LowendalMasaï
TAX COST SOURCING CASH

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VAT News
BI-MONTHLY MAGAZINE

Increase in duty-free allowance

The duty-free allowance on goods carried by persons entering the EU will be increased. The current threshold of € 175 will be increased to € 430 for travellers entering by plane or ship and € 300 for travellers entering by any other means.

VAT RATE CHANGE

The Czech Republic has increased its reduced VAT rate from 5% to 9%.

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Don’t forget the Import VAT

LowendalMasaï has recently helped a number of internationally operating entities recover the VAT paid on imported goods.
When goods enter the EU import VAT should be paid by the importer of record who then recovers the payment in the form of input VAT either via a VAT return or by using the 8th or 13th EU VAT Refund procedures.
In many instances, however, the VAT on importation is not discovered – one major reason being the fact that importers use shipping or logistics agents who handle the paperwork and pre-pay the import VAT which is then charged as an expense or disbursement to the importer who absorbs the VAT amount as a cost.
Obviously, to recover the VAT paid on imported goods the original customs documentation is needed.
Which procedure is used (local registration or reclaim) depends on the Member State in question and the reason why the goods were shipped into the EU.
In many cases there is no onwards sale of the goods as they are brought in for research or warranty purposes.
On occasions EU-based entities may, for logistical routing reasons, import goods into other Member States without being sufficiently aware of the VAT burden this creates.

EDITORIAL

2007 ended with a big bang when the Member States reached political agreement on the VAT package at their Ecofin meeting in December.
As a result businesses must familiarise themselves with the new rules and start analysing their impact on their business.
I would also like to draw your attention to a pending ECJ case (Case C-309/06 (Marks & Spencer)) as it deals with some of the taxpayer's fundamental rights. The VAT problem as such is straightforward and involves the appropriate VAT rate on tea-cakes. The problem dealt with is how to correct such a mistake.
In this case the AG highlights the fact that the burden of proof with regard to fiscal neutrality (distortion of competition due to the different tax treatment of similar transactions) rests predominantly with the Tax Administration as it is the only body that has the information needed to establish whether or not there has been an infringement.
The AG also outlines clearly what should be understood by the principle of equal treatment (comparable situations must not be treated differently and different situations must not be treated in the same way unless there is an objective justification for such treatment.
We value your suggestions and comments, so please do not hesitate to come back to us.

Marc Huis

VAT RATE NEWS

Directive renewing temporary dispensations

When 10 new Member States joined to EU in May 2004, some were given dispensation to apply reduced VAT rates to certain services. The European Council has now adopted a directive (2007/75/EC) renewing some of these temporary dispensations.

Until 31st of December 2010:

- the Czech Republic may apply a reduced VAT rate of 5% to construction work for residential housing;
- Cyprus may apply a zero VAT rate to the supply of pharmaceuticals and most foodstuffs, and a reduced rate of 5% to restaurant services;
- Malta may apply a zero VAT rate to the supply of pharmaceuticals and foodstuffs;
- Poland may apply a zero VAT rate to the supply of certain books and specialist periodicals, a reduced rate of 7% to restaurant services, house construction, renovation and alteration and the supply of new residential buildings, and a 'super' reduced rate of 3% to the supply of most foodstuffs;
- Slovenia may apply reduced VAT rates of 8.5% to the preparation of meals and of 5% to construction, renovation and maintenance work for residential housing.

NEWS FROM THE EUROPEAN COMMISSION

EU agrees new VAT package

A decisive shift of the place-of-supply of business-to-business services towards the place where the customer is located.

EU finance ministers have agreed on a package of amendments to the VAT Directive that will involve major changes to the place-of-supply rules on cross-border services.
The adoption of this new VAT package will simplify the VAT treatment of cross-border transactions on services. In the past, the question of whether taxation should take place in the supplier's country or the customer's country has led to both double tax being paid and no tax being paid.
There are rules in place to determine the place-of-supply for services, which depends on the nature of the service, the location within or outside the EU of either the supplier or the customer and whether the customer is a private individual or a taxable entity.

