

***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 4: Supply of goods between taxable
supplier and business customer: basic
scenarios

23 December 2011

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1. Purpose of the normal VAT regime¹

- 1 The main purpose of the Treaty of Rome, leading to the founding of the European Economic Community on 1 January 1958, was the creation of a common market in Europe with healthy competition and having the characteristics of a domestic market.
- 2 To realise this purpose with respect to indirect taxation, the Council of Ministers of the European Community decreed two Directives regarding the harmonisation of the regulations of the Member States in respect of turnover tax, based especially on articles 99 and 100 of the Treaty.²
- 3 With the main purpose of achieving neutrality of competition by introducing a neutral, transparent turnover tax system, these Directives, which are mandatory for the Member States with respect to the objectives they lay down:
 - prohibit the use of cumulative tax systems and relative compensating taxes on imports and flat-rate refunds on exports;
 - replace cumulative indirect tax systems by a common system of value added tax;
 - define the essential implementing procedures of that system, albeit with the Member States retaining a great degree of autonomy, for example with respect to setting rates and exemptions.
- 4 The Sixth Council Directive, no. 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes - Common system on value added tax: uniform basis of assessment, which came into force on 1 January 1978, made a significant step in terms of harmonisation of the legislation of the Member States on turnover taxes and, consequently, also in terms of the common market.
- 5 Moreover, the Sixth Directive equally had a second purpose, namely to lay down a uniform basis which allows to levy the own resources of the European Communities. Therefore, the Sixth Directive contained detailed regulations of the basic principles and mechanisms of a common system of the value added tax.
- 6 Creation of a single market as defined in the Treaty of Rome required that fiscal controls at the internal borders between the Member States to disappear as of 1 January 1993.
- 7 As from 1 January 1993, tax on the importation of goods and exemptions from tax on exportation are only applied for transactions, where, broadly speaking, goods are shipped from or to territories excluded from the common system of value added tax.

¹ Terra, B., Kajus, J., Chapter 1 – Subject matter and scope – A guide to the Recast VAT Directive, http://online.ibfd.org/collections/evdcom/html/evdcom_recast_chap01.html?WT.z_na.

² First Council Directive 67/227/EEC of 11 April 1967 on the harmonisation of legislation of Member States concerning turnover taxes and the Second Council Directive no 67/228/EEC 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.

- 8 The requirements for achieving the definitive system – with taxation in the Member State of origin – had not been fulfilled by 31 December 1992. Therefore, transitional arrangements were set up as from 1 January 1993 with general taxation of intra-Community transactions of taxable persons (other than exempt taxable persons and non-taxable legal persons) in the Member State of destination on the basis of VAT rates and conditions imposed by that Member State.
- 9 The transitional arrangements were implemented by Directive 91/680/EEC of the Council of 16 December 1991 supplementing the common system on value added tax and amending Directive 77/388/EEC with a view to the abolition of fiscal frontiers.
- 10 Two additional Directives³ followed introducing simplification measures with regard to value added tax under transitional arrangements such as the intra-EU triangulation system for ABC transactions, VAT-warehouse arrangements, local transport connected with the intra-Community transport of goods and intra-EU cross-border toll manufacturing.
- 11 Faced with the fundamental problem of the underlying differences between Member States with respect to fiscal obligations (registration with or without a fiscal representative, the provision of security, etc.) and with the fact that there is no uniformity in the criteria for determining when a person was liable to pay VAT, Council Directive 2000/65/EC of 17 October 2000 amending Directive 77/388/EEC as regards the determination of the person liable for payment of value added tax was adopted.

2. Summary of the provisions⁴

- 12 In this light, we only summarise the most important provisions that are under review, with the exclusion of the special regimes discussed in the other annexes⁵.
- 13 Pursuant to article 2 of the VAT Directive, the scope of VAT is, in principle, limited to the supply of goods or services and the intra-Community acquisition of goods for consideration within the territory of a Member State by a taxable person acting as such. Article 3 and article 4 of the VAT Directive stipulate which transactions are not subject to VAT in derogation from article 2 of the VAT Directive.

³ Council Directive no 92/111/EEC of 14 December 1992 amending Directive 77/388/EEC and introducing simplification measures with regard to value added tax. Council Directive 95/7/EC of 10 April 1995 amending Directive 77/388/EEC and introducing new simplification measures with regard to value added tax – scope of certain exemptions and practical arrangements for implementing them.

⁴ Terra, B., Kajus, J., Chapter 4 – Taxable transactions – A guide to the Recast VAT Directive, http://online.ibfd.org/collections/evdcom/html/evdcom_recast_chap04.html?WT.z_na.

⁵ Supply of gas through the natural gas system, supply of electricity and of heat or cooling energy; Special scheme for small enterprises; Second-hand goods subject to the margin scheme; Special flat-rate scheme for farmers; Supplies by exempt taxable persons and non-taxable legal persons and exempt supplies, The special scheme for investment gold, Onward B2C supplies of goods.

2.1. Supply of goods

- 14 Article 14 of the VAT Directive defines the supply of goods as the transfer of the right to dispose of tangible property as its owner. Electricity, gas, heat, refrigeration and the like are considered tangible property. Member States may also consider the transfer of certain interests in immovable property and rights *in rem* as taxable supplies of goods (article 15 of the VAT Directive).
- 15 Only the supply of goods for consideration within the territory of a Member State by a taxable person acting as such is subject to tax.
- 16 In two situations, the application or transfer of goods must be treated as a supply of goods for consideration: the self-supply under article 16 of the VAT Directive and the deemed intra-Community supply of own business goods in article 17 of the VAT Directive.
- 17 Article 18 of the VAT Directive defines the optional self-supplies.
- 18 The place of supply of goods without transport is the place where the goods are located at the time when the supply takes place pursuant to article 31 of the VAT Directive.
- 19 The supply of goods with transport by the supplier, the customer or a third person, is the place where the goods are located at the time when dispatch or transport of the goods to the customer begins, pursuant to article 32 of the VAT Directive. However, if dispatch or transport of the goods begins in a third territory or third country, both the place of supply by the importer and the place of any subsequent supply are deemed to be within the Member State of importation of the goods.
- 20 Where goods dispatched or transported by the supplier, by the customer or by a third person are installed or assembled, with or without a trial run, by or on behalf of the supplier, the place of supply is deemed to be the place where the goods are installed or assembled (article 2(1)(b)(i) of the VAT Directive). The transfer of those goods, when they are installed or assembled in the Member State of arrival, is excluded from being a deemed intra-Community supply of goods (article 17(2)(b) of the VAT Directive).
- 21 The supply of goods can be exempt. A distinction should be made between exemptions without a right of deduction (articles 132 to 137 of the VAT Directive) and exemptions with a right of deduction. These are exemptions related to domestic and cross-border transactions (articles 138 to 166 of the VAT Directive).
- 22 Pursuant to article 138 of the VAT Directive, an intra-Community supply of goods will be exempt if dispatched or transported from one Member State to another 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. The transfer of own goods by a taxable person to another Member State will also be exempt provided it would have qualified for the exemption in article 138 of the VAT Directive if it had been made on behalf of another taxable person.

- 23 Pursuant to article 146 of the VAT Directive, exports of goods to destinations outside the EU are exempt. A supply of goods dispatched or transported to a destination outside the Community by or on behalf of the vendor is tax exempt. If the goods are dispatched or transported to a destination outside the Community by or on behalf the customer, the customer must not be established in the same Member State as the vendor.
- 24 As a general principle, article 193 of the VAT Directive provides that the taxable person carrying out a taxable supply of goods is the person liable for payment of the VAT. Where the taxable supply is carried out by a taxable person who is not established in the Member State in which the VAT is due, pursuant to article 194 of the VAT Directive, Member States may provide that the person liable for payment of VAT is the person to whom the goods are supplied.

2.2. Intra-Community acquisitions of goods

- 25 Article 20 of the VAT Directive defines an intra-Community acquisition of goods as acquisition of the right to dispose as owner of movable tangible property dispatched or transported to the person acquiring the goods by or on behalf of the vendor or the person acquiring the goods in a Member State other than that in which dispatch or transport of the goods began. Intra-Community acquisitions of goods thus only relate to movable property.
- 26 The intra-Community acquisition of goods for consideration within the territory of a Member State by a taxable person acting as such, or a non-taxable legal person, where the vendor is a taxable person acting as such who is not eligible for the exemption for small enterprises provided for in articles 282-292 of the VAT Directive and who is not covered by articles 33 (the distance selling rules) or 36 (the installation and assembly rules) of the VAT Directive, is subject to tax.
- 27 In addition, the intra-Community acquisition of goods for consideration within the territory of a Member State of new means of transport by a taxable person, or a non-taxable legal person, whose other acquisitions are not subject to VAT pursuant to article 3(1) of the VAT Directive (i.e. below a threshold of EUR 10,000), or any other non-taxable person, is subject to tax. A similar provision exists for excise goods.
- 28 Article 3(3) of the VAT Directive also provides that Member States shall grant taxable persons and non-taxable legal persons eligible under article 3(1)(b) of the VAT Directive the right to opt for taxation as defined in article 2(1)(b) of the VAT Directive.
- 29 Article 21 of the VAT Directive requires the intra-Community acquisition of goods for consideration to include application by a taxable person for the purposes of his business of goods dispatched or transported by or on behalf of that taxable person from another Member State within which the goods were produced, extracted, processed, purchased or acquired as defined in article 2(1)(b) of the VAT Directive or imported by the taxable person within the framework of his undertaking into that other Member State.
- 30 The place of an intra-Community acquisition of goods is deemed to be the place where dispatch or transport of the goods to the person acquiring them ends (article 40 of the VAT Directive).

- 31 Article 140(1) of the VAT Directive lists the exemptions applicable to intra-Community acquisitions of goods. Article 141 of the VAT Directive provides that intra-Community acquisitions are not subject to tax where the EU triangulation simplification measures are applied.
- 32 Article 200 of the VAT Directive provides that any person making a taxable intra-Community acquisition of goods is liable to pay VAT.

2.3. Importation

- 33 Article 30 of the VAT Directive defines the importation of goods as entry into the Community of goods which are not in free circulation within the meaning of article 24 of the Treaty. Entry into the Community of goods that are in free circulation, coming from a third territory forming part of the customs territory of the Community, is also regarded as importation of goods.
- 34 Products coming from a third country are considered to be in free circulation in a Member State if the import formalities have been complied with and any customs duties or charges having equivalent effect which are payable have been levied in that Member State, and if they have not benefited from a total or partial drawback of such duties or charges.
- 35 Pursuant to article 60 of the VAT Directive, the place of importation of goods is the Member State within whose territory the goods are located when they enter the Community.
- 36 Article 61 of the VAT Directive provides that, where, on entry into the Community, goods which are not in free circulation are placed under one of the arrangements or situations referred to in article 156 of VAT Directive or under temporary importation arrangements with total exemption from import duty or under external transit arrangements, the place of importation of such goods is the Member State within whose territory the goods cease to be covered by those arrangements or situations. Similarly, where, on entry into the Community, goods which are in free circulation are placed under one of the arrangements or situations referred to in articles 276 and 277 of the VAT Directive, the place of importation is the Member State within whose territory the goods cease to be covered by those arrangements or situations.
- 37 Article 143(1) of the VAT Directive lists the applicable exemptions upon importation. Article 143(1)(d) of the VAT Directive provides for an exemption if importation of the goods is directly followed by an intra-Community supply or a deemed intra-Community supply of the same goods exempt pursuant to article 138(1) and(2)(c) of the VAT Directive.
- 38 Pursuant to article 201 of the VAT Directive, on importation, VAT is payable by any person or persons designated or recognised as liable by the Member State of importation.

3. Qualitative impact assessment of supply of goods where the place of supply is inside the EU and for which no change of place of “actual” taxation occurs

3.1. No change in place of “actual” taxation and person liable for payment of VAT

3.1.1. Description of scenarios

- 39 The supplier and the customer are established in the same Member State.
- 40 The goods are located (at the time of dispatch or transport) in the Member State of establishment of the supplier and the customer. In the case of installation or assembly by or on behalf of the supplier, the goods are installed or assembled in the Member State where both the supplier and the customer are established.
- 41 The transactions concerned are local supplies of goods (with or without installation or assembly) or exports.
- 42 The groups concerned are L2 and EX1.
- 43 In the case of a supply without installation or assembly, the supplier and the customer are not established in the same country. The goods are dispatched or transported from a Member State to the Member State of establishment of the customer.
- 44 In the case of a supply with installation or assembly by or on behalf of the supplier, the supplier and the customer are established in the same Member State. The goods are installed or assembled in the Member State of the customer.
- 45 The transactions concerned are cross-border supplies of goods in the EU (with or without installation or assembly).
- 46 The group concerned is EU1.
- 47 The customer is established outside the EU. The supplier is established in the EU or outside the EU.
- 48 The goods are located outside the EU (at the time of dispatch or transport). The goods will be imported into the EU and the customer will be the importer of record.
- 49 The transaction concerned is an importation of goods into the EU.
- 50 The group concerned is IM4.

