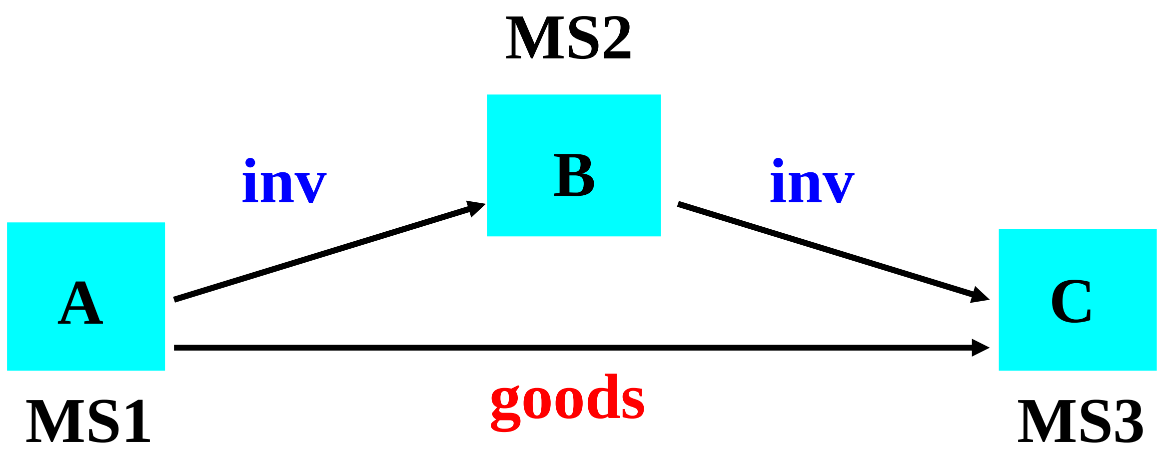
VAT GENERAL INFORMATION FOR BUSINESSES

TRIANGULATION

Triangulation is the term used in cases that involve the supply of same goods between three different traders in three different member states.



Trader A in Member State 1 sells the goods to B in Member State 2.
B sells the goods to C in Member State 3.
The goods are transported directly from A to C.

In this situation, one has to consider the relation of the transport of the goods, i.e. whether the supply is a supply with transport or without transport. Therefore in this case there may be two situations as follows:

Situation 1:

The transport of the goods is done or contracted by A or by B as the purchaser of A. Therefore the supply between **A and B is a supply with transport**. It is therefore an intra-community supply that satisfies two conditions namely that B has a valid identification number in member state 2 and the goods are transported outside member state 1. Such intra-community supply is therefore exempt in member state 1.

On the other hand the supply by **B to C is a supply without transport**. However B is not registered in member state 3. Strictly speaking in a normal situation, B would have to register in member state 3. To avoid such registration simplification procedures may apply in such a situation. These procedures apply if C is a taxable person and the liability to pay VAT is shifted by B to C in member state 3. If C is a not a taxable person, then B has to register in member state 3 and charge the VAT of member state 3.

Under such simplification procedure A issues an invoice to B without charging VAT and quoting B's VAT identification number – A should report this supply on its Recapitulative Statement as an intra-community supply.

B issues an invoice to C without charging VAT endorsing it with the words “VAT Simplification Invoice” – B should report the supply to C on its Recapitulative Statement quoting C’s identification number and the code (T) to denote triangulation operation.

