

4. QUESTIONS CONCERNING THE APPLICATION OF EU VAT PROVISIONS

4.1 Origin: Commission and Italy
References: Article 192a of the VAT Directive
Articles 11 and 53 of the VAT Implementing Regulation
Subject: Clarifications on the concept of fixed establishment
(Document taxud.c.1(2015)2177802 – Working paper No 857)

1. The VAT Committee **unanimously** confirms that when a taxable person transfers goods forming part of his business assets to another Member State for the purposes of his business (“intra-Community transfer of goods”), the transfer shall be treated as a taxable supply of goods under Article 17(1) of the VAT Directive in the Member State where the dispatch or transport begins and as a taxable intra-Community acquisition of goods by the taxable person himself under Article 21 of the VAT Directive in the Member State where the transport ends.
2. Consistent with Article 11 of the VAT Implementing Regulation according to which the fact of having a VAT identification number in a Member State shall not in itself be sufficient to consider that a taxable person has a fixed establishment in that Member State, the VAT Committee **unanimously** agrees that, in the case of intra-Community transfer of goods, the taxable person shall not, merely as a result of the transfer, be seen as established in the Member State where the transport ends.
3. The VAT Committee **unanimously** agrees that, in the case where goods are transported or dispatched to a taxable person or a non-taxable legal person who is liable for payment of VAT on the intra-Community acquisition under Article 200 of the VAT Directive, the mere existence, in the Member State to which the goods are transported or dispatched, of a fixed establishment or a warehouse of the supplier shall not of itself imply there being a transfer by the supplier to his fixed establishment or his warehouse followed by a domestic supply.