3.1.2. Comparison of VAT treatment

- 51 The Member State of taxation “as is” is equal to the Member State of taxation “to be”.
- 52 There is also no change in the person liable for payment of the VAT due in this Member State of taxation. Please note that, in the case of cross-border supplies of goods (without installation or assembly), we only assess the impact in the Member State of taxation assuming that the exemption for intra-Community supplies of goods applies in the Member State from which the goods are dispatched or transported.
- 53 This can be visualised by the following examples:

Figure 4.1: Local supply of goods

Diagram 3
GROUP L2 – Scenarios 7, 8, 9 and 10

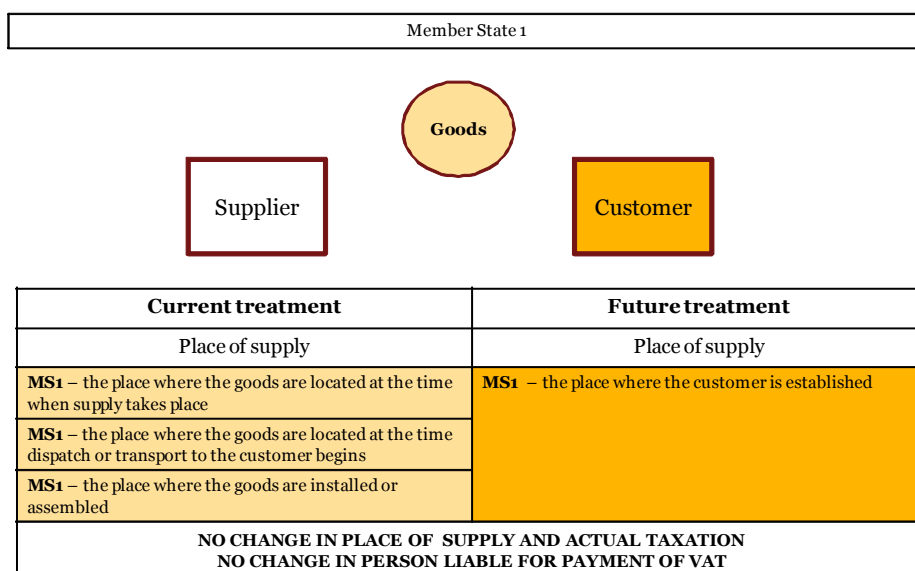


Figure 4.2: Cross-border supply of goods within the EU

Diagram 16
GROUP EU1 – Scenario 1

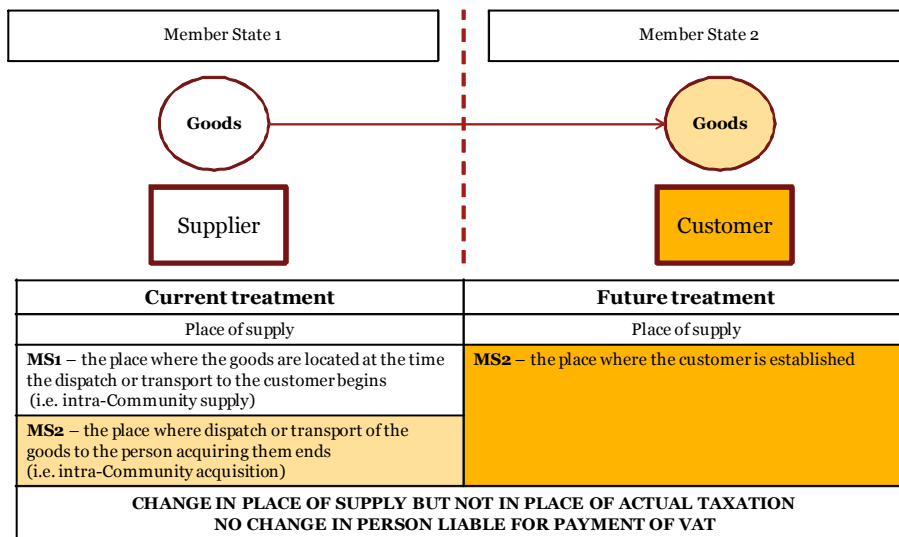


Figure 4.3: Cross-border supply of goods within the EU

Diagram 17
GROUP EU1– Scenario 2

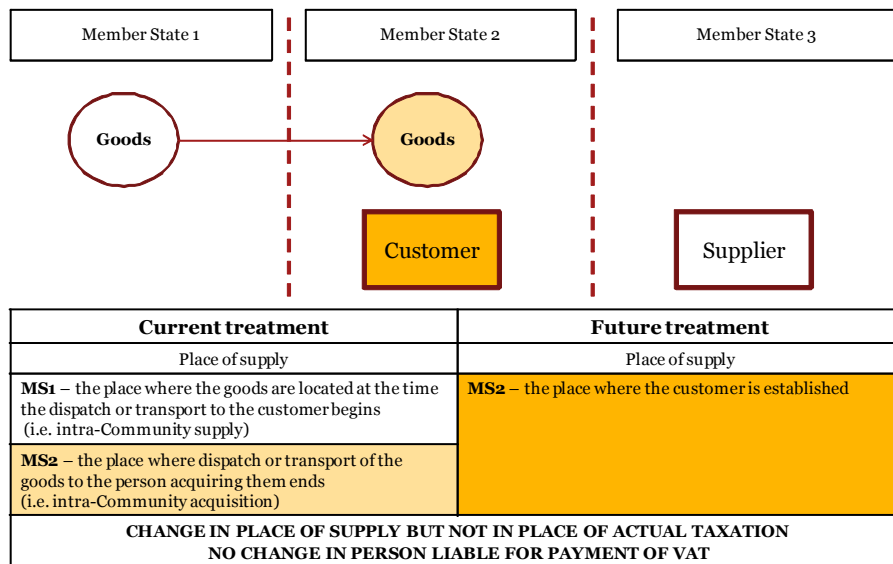


Figure 4.4: Cross-border supply of goods within the EU

Diagram 18
GROUP EU1 – Scenario 3

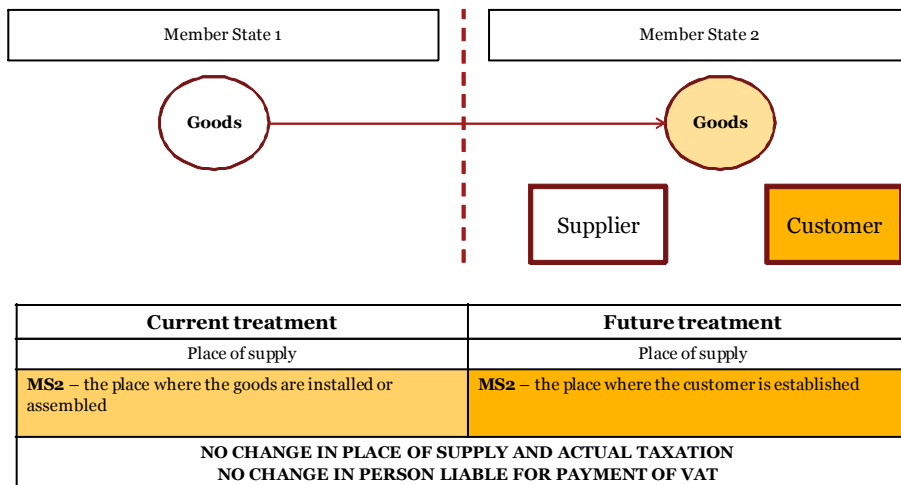


Figure 4.5: Export of goods outside the EU

Diagram 54
GROUP EX1 – Scenario 1

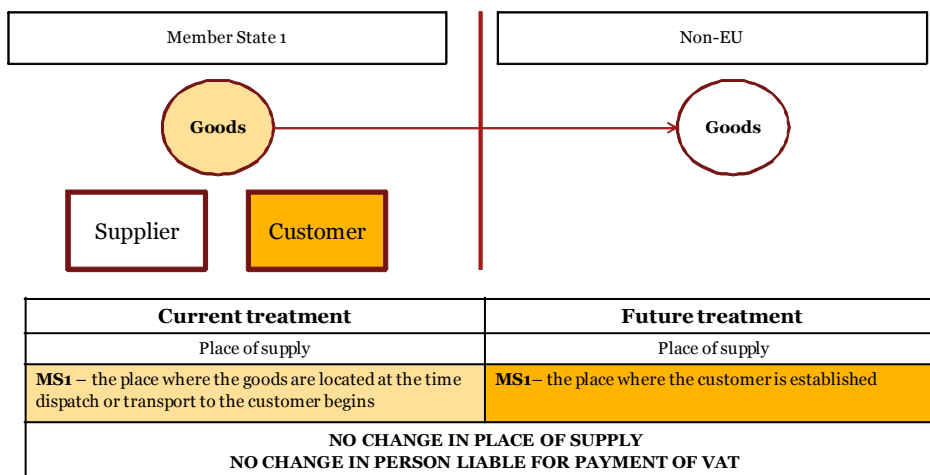
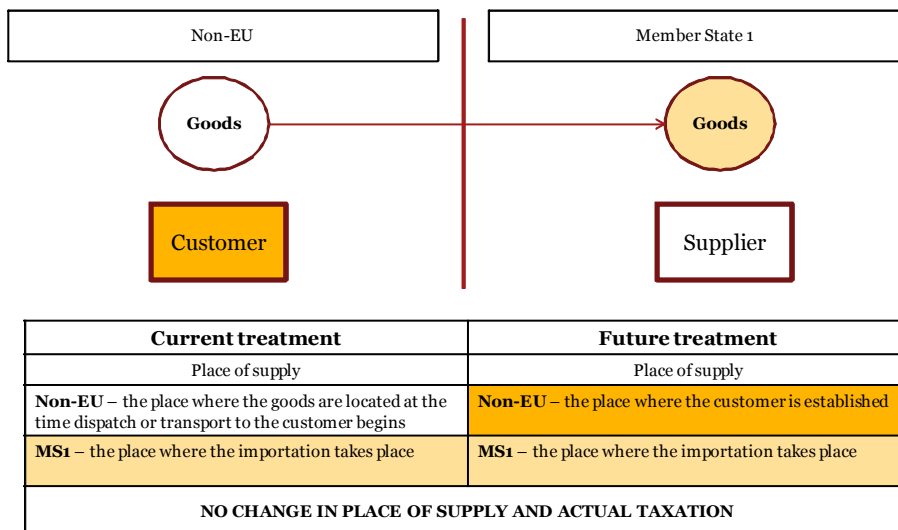


Figure 4.6: Importation of goods into the EU

Diagram 52
GROUP IM4 – Scenario 9



- 54 Because the supplier is not established in the Member State of the place of supply, in the “as is” situation he needs a VAT registration in that Member State for local, intra-Community and export supplies.

3.1.3. Issues

- 55 If the customer is established in the Member State where the goods are located at the time dispatch or transport begins to a destination outside the EU, and the customer is responsible for the transport, the exemption upon exportation is in principle not applicable.
- 56 Under the new B2B localisation and liability principle we no longer need to know the location of the goods and do not need to follow the physical flow of goods.
- 57 Where goods are exported, an exemption should apply. In most cases the customer will be liable for VAT. In case he reports VAT which is not due he will not have a right to deduct. The same is true where the supplier is liable and would incorrectly charge VAT to the customer.
- 58 This would mean in practice that customers would still need to follow the physical flow of all their purchases to prevail them of their right to deduct input VAT which would be against the objectives of changing the place of supply rules.

3.1.4. Qualitative impact assessment

3.1.4.1. Impact in country of taxation

Figure 4.7: 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 cost of collection		Prevention of fraud and abuse on EU level
Cash flow	Revenue	Ease of administration	Cost of collection		Cash flow	Revenue	Ease of administration	Cost of collection	
0	0	0	0	0					
0	0	0	0	1					

Impact in country of taxation (“as is”)

- 59 No impact for local supplies (with or without installation or assembly), cross-border supplies within the EU with installation or assembly by or on behalf of the supplier and exports concerned.
- 60 For cross-border supplies within the EU without installation or assembly, a positive impact on prevention of fraud and abuse on an EU level can be noted if the supplier is established outside the EU

Impact in country of taxation (“to be”)

- 61 No impact as no shift in the Member State of taxation and liability for payment of VAT.

3.1.4.2. Impact on taxable person

Figure 4.8: 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	0	0	0	0	0	0
0	1	1	1	0	1	0	0
0	1	0	1	0	1	0	0

Impact on supplier (“to be”)

1) Local supplies (with or without installation or assembly) and exports:

62 No impact.

2) Cross-border supplies within the EU:

Positive impact on legal certainty and simplicity:

- 63 In day-to-day practice, it will be easier to administer the new localisation rule than the current localisation rules.
- 64 It is always clear that VAT is due in the Member State where the customer is established.

Shift or no shift in liability:

- 65 Supplier is no longer liable for payment of VAT with respect to supply of goods without installation or assembly (if the conditions to exempt the intra-Community supply of goods are not fulfilled).
- 66 The supplier remains liable for payment of VAT if he is established in the same Member State as the customer (with installation or assembly).

Positive impact on cost of implementation and compliance:

- 67 Easier to administer in day-to-day practice as no longer need for additional VAT registrations.
- 68 Possibility for full automation leading to decrease in time spent (VAT determination logic is only based on the place of establishment of the customer).
- 69 Limited changes to processes/systems/technologies and need to train staff in order to comply with the new VAT treatment of the supply.
- 70 The supplier no longer has to prove that the goods are actually dispatched or transported to another Member State or installed in another Member State.

Impact on customer (“to be”)

1) Local supplies (with or without installation or assembly) and exports:

71 No impact.

2) Cross-border supplies within the EU:

Positive impact on legal certainty and simplicity:

72 In day-to-day practice it will be easier to administer the new localisation rule than the current localisation rules.

73 For the customer it is always clear that VAT is due in the Member State where he is established as concept of intra-Community acquisitions will disappear.

3.1.5. Conclusions

74 For these scenarios, there is no change in the place of supply of the goods and consequently there is no impact in the country of taxation. Depending on the scenario in question, there is no or a positive impact for the supplier and the customer. In hands of the supplier, there is a clear benefit as he needs fewer VAT registrations compared to the “as is” situation.

75 To conclude: except for application of the export exemption in hands of the customer if he is responsible for the dispatch or transport of the goods to a destination outside the EU, there are no specific obstacles with respect to application of the new B2B principle for these scenarios compared to the “as is” situations as the supplier and customer are established in the EU.

3.2. No change in place of supply and “actual” taxation but customer becomes liable for payment of VAT

3.2.1. Description of scenarios

- 76 The supplier and the customer are not established in the same country. The customer is always established within the EU. The supplier is established within the EU or outside the EU.
- 77 The goods are either located (at the time of dispatch or transport) or installed or assembled within the Member State of the customer.
- 78 The transactions concerned are local supplies of goods (with or without installation or assembly), cross-border supplies of goods with installation or assembly by or on behalf of the supplier or exports.
- 79 The groups concerned are L1, EU2 and EX3.

