



Stimati colaboratori,

Ordinul Ministerului Finantelor Publice nr. 2148/2020 privind modificarea si completarea Instructiunilor de aplicare a scutirii de taxa pe valoarea adaugata pentru operatiunile prevazute la art. 294 alin. (1) lit. a)-i), art. 294 alin. (2) si art. 296 din Legea nr. 227/2015 privind Codul fiscal, aprobate prin Ordinul ministrului finantelor publice nr. 103/2016

In vigoare de la 17 iulie 2020

A. Exportul bunurilor

Este considerat exportator in sensul TVA ("exportator") furnizorul care efectueaza livrari de bunuri care sunt transportate in afara teritoriul Uniunii Europene, atat in cadrul cat si absenta unei tranzactii comerciale

Prezentarea documentelor pentru justificarea scutirii de taxa se va face in termen de maximum 150 de zile calendaristice de la data la care a intervenit faptul generator de taxa pentru operatiunea in cauza, fata de 90 de zile calendaristice cum era pana acum.

Scutirea de TVA pentru livrarile de bunuri expediate sau transportate in afara Uniunii Europene de catre furnizor sau de alta persoana in contul sau se justifica de catre exportator cu urmatoarele documente:

Dear collaborators,

Order of the Ministry of Public Finance no. 2148/2020 regarding the modification and completion of the Instructions for applying the value added tax exemption for the operations provided in art. 294 para. (1) lit. a)-i), art. 294 para. (2) and art. 296 of Law no. 227/2015 on the Tax Code, approved by Order of the Minister of Public Finance no. 103/2016

In force since July 17th , 2020

A. Export of goods

The exporter in the sense of VAT ("exporter") is considered the supplier who makes deliveries of goods that are transported outside the territory of the European Union, both within and in the absence of a commercial transaction.

The presentation of the documents for justifying the tax exemption will be made within a maximum of 150 calendar days from the date on which the tax-generating event for the operation in question occurred, compared to 90 calendar days as it was until now.

The VAT exemption for deliveries of goods shipped or transported outside the European Union by the supplier or by another person on his account is justified by the exporter with the following documents:

- a) Factura, care trebuie sa contina informatiile prevazute la art.319 alin. (20) din Codul Fiscal;
- b) Unul din documentele de mai jos:
- certificarea incheierii operatiunii de export de catre biroul vamal de export sau, dupa caz, notificarea de export certificata de biroul vamal de export, in cazul declaratiei vamale de export pe cale electronica; sau
 - exemplarul 3 al documentului administrativ unic, folosit ca declaratie de export pe suport hartie, certificat pe verso de biroul vamal de iesire; sau
 - in cazul produselor accizabile deplasate in regim suspensiv de accize utilizand EMCS, raportul de export inaintat expeditorului prin care se atesta faptul ca produsele accizabile au parasit teritoriul UE.

Daca furnizorul nu este stabilit in Uniunea Europeana si **nu poate** avea calitatea de exportator din punct de vedere vamal, pentru justificarea scutirii de TVA este necesar ca acesta sa detina declaratia vamala de export, in care datele sale de identificare si seria si/sau numarul facturii emise de acesta pentru livrarea bunurilor transportate in afara Uniunii Europene sa fie mentionate in caseta 44. Acelasi lucru este valabil si pentru furnizorul stabilit in Uniunea Europeana, dar care **nu are** calitatea de exportator din punct de vedere vamal.

Daca bunurilor de pe teritoriul Uniunii Europene nu poate fi justificata, exportatorul poate sa dovedeasca iesirea efectiva a bunurilor de pe teritoriul Uniunii Europene prin alte mijloace de proba, astfel cum s-a pronuntat Curtea de Justitie a Uniunii Europene in Cauza C-275/18 «Milan Vins».

a) The invoice, which shall contain the information required by Article 319 (20) of the Tax Code;

- b) One of the following documents:
- the certification of the conclusion of the export operation by the customs office of export or, as the case may be, the export notification certified by the customs office of export, in case of electronic export declaration; or
 - copy 3 of the unique administrative document, used as an export statement on paper, certified on the back by the customs office of exit; or
 - in the case of excisable products moved under excise duty suspension using EMCS, the export report submitted to the consignor certifying that the excisable products have left the territory of the EU.

