

HMRC to apply use and enjoyment to certain freight transport services***Revenue & Customs Brief 13/10***

HMRC have announced a temporary administrative easement in relation to B2B supplies of freight transport (or services closely associated with freight transport) which are physically performed wholly outside the EU. This follows the changes to such services under the VAT package rules from 2010. Previously the general place of supply rule for such transport services was where the transport takes place.

Therefore the transportation of goods outside the EU was treated as being outside the scope of EU VAT. Now as these services fall within the new general rule for all B2B services, they are taxed where the customer belongs. Such transportation services, even if carried on wholly outside the EU, become taxable if the customer belongs in the EU.

This had the result of UK suppliers/recipients of wholly non EU transport being unable to benefit from the zero rating available for transport involving imports to or exports from the EU. For services to a UK customer from 1 January the place of supply was, under the new general rule, the UK. Where the services were connected to an import or export a UK supplier could zero rate their supply and the reverse charge was not due. But where it involved transportation wholly outside the EU, such services could not enjoy such zero rating and were therefore standard rated. These issues were raised by KPMG and other interested parties.

HMRC say they have “become aware (via UK businesses and charities) that this change has had a real impact, either in terms of increasing administrative burdens (with no revenue impact for the UK) or, in some cases, resulting in a real VAT cost”. HMRC go on to say they “recognise that this change in law has produced an unintended anomaly in the treatment of supplies wholly enjoyed outside the EU, which may also be taxed locally”.

As a result, HMRC have introduced an administrative easement with immediate effect, that where a supply of freight transport would be treated as supplied in the UK, it will not be treated as supplied in the UK if the use and enjoyment of the services is outside the EU. HMRC add that this administrative easement is being introduced with effect from 15 March as a temporary measure before a more permanent legislative solution. The Brief states that this treatment is not retrospective.

To read the Brief in full, click [here](#).

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