

ACTION REQUIRED: CMR boxes 1 & 22 must disclose Your information in the cases of self-organised transport

Detailed instructions on completing boxes 1 and 22 of CMR for Buyer arranged transport (opt out and non-runners)

In order for BCA to adhere to the appropriate VAT regulations in providing you with a VAT Exempt cross border vehicle sale, BCA will need to gather suitable documents which clearly demonstrate that you have dispatched and delivered the vehicles to your business address in the EU Member State where you are established.

These documents, namely the CMR as a consignment note, need to be filled out completely and correctly by your transport company in order to be accepted by BCA. Most boxes of the CMR are very straightforward and do not require any further interpretation, although the full instructions on completing the CMR are provided below as a reminder. Boxes 1 and 22 reference the phrases 'Consignor' or 'Sender' which requires some interpretation and this is provided in this document.

Who is the Consignor / Sender of the goods?

The Consignor / Sender is the party who concluded the contract with the transport carrier, therefore BCA wants to remind you that in cases where you organise the transport directly with the transport company, ordering and paying for the transport cost directly with the carrier, **you are to be seen as the Consignor / Sender and, therefore, Your information needs to be disclosed in boxes 1 and 22 of the CMR.**

How is the definition of Consignor / Sender of the goods to be understood?

According to Article 5 paragraph 1 of the CMR Convention¹, the consignment note is signed by the sender and the carrier. According to Article 6 paragraph 1 letters b and c of the CMR Convention, the CMR consignment note must contain the name and address of the sender and the name and address of the carrier. Therefore, in the CMR transport contract, the sender is the person who concluded the contract with the carrier.

Also according to article 7 of the CMR Convention, the sender shall be responsible for all expenses, loss and damage sustained by the carrier by reason of the inaccuracy or inadequacy in the name and address of the sender disclosed in the CMR consignment note form. Additionally and as per article 10 of the CMR Convention, the Sender shall also be liable to the carrier for damage to persons, equipment or other goods, and for any expenses due to defective packing of the goods, unless the defect was apparent or known to the carrier at the time when he took over the goods and he made no reservations concerning it. In the same sense, only the sender has the right to dispose of the

¹ Convention on the Contract for the International Carriage of Goods by Road (CMR) (Geneva, 19 May 1956), can be consulted here http://www.unece.org/fileadmin/DAM/trans/conventn/cmr_e.pdf.

goods by asking the carrier to stop the goods in transit, as foreseen in article 12 of said CMR Convention.

It therefore follows that it can only be the party who instructed the transport who can meet the definition of the Consignor / Sender.

Taking this into consideration, the Supreme Federal Tax Court in Germany has ruled that an incomplete or inaccurate CMR (including contradictory information on who the Sender is) is not acceptable as a proof of delivery for VAT Exempt cross border vehicle sale.

What is the responsibility of the Buyer in relation to the accuracy & completeness of the CMR?

As a buyer at BCA you must ensure **that you have duly informed your transport companies that boxes 1 and 22 of CMR should be filled out with your information** in those cases where you have arranged for the transport and engaged directly with the transport company.

From this moment onwards **BCA reserves the right to refuse the CMRs that are incomplete and/or incorrectly fulfilled, namely regarding boxes 1 and 22.**

CMR completion checklist:

Please be reminded of the completion instructions for the CMR, as per **Appendix:**

- **Box 1** – Consignor / Sender – **Your information** (legal name, address, country) as the Buyer who has bought the vehicles from BCA and who has engaged directly with the carrier;
- **Box 2** – Consignee / Recipient - **Your information** (legal name, address, country) as the Buyer who has bought the vehicles from BCA, who has engaged directly with the carrier and who will receive the delivery;
- **Box 3** – Place of delivery - Your approved delivery address (in accordance with BCA's compliance standards);
- **Box 4** – Place and date of taking over the goods – Compound (address, city, country) and date when the goods are taken into loading by the carrier;
- **Boxes 6 to 12** - Identification of the vehicles purchased and being transported (e.g., brand, model, VIN, plate);
- **Boxes 16** – Carrier – Name, address, country of the carrier engaged for the transport;
- **Box 21** - Place and date of the establishment of the CMR;
- **Box 22** - Signature and stamp of Sender - **Your stamp and signature**, as the Buyer who has bought the vehicles from BCA and has engaged directly with the carrier (same as Box 1 and 2). In the event Your stamp is not available at the beginning of transport, please ask the transport company to fill in Your information (legal name, address, country) before the transport begins, and please add your **stamp and signature** after the delivery has been complete;
- **Box 23** - Signature and stamp of the carrier (same as transport company in box 16);
- **Box 24** - Date of reception, signature and stamp of the Consignee - **Your stamp, signature and date of reception** of the vehicles, and as the Buyer who has bought the vehicles from BCA, who has engaged directly with the carrier and received the delivery (same as Box 1, 2 and 22).

