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CONTRIBUTION

From:	General Secretariat of the Council
To:	Delegations
Subject:	Contribution from the AT delegation on the transfer of own goods module in the EU scheme

Delegations will find attached a contribution from the Austrian delegation on the extension of the one-stop shop to transfers of own goods.

To the Swedish Presidency and
Secretary General of the Council of the European Union

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Need for an extension of the One-Stop-Shop (OSS) to Transfer of Goods

We support the proposed extension of the OSS to transfers of goods. Without a doubt, this is a measure that makes compliance easier and cheaper for the taxpayer. The need for such an extension can be illustrated by the following example:

Example: An Austrian taxpayer intends to sell goods in the EU via a platform. The taxpayer transfers the goods from Austria to a warehouse in Germany. In the very same period, the goods are transferred from Germany to France and then the Austrian taxpayer sells the goods to consumers in Portugal, in Germany and in Italy.

Current system: Under the current rules, the taxpayer has to register in Germany and in France for the transfer of goods and include the transfers in a recapitulative statement. However, as regards the intra-Community distance sales to Portugal, Germany and Italy, the taxpayer can declare these via the EU-scheme without a registration being necessary for the intra-Community distance sales in these states.

It is not clear why a taxpayer is not obligated to register for transactions where VAT becomes due, such as intra-Community distance sales, while for transfers of goods, where no VAT burden arises, the taxpayer has to register in each Member State. As regards Germany, the advantages of the EU scheme are thwarted by the fact that the taxpayer has to register for the transfer of goods in Germany anyway. Further, in situations where the goods are not transported by the taxpayer but by a third party, the taxpayer has no physical presence in the state the goods are transported to.

1. Advantages of an Integration of transfers of goods in the EU scheme vs separate Transfer of Goods scheme

As regards the technical design of the OSS extension, we are of the opinion that there is no need to create a separate scheme. Instead, the transfer of goods should be integrated in the EU scheme. Such an integration in the EU scheme would be advantageous for both, the taxpayer and the tax administrations.

From the Taxpayer's Perspective

Following the example mentioned in section 1, the disadvantages of creating a separate scheme are self-evident: If the taxpayer wants to use the OSS, he has to register for the EU scheme as well as for the Transfer of Goods scheme to declare all the supplies. That means, the taxpayer needs two registrations and has to submit two different VAT returns. If the taxpayer also carries out import distance sales, then a third registration for the IOSS would be needed. This is obviously not in line with the idea of a Single VAT Registration.

From the Tax Administration's Perspective

According to our IT experts, it is rather costly and resource-intensive to create a new scheme. We saw that for instance with the IOSS but also with the SME scheme or CESOP. By contrast, the integration of the transfer of goods into the already existing EU scheme could – depending on the legal and technical design of the scheme – be comparatively easy.

2. Design of Integration of transfer of goods into the EU scheme

The easiest way of integrating the transfer of goods scheme into the EU scheme is to treat transfers similar to all other supplies as far as possible. The cornerstones of such an extended EU-OSS scheme could be as follows: The taxpayer uses one registration for the transfer of goods as well as for all other supplies covered by the scheme. The taxpayer has to submit one VAT return for all supplies (including transfers of goods) covered by the scheme. Transfers of goods are also included, but in a separate field. The VAT amount for transfers of goods is zero and therefore does not affect the overall VAT amount to be paid by the taxpayer (technically, the amount will either not be included in the Payment Information Message or included with zero). If the taxpayer has no transfers of goods in a period, he leaves the field empty and vice versa. In case a taxpayer only has transfers of goods, he would enter only the amount for the transfers of goods while all other fields are left empty. If a correction has to be made, the taxpayer has to indicate to which type of supply the correction refers to. If the taxpayer is excluded from the scheme, he can neither use it for transfers of goods nor for any other supplies.

Technically, the part of the return referring to transfers of goods could be designed as follows:

Transfers from the MSI to other MS

MS of Destination	Amount
Deutschland ▼	8.000,00
Tschechien ▼	9.000,00
Frankreich ▼	325.000,00
Reihe hinzufügen	

Transfers from other MS

MS of Departure (VAT Number or State)	MS of Destination	Amount
DE ▼	Niederlande ▼	8.000,00
FR ▼	Finnland ▼	9.000,00
IT ▼	Kroatien ▼	325.000,00
Reihe hinzufügen		

3. Legal Text – First Draft

Below we provided a draft on how the directive currently in force could be adapted to integrate the transfer of goods in the EU scheme (any other changes proposed by the Commission were not taken into consideration). Furthermore, in this draft the opinion by AT to add any transfer of goods regardless of the right to deduct input VAT is not taken into account. Due to the short period of time for its preparation, the draft can only serve as a basis and it is possible that certain aspects were overlooked. For the purpose of this

draft, we assumed that the terms „supplies“ and „dispatched and transported“ also cover transfers of goods. Additionally, if we agree to integrate the transfer of goods scheme in the EU scheme, the VAT Implementing Regulation and Regulation 904/2010 also need to be amended.