If the supplier is not established in the European Union and **cannot be** an exporter from a customs point of view, in order to justify the VAT exemption it is necessary for him to hold the export customs statement, in which his identification data and series and/or or the invoice number issued by him for the delivery of the goods transported outside the European Union to be mentioned in box 44. The same is valid for the supplier established in the European Union, but which **does not have** the quality of exporter from a customs point of view.

If the goods in the territory of the European Union cannot be justified, the exporter can prove the actual exit of the goods in the territory of the European Union by other means of proof, as ruled by the Court of Justice of the European Union in Case C-275/18 «Milan Vins ».



B. Prestari servicii

Sunt scutite de TVA transportul si serviciile accesorii transportului, altele decat cele scutite conform art. 292 din Codul fiscal, legate direct de exportul de bunuri. Sunt considerate legate direct de exportul de bunuri serviciile care contribuie la realizarea efectiva a unei operatiuni de export si care sunt furnizate direct exportatorului sau destinatarului bunurilor exportate.

Scutirea de TVA se aplica prestarilor de servicii efectuate in Romania asupra bunurilor mobile achizitionate ori importate in vederea prelucrarii in Romania si care ulterior sunt transportate in afara Uniunii Europene de catre prestatorul serviciilor sau de catre client, daca acesta nu este stabilit in Romania, ori de alta persoana in numele oricaruia dintre acestia.

Scutirea de TVA se aplica prestarilor de servicii de prelucrare si in cazul in care prestatorul de servicii care efectueaza aceste servicii in baza unui contract incheiat cu un client nestabilit in Romania achizitioneaza sau importa bunuri in vederea incorporarii in produsul prelucrat ori in vederea utilizarii in legatura directa cu produsele prelucrate.

In cazul bunurilor importate in Romania in vederea prelucrarii, calitatea de importator o poate avea fie proprietarul bunurilor, fie persoana impozabila inregistrata conform art. 316 din Codul fiscal, care importa bunuri in Romania in vederea prelucrarii, cu conditia ca bunurile rezultate ca urmare a acestor operatiuni sa fie transportate in afara Uniunii Europene sau sa fie achizitionate de catre persoana impozabila respectiva. Daca

B. Services

Transport and ancillary transport services are exempt from VAT, other than those exempted according to art. 292 of the Tax Code, directly related to the export of goods. Services that contribute to the effective realization of an export operation and that are provided directly to the exporter or recipient of the exported goods are considered directly related to the export of goods.

The VAT exemption applies to the provision of services performed in Romania on movable goods purchased or imported for processing in Romania and which are subsequently transported outside the European Union by the service provider or by the customer, if he is not established in Romania, or another person on behalf of any of them.

The VAT exemption applies to the provision of processing services also if the service provider performing these services based on a contract concluded with a customer not established in Romania purchases or imports goods for incorporation into the processed product or for use in direct connection with processed products.

In the case of goods imported into Romania for processing, the quality of importer can be either the owner of the goods or the taxable person registered according to art. 316 of the Tax Code, which imports goods in Romania for processing, provided that the goods resulting from these operations are transported outside the European Union or are purchased by the respective taxable person. If the goods resulting from the processing are not



bunurile rezultate in urma prelucrării nu sunt transportate in afara Uniunii Europene, prestatorul de servicii care a importat bunurile in Romania in vederea prelucrării pierde dreptul de deducere a TVA aferente importului, cu exceptia cazului in care achizitioneaza bunurile rezultate in urma prelucrării sau refactureaza valoarea bunurilor importate in vederea prelucrării si TVA aferent catre proprietarul bunurilor.

Daca locul prestării este in Romania si daca bunurile rezultate in urma prelucrării nu sunt transportate in afara Uniunii Europene, prestatorele de servicii de prelucrare nu sunt scutite de TVA. Daca serviciile sunt prestate catre un beneficiar persoana impozabila, stabilit in alt stat membru, locul prestării se considera in statul membru in care este stabilit beneficiarul, serviciile fiind neimpozabile in Romania. Prestatorul nu are obligatia de a depune declaratia recapitulativa daca prestarea de servicii este scutita de TVA in statul beneficiarului.

