Study on applying the current principle for the place of supply of B2B services to B2B supplies of goods Place of establishment of the customer

Specific Contract No. 1,
TAXUD/2011/DE/304

Appendix 7: Qualitative impact assessment special flat-rate scheme for farmers

23 December 2011

1. Purpose of the special regime[1]

1 The Second Directive[2] allowed Member States to apply a special scheme to businesses in the agricultural sector that is best suited to national requirements and possibilities. This special scheme was included in the Sixth Directive[3] and is now regulated by articles 295 to 305 of the VAT Directive. The special scheme for farmers, also called the "flat-rate scheme", is specially adjusted to the needs of small agricultural farmers. It was introduced to meet the specific needs of farmers who are not able to comply with the normal VAT scheme or the special scheme for small enterprises.

2 It was not feasible to introduce a single scheme for farmers and small businesses because of an essential difference between the two: small enterprises are presumed to supply their goods and services to end consumers, which is probably not the case for farmers, who are at the beginning of the supply chain.

2. Summary of the provisions

3 Under article 296 of the VAT Directive, Member States may introduce a flat-rate scheme allowing farmers to offset paid, non-recoverable input VAT on their purchases. No annual turnover limits or any other quantitive output criteria are set down in the EU legislation. Therefore, the special scheme for farmers is still widely applied in the Member States, including by large farm operators.

4 The Member States that have introduced the special scheme do not require to apply the scheme to all farmers in their country: they may exclude certain categories of farmers from the scheme. Transactions not qualifying as a typically agricultural activity should be excluded from the special scheme.

5 Moreover, the Member States can use different flat-rate percentages for different categories of farmers. The flat-rate compensation is a macro-economic calculation (common to all Member States) done by each Member State. The figures include total output derived directly from agricultural production and the input needed to achieve that production. The ratio of VAT on inputs to farm output represents the flat-rate compensation percentage.

6 The special scheme for farmers is an optional system not only for the Member States but also for the farmers. Farmers that meet the requirements to apply the special scheme can opt to apply the normal VAT scheme or, if the requirements are fulfilled, the special scheme for small businesses.

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[1] Terra, B., Kajus, J., Chapter 12.3 – Common flat-rate scheme for farmers – A guide to the Recast VAT Directive, http://online.ibfd.org/collections/evdcom/html/evdcom_recast_chap12.html?WT.z_na.
[2] Second Council Directive 67/228/EC of 11 April 1967 on the harmonisation of legislation of Member States concerning turnover taxes – Structure and procedures for application of the Common system of value added tax.
[3] Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes – Common system of value added tax: uniform basis of assessment.

7 The flat-rate-compensation percentages are applied to the prices, exclusive of VAT, of agricultural products supplied by flat-rate-scheme farmers to taxable persons other than those covered by the flat-rate scheme in the Member State in which these products were supplied, and, in the case of intra-Community supplies of these goods, to non-taxable legal persons whose intra-Community acquisitions of goods are subject to VAT (article 300 of the VAT Directive).

8 Local, intra-Community supplies and export supplies of goods are in scope.

9 The flat-rate compensation can also be paid by the public authorities, whereby the farmer receives a flat-rate amount of compensation based on his total sales.

10 Flat-rate-scheme farmers are not entitled to deduct VAT.

11 A taxable customer is able to deduct the compensation amount paid from the VAT for which he is liable in the Member State in which the taxed transactions are carried out. In other situations, the compensation paid may be refunded applying the provisions of Directives 2008/9/EC[4] and 86/560/EC.

12 Furthermore, under article 272(1)(e) of the VAT Directive, Member States may release flat-rate-scheme farmers from certain or all of the administrative obligations imposed on other taxable persons.

13 If a flat-rate-scheme farmer exceeds the threshold for intra-Community acquisitions of goods, he has to register for and pay VAT in respect of those transactions.

[4] Council Directive 2008/9/EC of 12 February 2008 laying down detailed rules for the refund of value added tax, provided for in Directive 2006/112/EC, to taxable persons not established in the Member State of refund but established in another Member State. This Directive repealed Directive 79/1072/ EEC as from 1 January 201O.

3. Qualitative impact assessment of transactions for which the place of supply does not change

3.1. Description of scenarios

14 The flat-rate-scheme farmer and the customer are not established in the same EU Member State and the agricultural goods are located in the EU Member State of the customer (at the time of dispatch or transport).

15 The groups concerned are FL1, FEU1 and FEX1.

16 The flat-rate-scheme farmer and the taxable customer are established in the same EU Member State and the agricultural goods are also located within that EU Member State (at the time of dispatch or transport).

17 The groups concerned are FL3, FEU3 and FEX3.

18 The transactions concerned are local supplies of goods, cross-border supplies of goods in the EU and exports.

3.2. Comparison of flat-rate compensation

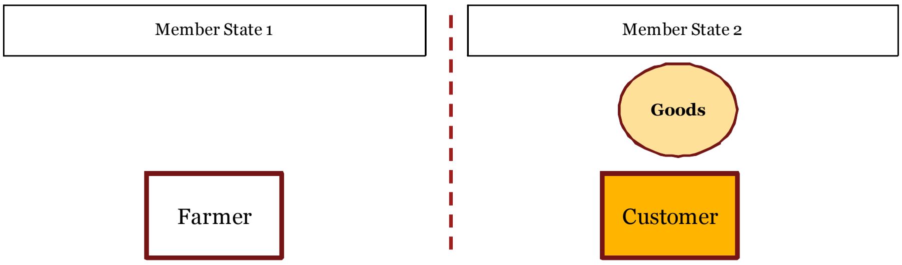
19 We only assess the impact on the flat-rate compensation. The general VAT treatment of these scenarios is dealt with in the qualitative impact assessment of the other scenarios (general scenarios, scenarios regarding special scheme for small enterprises and scenarios regarding exempt taxable persons).

