

Simplified triangulation rules also apply if Party B has a VAT number in the EU Member State of dispatch

On April 19, 2018, the Court of Justice of the European Union ('CJEU') ruled in the Firma Hans Bühler KG case (no. C-580/16) that the simplified triangulation rules can also apply if Party B (out of the Parties A, B and C) is established in or has a VAT number in the EU Member State from which the goods are dispatched.

The judgment is important for entrepreneurs that are part of a chain in which goods are supplied cross-border within the EU. The simplified triangulation rules apply to a chain with two subsequent sales, whereby the goods are dispatched cross-border directly from the first supplier (Party A) to the last customer in the chain (Party C). Furthermore, Party B must not be established in or have a VAT number in Party C's Member State (country of arrival). These simplified triangulation rules mean that Party B does not have to declare an intra-Community acquisition of the goods in the country of arrival. As a result, Party B does not have to register for VAT purposes or file VAT returns in the country of arrival. Furthermore, under these simplified rules Party A and Party B can invoice without charging VAT.

In practice, certain tax authorities refuse the simplified triangulation rules if Party B is established in the EU Member State of dispatch or has a VAT number there. Party B consequently still has to register for VAT purposes in the EU Member State of arrival of the goods, with the necessary burden of compliance. This judgment means that the simplified triangulation rules can still be applied, provided that Party B 'acquires' the goods under a VAT number of an EU Member State other than the Member State of dispatch. Party B therefore does not have to register for VAT purposes in the EU Member State of arrival.

The CJEU was not asked in these proceedings whether the zero VAT rate was rightly applied to the supply from Party A to Party B, and therefore did not address this.

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