

## SUPPLY ZERO RATED EVEN IF CUSTOMER HAS NO VALID VAT ID

We wish to draw your attention to a favourable private tax ruling issued by Finance Minister ("FM") on 26 Feb 2016 (ref. IPTPP2/4512-627/15-3/JS) in relation to the zero-rating of intra-Community supplies of goods.

According to FM, a Polish taxable person who supplies goods to an EU-based customer may, if the goods are actually moved out of Poland to another EU country, zero-rate the supply even though, at the time of the supply, the customer did not have a valid VAT ID for intra-Community supplies (called VAT-UE in Poland).

The ruling explains that the most important condition for a taxable person to have the right to zero-rate his intra-Community supply of goods is that the person must hold documents clearly demonstrating that the goods left Poland and were delivered to the customer in another EU country. Thus, whether or not a given supply or acquisition is an intra-Community transaction must be determined on the basis of objective criteria, such as physical movement of the goods between the Member States.

According to FM, even if the EU customer obtains his intra-Community registration a few months after the supply, this will be sufficient to determine that the supply was made to a taxable person that is identified for the purposes of intra-Community transactions (Article 13.2.1 and Article 42.1.1 VAT Act).

If this issue pertains to your business and you are interested in our assistance, please contact your WTS&SAJA consultant or our office.

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