Currently the general rule is that the service is taxed where the supplier is based. But there are many exceptions, especially for the so-called business-to-business services.
Many services, for example (intellectual services such as consultancy, financial, IT, telecommunication and electronic services,) are taxable either where the customer is located or where the use-and-enjoyment takes place.

The principle of the new package, agreed on 4 December, is a decisive shift of the place-of-supply of business-to-business services towards the place where the customer is located. This will now become the new principle rule.

If, however, the customer is a private individual, the place-of-supply will generally continue to be the place where the supplier is located.
Exceptions will remain. The place-of-supply for cultural, educational or restaurant services will always be the place of consumption. This will also be the rule for business-to-consumer (B2C) supplies of telecommunications, electronic and broadcasting services.
Exceptions will also remain for work on immovable and movable property as well as transport services.
The new place-of-supply rules must be put into effect in every Member State from 1 January 2010.

The amendments to the 8th Directive VAT, which will also go into effect on 1 January 2010, will mean a claimant can submit a claim via an electronic portal in his or her home Member State. The new procedure should make the procedure less onerous and thus help reduce delays. The 13th Directive VAT procedures will not be changed.

VAT NEWS BELGIUM

Mandatory use of 10-digit VAT number

as from January 1, 2008

Use of 10-digit VAT numbers mandatory as of 1 January

Until 1 January 2008, the first digit of a company's Belgian VAT number was always a '0'. This was followed by nine other digits and it was common practice to state only the last nine digits. Because the administration is issuing 10-digit VAT numbers starting with '1' as of 1 January 2008, the use of all 10 digits (including the 1st '0') has become mandatory on all official documents, returns, listings and invoices as of 1 January.

VAT NEWS SPAIN

Spain introduces VAT grouping

A VAT group goes into effect for a minimum of three years.

Since January 2008, Spanish tax law has allowed for voluntary VAT grouping. The VAT group can only be formed by companies established in Spain and the parent company must, directly or indirectly, hold at least 50% of the shares of its subsidiaries during the calendar year. All member companies must opt for membership individually. A VAT group goes into effect for a minimum of three years. At the end of each three year period the group is automatically extended for a further three years unless the companies involved decide to dissolve the group or one of the requirements for grouping ceases to be met.

VAT NEWS | HUNGARY

Recovering input VAT

The Hungarian VAT Act has been amended to make it possible to recover input VAT retrospectively to 1 May 2004 if a VAT registration was necessary.

VAT NEWS | UNITED KINGDOM

VAT on motoring expenses

The UK has been authorised by the European Council (2007/884/EC) to continue to apply a restriction (50%) of the right to deduct input VAT incurred on the hire or lease of motor cars not exclusively used for business purposes. Where the right to deduct has been limited the taxable person does not have to account for VAT on the private use of the vehicle.
The authorisation will expire on the date EU rules governing restrictions on the right to deduct in this area come into force, but on 31 December 2010 at the latest.

VAT RETURN NEWS

Austria
As of 1 January 2008 the Austrian VAT return form has been changed. The main change is the need to provide more specifications and details related to input VAT.

Belgium
As of 1 February 2008, all taxpayers who file their VAT return monthly must file their return electronically. As of 1 April 2009 electronic filing will also be mandatory for all taxpayers who file quarterly or periodically.

Slovenia
A new VAT return form has been introduced in Slovenia on which the number of reporting fields has been decreased to twenty and the information is split into four sections: taxable supplies, VAT calculation, purchases and input VAT.

Sweden
The standard VAT return reporting period for taxable persons whose annual taxable turnover does not exceed 40 million SEK will be amended to three months unless the company specifically requests a one month VAT return period.