20 The flat-rate compensation “as is” is equal to the flat-rate compensation “to be”.

21 This can be visualised by the following example:

Figure 7.1: Local supply of goods

Diagram 146
GROUP FL – Scenario 1



Current treatment		Future treatment	
Place of supply	Flat-rate comp. refund	Place of supply	Flat-rate comp. refund
MS2– the place where the goods are located at the time when supply takes place **MS2** – the place where the goods are located at the time dispatch or transport to the customer begins	MS2	**MS2**– the place where the customer is established	MS2
NO CHANGE IN MEMBER STATE OF FLAT RATE COMPENSATION			

3.3. Issues

22 For groups FL1, FEU1 and FEX1, in the “to be” situation, the flat-rate-scheme farmer would no longer have to identify himself to the VAT authorities of the EU Member State where the agricultural goods are located, but he would need to know whether the supplied goods are covered by the flat-rate scheme, the VAT status of the customer (taxable persons versus flat-rate-scheme farmer or non-taxable legal person) and what the flat-rate-compensation percentages are in the EU Member State of the customer.

23 For flat-rate-scheme farmers, the input flat-rate compensation amount would be the same “as is” as “to be”. However, the flat-rate compensation would no longer be applicable for EU cross-border supplies of goods to non-taxable legal persons and flat-rate-scheme farmers (FEU1).

24 Nevertheless, because flat-rate-scheme farmers would suffer non-recoverable input VAT on their purchases in the Member State of establishment in the “to be” situation, the input flat-rate compensation of the Member State of establishment of the customer would offset the non-recoverable input VAT on their purchases.

25 We feel that this would jeopardise correct application of the flat-rate scheme for farmers. The Member State of establishment of the customer would have to provide compensation for non-deductible VAT incurred in another EU Member State. This would not be in line with the overall objective of the special scheme and would certainly not be acceptable to the EU Member State of establishment of the customer..

26 For groups FL3, FEU3 and FEX3, the input flat-rate compensation for a flat-rate-scheme farmer would be the same "as is" as "to be". However, the flat-rate compensation would no longer be applicable for EU cross-border supplies to non-taxable legal persons and flat-rate scheme farmers (group FEU3).

27 In all scenarios, the taxable customer would in principle be able to deduct fully or partially, pending his input VAT status, the flat-rate-compensation amount he has paid from the VAT for which he is liable in the EU Member State in which his taxed transactions are carried out. There would no longer be refund required for non-taxable legal persons in case of EU cross-border transactions as no longer application of the flat-rate scheme.

3.4. Qualitative impact assessment

3.4.1. *Impact in country of taxation*

Figure 7.2: Impact in country of taxation

Impact in country of taxation (AS IS)					Impact in country of taxation (TO BE)				
Budgetary impact		Ease of administration and cost of collection		Prevention of fraud and abuse on EU level	Budgetary impact		Ease of administration and collection		Prevention of fraud and abuse on EU level
Cash flow	Revenue	Ease of admini-stration	Cost of collection		Cash flow	Revenue	Ease of admini-stration	Cost of collection	
0	0	0	0	0					

Impact in country of taxation ("as is")

28 No impact.

Impact in country of taxation ("to be")

29 No impact.

3.4.2. *Impact on taxable person*

Figure 7.3: Impact on taxable person

Impact on supplier (TO BE)				Impact on customer (TO BE)			
Budgetary impact	Legal certainty and simplicity	Shift of liability	Cost of implementation and compliance	Budgetary impact	Legal certainty and simplicity	Shift of liability	Cost of implementation and compliance
0	0	N/A	0	0	0	N/A	0

Impact on supplier ("to be")

30 No impact.

Impact on customer ("to be")

31 No impact.

3.5. Conclusions

32 For groups FL1, FEU1 and FEX1, the new B2B localisation principle would have a very negative impact on the country of taxation.

33 The country of taxation would need to refund the flat-rate compensation amount with respect to non-recoverable input VAT incurred by the flat-rate-scheme farmer in another EU Member State.

34 For groups FL3, FEU3 and FEX3, there is no further impact with respect to the flat-rate compensation amount, except that the flat-rate compensation would no longer be applicable for EU cross-border supplies of goods to non-taxable legal persons and flat-rate scheme farmers (FEU1).

35 In case of EU cross-border transactions (FEU1 and FEU3), the flat-rate scheme for farmers would no longer be applicable for supplies to non-taxable legal persons for which the intra-Community acquisitions were subject to VAT in the "as is" situation and flat-rate scheme farmers.

4. Qualitative impact assessment of transactions for which the place of supply changes

4.1. Change of flat-rate compensation to EU Member State of customer

4.1.1. Description of scenarios

36 The flat-rate-scheme farmer and the customer are not established in the same EU Member State.

37 The agricultural goods are either located or are not located within the EU Member State of the flat-rate-scheme farmer (at the time of dispatch or transport).