3.2.2. Comparison of VAT treatment

- 80 The VAT treatment “as is” differs from the VAT treatment “to be”.
- 81 The Member State of supply and taxation “as is” is equal to the Member State of supply and taxation “to be”. However, there is a change in the person liable for payment of the VAT as the supplier and the customer are not established in the same Member State.
- 82 This can be visualised by the following examples:

Figure 4.9: Local supply of goods

Diagram 1

GROUP L1 – Scenarios 1, 2 and 3

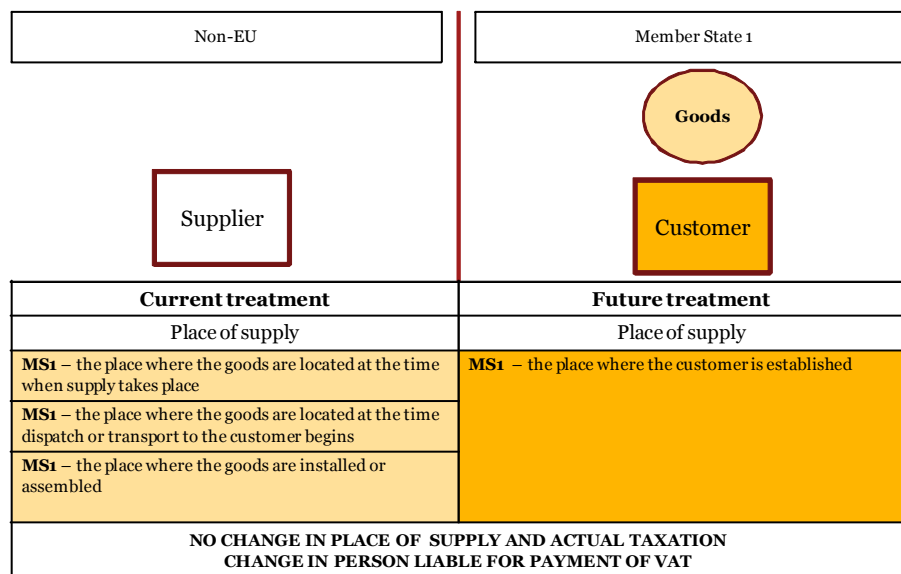


Figure 4.10: Cross-border supply of goods within the EU with installation or assembly by or on behalf of the supplier

Diagram 20
GROUP EU2 – Scenario 5

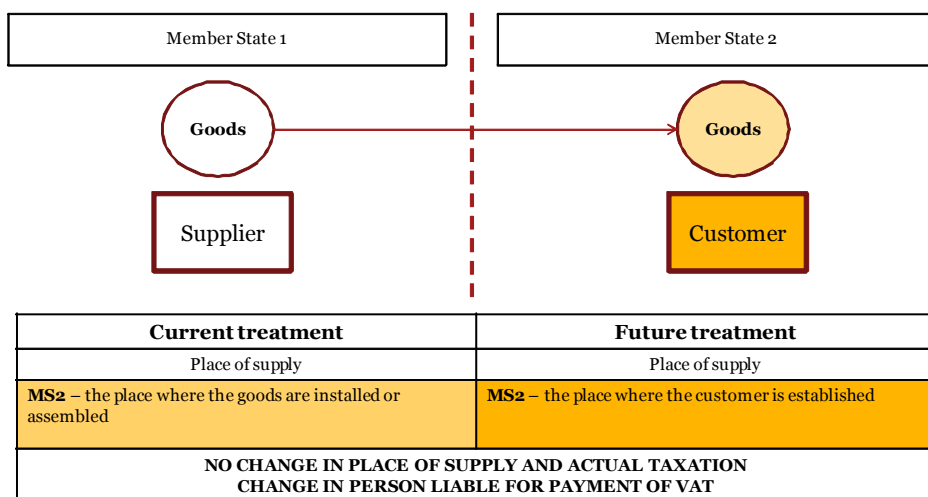
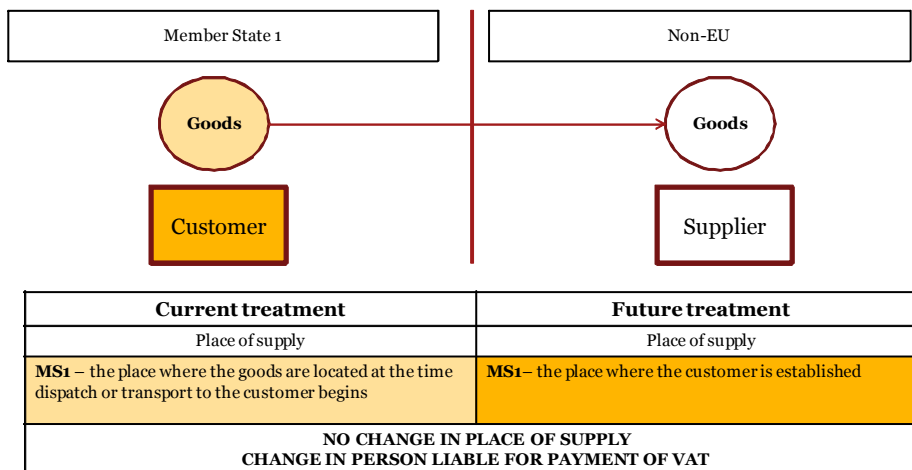


Figure 4.11: Export of goods outside the EU

Diagram 56
GROUP EX3 – Scenario 3



- 83 Because the supplier is not established in the Member State of the place of supply, in the “as is” situation he needs a VAT registration in that Member State for local, intra-Community and export supplies.

3.2.3. Issues

- 84 In this respect, the only issue concerns the scenario where the goods are exported as identified under point 3.1.3.

3.2.4. Qualitative impact assessment

3.2.4.1. Impact in country of taxation

Figure 4.12: 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 administration	Cost of collection		Cash flow	Revenue	Ease of administration	Cost of collection	
-1	0	1	1	1					
-1	0	1	1	0					
0	0	1	1	1					
0	0	1	1	0					

Impact in country of taxation (“as is”)

Negative or no cash-flow impact:

- 85 There would be a negative impact as no pre-financing of VAT will occur (time between payment of VAT to the local tax authorities by the supplier and VAT deduction/refund in the hands of the customer). If the export exemption applies in the “as is” situation, there would be no cash-flow impact.

Revenue impact:

- 86 No impact.

Positive impact on ease of administration and cost of collection:

- 87 Decrease in administrative work in terms of managing registrations and processing data from VAT returns and listings, as no longer any need for VAT registration of non-established suppliers.
- 88 Always clear that VAT is due in the Member State where the customer is established.
- 89 More legal certainty, which should decrease the potential for disputes.
- 90 Decrease in work in terms of VAT collection as there is no longer actual collection of VAT.

Positive impact on prevention of fraud and abuse on an EU level:

- 91 Because the new B2B localisation principle will better safeguard the tax revenues of the Member States and provide for better auditability of transactions if liability for payment of the VAT due shifts from a supplier established outside the EU to a customer established in the Member State of taxation.

Impact in country of taxation (“to be”)

- 92 No need to assess as there is no impact as no shift in Member State of supply and taxation.

Impact on taxable person

Figure 4.13: 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	1	1	1	1/0/-1	1	-1	0
0	1	1	1	0	1	-1	-1

Impact on supplier (“to be”)

Positive or no budgetary impact:

- 93 No pre-financing of VAT will occur (time between payment of VAT to the local tax authorities and payment of the invoice by the customer). If the export exemption applies, no budgetary impact.
- 94 No longer risk of pre-financing of VAT on bad debts.

Positive impact on legal certainty and simplicity:

- 95 In day-to-day practice, it will be easier to administer the new localisation rule than the current localisation rules.
- 96 It is always clear that VAT is due in the Member State where the customer is established.

Shift in liability:

- 97 The supplier is no longer liable for payment of VAT.

Positive impact on cost of implementation and compliance:

- 98 In day-to-day practice it will be easier to administer as no longer need for additional VAT registrations.
- 99 Possibility for full automation leading to decrease in time spent (VAT determination logic is only based on the place of establishment of the customer).
- 100 Limited changes to processes/systems/technologies and need to train staff in order to comply with the new VAT treatment of the supply.
- 101 The supplier no longer has to prove that the goods are actually dispatched or transported to another Member State or installed in another Member State.

Impact on customer (“to be”)

Positive, no impact or negative budgetary impact:

- 102 The overall budgetary impact would depend on the overall VAT position of the customer in the “as is” country of taxation, being payable or refundable, on the payment terms with the supplier and the time when the VAT is paid to the VAT authorities in his EU Member State of establishment.

Positive impact on legal certainty and simplicity:

- 103 In day-to-day practice it will be easier to administer the new localisation rule than the current localisation rules.
- 104 For the customer it is always clear that VAT is due in the Member State where he is established as concept of intra-Community acquisitions will disappear.
- 105 If the export exemption applies, negative impact as the customer claiming the export exemption has the burden of proof.

Shift in liability:

- 106 The customer becomes liable for payment of VAT.

Negative or no impact on cost of implementation and compliance:

- 107 No impact. If the export exemption applies, negative impact as the customer claiming the export exemption has the burden of proof.

3.2.5. Conclusions

- 108 There is a clear benefit for the supplier in terms of budgetary impact, shift in liability and cost of compliance. Despite the shift in liability to the customer, the general balance is also positive for him. Only in case of export an issue arises if the current provisions exempting export are maintained.

3.3. No change in place of “actual” taxation but change in person liable for payment of VAT

3.3.1. Description of scenarios

- 109 The supplier and the customer are established in the same Member State.
- 110 The goods are dispatched or transported from another Member State to the Member State of the customer (without installation or assembly).
- 111 The transactions concerned are cross-border supplies of goods in the EU.
- 112 The group concerned is EU8.

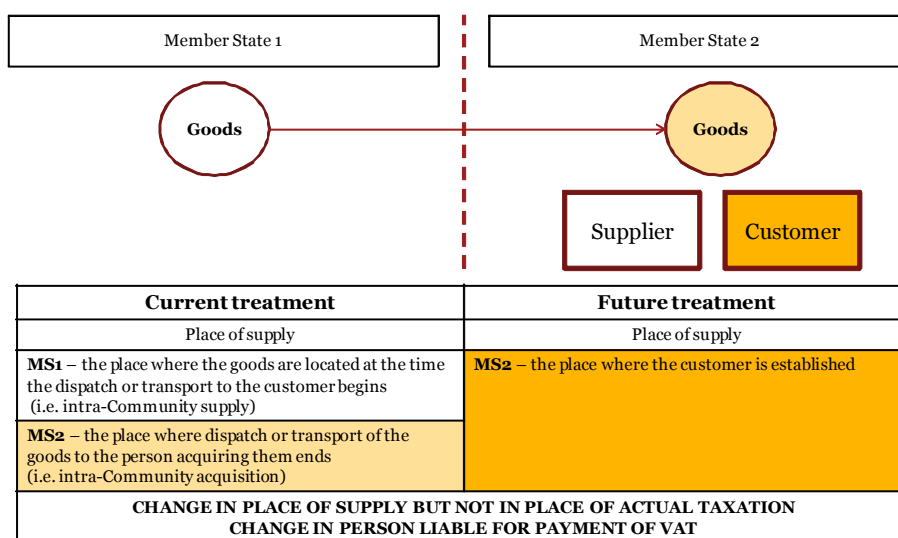
3.3.2. Comparison of VAT treatment

- 113 The VAT treatment “as is” differs from the VAT treatment “to be”.
- 114 The Member State of taxation “as is” is equal to the Member State of taxation “to be”. However, there is a change in the person liable for payment of VAT as the supplier and customer are established in the same Member State.
- 115 This can be visualised by the following example:

Figure 4.14: Cross-border supply of goods within the EU

Diagram 39

GROUP EU8 – Scenario 24



- 116 Because the supplier is not established in the Member State of place of supply, he needs a VAT registration in that Member State for this type of supply in the “as is” situation.

3.3.3. Qualitative impact assessment

3.3.3.1. Impact in country of taxation

Figure 4.15: 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 cost of collection		Prevention of fraud and abuse on EU level
Cash flow	Revenue	Ease of administration	Cost of collection		Cash flow	Revenue	Ease of administration	Cost of collection	
1	0	1	1	0					

Impact in country of taxation (“as is”)

Positive cash-flow impact:

- 117 Pre-financing of VAT will occur (time between payment of VAT to the tax authorities and VAT deduction in the hands of the customer) in the “to be” situation.

Revenue impact:

- 118 No impact.

Positive impact on ease of administration and cost of collection:

- 119 Easier to administer in day-to-day practice as supplier is liable for payment of VAT and established in the country.
- 120 No longer need for information resulting from recapitulative statements for the VAT audit.
- 121 The transaction will be more easily auditable as supplier and customer are established in the same Member State.

Impact in country of taxation (“to be”)

- 122 No impact as no shift in Member State of taxation.

Impact on taxable person

Figure 4.16: 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	0	1	1/0/-1	1	1	0

Impact on supplier (“to be”)

Negative budgetary impact:

- 123 Pre-financing of VAT will occur (time between payment of VAT to the local tax authorities and payment of the invoice by the customer).
- 124 Increased risk for pre-financing of VAT on bad debts.

Positive impact on legal certainty and simplicity:

- 125 In day-to-day practice, it will be easier to administer the new localisation rule than the current localisation rules.
- 126 It is always clear that VAT is due in the Member State where the customer is established.

No shift in liability:

- 127 Supplier remains liable for payment of VAT, but in a different Member State (i.e. Member State of establishment).

Positive impact on cost of implementation and compliance:

- 128 Easier to administer in day-to-day practice as no longer need for additional VAT registrations.
- 129 Possibility for full automation leading to decrease in time spent (VAT determination logic is only based on the place of establishment of the customer).
- 130 Limited changes to processes/systems/technologies and need to train staff in order to comply with the new VAT treatment of the supply.
- 131 The supplier no longer has to prove that the goods are actually dispatched or transported to another Member State or installed in another Member State.

Impact on customer (“to be”)

Positive, no or negative budgetary impact:

- 132 The overall budgetary impact would depend on the overall VAT position of the customer in the “as is” country of taxation, being payable or refundable, on the payment terms with the supplier and the time when the VAT is paid to the VAT authorities in his EU Member State of establishment.