1. Art 369a (3) point (b) is replaced by the following:

(b) in the case of the supply of goods the Member State, where the dispatch or transport of the goods ends

2. Art 369a (3) point (c) is deleted.

3. The following Art 369a (4) is inserted (we copied the definition of the EC):

(4) 'transfer of own goods' means the transfer of goods to another Member State in accordance with Article 17(1), including transfers pursuant to Article 14a(3), and shall not include transfers of capital goods as defined by the Member State to which the goods are dispatched or transported in accordance with Article 189(a) or goods in relation to which there is no full right of deduction in that Member State.

4. In Art 369b point (d) is added:

(d) a taxable person carrying out a transfer of own goods

5. Art 369d is replaced by the following:

1. A taxable person making use of this special scheme shall, for the taxable transactions carried out under this scheme, be identified for VAT purposes in the Member State of identification only. For that purpose, the Member State shall use the individual VAT identification number already allocated to the taxable person in respect of his obligations under the internal system.

On the basis of the information used for that identification, Member States of consumption may have recourse to their own identification systems.

2. For the purpose of this special scheme, the intra-Community acquisition of goods in the Member State where the goods are dispatched or transported to, resulting from a transfer of goods, is exempt.

6. Art 369e (a) is replaced by the following:

(a) if he notifies that he no longer carries out **any supplies** covered by this special scheme;

7. Article 369g is replaced by the following:

*1. The VAT return shall show the VAT identification number referred to in Article 369d and, for each Member State of consumption in which VAT is due, the total value exclusive of VAT **and, if applicable**, the rates of VAT, the total amount per rate of the corresponding VAT and the total VAT due in respect of the following supplies covered by this special scheme carried out during the tax period:*

(a) intra-Community distance sales of goods;

(b) supplies of goods in accordance with Article 14a(2) where the dispatch or transport of those goods begins and ends in the same Member State;

(c) supplies of services

(d) transfers of goods

The VAT return shall also include amendments relating to previous tax periods as provided in paragraph 4 of this Article.

*2. Where goods are dispatched or transported from Member States other than the Member State of identification, the VAT return shall also include the total value exclusive of VAT, **and, if applicable**, the rates of VAT, the total amount per rate of the corresponding VAT and the total VAT due in respect of the following supplies covered by this special scheme, for each Member State where such goods are dispatched or transported from:*

(a) intra-Community distance sales of goods other than those made by a taxable person in accordance with Article 14a(2);

(b) intra-Community distance sales of goods and supplies of goods where the dispatch or transport of those goods begins and ends in the same Member State, made by a taxable person in accordance with Article 14a(2).

(c) transfers of goods

*In relation to the supplies referred to in point (a), **(b) and (c)**, the VAT return shall also include the individual VAT identification number or the tax reference number allocated by each Member State where such goods are dispatched or transported from, **if available**.*

~~In relation to the supplies referred to in point (b), the VAT return shall also include the individual VAT identification number or the tax reference number allocated by each Member State where such goods are dispatched or transported from, if available.~~

The VAT return shall include the information referred to in this paragraph broken down by Member State of consumption.

3. Where the taxable person supplying services covered by this special scheme has one or more fixed establishments, other than that in the Member State of identification, from which the services are supplied, the VAT return shall also include the total value exclusive of VAT, the applicable rates of VAT, the total amount per rate of the corresponding VAT and the total VAT due of such supplies, for each Member State in which he has an establishment, together with the individual VAT identification number or the tax reference number of this establishment, broken down by Member State of consumption.

4. Where any amendments to the VAT return are required after its submission, such amendments shall be included in a subsequent return within three years of the date on which the initial return was required to be submitted pursuant to Article 369f. That subsequent VAT return shall identify the relevant Member State of consumption, the **type of supply**, the tax period and the amount of VAT for which any amendments are required.

Thank you for considering our comments and for your much appreciated work.