38 The transactions concerned are local supplies of goods, cross-border supplies of goods in the EU and exports.

39 The groups concerned are FL2, FEU2 and FEX2.

4.1.2. Comparison of flat-rate compensation

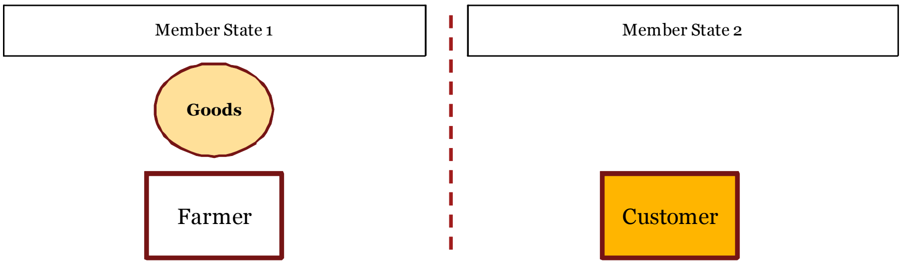
40 We only assess the impact on the flat-rate compensation. The general VAT treatment of these scenarios is dealt with in the qualitative impact assessment of the other scenarios (general scenarios, scenarios regarding special scheme for small enterprises and scenarios regarding exempt taxable persons).

41 The flat-rate compensation "as is" differs from the flat-rate compensation "to be".

42 This can be visualised by the following examples:

Figure 7.4: Local supply of goods

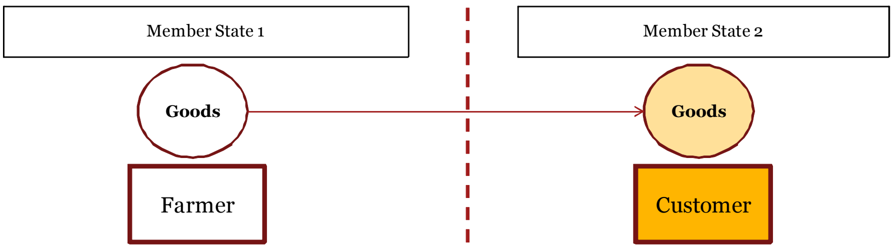
Diagram 147
GROUP FL – Scenario 2



Current treatment		Future treatment	
Place of supply	Flat-rate comp. refund	Place of supply	Flat-rate comp. refund
MS1 – the place where the goods are located at the time when supply takes place **MS1** – the place where the goods are located at the time dispatch or transport to the customer begins	MS1	**MS2**– the place where the customer is established	MS2
CHANGE IN MEMBER STATE OF FLAT RATE COMPENSATION			

Figure 7.5: Cross-border supply of goods within the EU

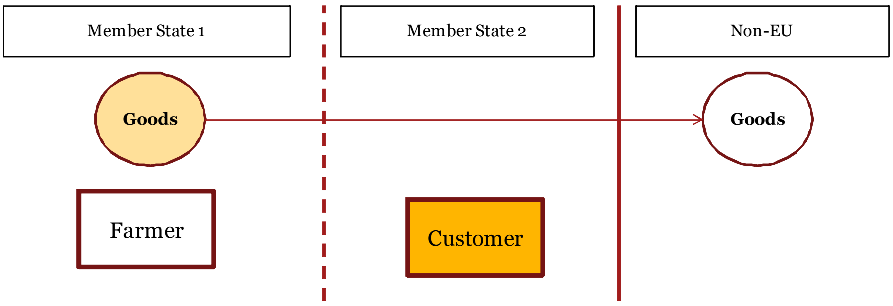
Diagram 150
GROUP FEU – Scenario 3



Current treatment		Future treatment	
Place of supply	Flat-rate comp. refund	Place of supply	Flat-rate comp. refund
MS1 – the place where the goods are located at the time dispatch or transport to the customer begins (i.e. intra-Community supply) **MS2** – the place where dispatch or transport of the goods to the person acquiring them ends (i.e. intra-Community acquisition)	MS1	**MS2** – the place where the customer is established	MS2
CHANGE IN MEMBER STATE OF FLAT RATE COMPENSATION			

Figure 7.6: Export of goods outside the EU

Diagram 153
GROUP FEX – Scenario 2



Current treatment		Future treatment	
Place of supply	Flat-rate comp. refund	Place of supply	Flat-rate comp. refund
MS1– the place where the goods are located at the time dispatch or transport to the customer begins	MS1	**MS2** – the place where the customer is established	MS2
CHANGE IN MEMBER STATE OF FLAT RATE COMPENSATION			

4.1.3. Issues

43 The common flat-rate-scheme for farmers aims to allow farmers to offset the non-recoverable input VAT paid on their purchases at a fixed rate. In this respect, a flat-rate-scheme farmer applies a fixed percentage to his prices, exclusive of VAT.

44 However, under the new B2B localisation principles, the place of supply of the agricultural products in the scenarios at hand would be the EU Member State where the customer is established. This means that the applicable flat-rate compensation scheme would be that of the EU Member State of the customer, i.e. where the place of supply of the agricultural goods in scope is located. In this respect, the flat-rate-scheme farmer would need to know whether his goods are subject to the flat-rate scheme, the VAT status of the customer (taxable persons versus flat-rate-scheme farmer or non-taxable legal person) and what flat-rate compensation percentages apply in the EU Member State of the customer.