Positive impact on legal certainty and simplicity:

- 133 In day-to-day practice it will be easier to administer the new localisation rule than the current localisation rules.
- 134 For the customer it is always clear that VAT is due in the Member State where he is established as concept of intra-Community acquisitions will disappear.

Shift in liability:

- 135 The customer is no longer liable for payment of VAT.

Impact on cost of implementation and compliance:

- 136 No impact.

3.3.4. Conclusions

- 137 There is a clear benefit for the supplier and the customer. Despite the negative budgetary impact and increased VAT bad-debt risk, the supplier will no longer be required to register in another Member State and can treat cross-border supplies of goods in the EU as a local transaction.
- 138 There are no specific technical obstacles with respect to application of the new B2B principle for these scenarios compared to the “as is” situations as the customer is established in the EU. Nevertheless, there is a risk that distortion of competition would occur as, due to the supplier charging local VAT, the customer would prefer to contract with a supplier not established in its Member State in order to optimise its working capital.

4. Qualitative impact assessment of supply of goods where the place of supply is inside the EU and the place of “actual” taxation changes

4.1. Change in place of supply and “actual” taxation and change in person liable for payment of VAT

4.1.1. Description of scenarios

- 139 The supplier and the customer are not established in the same country. The customer is always established within the EU. The supplier is established within the EU or outside the EU.
- 140 The goods are located (at the time of dispatch or transport) within the EU but not in the Member State of the customer. In the case of supplies of goods with installation or assembly by or on behalf of the supplier, the goods are not installed or assembled in the Member State of establishment of the customer.
- 141 The transactions concerned are local supplies of goods (with or without installation or assembly), cross-border supplies of goods with installation or assembly by or on behalf of the supplier or exports.
- 142 The groups concerned are L3, EU4, EU6 and EX4.

4.1.2. Comparison of VAT treatment

- 143 The VAT treatment “as is” differs from the VAT treatment “to be”.
- 144 The Member State of supply and taxation “as is” differs from the Member State of supply and taxation “to be”. There is also a change in the person liable for payment of VAT as the supplier and the customer are not established in the same Member State.

145 This can be visualised by the following examples:

Figure 4.17: Local supply of goods

Diagram 4
GROUP L3 – Scenarios 11, 12 and 13

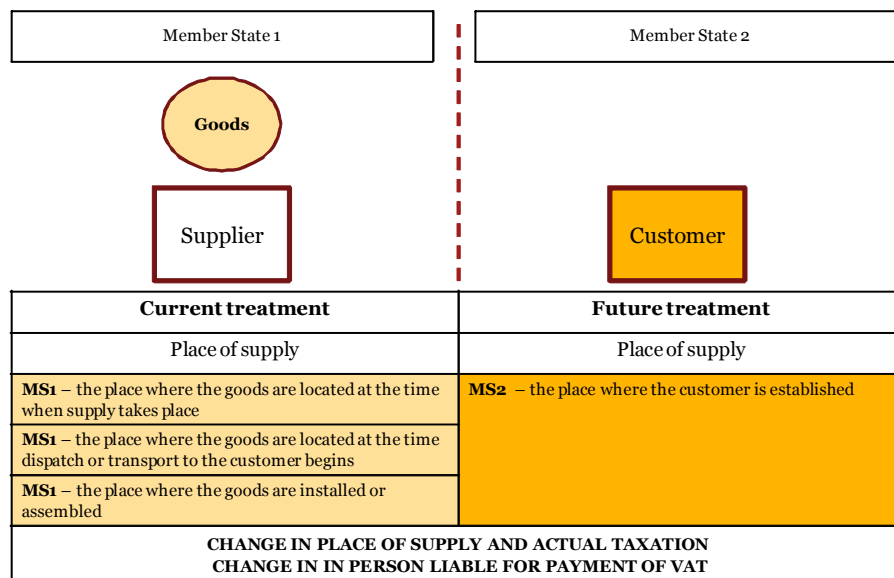


Figure 4.18: Cross-border supply of goods within the EU with installation or assembly by or on behalf of the supplier

Diagram 26
GROUP EU4 – Scenario 11

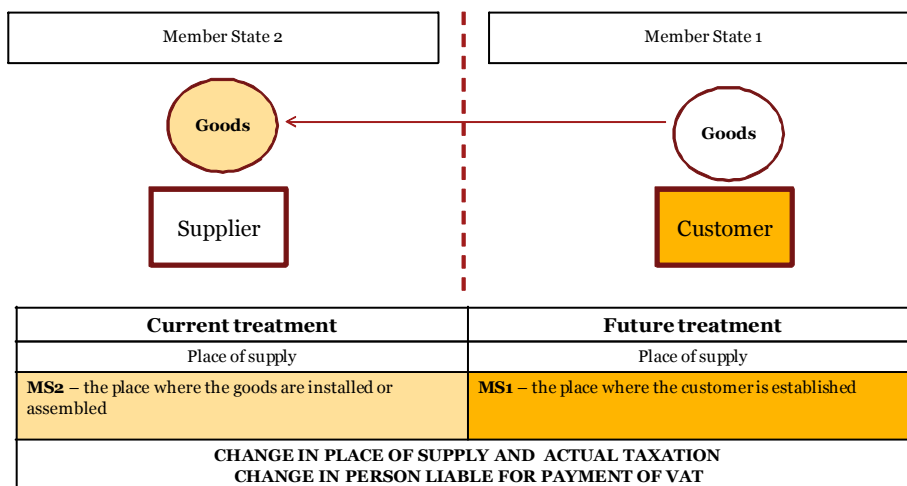
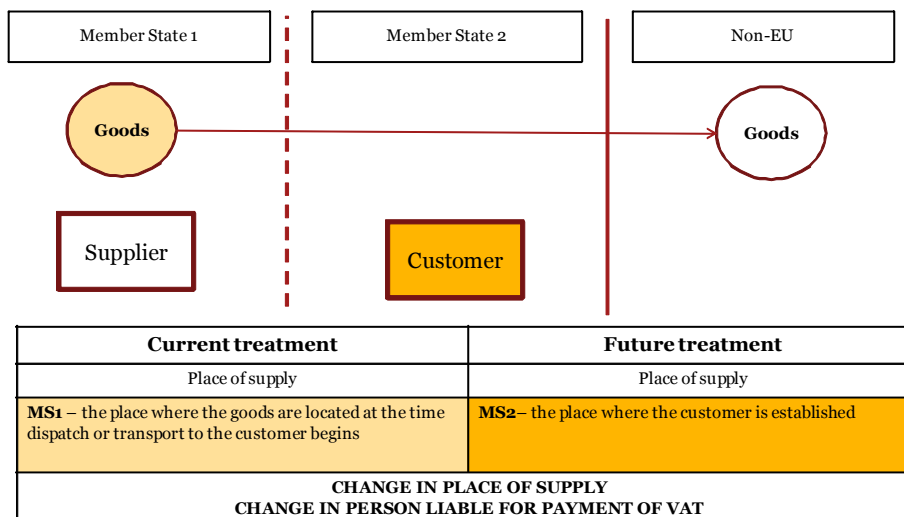


Figure 4.19: Export of goods outside the EU

Diagram 58

GROUP EX4– Scenario 5



- 146 Because the supplier is not established in the Member State of the place of supply, he needs in the “as is” situation a VAT registration in that Member State for local, intra-Community and export supplies.

4.1.3. Qualitative impact assessment

4.1.3.1. Impact in country of taxation

Figure 4.20: 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 administration	Cost of collection		Cash flow	Revenue	Ease of administration	Cost of collection	
-1	-1	1	1	0	0	1	-1	-1	0
-1	-1	1	1	1	0	1	-1	-1	1
0	0	1	1	0	0	0	-1	-1	0
0	0	1	1	1	0	0	-1	-1	1

Impact in country of taxation (“as is”)

Negative or no cash-flow impact:

- 147 No pre-financing of VAT (time between payment of VAT to the local tax authorities by the supplier and VAT deduction/refund in the hands of the customer). If the export exemption applies, no impact.

Negative or no revenue impact:

- 148 Decrease in revenue if the customer does not have a full right to deduct VAT (i.e. taxable person with limited or no right to deduct VAT). If the export exemption applies, no impact.

Positive impact on ease of administration and cost of collection:

- 149 Decrease in administrative work in terms of managing registrations and processing data from VAT returns and listings, as no longer any need for VAT registration of non-established suppliers.
- 150 Always clear that VAT is due in the Member State where the customer is established.
- 151 More legal certainty, which should decrease the potential for disputes.
- 152 Decrease in work in terms of VAT collection as there is no longer actual collection of VAT.

Positive impact on prevention of fraud and abuse on an EU level:

- 153 Because the new B2B localisation principle will better safeguard the tax revenues of the Member States and provide for better auditability of the transactions, if the liability for payment of the VAT due shifts from a supplier established outside the EU to a customer established and VAT-registered in the country of taxation.

Impact in country of taxation (“to be”)

Cash-flow impact:

- 154 No impact.

Positive revenue impact:

- 155 Increase in revenue if the customer does not have a full right to deduct VAT (i.e. taxable person with limited or no right to deduct VAT). If the export exemption applies, no impact.

Negative impact on ease of administration and cost of collection:

- 156 Because of additional work for tax authorities in terms of supervision and inspections as well as collection of VAT.

Positive impact on prevention of fraud and abuse on an EU level:

- 157 Because the new B2B localisation principle will better safeguard the tax revenues of the Member States and provide for better auditability of transactions, if liability for payment of the VAT due shifts from a supplier established outside the EU to a customer established and VAT-registered in the country of taxation.

4.1.3.2. Impact on taxable person

Figure 4.21: 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	1	0	1	1	-1	1
1	1	1	1	1	1	-1	1
0	1	1	0	0	1	-1	-1
0	1	1	1	0	1	-1	-1

Impact on supplier (“to be”)

Positive or no budgetary impact

- 158 No pre-financing of VAT will occur (time between payment of VAT to the local tax authorities and payment of the invoice by the customer). If the export exemption applies, no budgetary impact.
- 159 No longer risk of pre-financing of VAT on bad debts.

Positive impact on legal certainty and simplicity:

- 160 In day-to-day practice, it will be easier to administer the new localisation rule than the current localisation rules.
- 161 It is always clear that VAT is due in the Member State where the customer is established.

Shift in liability:

- 162 The supplier is no longer liable for payment of VAT.

Positive impact on cost of implementation and compliance:

- 163 Easier to administer in day-to-day practice as no longer need for additional VAT registrations.
- 164 Possibility for full automation leading to decrease in time spent (VAT determination logic is only based on the place of establishment of the EU customer).
- 165 Limited changes to processes/systems/technologies and need to train staff in order to comply with the new VAT treatment of the supply.
- 166 The supplier no longer has to prove that the goods are actually dispatched or transported to another Member State or installed in another Member State.

Impact on customer (“to be”)

Positive or no budgetary impact:

- 167 There would be no pre-financing of VAT (time between payment of the invoice by the customer and input VAT deduction/refund in the hands of the customer).

Positive impact on legal certainty and simplicity:

- 168 In day-to-day practice it will be easier to administer the new localisation rule than the current localisation rules.
- 169 For the customer it is always clear that VAT is due in the Member State where he is established as concept of intra-Community acquisitions will disappear.

Shift in liability

- 170 The customer becomes liable for payment of VAT.

Positive or negative impact on cost of implementation and compliance

- 171 There are no or only limited changes to processes/systems/technologies and no or only limited need to train staff to comply with the new VAT treatment of the supply.
- 172 If the export exemption applies, negative impact as the customer claiming the export exemption has the burden of proof.

4.1.4. Conclusions

- 173 Taxation of the transaction will occur in the EU, but with a possible shift in tax revenue from one Member State to another Member State if input VAT limitations apply to the customer. For the country of taxation “as is” and “to be”, the respective negative or positive impact on the budget is “compensated” by a positive or negative impact, as the case may be, on the ease of administration and cost of collection.
- 174 In the scenarios in question, if the final consumption of the goods by the B2C customer continues to take place and is also taxed in the “as is” Member State of taxation according to the B2C rules for supplies of goods, the impact on the tax revenue should be limited. Assuming it is likely that the negative impact will be offset by the positive impacts, at a macro level, the impact on a country’s revenues could be limited.
- 175 For both the supplier and the customer, there is a clear benefit from the new localisation principle as it is easy to apply. Only if the export exemption applies the customer will have an additional burden of proving the export exemption.
- 176 To conclude: there are no specific obstacles to apply the new B2B principle for these scenarios compared to the “as is” situations as the customer is always established in the EU.

4.2. Change in place of “actual” taxation and person liable for payment of VAT

4.2.1. Description of scenarios

- 177 The supplier and customer are established in the same Member State.
- 178 The goods are located (at the time of dispatch or transport) within the EU but not in the Member State of establishment of the supplier and the customer.
- 179 The transactions concerned are local supplies of goods (with or without installation or assembly by or on behalf of the supplier) or exports.
- 180 The groups concerned are L4 and EX2.
- 181 The goods are installed or assembled in another Member State than the Member State of establishment of the supplier and the customer. The goods supplied without installation or assembly by or on behalf of the supplier are located within the EU at the time of dispatch but not in the Member State of establishment of the supplier and the customer.
- 182 The transactions concerned are cross-border supplies of goods (with or without installation or assembly) in the EU.
- 183 The group concerned is EU7.