Scutirea de TVA, pentru prelucrarea bunurilor mobile corporale achizitionate din Romania sau din alte state membre ori importate in vederea prelucrării in Romania, se justifica de prestator cu urmatoarele documente:

- contractul incheiat cu clientul care nu este stabilit in Romania;
- factura pentru serviciile de prelucrare efectuate;
- documente din care sa rezulte ca bunurile prelucrate au fost transportate in afara Uniunii Europene.

C. Operatiuni direct legate de nave si aeronave

transported outside the European Union, the service provider that imported the goods in Romania for processing loses the right to deduct the VAT related to the import, unless it acquires the goods resulting from the processing or re-invoices the value of the goods imported for processing and related VAT to the owner of the goods.

If the place of supply is in Romania and if the goods resulting from the processing are not transported outside the European Union, the provision of processing services is not exempt from VAT. If the services are provided to a taxable person, established in another member state, the place of supply is considered in the member state where the beneficiary is established, the services being non-taxable in Romania. The provider does not have the obligation to submit the recapitulative statement if the provision of services is exempt from VAT in the beneficiary's state.

The VAT exemption, for the processing of tangible movable goods purchased from Romania or from other member states or imported for processing in Romania, is justified by the provider with the following documents:

- the contract concluded with the client who is not established in Romania;
- invoice for the processing services performed;
- documents showing that the processed goods have been transported outside the European Union

C. Operations directly related to ships and aircraft

Navele utilizate preponderent in pozitie imobila pentru a explora/exploata zacaminte de hidrocarburi in mare nu sunt considerate nave atribuite navigatiei in largul marii.

Conditia ca o nava sa fie preponderent utilizata pentru navigatie in largul marii se considera indeplinita daca nava a fost astfel utilizata in ultimii 5 ani sau pe intreaga perioada de utilizare, daca aceasta este mai mica de 5 ani.

Scutirea de TVA pentru livrarea de carburanti si provizii destinate a fi utilizate pe nave se aplica si in cazul unor livarari efectuate catre intermediari, daca in momentul livrarii este cunoscuta destinatia finala a bunurilor si intermediarul preia proprietatea asupra bunurilor cel mai devreme sau in acelasi moment in care proprietatea este transferata operatorului de nava.

Scutirea de TVA se aplica pentru serviciile de incarcare/descarcarea pe/de pe o nava atribuita navigatiei in largul marii prestate de catre proprietarul/operatorul navei sau catre agentul de nava, cat si serviciile prestate intr-o etapa anterioara.

Scutirea de TVA se poate aplica si pentru livrarea unei aeronave catre un operator economic care nu este el insusi companie aeriana, dar care achizitioneaza aeronava respectiva in scopul utilizarii sale exclusive de catre o astfel de companie (de exemplu, pentru operatiuni de leasing).

D. Livrari intracomunitare de bunuri

Scutirea de TVA pentru livrarile intracomunitare de bunuri (LIC), cu exceptia

Ships used predominantly in an immobile position to explore/exploit hydrocarbon deposits in the sea are not considered vessels assigned to offshore navigation.

The condition that a ship is mainly used for sea navigation is considered fulfilled if the ship has been used in the last 5 years or during the entire period of use, if it is less than 5 years.

The exemption from VAT on the supply of motor fuels and supplies intended for use on ships also applies to deliveries to intermediaries, whether the final destination of the goods is known at the time of delivery and the intermediary takes over ownership of the goods at the earliest or at the same time as the property is transferred to the operator of the ship.

The VAT exemption applies to the loading/unloading services on/off a ship attributed to offshore navigation provided by the ship owner/operator or to the ship's agent, as well as the services provided at an earlier stage.

The VAT exemption may also apply to the delivery of an aircraft to an economic operator who is not itself an airline, but who purchases the aircraft for the purpose of its exclusive use by such company (for example, for leasing operations).