45 For some scenarios, the flat-rate-scheme farmer would no longer have to identify himself to the VAT authorities of the EU Member State where the agricultural goods are located in the "to be" situation.

46 The flat-rate compensation would no longer be applicable for EU cross-border supplies to non-taxable legal persons for which the intra-Community acquisitions were subject to VAT in the "as is" situation (FEU2) and flat-rate-scheme farmers.

47 In all scenarios, the taxable customer would in principle be able to deduct fully or partially, pending his input VAT status, the flat-rate-compensation amount he has paid from the VAT for which he is liable in the EU Member State in which his taxed transactions are carried out. For non-taxable legal persons and flat-rate-scheme farmers in case of EU cross-border transactions no longer application of the flat-rate scheme.

48 However, because flat-rate-scheme farmers would suffer non-recoverable input VAT on their purchases in the Member State of establishment in the “to be” situation, the input flat-rate compensation of the Member State of establishment of the taxable customer would offset the paid non-recoverable input VAT on their purchases.

49 We feel that this would jeopardise correct application of the flat-rate scheme for farmers as the Member State of establishment of the customer would have to provide compensation for non-recoverable VAT incurred in another EU Member State. This is not in line with the overall objective of the special scheme and would certainly not be acceptable to the EU Member State of establishment of the customer.

4.1.4. Qualitative impact assessment

4.1.4.1. Impact in country of taxation

Figure 7.7: Impact in country of taxation

Budgetary impact		Ease of administration and cost of collection		Prevention of fraud and abuse on EU level	Budgetary impact		Ease of administration and collection		Prevention of fraud and abuse on EU level
Cash flow	Revenue	Ease of admini-stration	Cost of collection		Cash flow	Revenue	Ease of admini-stration	Cost of collection	
1	1	1	1	0	-1	-1	-1	-1	0

Impact in country of taxation (“as is”)

Positive cash-flow impact:

50 The flat-rate compensation paid by the taxable customer to the flat-rate-scheme farmer would no be longer deducted/refunded.

Positive revenue impact:

51 There would no longer be compensation of the non-recoverable input VAT on the flat-rate-scheme farmer’s purchases.

Positive impact on ease of administration and cost of collection:

52 There will be a decrease in administrative work because the flat-rate compensation paid by the taxable customer would no be longer be deducted/refunded.

53 There will be a decrease in work for the tax authorities in terms of supervision and inspections to ensure correct application of the flat-rate compensation.

Impact in country of taxation ("to be")

Negative cash-flow impact:

54 The taxable customer would be entitled to off-set fully or partially, depending its VAT status, the flat-rate compensation from the VAT for which he is liable.

Negative revenue impact:

55 The taxable customer would be entitled to deduct the flat-rate compensation from the VAT for which he is liable.

Negative impact on ease of administration and cost of collection:

56 There will be an increase in administrative work because the taxable customer would be entitled to deduct the flat-rate compensation from the VAT for which he is liable.

57 There will be additional work for tax authorities in terms of supervision and inspections to ensure correct application of the flat-rate scheme because flat-rate-scheme farmers would be neither established nor registered in the Member State.

4.1.4.2. Impact on taxable person

Figure 7.8: Impact on taxable person

Budgetary impact	Legal certainty and simplicity	Shift of liability	Cost of implementation and compliance	Budgetary impact	Legal certainty and simplicity	Shift of liability	Cost of implementation and compliance
1/0/-1	-1	N/A	-1	1	1	N/A	1

Impact on supplier ("to be")

Positive, no or negative budgetary impact:

58 The flat-rate compensation percentage in the EU Member State of the customer might be equal to or lower or higher than the flat-rate compensation percentage in his own EU Member State.

59 In case of EU cross-border supplies, the flat-rate compensation amount would no longer be applicable for non-taxable legal persons and flat-rate-scheme farmers for which the intra-Community acquisitions were subject to VAT in the "as is" situation: there would be no compensation of VAT on the flat-rate-scheme farmers' purchases.

Negative impact on legal certainty and simplicity:

60 Although it is always clear to a flat-rate-scheme farmer that the place of supply is where the customer is established, he would need to know whether his agricultural products are subject to the flat-rate scheme and what the flat-rate compensation percentages are for all EU Member States where his customers are established.

Shift in liability:

61 Not applicable.

Negative impact on cost of implementation and compliance:

62 Although it is always clear to a flat-rate-scheme farmer that the place of supply is where the customer is established, he would need to know whether his agricultural products are subject to the flat-rate scheme, the VAT status of the customer (taxable persons versus flat-rate-scheme farmer or non-taxable legal person) and what the flat-rate compensation percentages are for all EU Member States where customers are established.

63 There will be changes to processes/systems/technologies to comply with the new B2B localisation rules so as to apply the flat-rate compensation percentage correctly.

Impact on customer ("to be")

Positive budgetary impact:

64 The taxable customer is entitled to deduct the flat-rate compensation amount from the VAT he is liable for in its own EU Member State.

65 In case of EU cross-border supplies, the flat-rate compensation amount would no longer be applicable for non-taxable legal persons and flat-rate scheme farmers for which the intra-Community acquisitions were subject to VAT in the "as is" situation. Therefore, there would be no longer a refund required.