4.2.2. Comparison of VAT treatment

- 184 The VAT treatment “as is” differs from the VAT treatment “to be”.
- 185 The Member State of taxation “as is” differs from the Member State of taxation “to be”.
- 186 There might also be a change in the person liable for payment of VAT as the supplier and the customer are established in the same Member State. Please note that, in the case of cross-border supplies of goods (without installation or assembly) in the EU, we only assess the impact in the Member State of taxation assuming that the exemption for intra-Community supplies of goods applies in the Member State from which the goods are dispatched or transported.
- 187 This can be visualised by the following examples:

Figure 4.22: Local supply of goods

Diagram 7
GROUP L4 – Scenarios 20, 21 and 22

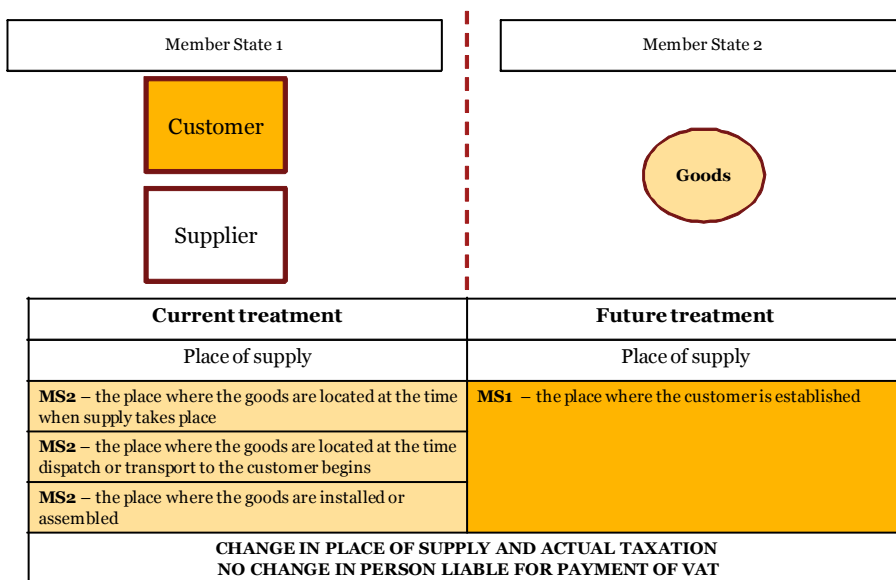


Figure 4.23: Cross-border supply of goods within the EU with installation or assembly by or on behalf of the supplier

Diagram 35
GROUP EU7– Scenario 20

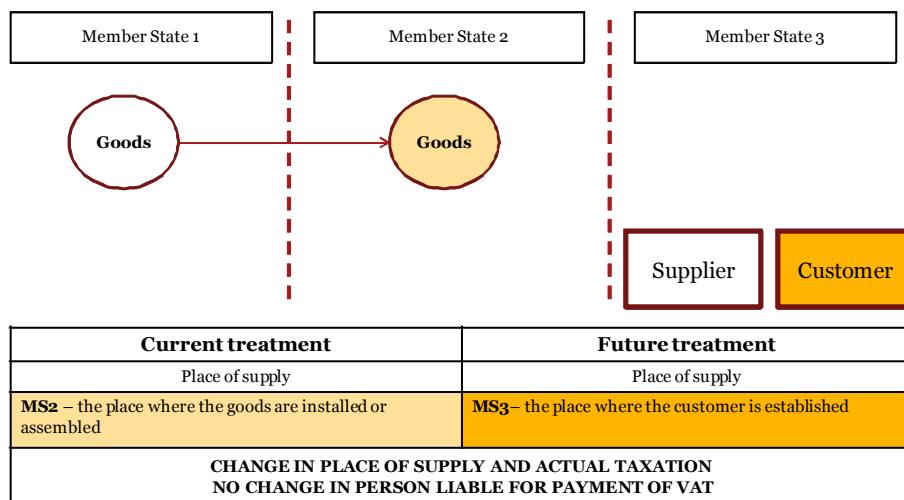


Figure 4.24: Cross-border supply of goods within the EU without installation or assembly by or on behalf of the supplier

Diagram 37
GROUP EU7– Scenario 22

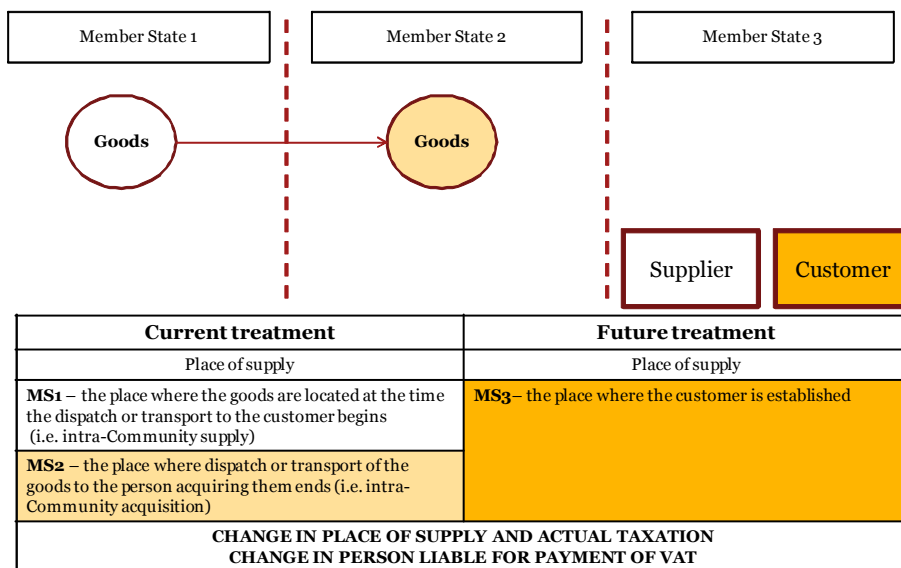
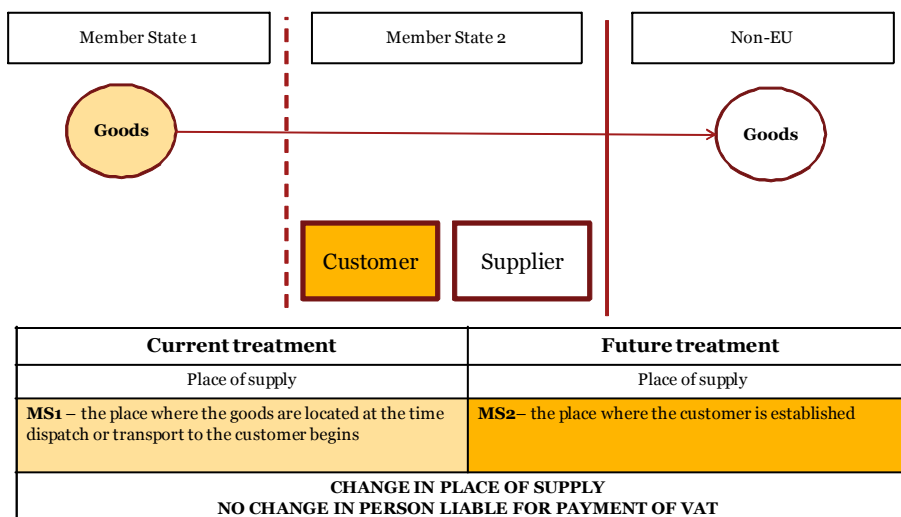


Figure 4.25: Export of goods outside the EU

Diagram 55
GROUP EX2– Scenario 2



- 188 Because the supplier is not established in the Member State of place of supply, he needs a VAT registration in the Member State where the local, intra-Community or export supply takes place in the “as is” situation. Because the customer is not established in the Member State of place of intra-Community acquisition, he needs a VAT registration in that Member State of arrival of the transport of the goods in the “as is” situation.

4.2.3. Qualitative impact assessment

4.2.3.1. Impact in country of taxation

Figure 4.26: 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 cost of collection		Prevention of fraud and abuse on EU level
Cash flow	Revenue	Ease of administration	Cost of collection		Cash flow	Revenue	Ease of administration	Cost of collection	
-1	-1	1	1	0	1	1	-1	-1	0
0	-1	1	1	0	1	1	-1	-1	0
0	0	1	1	0	0	0	-1	-1	0

Impact in country of taxation (“as is”)

Negative or no cash-flow impact:

- 189 Due to the shift in the country of taxation, there would no longer be pre-financing of VAT. If the export exemption applies or if the customer was liable for payment in the “as is” situation, no impact.

Negative or no revenue impact:

- 190 Due to the shift in the country of taxation, there would be a decrease in revenue, as customers have no right to deduct VAT. If the export exemption applies, no impact.

Positive impact on ease of administration and cost of collection:

- 191 Decrease in administrative work in terms of managing registrations and processing data from VAT returns and listings, as no longer any need for VAT registration of non-established suppliers and customers.
- 192 Always clear that VAT is due in the Member State where the customer is established.
- 193 More legal certainty, which should decrease the potential for disputes.

Impact in country of taxation (“to be”)

Positive or no cash-flow impact:

- 194 If the supplier and the customer are established in the same Member State, there will be a positive cash-flow impact as pre-financing of VAT will occur (time between payment of VAT to the local tax authorities by the supplier and VAT deduction/refund in the hands of the customer). If the export exemption applies, no impact.

Positive or no revenue impact:

- 195 There would be an increase in revenue, if the customer does not have a full right to deduct VAT (i.e. if he is a taxable person with a limited or no right to deduct VAT). If the export exemption applies, no impact.

Negative impact on ease of administration and cost of collection:

- 196 Because of additional work for tax authorities in terms of supervision and inspections as well as collection of VAT.

4.2.3.2. Impact on taxable person

Figure 4.27: 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	0	1	1	1	0	1
1/0/-1	1	0	1	1/0/-1	1	0	1
-1	1	0	1	1/0/-1	1	1	1
0	1	0	1	0	1	0	1

Impact on supplier (“to be”)

Positive, no or negative budgetary impact:

- 197 The overall budgetary impact will depend on the overall VAT position of the supplier in the “as is” and “to be” country of taxation, the payment terms granted to the customer and the time of payment of VAT to the local tax authorities. If the customer was liable for payment in the “as is” situation, negative impact as increased risk for pre-financing of VAT on bad debts. If the export exemption applies, no impact.

Positive impact on legal certainty and simplicity:

- 198 In day-to-day practice, it will be easier to administer the new localisation rule than the current localisation rules.
- 199 It is always clear that VAT is due in the Member State where the customer is established.

No shift in liability:

- 200 As the supplier remains liable for payment of VAT.

Positive impact on cost of implementation and compliance:

- 201 Easier to administer in day-to-day practice as no longer need for additional VAT registrations.
- 202 Possibility for full automation leading to decrease in time spent (VAT determination logic is only based on the place of establishment of the customer).

- 203 Limited changes to processes/systems/technologies and need to train staff in order to comply with the new VAT treatment of the supply.
- 204 The supplier no longer has to prove that the goods are actually dispatched or transported to another Member State or installed in another Member State.

Impact on customer (“to be”)

Positive, no or negative budgetary impact:

- 205 The overall budgetary impact would depend on the overall VAT position of the customer in the “as is” country of taxation, being payable or refundable, on the payment terms with the supplier and the time when the VAT is paid to the VAT authorities in his EU Member State of establishment.
- 206 If the export exemption applies, no impact.

Positive impact on legal certainty and simplicity:

- 207 In day-to-day practice it will be easier to administer the new localisation rule than the current localisation rules.
- 208 For the customer it is always clear that VAT is due in the Member State where he is established as concept of intra-Community acquisitions will disappear.

No shift in liability:

- 209 Because the supplier remains liable for payment of VAT. If the customer was liable for payment in the “as is” situation, there is a shift in liability to the supplier.

Positive impact on cost of implementation and compliance:

- 210 There are no or only limited changes to processes/systems/technologies and no or only limited need to train staff to comply with the new VAT treatment of the supply.

4.2.4. Conclusions

- 211 Taxation of the transaction will occur in the EU, but with a possible shift in tax revenue from one Member State to another Member State if input VAT limitations apply to the customer. For the country of taxation “as is” and “to be”, the respective negative or positive impact on the budget is “compensated” by a positive or negative impact, as the case may be, on the ease of administration and cost of collection.
- 212 In the scenarios in question, if the final consumption of the goods by the B2C customer continues to take place and is also taxed in the “as is” Member State of taxation according to the B2C rules for supplies of goods, the impact on the tax revenue should be limited. Assuming it is likely that the negative impact will be offset by the positive impacts, at a macro level, the impact on a country’s revenues could be limited.

- 213 For both the supplier and the customer, there is a clear benefit from the new localisation principle and it is easy to apply. The supplier will no longer be required to register in another Member State than the Member State of establishment and can invoice all transactions as local supplies of goods to customers established in the same Member State as him, regardless where the goods are localised in the EU. Only if the export exemption applies the supplier will have the burden of proving the export exemption.
- 214 To conclude: there are no specific technical obstacles with respect to application of the new B2B principle for these scenarios compared to the “as is” situations as the customer is always established in the EU. Nevertheless, there is a risk that distortion of competition would occur as, if due to the supplier charging local VAT, the customer would prefer to contract with a supplier not established in its Member State in order to optimise its working capital.

4.3. Change in place of “actual” taxation but no change in person liable for payment of VAT

4.3.1. Description of scenarios

- 215 The supplier and customer are not established in the same country. The customer is always established within the EU. The supplier is established within the EU or outside the EU.
- 216 The goods are located (at the time of dispatch or transport) within the EU.
- 217 The customer is established in another Member State than the Member State to which the goods are dispatched or transported. The goods are not installed or assembled by or for the account of the supplier.
- 218 The transactions concerned are cross-border supplies of goods in the EU.
- 219 The groups concerned are EU3 and EU 5

4.3.2. Comparison of VAT treatment

- 220 The VAT treatment “as is” differs from the VAT treatment “to be”.
- 221 The Member State of taxation “as is” differs from the Member State of taxation “to be”.

