

## Proving intra-Community supplies with a destination document

An intra-Community supply (ICS) is VAT exempt. The tax will namely be due in the country (another EU member state) where the intra-Community (ICA) acquisition will take place. In order to do so, the supplier must have sufficient evidence that the goods are actually sent abroad. This is not always easy. In order to meet this obligation, the VAT authorities now also accept a destination document.

### The VAT exemption for an intra-Community supply

The intra-Community supply is a supply of goods from Belgium to another EU member state. This ICS is VAT exempt in Belgium. The other side of the coin is the intra-Community acquisition taking place in the other member state. The ICA is taxed in that member state at the going VAT rates.

In order to have an ICS/ICA a number of conditions should be fulfilled: (i) the supply is made by a VAT payer acting as such, (ii) the buyer is a VAT payer or a non-taxable legal person acting as such (iii) which is established in another EU member state, (iv) and which is held to subject ICA's to VAT in his member state and (v) the goods are sent or transported to the member state of the recipient by or for the account of the buyer or supplier.

### How to prove an ICS/ICA?

On the Belgian supplier lies a double burden of proof. He should evidence that the buyer in his member state is liable to report a taxable ICA, and that the goods are actually sent to another member state and consequently have left the country.

Evidence 1: the buyer is liable in his member state to report the ICA and account for the VAT due. The VAT authorities accept this evidence if the supplier holds a valid VAT identification number of the buyer granted by another member state than Belgium.

Evidence 2: the goods are sent or transported to the member state of the buyer and are no longer in Belgium. This evidence can be given by a number of different documents. Think of contracts, purchase orders, transport documents, ...

### No evidence = no VAT exemption

If the supplier cannot prove that the customer reports an ICA in its country and that the goods were sent to another member state, the VAT exemption can be rejected. Result is that the supplier will have to pay VAT in Belgium.

### A simpler alternative: the destination document

The VAT authorities have taken into account the comments of the VAT payers that the evidence (e.g. with transport document) is sometimes very difficult. So they have, as a test, introduced a simpler evidence: the destination document. This destination document is drafted by the supplier and confirms that the supplied goods are in the possession of the customer in another EU member state.

The document should at least contain the following information:

- name, address and VAT number of the supplier;
- name, address and VAT identification number of the customer granted by another member state than Belgium;
- confirmation of the arrival of the intra-Community supply;
- the place where the supplied goods arrived (member state, city/county);
- month and year of the reception of the supplied goods;
- the period to which the document relates;
- description of the supplied goods;
- price in euro (ex VAT) of the supplied goods;
- a clear reference to the sales invoice.

Within three months after the period to which the document relates, the information should be confirmed by the customer. He includes his name, date and signature in the destination document and mentions "Received for ...".

The destination document is an evidence which is deemed to be correct if the supplier (i) can guarantee that he can show the necessary documents if he is asked to do so by the VAT authorities (sales invoice, proof of payment, transport invoice), (ii) has filed the intra-Community sales listing for the related goods and (iii) made sure that he is not involved in tax fraud (to the extent that this is reasonably feasible).

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