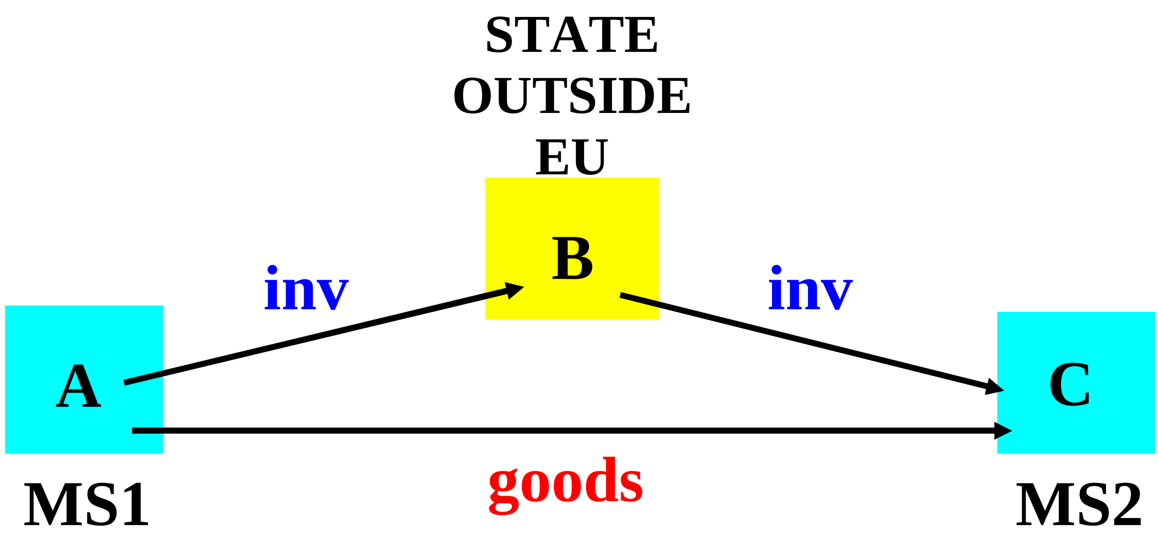
C should account for the purchase from B in his VAT Return by Reverse Charge mechanism.

Situation 2:

In the other situation the transport of the goods is done or contracted by C or by B as the seller to C. In such case there is a **supply without transport by A to B** which is considered as a domestic supply by A in member state 1. Therefore A has to charge VAT to B. On the other hand the supply by **B to C is a supply with transport** in member state 1 and is exempt from VAT if it satisfies two conditions, namely that C has a valid identification number and that goods are transported out of member state 1.
C is then making an intra-community acquisition in member state 3 for which he is liable to pay VAT.

In this situation B is always required to register in member state 1.

Sale of same goods between three persons where B is established outside the EU and the other persons are established in two different member states



Suppose that trader B in the example above is established outside the EU. Goods are sold by person A in the Member State 1 to a person B established outside the EU and B supplies the same goods to C who is established in Member State 2, and the goods are transported directly by A to C. This is a “false” triangulation that cannot benefit from any simplification.

In such cases, again depending upon the relation in which the transport of the goods takes place, the person B established outside the EU has to register in any one of the member states involved in this transaction.

If the transport to member state 2 is in the relation A-B then person B has to register in Member State 2. The supply by A to B would be considered as a supply with transport and therefore once B has a valid identification number and the goods are being transported outside member state 1, then it is also an exempt intra-community supply by A in Member State 1.

On the other hand B is making an intra-community acquisition in Member State 2. The supply by B to C is a domestic supply without transport in Member State 2 and VAT is charged by B to C (unless according to the VAT legislation of member state 2 a reverse charge applies) which C may claim in his next VAT return as input VAT deduction.

If the transport to member state 2 is in the relation B-C, then the supply by A to B is a domestic supply in member state 1 on which A should charge VAT to B. B has to register in member state 1. If C is a taxable person the supply from B to C is an exempt intra-community supply by B in Member State 1 and an intra-community acquisition by C for which C is liable to pay VAT in Member state 2. If C is not a taxable person, then B should charge VAT of member state 1 to C.

Disclaimer:
Please be advised that the information in these notes is provided as guidance. The notes are simply guidelines and not legal documents providing legally binding rulings. If you require more precise information on how to implement VAT legislation in specific special situations, kindly contact the VAT Department or consult documents available in the special section for Tax Professionals at the VAT Department's website .

(Updated 20 June 2013)