222 This can be visualised by the following examples:

Figure 4.28: Cross-border supply of goods within the EU

Diagram 23
GROUP EU3 – Scenario 8

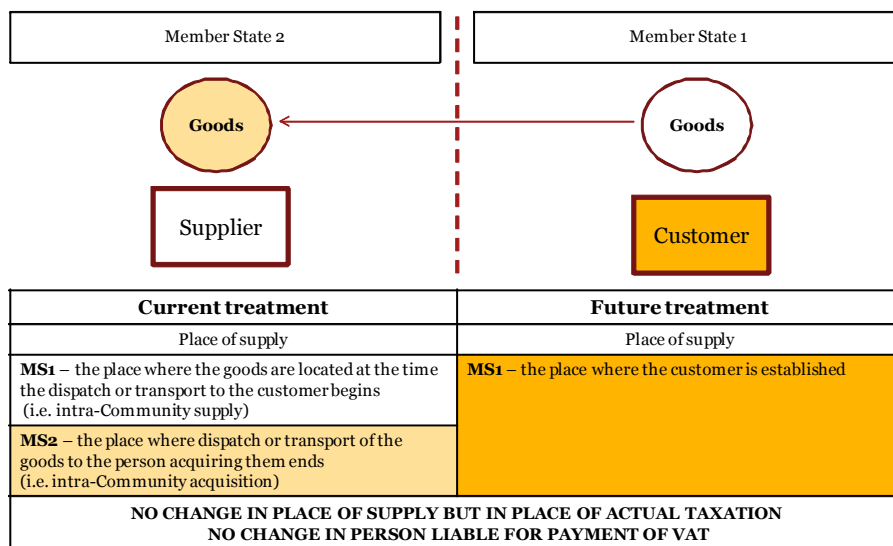
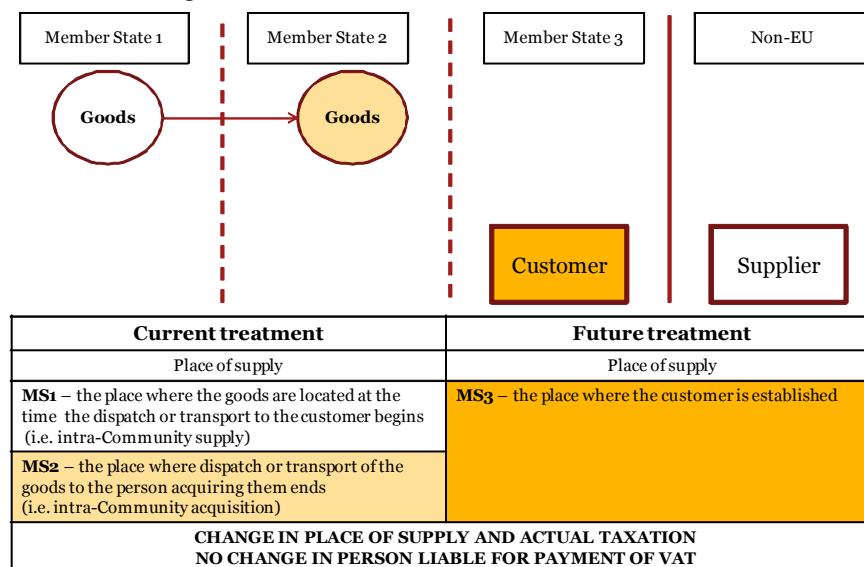


Figure 4.29: Cross-border supply of goods within the EU

Diagram 31
GROUP EU5 – Scenario 16



4.3.3. Qualitative impact assessment

4.3.3.1. Impact in country of taxation

Figure 4.30: 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 cost of collection		Prevention of fraud and abuse on EU level
Cash flow	Revenue	Ease of administration	Cost of collection		Cash flow	Revenue	Ease of administration	Cost of collection	
0	-1	1	1	0	0	1	-1	-1	0
0	-1	1	1	1	0	1	-1	-1	1

Impact in country of taxation (“as is”)

Cash-flow impact:

223 No impact.

Negative revenue impact:

224 Due to the shift in the country of taxation, there would be a decrease in revenue, as customers have no right to deduct VAT.

Positive impact on ease of administration and cost of collection:

225 Decrease in administrative work in terms of managing registrations and processing data from VAT returns and listings, as no longer any need for VAT registration of non-established suppliers and customers.

226 Always clear that VAT is due in the Member State where the customer is established.

227 More legal certainty, which should decrease the potential for disputes.

Positive impact on prevention of fraud and abuse on an EU level:

228 The new B2B localisation principle will better safeguard the tax revenues of the Member States and provide for better audit ability of transactions, if liability for payment of the VAT due shifts from a supplier established outside the EU to a customer established and VAT-registered in the country of taxation.

Impact in country of taxation (“to be”)

Cash-flow impact:

229 No impact.

Positive revenue impact:

230 There would be an increase in revenue, if the customer does not have a full right to deduct VAT (i.e. if he is a taxable person with a limited or no right to deduct VAT).

Negative impact on ease of administration and cost of collection:

- 231 Because of additional work for tax authorities in terms of supervision and inspections as well as collection of VAT.

Positive impact on prevention of fraud and abuse on an EU level:

- 232 The new B2B localisation principle will better safeguard the tax revenues of the Member States and provide for better auditability of transactions, if liability for payment of the VAT due shifts from a supplier established outside the EU to a customer established and VAT-registered in the country of taxation

4.3.3.2. Impact on taxable person

Figure 4.31: 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	1	1	0	0	1	0	1
0	1	1	1	0	1	0	1

Impact on supplier (“to be”)

Budgetary impact:

- 233 No impact.

Positive impact on legal certainty and simplicity:

- 234 In day-to-day practice, it will be easier to administer the new localisation rule than the current localisation rules.
- 235 It is always clear that VAT is due in the Member State where the customer is established.

Shift in liability:

- 236 The supplier is no longer liable for payment of VAT (if the conditions to exempt the intra-Community supply of goods are not fulfilled) in the “to be” situation.

Positive impact on cost of implementation and compliance:

- 237 In day-to-day practice easier to administer as no longer need for additional VAT registrations.
- 238 Possibility for full automation leading to decrease in time spent (VAT determination logic is only based on the place of establishment of the EU customer).
- 239 Limited changes to processes/systems/technologies and need to train staff in order to comply with the new VAT treatment of the supply.

- 240 The supplier no longer has to prove that the goods are actually dispatched or transported to another Member State or installed in another Member State.

Impact on customer (“to be”)

Budgetary impact:

- 241 No impact.

Positive impact on legal certainty and simplicity:

- 242 In day-to-day practice it will be easier to administer the new localisation rule than the current localisation rules.
- 243 For the customer it is always clear that VAT is due in the Member State where he is established as concept of intra-Community acquisitions will disappear.

No shift in liability:

- 244 The customer remains liable for payment of VAT, but no longer outside the Member State of establishment.

Positive impact on cost of implementation and compliance:

- 245 There are no or only limited changes to processes/systems/technologies and no or only limited need to train staff to comply with the new VAT treatment of the supply.

4.3.4. Conclusions

- 246 Taxation of the transaction will occur in the EU, but with a possible shift in tax revenue from one Member State to another Member State if input VAT limitations apply to the customer. For the country of taxation “as is” and “to be”, the respective negative or positive impact on the budget is “compensated” by a positive or negative impact, as the case may be, on the ease of administration and cost of collection.
- 247 In the scenarios in question, if the final consumption of the goods by the B2C customer continues to take place and is also taxed in the “as is” Member State of taxation according to the B2C rules for supplies of goods, the impact on the tax revenue should be limited. Assuming it is likely that the negative impact will be offset by the positive impacts, at a macro level, the impact on a country’s revenues could be limited.
- 248 For both the supplier and the customer, there is a clear benefit from the new localisation principle and it is very easy to apply. The supplier will no longer be required to register in another Member State, regardless of where the goods are localised in the EU, and can invoice the transaction without VAT. He needs only to be aware and prove that the customer is established in another Member State than he is. Nor will the customer be any longer required to register in another Member State than the Member State of establishment even if the goods are not transported or dispatched to his Member State of establishment.
- 249 To conclude: there are no specific obstacles with respect to application of the new B2B principle for these scenarios as the customer is established in the EU.

5. Qualitative impact assessment of supply of goods where the place of “actual” taxation shifts from the EU to outside the EU

5.1. Description of scenarios

- 250 The customer is established outside the EU. The supplier is either established in the EU or outside the EU.
- 251 The goods are located in the EU (at the time of dispatch or transport).
- 252 The transactions concerned are local supplies of goods (with or without installation or assembly), cross-border supplies of goods (with or without installation or assembly) in the EU or exports.
- 253 The groups concerned are L5, EU9 and EX5.

5.2. Comparison of VAT treatment

- 254 The VAT treatment “as is” differs from the VAT treatment “to be”.
- 255 In the “as is” situation, there is taxation within the EU. In the “to be” situation, there will no longer be taxation within the EU.
- 256 This can be visualised by the following examples:

Figure 4.32: Local supply of goods

Diagram 8

GROUP L5 – Scenarios 23, 24 and 25

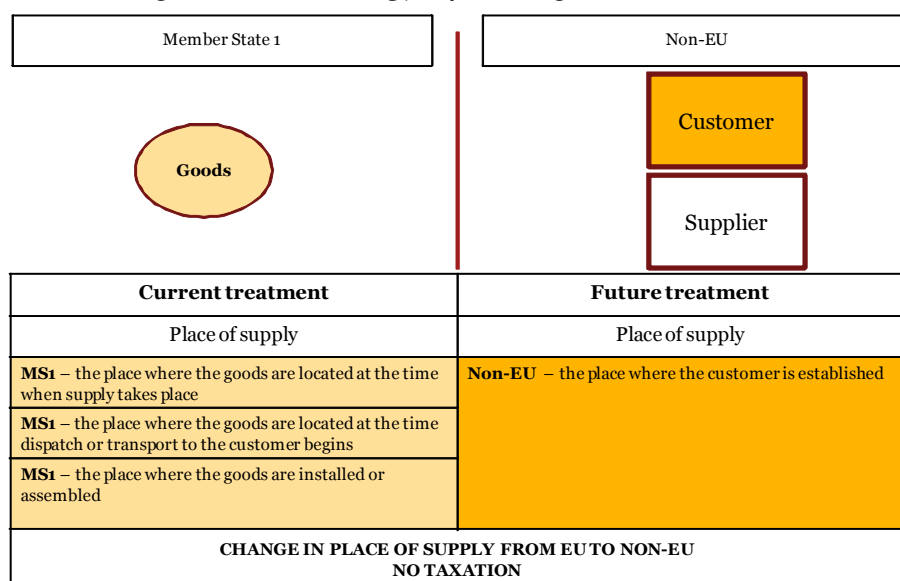
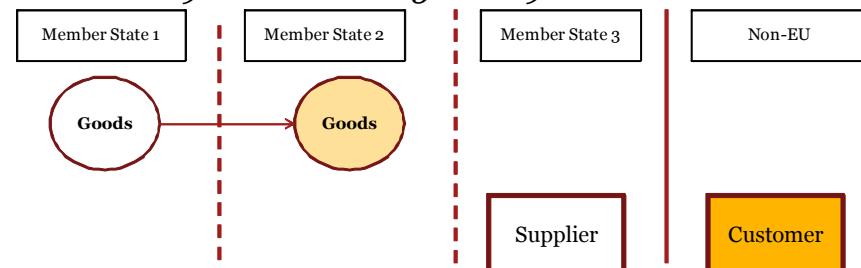


Figure 4.33: Cross-border supply of goods within the EU

Diagram 40

GROUP EU9 – Scenarios 25 and 29

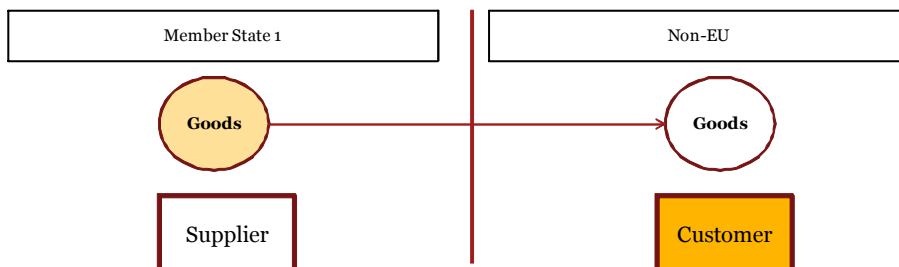


Current treatment	Future treatment
Place of supply	Place of supply
MS1 – the place where the goods are located at the time dispatch or transport to the customer begins (i.e. intra-Community supply)	Non-EU – the place where the customer is established
MS2 – the place where dispatch or transport of the goods to the person acquiring them ends (i.e. intra-Community acquisition)	
MS2 – the place where the goods are installed or assembled	
CHANGE IN PLACE OF SUPPLY FROM EU TO NON-EU NO TAXATION	

Figure 4.34: Export of goods outside the EU

Diagram 61

GROUP EX5 – Scenario 8



Current treatment	Future treatment
Place of supply	Place of supply
MS1 – the place where the goods are located at the time dispatch or transport to the customer begins	Non-EU – the place where the customer is established
CHANGE IN PLACE OF SUPPLY FROM EU TO NON-EU	

- 257 Because the supplier is not established in the Member State of the place of supply of the goods, he needs a VAT registration in that Member State in the “as is” situation. This equally applies to the customer in the case of intra-Community acquisitions of goods in the “as is” situation where the customer is not established in the Member State where the intra-Community acquisitions takes place.

5.3. Issues

- 258 The fact that no EU taxation occurs for goods located in the EU is not in line with the general assumption that tax should be charged on goods remaining located inside the EU.

5.4. Qualitative impact assessment

5.4.1. Impact in country of taxation

Figure 4.35: 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 cost of collection		Prevention of fraud and abuse on EU level
Cash flow	Revenue	Ease of administration	Cost of collection		Cash flow	Revenue	Ease of administration	Cost of collection	
-1	-1	1	1	-1					
0	-1	1	1	-1					
0	0	1	1	-1					

Impact in country of taxation (“as is”)

Negative or no cash-flow impact:

- 259 Due to the shift in the country of taxation, there would no longer be pre-financing of VAT. If the export exemption applies or if the customer was liable for payment in the “as is” situation, no impact.

Negative or no revenue impact:

- 260 Due to the shift in the country of taxation, there would be a decrease in revenue, as customers have no right to deduct VAT. If the export exemption applies, no impact.

Positive impact on ease of administration and cost of collection:

- 261 Decrease in administrative work in terms of managing registrations and processing data from VAT returns and listings, as no longer any need for VAT registration of non-established suppliers and customers.
- 262 Always clear that VAT is due in the country where the customer is established, although outside the EU.
- 263 More legal certainty, which should decrease the potential for disputes.

Negative impact on prevention of fraud and abuse on an EU level:

- 264 If the place of taxation shifts from inside the EU to outside the EU, the new B2B localisation principle will safeguard the tax revenue of the Member States less.
- 265 The transaction will be more difficult to audit, especially if the supplier is also not established in the EU.