D. Intra-community supplies of goods

The VAT exemption for intra-Community supplies of goods (ICS), except for means of



mijloacelor de transport și a produselor accizabile se justifică pe baza următoarelor documente:

- a) factura în care trebuie să fie menționat codul de înregistrare în scopuri de TVA atribuit cumparatorului în alt stat membru;
- b) documentele care atestă că bunurile au fost transportate din România în alt stat membru, care poate fi diferit de statul membru care a atribuit codul de înregistrare în scopuri de TVA comunicat de cumparator.

Dacă inspectia fiscală constată că pe factura este înscris eronat codul de TVA al beneficiarului, pentru acordarea scutirii de TVA se va permite în timpul controlului corectarea facturii de către furnizor și se va verifica validitatea codului de TVA al beneficiarului de către organele de inspectie fiscală. Această factură va fi atașată de către furnizor facturii inițiale, fără să genereze înregistrări în decontul de taxă al perioadei fiscale în care se operează corectia.

Scutirea unei livrări intracomunitare, nu poate fi refuzată vânzătorului pentru simplul motiv că administrația fiscală a unui alt stat membru a efectuat o radiere cu efect retroactiv al codului de înregistrare în scopuri de TVA al persoanei care a achiziționat bunul, de la o dată anterioară acestei livrări, deși radierea codului a intervenit după livrarea bunului, astfel cum s-a pronunțat Curtea de Justiție a Uniunii Europene în Cauza C-273/11 - Mecsek Gabona.

În cazul livrărilor intracomunitare de mijloace de transport noi către un cumparator care nu comunică furnizorului un cod valabil de înregistrare în scopuri de TVA, scutirea de taxă se justifică prin:

transport and excisable products is justified on the basis of the following documents:

- a) the invoice in which the registration code for VAT purposes assigned to the buyer in another Member State must be mentioned;
- b) documents certifying that the goods have been transported from Romania to another Member State, which may be different from the Member State which assigned the registration code for VAT purposes communicated by the buyer.

If the fiscal inspection finds that the VAT code of the beneficiary is erroneously written on the invoice, in order to grant the VAT exemption, the correction of the invoice by the supplier will be allowed during the control and the validity of the beneficiary's VAT code will be verified by the fiscal inspection bodies. This invoice will be attached by the supplier to the initial invoice, without generating entries in the tax return of the fiscal period in which the correction is operated.

The exemption of an intra-Community supply cannot be refused to the seller for the simple reason that the tax administration of another Member State has withdrawn with retroactive effect the VAT registration code of the person who purchased the good, from a date prior to that delivery, although the deletion of the code took place after the delivery of the goods, as ruled by the Court of Justice of the European Union in Case C-273/11 - Mecsek Gabona.

In the case of intra-Community deliveries of new means of transport to a buyer who does not communicate to the supplier a valid registration code for VAT purposes, the tax exemption is justified by:

- a) factura sau, daca furnizorul nu este o persoana impozabila, contractul de vanzare-cumparare;
- b) documentele care atesta ca bunurile au fost transportate din Romania in alt stat membru.

In cazul livrarilor intracomunitare de produse accizabile care circula in regim suspensiv de accize catre un cumparator care nu comunica un cod valabil de inregistrare in scopuri de TVA, scutire de TVA se justifica:

- a) factura care nu trebuie sa contina codul de inregistrare in scopuri de TVA al cumparatorului in alt stat membru;
- b) documentele care atesta ca bunurile au fost transportate din Romania in alt stat membru;

In cazul livrarilor transferurile de bunuri (livrari de bunuri asimilate), scutirea de TVA se justifica, pe baza urmatoarelor documente:

- a) autofactura in care sa fie mentionat codul de inregistrare in scopuri de TVA atribuit in alt stat membru al persoanei care realizeaza transferul din Romania;
- b) documente de transport al bunurilor din Romania in alt stat membru, precum un document CMR semnat sau o scrisoare de trasura semnata, un conosament, documentul specific de transport aerian de marfuri (Air Waybill).