Positive impact on legal certainty and simplicity:

66 For customers, it is clear that the flat-rate compensation amount is correctly applicable in their own EU Member States and that they can deduct the flat-rate compensation amount in their own EU Member State of establishment.

Shift in liability:

67 Not applicable.

Positive impact on cost of implementation and compliance:

68 The taxable customer is able to deduct the flat-rate compensation amount in his own EU Member State.

69 In case of EU cross-border supplies, the flat-rate compensation amount would no longer be applicable for non-taxable legal persons and flat-rate-scheme farmers for which the intra-Community acquisitions were subject to VAT in the “as is” situation.

4.1.5. Conclusions

70 The new B2B localisation principle would have a very negative impact on the country of taxation (“to be”).

71 The country of taxation (“to be”) would need to refund the flat-rate compensation amount with respect to non-recoverable input VAT incurred by the flat-rate-scheme farmer in another EU Member State.

72 There would be a clear benefit for the taxable customer as he would be able to deduct the flat-rate compensation amount in his own EU Member State of establishment. There would no longer be application of the flat-rate scheme for non-taxable legal persons and flat-rate-scheme farmers in case of EU cross-border transactions as no longer application of the flat-rate scheme.

73 For the flat-rate-scheme farmer, it would always be clear that the place of supply is where the customer is established in the EU, but he would need to know whether his agricultural products are subject to the flat-rate scheme, the VAT status of the customer (taxable persons versus flat-rate-scheme farmer and non-taxable legal person) and what the flat-rate compensation percentages are for all EU Member States where taxable customers are established.

4.2. Change of flat-rate compensation to EU Member State of flat-rate farmer

4.2.1. Description of scenarios

74 The flat-rate-scheme farmer and the customer are established in the same EU Member State.

75 The goods are located (at the time of dispatch or transport) in another EU Member State than the EU Member State of establishment of the flat-rate-scheme farmer and the taxable customer.

76 The transactions concerned are local supplies of goods, cross-border supplies of goods in the EU and exports of goods.

77 The groups concerned are FL4, FEU4 and FEX4.

4.2.2. Comparison of flat-rate compensation

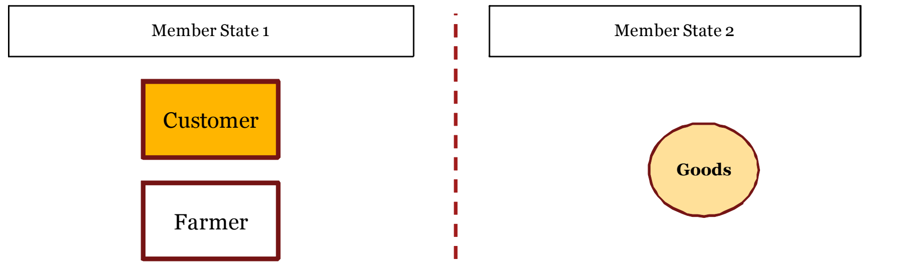
78 We only assess the impact on the flat-rate compensation. The general VAT treatment of these scenarios is dealt with in the qualitative impact assessment of the other scenarios (general scenarios, scenarios regarding special scheme for small enterprises and scenarios regarding exempt taxable persons).

79 The flat-rate compensation “as is” is differs from the flat-rate compensation “to be” due to the shift in the place of supply.

80 This can be visualised by the following examples:

Figure 7.9: Local supply of goods

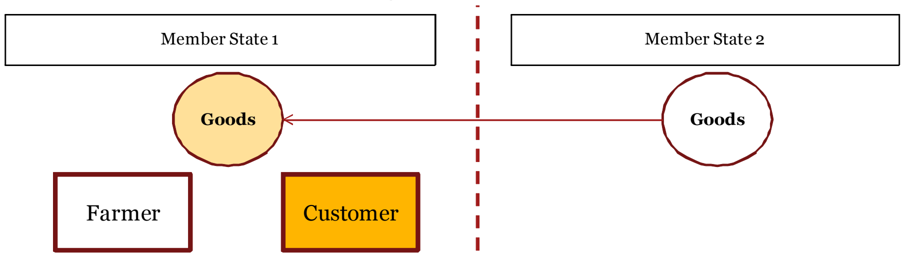
Diagram 148
GROUP FL – Scenario 5



Current treatment		Future treatment	
Place of supply	Flat-rate comp. refund	Place of supply	Flat-rate comp. refund
MS2 – the place where the goods are located at the time when supply takes place	MS2	**MS1**– the place where the customer is established	MS1
MS2 – the place where the goods are located at the time dispatch or transport to the customer begins			
CHANGE IN MEMBER STATE OF FLAT RATE COMPENSATION			