- 266 Nor will there any longer be a track of the goods as the supplier no longer has the burden of proving the export exemption.
- 267 The risk of only using non-EU customers in order to avoid taxation might also increase the risk of fraud.

Impact in country of taxation (“to be”)

- 268 As the country of taxation “to be” is outside the EU, the impact has not been considered.

5.4.2. Impact on taxable person

Figure 4.36: 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	1	1	1	1	0	1
0	1	1	1	1	1	1	1
0	1	1	1	0	1	0	1

Impact on supplier (“to be”)

Positive or no budgetary impact:

- 269 No pre-financing of VAT will occur (time between payment of VAT to the local tax authorities and payment of the invoice by the customer).
- 270 No longer risk of pre-financing of VAT on bad debts.
- 271 If the export exemption applies or if the customer was liable for payment in the “as is” situation, no impact.

Positive impact on legal certainty and simplicity:

- 272 In day-to-day practice, it will be easier to administer the new localisation rule than the current localisation rules.
- 273 It is always clear that VAT is due in the country where the customer is established.

Shift in liability:

- 274 The supplier is no longer liable for payment of VAT.

Positive impact on cost of implementation and compliance:

- 275 In day-to-day practice easier to administer as no longer need for additional VAT registrations.
- 276 Possibility for full automation leading to decrease in time spent (VAT determination logic is only based on the place of establishment of the customer).

- 277 Limited changes to processes/systems/technologies and need to train staff in order to comply with the new VAT treatment of the supply.
- 278 The supplier claiming the VAT exemption upon intra-Community supply of the goods or export supply of goods no longer has to prove that the goods are actually dispatched or transported to another Member State or installed in another Member State or dispatched or transported to a destination outside the EU.
- 279 Furthermore, the EU supplier will only need to prove that the customer is indeed established outside the EU. With respect to the export exemption, the EU supplier will also no longer have the burden of proof (as the supply “as such” takes place outside the EU).

Impact on customer (“to be”)

Positive or no budgetary impact:

- 280 There would be no pre-financing of VAT (time between payment of the invoice by the customer and input VAT deduction/refund in the hands of the customer).
- 281 If the export exemption applies, no impact.

Positive impact on legal certainty and simplicity:

- 282 In day-to-day practice it will be easier to administer the new localisation rule than the current localisation rules.
- 283 For the customer it is always clear that no EU VAT is due.

Shift in liability:

- 284 The customer is no longer liable for payment of EU VAT (but there will only be a “real” impact to the extent that the customer was indeed liable for payment of EU VAT in the “as-is” situation).

Positive impact on cost of implementation and compliance:

- 285 There are no or only limited changes to processes/systems/technologies and no or only limited need to train staff to comply with the new VAT treatment of the supply.

5.5. Conclusions

- 286 There are several obstacles with respect to the application of the new B2B localisation principle: no tax will be charged on goods located in the EU which is not in line with the general assumption of the Study to tax goods supplied in the EU. This will lead to a loss of tax revenue in the EU, the auditability of the transaction will be more difficult, and distortion of competition would occur due to the functioning of the new VAT regime. There is a risk of fraud and abuse as it would be sufficient to supply goods to customers not established in the EU to avoid taxation.
- 287 To conclude: this will lead to an inappropriate functioning of the new VAT regime..

6. Qualitative impact assessment of supply of goods where the place of supply and “actual” taxation shifts from outside to inside the EU

6.1. Description of scenarios

- 288 The supplier is either established in the EU or outside the EU. The customer is always established within the EU.
- 289 The supplier and the customer can be established in the same Member State or not.
- 290 The goods are located outside the EU. The goods will not be imported into the EU.
- 291 The transactions concerned are supplies of goods outside the EU.
- 292 The groups concerned are L6 and L7.

6.2. Comparison of VAT treatment

- 293 The VAT treatment “as is” differs from the VAT treatment “to be”.
- 294 In the “as is” situation, there is no taxation within the EU (as the goods are and remain located outside the EU). In the “to be” situation, there will be taxation within the EU as the customer is established in the EU.

295 This can be visualised by the following examples:

Figure 4.37: Local supply of goods outside the EU

Diagram 11

GROUP L6 – Scenarios 32, 33 and 34

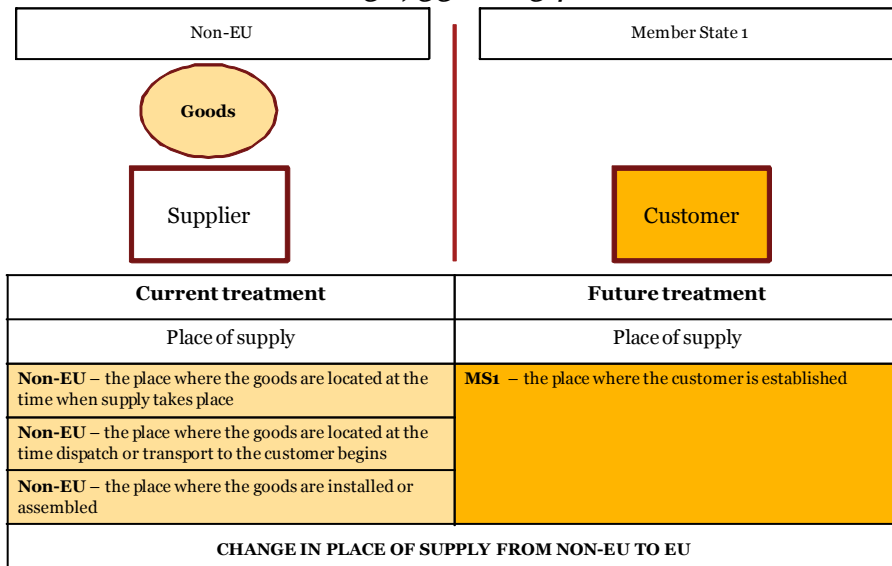
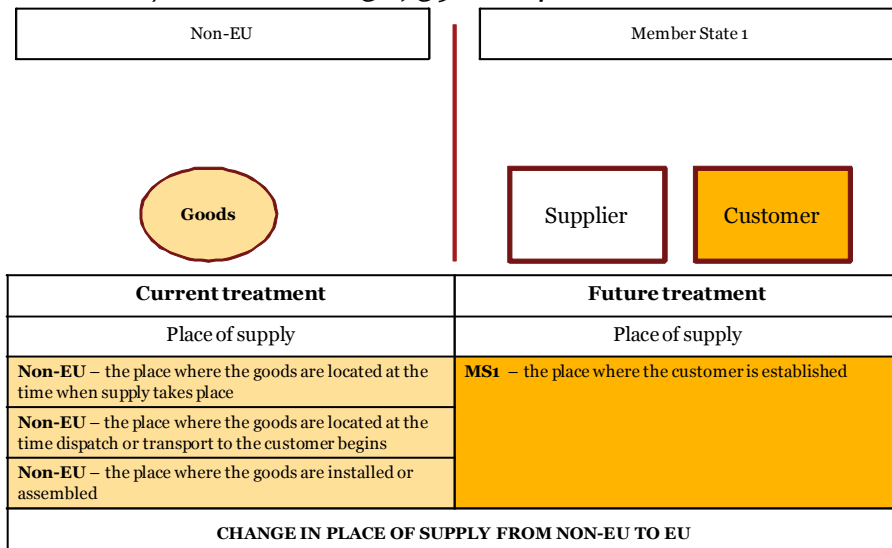


Figure 4.38: Local supply of goods outside the EU

Diagram 13

GROUP L7 – Scenarios 38, 39 and 40



6.3. Issues

- 296 The goods are located outside the EU but give rise to EU taxation in the “to be” situation as the customer is established within the EU.
- 297 The fact that EU tax is charged on goods located outside the EU is not in line with the general assumption of the Study that no tax should be charged on goods located outside the EU. This could also lead to situations of double taxation should the supply of the goods within the non-EU country concerned also give rise to taxation outside the EU.

6.4. Qualitative impact assessment

6.4.1. Impact in country of taxation

Figure 4.39: 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 cost of collection		Prevention of fraud and abuse on EU level
Cash flow	Revenue	Ease of administration	Cost of collection		Cash flow	Revenue	Ease of administration	Cost of collection	
					0	1	-1	-1	0
					1	1	-1	-1	0

Impact in country of taxation (“as is”)

- 298 As the country of taxation “as is” is outside the EU, the impact has not been considered.

Impact in country of taxation (“to be”)

No or positive cash-flow impact:

- 299 No impact if the supplier and the customer are not established in the same country. If the supplier and the customer are established in the same Member State, there will be a positive cash-flow impact as pre-financing of VAT will occur (time between payment of VAT to the local tax authorities by the supplier and VAT deduction/refund in the hands of the customer).

Positive revenue impact:

- 300 Increase in revenue if the customer does not have a full right to deduct VAT (i.e. taxable person with limited or no right to deduct VAT).

Negative impact on ease of administration and cost of collection:

- 301 Because of additional work for tax authorities in terms of supervision and inspections as well as collection of VAT.

6.4.2. Impact on taxable person

Figure 4.40: 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	-1	0	-1	-1	-1	-1	-1
-1	-1	-1	-1	-1	-1	0	-1

Impact on supplier (“to be”)

No or negative budgetary impact:

- 302 No impact if the supplier and the customer are not established in the same country. If the supplier and the customer are established in the same Member State, there will be a negative budgetary impact due to an increased risk of double taxation and increased risk of VAT on bad debts.

Negative impact on legal certainty and simplicity:

- 303 Currently no EU VAT is due on supplies of goods located outside the EU (shift in taxation from outside EU to inside EU). Increased risk of double taxation.

Shift in liability:

- 304 The supplier does not become liable for payment of VAT if the supplier and the customer are not established in the same Member State. If the supplier and the customer are established in the same Member State the supplier becomes liable for payment of EU VAT. Increased risk of double taxation with double liability for payment of EU VAT and non-EU VAT.

Negative impact on cost of implementation and compliance:

- 305 Need to adapt processes/systems/technologies due to compliance and filing requirements. In the “as is” situation, there were no specific formalities with respect to the processing of the invoice for the supply of the goods from an EU VAT point of view as the place of supply was outside the EU.

Impact on customer (“to be”)

Negative budgetary impact:

- 306 The risk of negative budgetary impact will increase if the goods are already taxed in the non-EU country where they are located.
- 307 An increased cost if the customer does not have a full right to deduct EU VAT (i.e. taxable person with limited or no right to deduct VAT).

Negative impact on legal certainty and simplicity:

- 308 Currently no EU VAT is due for supplies of goods located outside the EU (shift in place of supply from outside EU to inside EU).
- 309 The risk of double taxation will increase if the goods are already taxed in the non-EU country where they are located.

Shift in liability:

- 310 The customer becomes liable for payment of EU VAT if the supplier and the customer are not established in the same country. If the supplier and the customer are established in the same Member State, there will be no impact.

Negative impact on cost of implementation and compliance

- 311 Need to adapt processes/systems/technologies and risk of increased filing requirements. In the “as is” situation, there were no specific formalities with respect to the processing of the invoice for the supply of the goods from an EU VAT point of view as the place of supply was outside the EU.

6.5. Conclusions

- 312 There are several obstacles with respect to application of the new B2B localisation principle: tax will be charged on goods located outside the EU (with no importation of the goods into the EU) which is not in line with the general assumption of the Study. This will lead to an increase of tax revenue in the EU, the auditability of the transaction will be more effective, but distortion of competition will occur due to the functioning of the new VAT regime.
- 313 For these scenarios, the shift in the place of supply from non-EU to EU clearly has a very negative impact for both the supplier and the customer for nearly all assessment criteria.
- 314 To conclude: this will lead to an inappropriate functioning of the new VAT regime.

7. Importations of goods into the EU

7.1. Description of scenarios

- 315 The supplier and the customer are either established in the EU or outside the EU.
- 316 The supplier and the customer are either established in the same country or not.
- 317 The goods are dispatched or transported from outside the EU to the EU and are imported into the EU for VAT and customs purposes. The customer acts as importer of record upon importation of the goods.
- 318 The groups concerned are IM1, IM2 and IM3.

