



Changes to the EU Directive on VAT

This VAT Update sets out the changes which will come into effect on 1 January 2010 and have been approved by the European Council in relation to the following items:

The items are:

1. Changes to the country of taxation of services provided between businesses (B2B).
2. Compliance obligations for persons who supply services and goods.
3. Changes in the time of supply of services for which VAT is due by the recipient.
4. Procedure for refund of VAT paid in another Member State (MS).
5. Changes to the country of taxation of services, supplied to consumers (B2C).

1. Services provided between businesses (B2B)

For VAT purposes services provided between businesses are taxed in the MS where the recipient of the services is established and not in MS where the provider of the services is established.

These changes apply for all services except from the ones stated below:

- (a) Services which are directly related to immovable property
- (b) Restaurant services and services supplied in the course of catering
- (c) Leasing of means of transport
- (d) Scientific and educational services
- (e) Sporting and cultural services

2. Compliance Obligations

As from 1 January 2010 businesses will be required to complete and submit a declaration for intracommunity supply of services which are taxed under the reverse charge provisions in another MS. This new declaration is declaration VIES II.

The services which must be included in this new declaration are solely the services which will be taxed for VAT purposes in the other MS. Services which are supplied to persons established outside the EU must not be included.

Services which are exempt from VAT in the country of the recipient must not be included in the new declaration for intra-community supply of services.

Consequently these rules require businesses to have a full understanding of the VAT treatment of the services in the MS of the recipient.

The new declaration will be submitted on a monthly basis. In accordance with the provisions of the proposed legislation the declaration will be submitted by the tenth day of the month which follows the month for which it relates. Consequently the declaration for January 2010 will be submitted by 10 February 2010.

From 1 January 2010 the VIES returns for intracommunity supply of goods must also be submitted on a monthly basis. These returns are currently submitted on a quarterly basis. The VIES declaration for intercommunity supplies of goods will also need to be submitted electronically.

3. Changes in the time of supply of services

The time of supply of services which are subject to VAT by the recipient under the reverse charge provisions will as from 1 January 2010 be the earlier of the:

- (a) date in which the supply of the service was completed, and
- (b) date of payment

In the case of supply of services continuously over a period more than one year, for which no obligation for periodic payments exists, the VAT will be due at the end of calendar year. The VAT that will be due will be the VAT which is attributable to the value of the service provided.

4. Refund of VAT paid in another MS

As from 1 January 2010 the existing procedure for refund of VAT paid in another MS will be replaced with a new electronic procedure. The purpose is faster refund of the VAT to the claimants. In addition in case of delay in the refund of the VAT by a MS, interest will be paid to the business for the period of the delay. The deadline for the submission of the claim for VAT refund is extended by 3 months from 30 June of the next year to 30 September.

5. Services supplied to consumers (B2C)

The general rule will continue to be that the place of taxation of services is the place where the supplier has established its business. However, if the services are provided from a fixed establishment in a place other than the place where the supplier has established its business, the place of supply will be the place where that fixed establishment is located.

There will continue to be exceptions to this general rule. These are based largely on existing criteria and the principle of taxation at the place of consumption.

For example, exceptions include:

- Short-term hiring of a means of transport (Place of supply is the place where the means of transport is actually put at the disposal of the customer – subject to optional 'use and enjoyment' rules)
- Intermediary services (the place of supply of the underlying transaction)
- Electronically Supplied Services received from outside the EU (the place where the customer is Established).

6. Actions that need to be taken

Companies which supply services to business persons established in other MS must assess the impact that these changes will have on their activities. In addition businesses must ensure that their accounting systems can provide the information required for the preparation of the new declaration. In addition companies which carry out intracommunity supply of services which are subject to VAT by the recipient or perform intracommunity supplies of goods must ensure that they will be able to submit the declarations VIES II and VIES electronically within the 10 day deadline.

7. What we can do for you

- Train your staff with regards to the upcoming changes and the new reporting and compliance obligations.
- Provide advice on the upcoming changes and their specific impact on your business.
- Provide diagnostic reviews of your business affairs and assist with bringing your business in line with the new state of affairs.
- Assist with the claim of refund of VAT paid in other MS.

8. Disclaimer

Although this VAT Update is prepared with the utmost care, Dinos Antoniou & Co Ltd does not accept any liability for the content thereof. This VAT Update is meant for information purposes only and cannot be regarded as a binding legal, financial, tax or any other advice.

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