Reamintim ca de la 1 ianuarie 2020, sunt aplicabile direct in Romania prevederile Regulamentului (UE) nr. 282/2011, modificat prin Regulamentul (UE) 1912/2018, prevederi care au fost numite si „remedii rapide”. Astfel, art. 45a din Regulamentul 282/2011 prevede conditiile prin care se prezuma ca bunurile livrate intracomunitar sunt transportate catre alt stat membru.

- a) the invoice or, if the supplier is not a taxable person, the sale-purchase contract;
- b) the documents attesting that the goods were transported from Romania to another member state.

In the case of intra-Community supplies of excisable products circulating under excise duty suspension to a buyer who does not communicate a valid registration code for VAT purposes, VAT exemption is justified:

- a) the invoice which must not contain the VAT identification number of the buyer in another Member State;
- (b) documents proving that the goods have been transported from Romania to another Member State;

In the case of deliveries, transfers of goods (deliveries of assimilated goods), the VAT exemption is justified, based on the following documents:

- a) the self-invoice in which to be mentioned the registration code for VAT purposes assigned in another member state of the person making the transfer from Romania;
- b) documents for the transport of goods from Romania to another member state, such as a signed CMR document or a signed consignment note, a bill of lading, the specific air waybill document (Air Waybill).

We remind you that from January 1st, 2020, the provisions of Regulation (EU) No 282/2011, as amended by Regulation (EU) 1912/2018, which were also called "rapid remedies", are directly applicable in Romania.

Thus, art. Article 45a of Regulation 282/2011 lays down the conditions under which goods supplied within the community are presumed to be transported to another member state

Indeplinirea acestor conditii prezuma existenta transportului intracomunitar si asigura scutirea de TVA a unei LIC.

Documentele care atesta ca bunurile au fost transportate din Romania in alt stat membru sunt cele prevazute la alin (1) si (3) ale art.45 a din Regulamentul 282/2011, dupa cum urmeaza:

a) Cand transportul este organizat de furnizor:

- Este in posesia a 2 elemente concludente dintre documentele specifice tipului de transport realizat (CMR semnat, conosament, scrisoare de trasura semnata, factura de la transportator), emise de doua entitati independente una de cealalta, cat si fata de vanzator sau de cumparator

Sau

- Un document din cele enumerate mai sus, impreuna cu dovada concludenta din documentele mentionate mai jos, emise de doua entitati independente una de cealalta, cat si fata de vanzator sau de cumparator:

(i) o polita de asigurare corespunzatoare expedierii sau transportului bunurilor sau documente bancare care sa ateste plata pentru expedierea sau transportul bunurilor;

(ii) documentele oficiale eliberate de o autoritate publica, precum un notariat, care sa ateste sosirea bunurilor in statul membru de destinatie;

(iii) o chitanta eliberata de un antrepozitar in statul membru de destinatie care sa ateste depozitarea bunurilor in respectivul stat membru.

b) Cand transportul este organizat de cumparator:

- Cele mentionate la lit. a de mai sus si,

-O declaratie scrisa din partea cumparatorului, care atesta ca bunurile respective au fost expediate sau transportate

The fulfillment of these conditions preside the existence of intra-Community transport and ensures the exemption from VAT of a ICS.

The documents attesting that the goods were transported from Romania to another member state are those provided in paragraphs (1) and (3) of art. 45 a of Regulation 282/2011, as follows:

a) When the transport is organized by the supplier:

- It is in possession of 2 conclusive elements between the documents specific to the type of transport performed (CMR signed, bill of lading, signed consignment note, invoice from the carrier), issued by two entities independent of each other, as well as to the seller or buyer

Or

- A document from those listed above, together with conclusive evidence from the documents mentioned below, issued by two entities independent of each other, as well as to the seller or buyer:

(i) an insurance policy corresponding to the dispatch or transport of the goods or bank documents proving payment for the dispatch or transport of the goods;

(ii) official documents issued by a public authority, such as a notary, attesting to the arrival of the goods in the Member State of destination;

(iii) a receipt issued by a warehousekeeper in the Member State of destination attesting to the storage of the goods in that Member State.

b) When the transport is organized by the buyer:

- Those mentioned in letter a above and,

- A written statement from the buyer stating that the goods have been dispatched or transported by him or by a third party on

de acesta sau de catre o terta parte in numele cumparatorului și care mentioneaza statul membru de destinatie a bunurilor; aceasta declaratie scrisa precizeaza data emiterii, numele și adresa cumparatorului, precum și cantitatea și natura bunurilor, data și locul de sosire a bunurilor și, in cazul livrării de mijloace de transport, numarul de identificare al mijlocului de transport și identificarea persoanei care accepta bunurile in numele cumparatorului.

