

VAT eLearning module 4

TRANSACTIONS

Course takeaways

This is a handy summary of the most relevant course information.

This eLearning course is based on EU VAT Legislation as it stands on 01.01.2020 (valid for the EU VAT Directive, the EU VAT Refund Directive and the EU VAT Implementing Regulation).

This module is a part of a VAT broader course which is made up of the following units:

- Introduction
- Territory
- Taxable person
- **Transactions**
- Place of taxable transactions
- Digital Services and Mini One-Stop Shop (MOSS)
- Chargeable Event & Taxable Amount
- Rates
- Exemptions
- Right to deduct
- Refund
- Obligations

In this course you will learn which are the types of transactions relevant for VAT. This replies to the question "Which?"

1. Learning objectives

At the end of the training you will:

- Be able to define the terms **supply of goods, intra-Community acquisition of goods, supply of services** and **importation of goods**;
- Be aware that much is left to the Member States when it comes to drawing the line between the supply of goods and the supply of services;
- Know that a **transfer of a going concern** is not always treated as a transaction;
- Understand the concept of **deemed supplies**.

2. Which transactions are subject to VAT?

There are **four types of transactions**: supply of goods, intra-community acquisition of goods, supply of services, importation of goods.

Different rules apply depending on the transaction taking place.

You will need to determine the nature of a transaction in order to know where it must be taxed.

2. 1 Supply of goods

Supply of goods refers to any tangible property with **no service element included** (art. 14). Transactions that **include** goods and a **service element** are called **Supply of goods with service element**. It is left to each Member State to decide whether the transaction must be treated as a supply of goods or as a supply of services. To such transactions apply either:

- Mandatory treatment as supply of goods (example: hire purchase, electricity, gas...)
- Optional treatment as supply of goods (example: supply of constructional services).

2. 2 Intra-Community acquisition of goods

It is an acquisition of the rights of **ownership of movable tangible property** transported from one Member state to another. In this case the tax should be **paid by the buyer** to the tax authorities in the **Member State where the goods arrive**. This reflects **the destination principle** (art. 20).

However **not all** the Intra-Community acquisitions **are subject to the VAT**.

Example: The supply by Danish ship builder of a vessel used for navigation on the high sea to a ferry company in Malta is exempt of VAT (Art.148), and the intra-community acquisition of the vessel is not subject to VAT.

A transaction that is not going to be taxed as Intra-Community acquisition, will instead be taxed as a supply in the Member State of the seller.

2. 3 Supply of services

Supply of services is any other **transaction that does not constitute "supply of goods"**, when acting to do something or acting not to do something (art. 24).

Example : hairdresser service;

2. 4 Importation of goods

"Importation of goods" shall mean the **entry into the Community** of goods which are not in free circulation within the meaning of Article 24 of the treaty (art. 30).

This would also apply if the goods came from a third territory forming part of the customs territory but which is not part of the VAT territory.

3. Special cases of transactions

3.1 Transfer of going concern

The transfer of a business is not always treated as a supply of goods and services.

Example: In normal circumstances, **where the transfer of a business is** considered as a **supply of goods or services:** A sells a business to B for a net price plus VAT. A pays the VAT collected to Tax authorities and B is deducting the amount of VAT paid to A.

A Member State may in this case determine **in their national legislation** that the transfer of a business (or parts of a business) **will not be treated as a supply of goods or services**, and therefore not subject to VAT (Articles 19 e 29).

3.2 Deemed supplies

Deemed supplies are treated as supplies for a consideration and for this they **fall into the scope of VAT.**

- 1) **Permanent disposal** of a business asset (i.e. laptop computer for business).
When a business use ceases, it is balanced by an output tax as VAT was deducted when the asset was bought (Art. 16).
- 2) **Temporary disposal** of a business asset when it is made available for non-business use for a limited period (Art. 26 (1)(a)). This is deemed supply of services and as such, subject to VAT.
- 3) **Acting to do something free of charge** (for example when a builder works in his private time free of charge) it is also a deemed supply and therefore subject to VAT (Art. 26 (1)(b)).

For the temporary disposal of business assets and the supply of services for free, Member State may decide not to tax.

3.3 Transactions by intermediaries or agents

Transactions by intermediary is also a special case as they can be treated differently depending on how the intermediary acts.

If an intermediary is not acting in his own name the intermediary **is not part of the supply chain** either, the supply of goods is between A and B and the intermediary **supplies services** for a commission (Art. 14(2)(c)).

If he is acting in his own name **he is part of the supply chain.** The supply of goods takes place between A and the intermediary and then between the intermediary and B. There is a **supply of goods** and not a supply of services by the intermediary (Art. 28).

Access to non-restricted eLearning courses is available via EUROPA website: https://ec.europa.eu/taxation_customs/eu-training/general-overview_en.

Remember, this is a quick and handy summary of the most relevant course information. Only the European Union legislation published in the Official Journal of the European Union is deemed authentic. The Commission accepts no responsibility or liability whatsoever with regard to the training.