Figure 7.10: Cross-border supply of goods in the EU

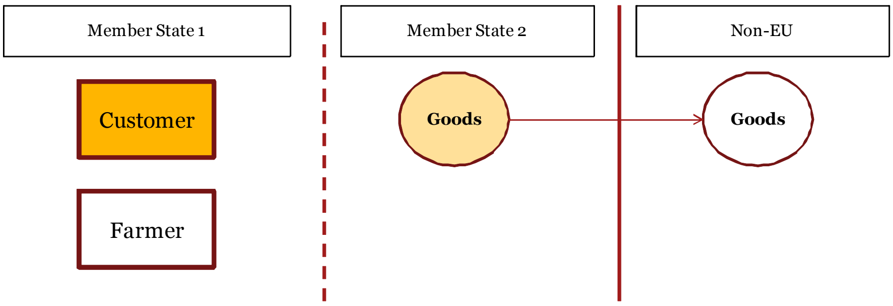
Diagram 151
GROUP FEU – Scenario 5



Current treatment		Future treatment	
Place of supply	Flat-rate comp. refund	Place of supply	Flat-rate comp. refund
MS2 – the place where the goods are located at the time dispatch or transport to the customer begins (i.e. intra-Community supply)	MS2	**MS1** – the place where the customer is established	MS1
MS1 – the place where dispatch or transport of the goods to the person acquiring them ends (i.e. intra-Community acquisition)			
CHANGE IN MEMBER STATE OF FLAT RATE COMPENSATION			

Figure 7.11: Export of goods outside the EU

Diagram 154
GROUP FEX – Scenario 6



Current treatment		Future treatment	
Place of supply	Flat-rate comp. refund	Place of supply	Flat-rate comp. refund
MS2– the place where the goods are located at the time dispatch or transport to the customer begins	MS2	**MS1** – the place where the customer is established	MS1
CHANGE IN MEMBER STATE OF FLAT RATE COMPENSATION			

4.2.3. Qualitative impact assessment

4.2.3.1. Impact in country of taxation

Figure 7.12: Impact in country of taxation

Budgetary impact		Ease of administration and cost of collection		Prevention of fraud and abuse on EU level	Budgetary impact		Ease of administration and collection		Prevention of fraud and abuse on EU level
Cash flow	Revenue	Ease of admini-stration	Cost of collection		Cash flow	Revenue	Ease of admini-stration	Cost of collection	
1	1	1	1	0	-1	-1	-1	-1	0

Impact in country of taxation ("as is")

Positive cash-flow impact:

81 The flat-rate compensation paid by the customer to the flat-rate-scheme farmer would no be longer deducted/refunded.

Positive revenue impact:

82 There would no longer be compensation of the non-recoverable input VAT on the flat-rate-scheme farmer's purchases.

Positive impact on ease of administration and cost of collection:

83 There will be a decrease in administrative work because the flat-rate compensation paid by the customer would no be longer be deducted/refunded.

84 There will be a decrease in work for the tax authorities in terms of supervision and inspections to ensure correct application of the flat-rate compensation.

Impact in country of taxation ("to be")

Negative cash-flow impact:

85 The taxable customer would be entitled to off-set fully or partially, depending its VAT status, the flat-rate compensation from the VAT for which he is liable.

Negative revenue impact:

86 The taxable customer would be entitled to deduct the flat-rate compensation from the VAT for which he is liable.

Negative impact on ease of administration and cost of collection:

87 There will be an increase in administrative work because the taxable customer would be entitled to deduct the flat-rate compensation from the VAT for which he is liable.

88 There will be additional work for tax authorities in terms of supervision and inspections to ensure correct application of the flat-rate scheme because flat-rate-scheme farmers would be neither established nor registered in the Member State.

4.2.4. Impact on taxable person

Figure 7.13: Impact on taxable person

Impact on supplier (TO BE)				Impact on customer (TO BE)			
Budgetary impact	Legal certainty and simplicity	Shift of liability	Cost of implementation and compliance	Budgetary impact	Legal certainty and simplicity	Shift of liability	Cost of implementation and compliance
1/0/-1	1	N/A	1	1	1	N/A	1

Impact on supplier ("to be")

Positive, no or negative budgetary impact:

89 The flat-rate compensation in his EU Member State of establishment might be equal, lower or higher.

90 In case of EU cross-border supplies, the flat-rate compensation amount would no longer be applicable for non-taxable legal persons and flat-rate-scheme farmers for which the intra-Community acquisitions were subject to VAT in the "as is" situation: there would be no compensation of the non-recoverable VAT on the flat-rate-scheme farmers' purchases.

Positive impact on legal certainty and simplicity:

91 It would always be clear for a flat-rate-scheme farmer that the place of supply is where the customer is established.

92 The administration would be easier for a flat-rate-scheme farmer in day-to-day practice since the place of supply is in his EU Member State of establishment.

Shift in liability:

93 Not applicable.

Positive impact on cost of implementation and compliance:

94 The administration would be easier for a flat-rate-scheme farmer in day-to-day practice since the place of supply is in his own EU Member State of establishment.

95 The flat-rate-scheme farmer would no longer need to identify himself with the local VAT authorities in the EU Member State of supply in the "as is" situation.

96 There will be limited changes to processes/systems/technologies to comply with the new situation.

Impact on customer ("to be")

Positive budgetary impact:

97 The taxable customer is entitled to deduct the flat-rate compensation amount from the VAT he is liable for in its own EU Member State.

98 In case of EU cross-border supplies, the flat-rate compensation amount would no longer be applicable for non-taxable legal persons and flat-rate-scheme farmers for which the intra-Community acquisitions were subject to VAT in the "as is" situation. Therefore, there would be no longer a refund required.

Positive impact on legal certainty and simplicity:

99 For customers, it is clear that the flat-rate compensation amount is correctly applicable or not in their own EU Member States and that taxable persons can deduct fully or partially the flat-rate compensation amount in their own EU Member State of establishment.