In situatia in care transportul este organizat de cumparator si acesta nu furnizeaza vanzatorului declaratia scrisa care atesta ca bunurile au fost transportate/expediate pana in a zecea zi a lunii urmatoare livrării, furnizorul beneficiaza de prezumtia stabilita in acest ordin, respectiv in termen de maximum 150 de zile calendaristice de la data la care a intervenit faptul generator de taxa pentru operatiunea in cauza.

Regulamentul 282/2011 impune conditia de independenta a partilor implicate in tranzactie care emit documentele justificative pentru transport. Prin parti independente se intelege parti care nu sunt considerate afiliate potrivit prevederilor art. 7 pct 26 din Codul Fiscal.

Daca nu se pot aplica prezumtiile din Regulamentul 282/2011, in prezentul ordin au fost incluse conditiile de obtinere a scutirii in anumite situatii exemplificate in prezentul ordin (fara inasa a se limita la acestea), dupa cum urmeaza:

- transportul bunurilor este realizat cu propriile mijloace de transport de catre furnizor sau cumparator (inclusiv mijloace de transport care sunt puse la dispozitia acestuia

behalf of the buyer and mentioning the Member State of destination of the goods; this written statement shall state the date of issue, the name and address of the purchaser, the quantity and nature of the goods, the date and place of arrival of the goods and, in the case of delivery of means of transport, the identification number of the means of transport and the identification of the person accepting the goods on behalf of the purchaser.

If the transport is organized by the buyer and he does not provide the seller with a written statement stating that the goods have been transported/shipped by the tenth day of the month following delivery, the supplier benefits from the presumption established in this order, respectively within 150 calendar days from the date on which the tax-generating event for the operation in question occurred.

Regulation 282/2011 imposes the condition of independence of the parties involved in the transaction that issue the supporting documents for transport. Independent parties means parties that are not considered affiliated according to the provisions of art. 7 point 26 of the Tax Code.

If the presumptions from Regulation 282/2011 cannot be applied, in this order were included the conditions for obtaining the exemption in certain situations exemplified in this order (but not limited to them), as follows:

- the transport of goods is performed with their own means of transport by the supplier or buyer (including means of transport that are made available to him through leasing, rental, loan or other contracts of this type).



prin contracte de leasing, inchiriere, comodat sau alte contracte de acest tip).

- bunurile ce fac obiectul livrării sunt mijloace de transport care se deplasează singure pe roți, pe cale maritimă, fluvială sau aeriană
- persoanele implicate în transportul bunurilor nu sunt părți independente atât una de cealaltă, cât și de vânzător și de cumpărător sau nu se poate face dovada independenței acestora.

Se considera că bunurile au fost transportate din România în alt stat membru, dacă furnizorul detine documente care justifică transportul, precum:

a) în cazul livrării de produse accizabile care circulă în regim suspensiv de accize: documentul administrativ în format electronic și raportul de primire;

b) în cazul livrării de mijloace de transport care se deplasează singure pe roți, pe cale maritimă, fluvială sau aeriană: contractul de vânzare-cumpărare din care să rezulte că bunurile vor fi transportate în alt stat membru și dovada înmatriculării mijlocului de transport în statul membru de destinație;

c) în cazul livrării altor bunuri decât cele prevăzute la lit. a) și b):

1. documente de transport, precum un document CMR semnat sau o scrisoare de trasură semnată, un conosament, documentul specific de transport aerian de marfuri (Air Waybill); și

2. unul dintre următoarele documente: o poliță de asigurare corespunzătoare expedierii sau transportului bunurilor, documente bancare care să ateste plata pentru expedierea sau transportul bunurilor, documentele oficiale eliberate de o autoritate publică (notariat), un document care atestă primirea bunurilor, o declarație scrisă din

- the goods that are the object of delivery are means of transport that move alone on wheels, by sea, river or air

- the persons involved in the transport of the goods are not independent of each other, as well as of the seller and the buyer, or their independence cannot be proved.