7.2. Comparison of VAT treatment

- 319 The VAT treatment with respect to the place of supply of the goods “as is” differs from the VAT treatment “to be”, i.e. a shift from outside the EU to inside the EU as the customer is established in the EU.
- 320 The VAT treatment of importation of the goods into EU remains unchanged.
- 321 Please note that we have only assessed the impact of the application of the B2B localisation principle on the scenarios in question.
- 322 This can be visualised by the following examples:

Figure 4.41: Importation of goods into the EU

Diagram 44

GROUP IM1 – Scenario 1

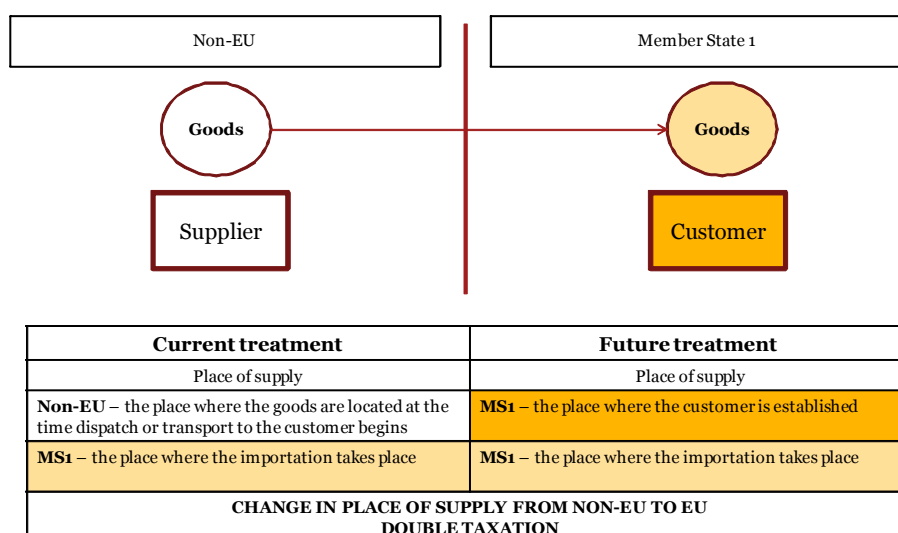


Figure 4.42: Importation of goods into the EU

Diagram 46
GROUP IM2 – Scenario 3

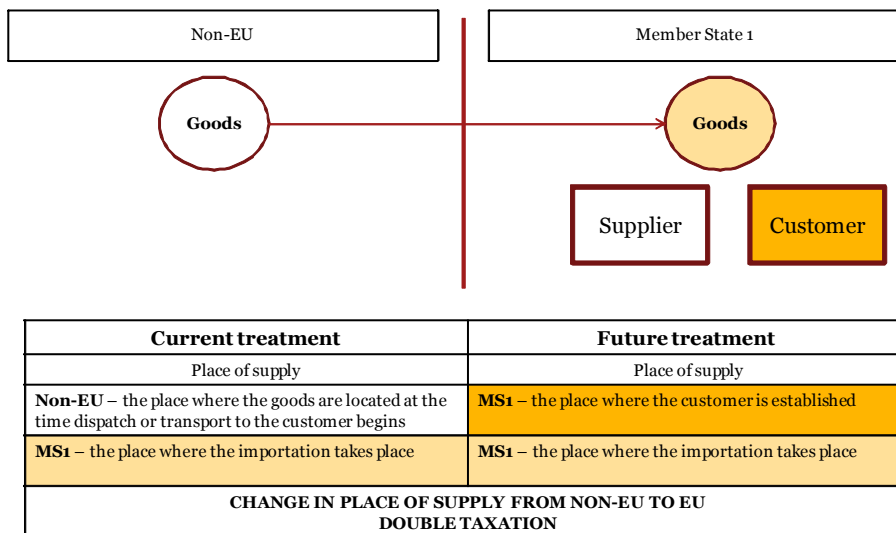
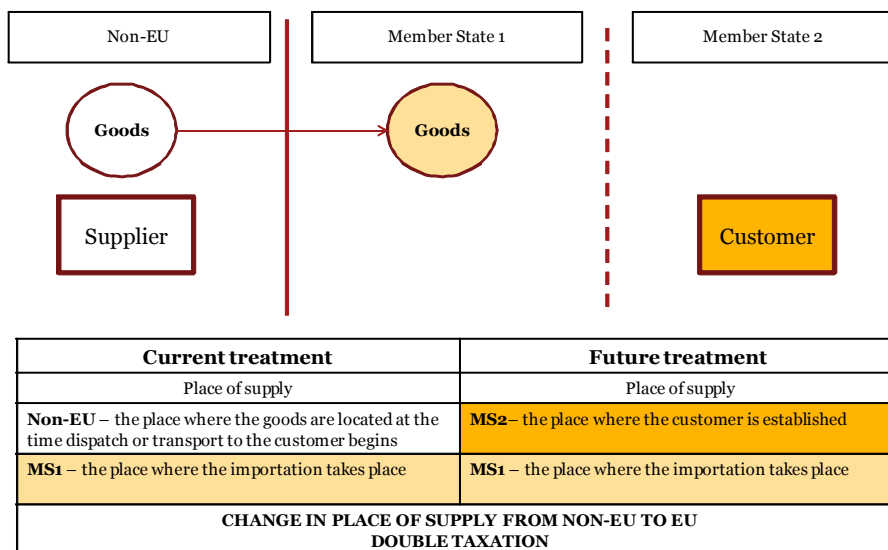


Figure 4.43: Importation of goods into the EU

Diagram 48
GROUP IM3– Scenario 5



- 323 Because the customer is not established in the Member State of importation, he needs a VAT registration in that Member State.

7.3. Issues

- 324 For the scenarios in question, the straightforward application of the new B2B localisation principle will lead to double taxation within the EU. On the one hand, EU tax will be charged on the supply of the goods in the Member State where the customer is established. On the other hand, EU tax will be charged in the Member State of importation.

7.4. Qualitative impact assessment

7.4.1. Impact in country of taxation

Figure 4.44: 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 administration	Cost of collection		Cash flow	Revenue	Ease of administration	Cost of collection	
0	0	0	0	0	0	1	-1	-1	0
0	0	0	0	0	1	1	-1	-1	0

Impact in country of taxation (“as is”)

- 325 No impact as importation remains taxable in the country of taxation “as is”.

Impact in country of taxation (“to be”)

No or positive cash-flow impact:

- 326 No impact if the supplier and the customer are not established in the same country. If the supplier and the customer are established in the same Member State, there will be a positive cash-flow impact as pre-financing of VAT will occur (time between payment of VAT to the local tax authorities by the supplier and VAT deduction/refund in the hands of the customer).

Positive revenue impact:

- 327 Increase in revenue if the customer does not have a full right to deduct VAT (i.e. taxable person with limited or no right to deduct VAT).
- 328 If the customer is established in the Member State of importation of the goods, the impact will be even more considerable for the country of taxation “to be” as there will be double taxation.

Negative impact on ease of administration and cost of collection:

- 329 Increase of work for tax authorities in terms of supervision and inspections as well as collection of VAT.
- 330 If the customer is established in the Member State of importation of the goods, the country of taxation “to be” will additionally have to manage the supply of the goods from a VAT point of view.

7.4.2. Impact on taxable person

Figure 4.45: 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	-1	0	-1	-1	-1	-1	-1
-1	-1	-1	-1	-1	-1	0	-1

Impact on supplier (“to be”)

No or negative budgetary impact:

- 331 No impact if the supplier and the customer are not established in the same country. If the supplier and the customer are established in the same Member State, there will be a negative budgetary impact for the supplier due to an increased risk of VAT on bad debts and the pre-financing of VAT that would occur (time between payment of VAT to the local tax authorities and payment of the invoice by the customer).

Negative impact on legal certainty and simplicity:

- 332 Currently no EU VAT is due on the supply of the goods (shift in place of supply from outside EU to inside EU).
- 333 If the customer is established in the same Member State as the supplier when importing the goods, there will be double taxation of the transaction.

Shift in liability:

- 334 The supplier does not become liable for payment of VAT if the supplier and the customer are not established in the same country. If the supplier and the customer are established in the same Member State, the supplier becomes also liable for payment of EU VAT.

Negative impact on cost of implementation and compliance:

- 335 Need to adapt processes/systems/technologies and risk of increased filing requirements. In the “as is” situation, there were no specific formalities with respect to the processing of the invoice for the supply of the goods from an EU VAT point of view as the place of supply was outside the EU.

Impact on customer (“to be”)

Negative budgetary impact:

- 336 An increased cost due to the double EU taxation if the customer does not have a full right to deduct VAT (i.e. taxable person with limited or no right to deduct VAT).
- 337 If the supplier and the customer are established in the same Member State, there will be even a negative cash flow impact as a result of double payment of EU VAT due (VAT on the supply of goods and VAT on importation of goods).

Negative impact on legal certainty and simplicity:

- 338 Currently no EU VAT is due on supplies of goods located outside the EU (shift in place of supply from outside EU to inside EU) and exemption is likely to apply for export in a non-EU country, or outside the scope of VAT (i.e. supplies at “high seas”).
- 339 Double taxation due to EU tax being charged on importation of the goods and on the supply of the goods.

Shift in liability:

- 340 The customer becomes liable for payment of VAT if the supplier and the customer are not established in the same country. If the supplier and the customer are established in the same Member State, there will be no impact for the customer.

Negative impact on cost of implementation and compliance

- 341 In the “as is” situation, there were no specific formalities with respect to the processing of the invoice for the supply of the goods from a VAT point of view as the place of supply was outside the EU.

7.5. Conclusions

- 342 The shift in the place of supply from non-EU to EU clearly has a negative impact for both the supplier and the customer for nearly all assessment criteria, mainly due to tax being charged on importation of the goods into the EU. In the scenarios assessed where the customer is established in the EU and acts as the importer of record, the application of the new B2B localisation rule would entail double taxation in the EU if the importation of the goods remains taxed in the EU.
- 343 For the country of taxation “to be”, the negative impact on the ease of administration and cost of collection is “fully” compensated with a positive budgetary impact.
- 344 To conclude: application of the new B2B principle will not work if the customer is established in the EU and acts as the importer of record as he would be subject to double taxation due to tax being charged on the importation of the goods into the EU.

8. Qualitative impact assessment of supply of goods with the place of taxation remaining outside the EU

8.1. Description of scenarios

- 345 The supplier is either established in the EU or outside the EU. The customer is established outside the EU.
- 346 The goods are located outside the EU.
- 347 The transactions concerned are local supplies of goods outside the EU.
- 348 The group concerned is L8.

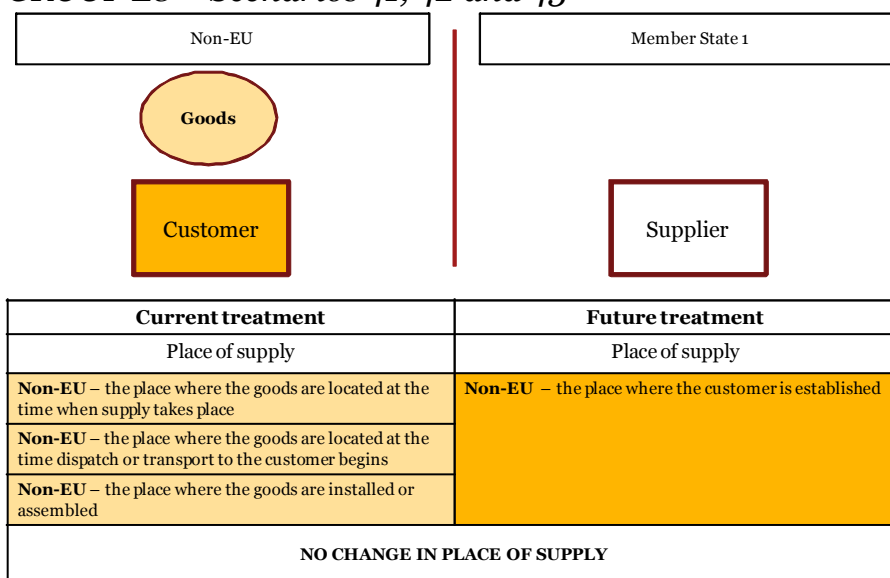
8.2. Comparison of VAT treatment

- 349 The treatment “as is” is equal to the treatment “to be”.
- 350 This can be visualised by the following example:

Figure 4.46: Local supply of goods

Diagram 14

GROUP L8 – Scenarios 41, 42 and 43



8.3. Qualitative impact assessment

8.3.1. Impact in country of taxation

Figure 4.47: Impact in country on 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 cost of collection		Prevention of fraud and abuse on EU level
Cash flow	Revenue	Ease of administration	Cost of collection		Cash flow	Revenue	Ease of administration	Cost of collection	

Impact on country of taxation (“as is”)

- 351 As the country of taxation “as is” is outside the EU, the impact has not been considered.

Impact on country of taxation (“to be”)

- 352 As the country of taxation “to be” is outside the EU, the impact has not been considered.

8.3.2. Impact on taxable person

Figure 4.48: 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

Impact on supplier (“to be”)

- 353 As the country of taxation “as is” and “to be” is outside the EU, the impact has not been considered.

Impact on customer (“to be”)

- 354 As the country of taxation “as is” and “to be” is outside the EU, the impact has not been considered.

8.4. Conclusions

- 355 If the goods are and remain “located” outside the EU and the customer is established outside the EU, application of the new B2B localisation rule will have no impact. However, also in this case to mitigate the risk of fraud, the supplier should proof that the goods remained outside the EU. This is in line with the general principle of the Study that no tax should be charged on goods located outside the EU.
- 356 To conclude: there are no specific obstacles with respect to application of the new B2B principle for these scenarios if the goods are and remain located outside the EU and the customer is established outside the EU.

9. Overall conclusions and lessons learned

9.1. Goods located in the EU and the customer is established in the EU

- 357 Except for application of the export exemption in the hands of the customer if he is responsible to dispatch or transport the goods to a destination outside the EU, there are no specific technical obstacles with respect to the application of the new B2B localisation and liability principle if the customer is established in the EU and where, at the time of the supply, the goods are or remain located in the EU.
- 358 Nevertheless, there is a risk that distortion of competition would occur due to the working of the new VAT regime, if the supplier and the customer are established in the same Member State as, if due to the supplier's obligation to charge local VAT, the customer would prefer to contract with a supplier not established in its Member State in order to optimise its working capital.
- 359 If the customer is established in the Member State where the goods are located at the time dispatch or transport begins to a destination outside the EU, and the customer is responsible for the transport, the exemption upon exportation is in principle not applicable.

9.2. Goods located outside the EU and the customer is established in the EU

- 360 If the customer is established in the EU and, at the time of the supply, the goods remain located outside the EU, there are several obstacles with respect to the application of the new B2B localisation and liability principle. Tax will be levied on goods located outside the EU (with no importation of the goods into the EU) which is not in line with the general principle of the Study. This will lead to an increase of tax revenue in the EU, but distortion of competition will occur due to the functioning of the new VAT regime.

9.3. Goods located in the EU and the customer is established outside the EU: non-taxation

- 361 If the customer is not established in the EU and, at the time of the supply, the goods remain located in the EU, there are several obstacles with respect to application of the new B2B localisation and liability principle. No tax will be charged on goods located in the EU which is not in line with the general principle of the Study. This will lead to a loss of tax revenue in the EU and distortion of competition would occur due to the working of the new VAT regime as suppliers established in the EU might be tempted using only non-EU customers in order to avoid taxation.

9.4. Goods located outside the EU and the customer is established outside the EU: non-taxation

- 362 If the goods are and remain “located” outside the EU and the customer is established outside the EU, application of the new B2B localisation rule will have no impact. However, also in this case to mitigate the risk of fraud, the supplier should proof that the goods remained outside the EU. This is in line with the general principle of the Study that no tax should be charged on goods located outside the EU.

9.5. Importation of goods into the EU

- 363 The application of the new B2B principle will not work if the customer is established in the EU and acts as the importer of record as he would be subject to double taxation due to tax being charged on the importation of the goods into the EU.