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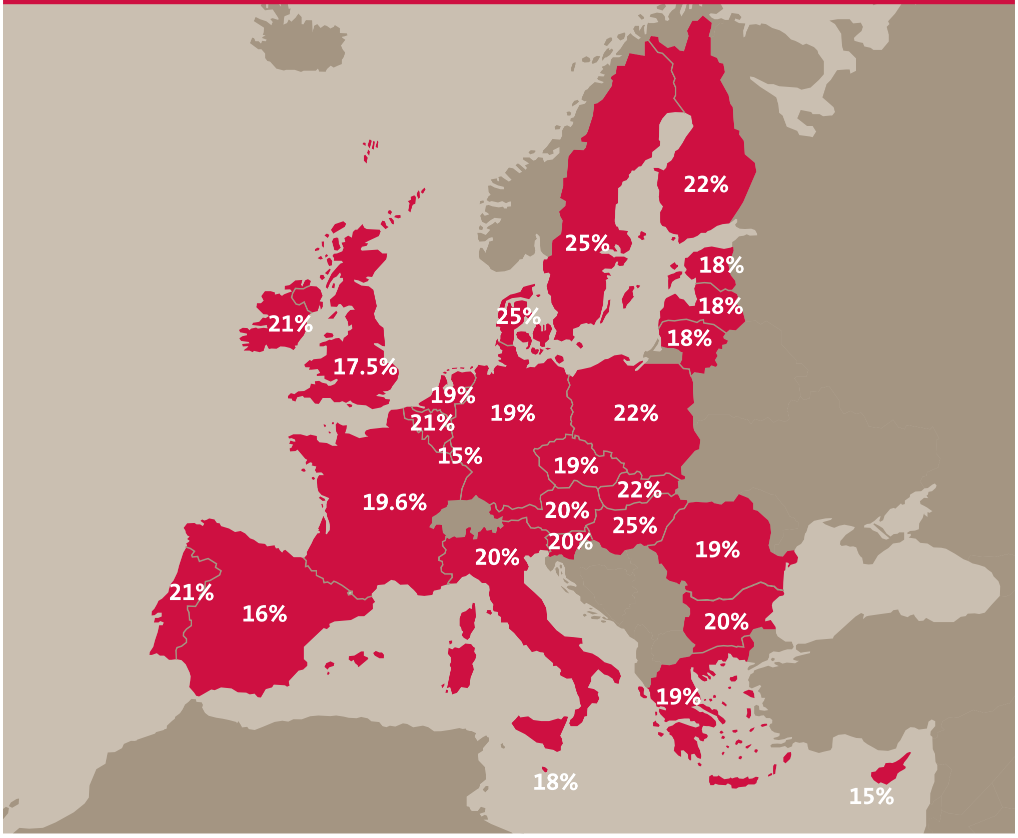
VAT REGISTRATION THRESHOLDS

A taxable supply in the EU does not always lead to a registration requirement as Member States have introduced registration thresholds or allow small businesses to exempt or partly exempt their supplies. Below we have indicated by country converted to euros the registration threshold by Member State as of 1 January 2008. Please note that this is merely a general overview and certainly in case we have added an * we suggest to contact your local LowendalMasaï representative to learn more about the specifics in such a Member State. In case two amounts are mentioned the first amount relates to supply of goods that can be carried out without registration and the second amount to the threshold for the supply of service. Also be aware that voluntary registrations are possible as a consequence of non-registration is, that input VAT is not recoverable.

AT	30,000*	DE	0	NL	0*
BE	5,580*	EL	10,000/5,000*	PL	14,000
BG	25,560	HU	20,000	PT	9,975
CY	15,400	IE	70,000/35,000*	RO	35,000
CZ	36,800	IT	0	SK	44,700
DK	6,700	LV	14,250	SL	25,000
EE	16,000	LT	29,000	ES	0
FI	8,500	LU	10,000	SE	0
FR	76,300 /27,000*	MT	35,000/23,300*	GB	92,000

VAT CHART



Colophon

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If you would like to receive the full text of any of the publications or Court cases mentioned, please do not hesitate to contact your local LowendalMasaï office.