What documents do BCA require to release the vehicle registration documents?

To ensure that BCA can provide you with the registration documents of your purchased vehicles, you will need to provide BCA with the following documents:

- (i) the completed Receipt of Delivery declaration showing the relevant data regarding the delivery;
- (ii) CMR issued by the transport company as per the previous instructions (note that, in the event the delivery is completed in several legs, you will need to provide to BCA with all of the CMR's corresponding to the entire journey from the BCA compound to your delivery address);
- (iii) Insurance policy of the carrier valid at the date of the transport (in case you have not provided it before to BCA).

Where any of the documents outlined above do not meet the required compliance standards, BCA may request further documents or evidence that the goods have been delivered to your approved delivery address before releasing the vehicle registration documents.

In particular, where the CMR consignment notes are incorrectly fulfilled in boxes 1 and 22, because they do not identify your company as the Sender / Consignor, BCA might refuse them and have to charge the respective domestic VAT from the selling country in order to release the vehicle registration documents.

Should you require any further clarifications or have any questions on this, please get in touch with your usual BCA contact.

APPENDIX

1

Exemple pour expéditeur Exemplaar voor afzender Exemplar für Absender		LETTRE DE VOITURE - DOCUMENT DE TRANSPORT VRACHTBRIEF - VERVOERDOCUMENT FRACHTBRIEF - TRANSPORTDOKUMENT					Code transporteur Vervoerderscode Code Frachtführer	No Nr	
1 Afzender (naam, adres, land) Consignor (name, address, country) Your information (legal name, address, country) as the Buyer who has engaged directly with the transport carrier					Indien de overeengekomen plaats van inontvangstneming en van aflevering van de zaken zijn gelegen in twee verschillende landen zijn het CMR-Verdrag alsmede in aanvulling daarop de Algemene Vervoercondities 2002, laatste versie, van toepassing. NL Indien de overeengekomen plaats van inontvangstneming en van aflevering van de zaken zijn gelegen in Nederland zijn de Algemene Vervoercondities 2002, laatste versie, van toepassing. De Algemene Vervoercondities 2002, laatste versie, zijn door sVa / Stichting Vervoeradres gedeponereerd ter griffie van de arrondissementsrechtbank te Amsterdam en Rotterdam.				
2 Geadresseerde (naam, adres, land) Consignee (name, address, country) Your information (legal name, address, country) as the Buyer who will receive the delivery					16 Vervoerder (naam, adres, land) Carrier (name, address, country) Transport carrier (must be identical to box 23)				
3 Plaats (bestemd) voor de aflevering der goederen Place of delivery of the goods Your approved delivery address in accordance with BCA's compliance standards					17 Opvolgende vervoerders (naam, adres, land) Successive carriers (name, address, country)				
4 Plaats en datum van inontvangstneming der goederen (plaats, land, datum) Place and date of taking over the goods Collection (place and date) = BCA compound					18 Voorbehoud en opmerkingen van de vervoerder Carrier's reservations and observations				
5 Bijgevoegde documenten Annexed documents									
6 Merken en nummers Marks and Nos		7 Aantal colli Number of packages	8 Wijze van verpakking Method of packing	9 Aard der goederen Official transport designation	10 Statistisch nummer Statistical number	11 Bruto gewicht in kg Gross weight in kg	12 Volume in m3 Volume in m3		
Description of the goods Mandatory to have the VIN (17 digits) or VIS (last 8-digits of VIN) and/or license plate number, make, model for each car									
13 Instructies afzender Sender's instructions					19 Speciale overeenkomsten Special agreements				
14 Frankeringsvoorschrift Directions to freight payment					20 Tijdstempel Timestamp	Aankomst Arrival	Vertrek Departure	Totale tijd Total time	
21 Opgemaakt te Established in Place and date of the document					15 Reimboursment Reimbursement				
22 Your signature and stamp as the Buyer who has engaged directly with the carrier (same as Box 1 and 2). Handtekening en stempel van de afzender Signature and stamp of the sender					23 Transport carrier (must be identical to box 16) Signature & Stamp Handtekening en stempel van de vervoerder Signature and stamp of the carrier			24 Ontvangst der goederen, datum Goods received, date Your signature, stamp and date of reception as the Buyer who received the delivery Handtekening en stempel van de geadresseerde Signature and stamp of consignee	

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