It is considered that the goods were transported from Romania to another member state, if the supplier has documents justifying the transport, such as:

a) in case of delivery of excisable products circulating in excise duty suspension regime: the administrative document in electronic format and the receipt report;

b) in case of delivery of means of transport that travel alone on wheels, by sea, river or air: the sale-purchase contract which shows that the goods will be transported to another member state and proof of registration of the means of transport in the state destination member;

c) in case of delivery of other goods than those provided in let. a) and b):

1. transport documents, such as a signed CMR document or a signed consignment note, a bill of lading, the specific air waybill document (Air Waybill); and

2. one of the following documents: an insurance policy corresponding to the dispatch or transport of the goods, bank documents attesting payment for the dispatch or transport of the goods, official documents issued by a public authority (notary), a document attesting the receipt of the goods, a written statement from the buyer, which includes: the date of



partea cumparatorului, care cuprinde: data emiterii, numele si adresa cumparatorului, precum si cantitatea si natura bunurilor, data si locul de sosire a bunurilor, identificarea persoanei care accepta bunurile in numele cumparatorului.

Organele fiscale pot respinge justificarea transportului daca au suficiente elemente pentru a demonstra ca bunurile nu au fost transportate din Romania in alt stat membru.

Scutirea de TVA nu se aplica in cazul in care furnizorul nu a depus o declaratie recapitulativa sau declaratia recapitulativa depusa de acesta nu contine informatiile corecte referitoare la aceasta livrare, cu exceptia cazului in care furnizorul poate justifica in mod corespunzator deficienta intr-un mod considerat satisfacator de autoritatile fiscale competente.

Se considera ca furnizorul justifica corespunzator deficienta, daca aceasta este remediata ulterior, dar nu mai tarziu de finalizarea inspectiei fiscale. Se poate considera ca deficienta a fost remediata in situatii precum:

- a)** furnizorul nu a inclus livrarea intracomunitara in declaratia recapitulativa aferenta perioadei in care a intervenit exigibilitatea taxei, dar a inclus-o in declaratia recapitulativa aferenta unei perioade ulterioare sau in cadrul unei declaratii rectificative pentru perioada respectiva;
- b)** furnizorul a inclus livrarea intracomunitara in declaratia recapitulativa aferenta perioadei in care a intervenit exigibilitatea taxei, dar a gresit neintentionat una sau mai multe informatii referitoare la livrarea respectiva, cum ar fi valoarea acesteia, tipul operatiunii,

issue, the name and address of the buyer, as well as the quantity and nature of the goods, the date and place of arrival of the goods, the identification of the person who accepts the goods on behalf of the buyer.

The fiscal bodies may reject the justification of the transport if they have sufficient elements to prove that the goods were not transported from Romania to another member state.

The VAT exemption does not apply if the supplier has not submitted a recapitulative statement or the recapitulative statement submitted by him does not contain the correct information regarding this delivery, unless the supplier can duly justify the deficiency in a manner considered satisfactory by the competent tax authorities.

It is considered that the supplier duly justifies the deficiency, if it is remedied later, but not later than the completion of the fiscal inspection. It can be considered that the deficiency has been remedied in situations such as:

- a)** the supplier did not include the intra-Community delivery in the recapitulative statement related to the period in which the tax became chargeable, but included it in the recapitulative statement related to a subsequent period or in a rectifying statement for the respective period;
- b)** the supplier included the intra-Community delivery in the recapitulative statement related to the period in which the tax became chargeable, but inadvertently misled one or more of the delivery information, such as its value, type of operation, customer name and



denumirea clientului si a efectuat corectia in cadrul unei declaratii rectificative pentru perioada respectiva.

made the correction within a rectifying statement for that period.

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