

# Intra-community supply of goods: Current VAT problems

LIMASSOL **VAT** FORUM  
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# Agenda

- Introduction intra-community supplies
- Problem 1 - 'The age of our VAT rules'
- Problem 2 - Complex rules
- Problem 3 - VAT in practice
- Problem 4 - VAT GAP and fraud



# Introduction Intra-community supplies

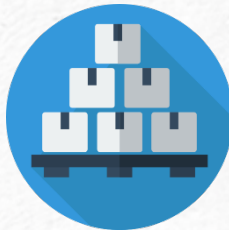
## *Article 138 VAT Directive 2006/112*

- 1. Member States shall exempt the supply of goods dispatched or transported to a destination outside their respective territory but within the Community, by or on behalf of the vendor or the person acquiring the goods, for another taxable person, or for a non-taxable legal person acting as such in a Member State other than that in which dispatch or transport of the goods began.

CY12345678L



0% VAT



NL123456789B01

21% VAT



Transport either by supplier or buyer!



# Intra-community supply of goods: Current VAT problems (1/4)

## The age of our VAT rules

### FIRST COUNCIL DIRECTIVE

of 11 April 1967

on the harmonisation of legislation of Member States concerning turnover taxes

(67/227/EEC)

50 years ago

1967

First Council Directive

### SIXTH COUNCIL DIRECTIVE

of 17 May 1977

on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment

(77/388/EEC)

40 years ago

1977

6th Council Directive

### COUNCIL DIRECTIVE

of 16 December 1991

supplementing the common system of value added tax and amending Directive 77/388/EEC with a view to the abolition of fiscal frontiers

(91/680/EEC)

Transitional system introduced

1993





# Intra-community supply of goods: Current VAT problems (2/4)

Complex set of rules

- EU legislation in Council Directives, Regulations
- National legislation
- VAT Committee guidelines
- European Court of Justice
  - Formal requirements
  - Substantive requirements



# Intra-community supply of goods: Current VAT problems (2/4)

## Complex set of rules

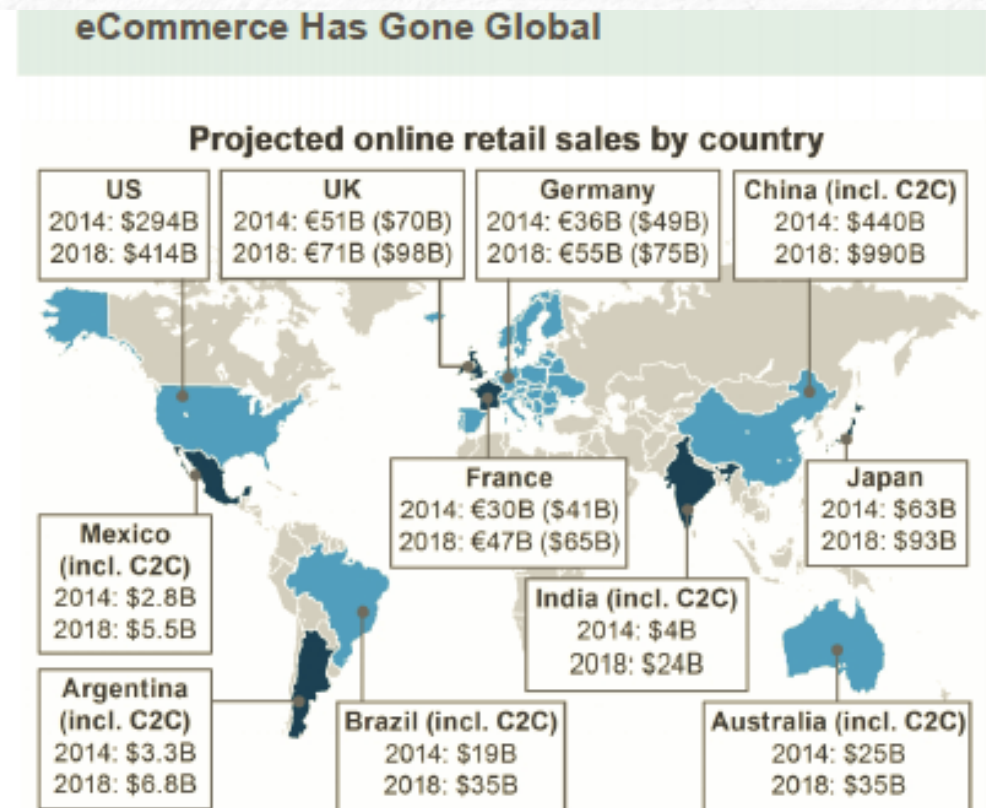
- Exemption for intra-Community supply
  - Introduced in 1993 whereby goods move from MS(A) to MS(B)
    - Goods move to MS(C)
    - Chain transactions A-B(-C-D-E ....)
    - Parties outside the EU join the supply chain
  - No legal certainty /different views MS



# Intra-community supply of goods: Current VAT problems (2/4)

Complex set of rules

- Do the rules fit with these developments?





# Intra-community supply of goods: Current VAT problems (3/4)

## VAT in practice

- Entrepreneurs – business first/ compliance later (other priorities)
- Cost of compliance / advice / tools & systems
- Where am I in the supply chain
  - Am I party B or C or D?
- Is my customer collecting the goods himself?
- Will the goods eventually leave the country?



# Intra-community supply of goods: Current VAT problems (3/4)

## VAT in practice

- Multiple transactions per day – no time to analyze each supply chain or collect proof of transport
- By the time the invoice is sent or received the goods have already left
- When an audit is performed: decision based on administration and paper trail – formal approach
- Missing documents / info: exemption art. 138 denied



– VAT + interest + penalty

# Intra-community supply of goods: Current VAT problems (4/4)

## VAT GAP and fraud

- The current system has weaknesses
- Authorities rely on VAT returns and VAT collection by unpaid collectors
- Mistakes happen: VAT GAP  $\approx$  120 Billion Euro
- Fraud exists:  $\approx$  50 Billion Euro
  - Missing Trader Fraud
  - Caroussel Fraud
  - Fraud at import (value)



# Intra-community supply of goods: Current VAT problems

## Summary

- We have old and complex rules – no legal certainty
- Traders depend and rely on the information (e.g. invoices / proof of transport) from their trade partners
- We lose a lot of money due to the VAT GAP and fraud
- Therefore we need to change the rules



# Thank you!



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