Shift in liability:

100 Not applicable.

Positive impact on cost of implementation and compliance:

101 The taxable customer is able to deduct the flat-rate compensation amount in his own EU Member State.

102 In case of EU cross-border supplies, the flat-rate compensation amount would no longer be applicable for non-taxable legal persons and flat-rate-scheme farmers for which the intra-Community acquisitions were subject to VAT in the "as is" situation.

4.2.5. Conclusions

103 Because, in the "to be" situation, flat-rate-scheme farmers would suffer non-recoverable input VAT on their purchases in the Member State of establishment, the input flat-rate compensation of the Member State of establishment of the customer, and thus of the flat-rate-scheme farmer, would offset the paid non-recoverable input VAT on the farmer's purchases. This is in line with the overall objective of the special scheme and would be acceptable to the EU Member States concerned.

104 The flat-rate-scheme farmer would no longer have to identify himself to the VAT authorities of the EU Member State where the agricultural goods are located. His administration and compliance would also be easier since the place of supply is in his own EU Member State of establishment.

105 There would be a clear benefit for the taxable customer as he would be able to deduct the flat-rate compensation amount in his own EU Member State of establishment. In case of EU cross-border supplies, the flat-rate compensation amount would no longer be applicable for non-taxable legal persons and flat-rate-scheme farmers for which the intra-Community acquisitions were subject to VAT in the "as is" situation.

4.3. Change of place of supply from EU to non-EU

4.3.1. Description of scenarios

106 The flat-rate-scheme farmer is established in the EU and the taxable customer is established outside the EU.

107 The goods are located (at the time of dispatch or transport) in the EU Member State of establishment of the flat-rate-scheme farmer or in another EU Member State than the EU Member State of establishment of the flat-rate-scheme farmer.

108 The transactions concerned are local supplies of goods, cross-border supplies of goods in the EU and exports of good.

109 The groups concerned are FL5, FEU5 and FEX5.

4.3.2. Comparison of flat-rate compensation

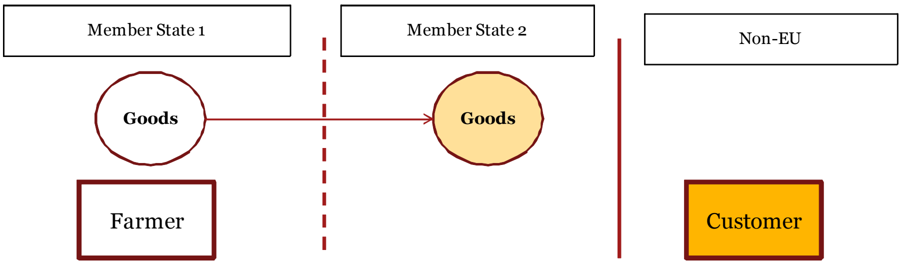
110 We only assess the impact on the flat-rate compensation. The general VAT treatment of these scenarios is dealt with in the qualitative impact assessment of the other scenarios (general scenarios, scenarios regarding special scheme for small enterprises and scenarios regarding exempt taxable persons).

111 The flat-rate compensation "as is" differs from the flat-rate compensation "to be".

112 This can be visualised by the following examples:

Figure 7.14: Cross-border supply of goods in the EU

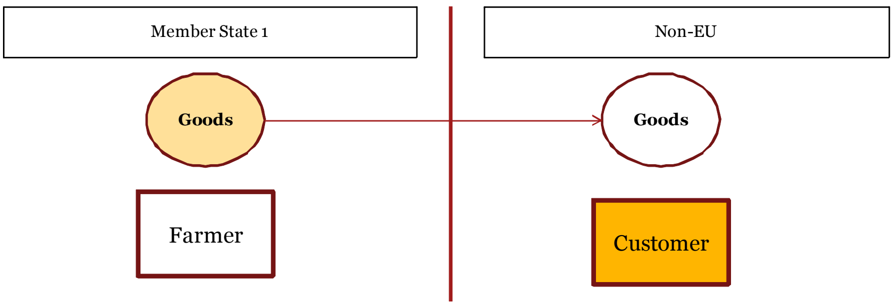
Diagram 152
GROUP FEU – Scenario 6



Current treatment		Future treatment	
Place of supply	Flat-rate comp. refund	Place of supply	Flat-rate comp. refund
MS1 – the place where the goods are located at the time dispatch or transport to the customer begins (i.e. intra-Community supply)	MS1	**Non-EU** – the place where the customer is established	Not relevant
MS2 – the place where dispatch or transport of the goods to the person acquiring them ends (i.e. intra-Community acquisition)			
CHANGE IN PLACE OF SUPPLY FROM EU TO NON-EU NO FLAT RATE COMPENSATION			

Figure 7.15: Export of goods outside the EU

Diagram 155
GROUP FEX – Scenario 7



Current treatment		Future treatment	
Place of supply	Flat-rate comp. refund	Place of supply	Flat-rate comp. refund
MS1– the place where the goods are located at the time dispatch or transport to the customer begins	MS1	**Non-EU** – the place where the customer is established	Not relevant
CHANGE IN PLACE OF SUPPLY FROM EU TO NON-EU NO FLAT RATE COMPENSATION			

4.3.3. Issues

113 Under the new B2B localisation principles the place of supply of the agricultural products in these scenarios would be where the non-EU customer is established, i.e. outside the EU.

