need to account for output VAT at the three month point if the goods are not exported by the three month point or you do not obtain the evidence by then.

#### *VAT Notice 703 Para 11.3*

This states”

If the goods are either subsequently exported or you later obtain evidence of export you can then zero rate the supply and adjust your VAT account for the period in which you obtained the evidence. This is provided that the goods have not been used in the UK prior to export.

So you zero rate at the point of export but then:

- Standard rate the output if the goods are not exported by the three-month point or no evidence is held at that three month point;
- Make an adjustment to reinstate zero-rating when you do get the evidence that the goods have been exported.

Note that adjustments should be via the VAT return rather than Form 652

*Musashi Autoparts Europe Ltd (2003)*

In this case, the company exported goods but evidence was obtained outside the three months.

The company made no adjustments to their original zero rating so interest was charged between the three-month point and when they subsequently received evidence, on the adjustment they should have made at the three month point.

The Courts confirmed that the supply was ultimately zero rated as the goods were exported but upheld the interest charge on the failure to make the reversing adjustment.

*Created by the seminar recorded by Dean Wootten*