114 This means that the flat-rate compensation scheme would not apply in principle: neither in the EU Member State where the agricultural products are located nor in the EU Member State where the flat-rate-scheme farmer is established.

4.3.4. Qualitative impact assessment

4.3.4.1. Impact in country of taxation

Figure 7.16: Impact in country of taxation

Impact in country of taxation (AS IS)					Impact in country of taxation (TO BE)				
Budgetary impact		Ease of administration and cost of collection		Prevention of fraud and abuse on EU level	Budgetary impact		Ease of administration and collection		Prevention of fraud and abuse on EU level
Cash flow	Revenue	Ease of admini-stration	Cost of collection		Cash flow	Revenue	Ease of admini-stration	Cost of collection	
1	1	1	1	0					

Impact in country of taxation ("as is")

Positive cash-flow impact:

115 The flat-rate compensation paid by the taxable customer to the flat-rate-scheme farmer would no be longer deducted/refunded.

Positive revenue impact:

116 There would no longer be compensation of the non-recoverable input VAT on the flat-rate-scheme farmer's purchases.

Positive impact on ease of administration and cost of collection:

117 There will be a decrease in administrative work because the flat-rate compensation paid by the customer would no be longer be deducted/refunded.

118 There will be a decrease in work for the tax authorities in terms of supervision and inspections to ensure correct application of the flat-rate compensation.

Impact in country of taxation ("to be")

119 As the "to be" country of taxation is outside the EU, no impact is considered.

4.3.4.2. Impact on taxable person

Figure 7.17: Impact on taxable person

Impact on supplier (TO BE)				Impact on customer (TO BE)			
Budgetary impact	Legal certainty and simplicity	Shift of liability	Cost of implementation and compliance	Budgetary impact	Legal certainty and simplicity	Shift of liability	Cost of implementation and compliance
-1	-1	N/A	-1	1	1	N/A	1

Impact on supplier ("to be")

Negative budgetary impact:

120 The flat-rate compensation scheme would no longer apply: there would be no compensation of the non-recoverable VAT on the flat-rate-scheme farmer's purchases.

Negative impact on legal certainty and simplicity:

121 The flat-rate-scheme farmer would need to draw a distinction between the place of supply for EU-established customers (flat-rate scheme applying) and non-EU-established customers (flat-rate scheme not applying).

Shift in liability:

122 Not applicable.

Negative impact on cost of implementation and compliance:

123 It is always clear that the place of supply is where the customer is established but he may not apply the flat-rate scheme where the customer is established outside the EU, leading to multiple changes to processes/systems/technologies to comply with the new situation.

Impact on customer ("to be")

Positive budgetary impact:

124 The flat-rate compensation scheme would no longer apply: the customer would no longer have to pay the flat-rate compensation amount.

Positive impact on legal certainty and simplicity:

125 It is always clear for the customer that the flat-rate compensation scheme does not apply and that there would be no longer need to obtain refund of the flat-rate compensation amount paid.

Shift in liability:

126 Not applicable.

Positive impact on cost of implementation and compliance:

127 The customer would no longer need to obtain deduction/refund of the flat-rate compensation amount.

4.3.5. Conclusions

128 Compared with the "as is" situation, the flat-rate-scheme farmer would not be compensated for non-recoverable input VAT on his purchases.

129 We feel that this would jeopardise proper application of the flat-rate scheme for farmers, or at least the scheme would fail to meet its objectives, as this could lead to insufficient compensation of the non-recoverable input VAT on the purchases of flat-rate-scheme farmers, who would opt to apply the regular VAT scheme.

130 As non-EU-established customers would not need to pay any flat-rate compensation to flat-rate-scheme farmers in the EU, this would ease the administrative burden for them and provide a competitive advantage compared to EU-established taxable customers. This would not be in line with the overall objective that the VAT regime should be neutral.

5. Overall conclusions and lessons learned

131 Viewed overall, we find that the new B2B localisation principle would lead to situations where, if the customer is established outside the EU, the EU flat-rate-scheme farmer would no longer be able to apply the flat-rate compensation or, if the customer is established in another EU Member State than the flat-rate-scheme farmer, the EU Member State of the customer would need to provide compensation for non-recoverable VAT incurred in another EU Member State by the flat-rate-scheme farmer.

132 The main lessons learned from the qualitative impact assessment are:

133 If the customer becomes liable for paying VAT in the EU under the new B2B localisation and liability rules (because the flat-rate-scheme farmer and customer are not established in the same EU Member State), the flat-rate compensation amount should be linked to the place of establishment of the EU farmer as, under the new B2B localisation and liability rules, flat-rate-scheme farmers will suffer non-recoverable input VAT on their purchases in the Member State of establishment.

134 If the flat-rate famer becomes or remains liable for payment of VAT (because the farmer and customer are established in the same EU Member State), there are no particular problems to applying the new B2B localisation principle and the corresponding flat-rate scheme.

135 If the taxable customer is established outside the EU, under the new B2B localisation and liability rules, the flat-rate scheme would not apply, which could lead to insufficient compensation of the non-recoverable input VAT on the farmer's purchases. The flat-rate compensation amount here should also be linked to the place of establishment of the EU farmer, with a refund mechanism for taxable persons established outside the EU.