



LowendalMasai

TAX COST SOURCING CASH

SEPTEMBER 2008
VAT News
BI-MONTHLY MAGAZINE

Did you know?

According to the report adopted by the European Parliament early September VAT fraud accounts for € 40 billion a year.

CHINA UPDATE

Unlike the European VAT system whereby companies can deduct the VAT on their investments and business expenditure, the Chinese system does not allow deduction of the VAT on investments. In 2004 the Chinese Administration started a trial in a remote part of China allowing the VAT deduction on investments in order to stimulate investments. Currently they are apparently reviewing plans to expand this reform nation-wide.

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Italy: VAT on travel expenses becomes deductible

Business travellers might have had the impression that travelling to Italy is so pleasurable in terms of sights and food that the Italian authorities never deemed that VAT on those expenses should be deductible.

In a move that aims at aligning Italy with the rest of Europe, the Italian Government passed a law that changes the rules of VAT on travel expenses. Starting from 1 September 2008, VAT charged by hotels and restaurants to employees and professionals collaborating with companies will be fully deductible. This amendment has strong consequences for companies both at fiscal and at organizational level.

As a result of the change in Italian legislation, both Italian based companies and non established entities can deduct or reclaim VAT on travel expenses. Italian taxable persons will have to modify their internal processes, mostly because all documents related to travel expenses have been, till September 2008, disregarded for accounting purposes and, subsequently, inform their staff to make sure to obtain the correct invoices while on business trips. For the non-Italian entities incurring VAT on their travel in Italy it means that considerable cost savings can be achieved.

Although no official guidelines have been issued so far by the tax authorities, it is advisable to already start asking for more detailed invoices. The invoice received by the employee should make it possible to identify the employee and the address details of the company.

Furthermore it will be necessary to connect the expense to a business reason or purpose and some documentation linking the two should be available.

The LowendalMasai Italia office is in close contact with the Italian administration to confirm the formal requirements and thus making sure that our clients can achieve the savings.

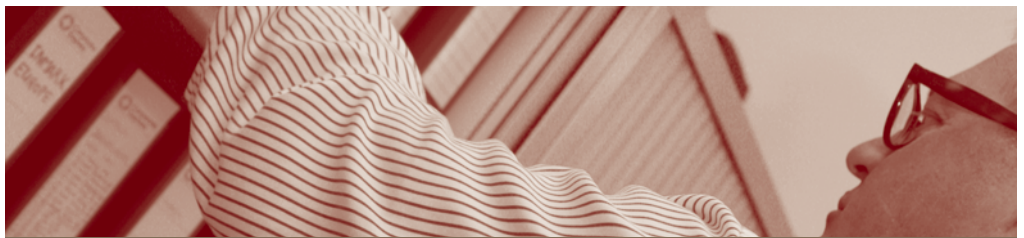
Many of us will have used the holiday season for reflection and, as well as the: 'what-shall-I-do-with-the-rest-of-my-life' question, the VAT-addicts will no doubt also have asked: Is VAT important? The standard answer is obvious. Yes. VAT is definitely important for the EU as it fulfills two major functions. Firstly it is a tool that can be used successfully to avoid distortion of the internal market. Secondly it provides the Commission with the funds to finance its activities. It is also warmly supported by the individual Member States as it has become one of their major sources of income.

But, now that most of us have recharged our batteries, I would like to draw your attention to the outcome of a recent survey a respectable big-4 company carried out among a large number of Tax Directors. Most of the Tax Directors expect governments to rely more on indirect taxation in the next five years, half of them rate errors in VAT compliance as their organization's biggest global tax risk and the top-3 issues are the complex VAT legislation, the compliance obligations and the treatment of penalties.

What is welcoming in the survey is that investment in training and raising employee awareness of VAT are seen as key elements in effective VAT management.

Yes, the importance of VAT in the day-to-day tax management of companies is increasing on a daily basis. For those of you struggling with the 'post-holiday blues' it is always good to know that you are appreciated.

Marc Huis



VAT RATE NEWS

Optimize cost-recovery for Research & Development activities

The VAT amount paid on research and development by fully taxable persons is obviously deductible as it relates to their taxable output.

Research and development activities are, however, also carried out by non-taxable entities, such as universities and publicly-funded research institutions, and for them the VAT paid amounts to an additional cost.

Within the EU there is a Framework Programme aimed at promoting research activities throughout the Community by offering entities engaged in research and development a financial contribution in the form of a total or partial reimbursement of the VAT paid on eligible costs. It should, however, be noted that as the VAT paid by the researcher is not deemed an eligible cost this is never compensated by means of a subsidy or grant.

LowendalMasai's R&D experts are already enabling entities involved in research and development activities to reduce their costs significantly by identifying and obtaining the available tax credits, grants and subsidies.

With a careful VAT structuring of research and development activities research bodies that qualify for relief can recover more of the VAT they have paid on R&D expenditure and thus reduce the amount of their own resources that has to be used for R&D activities.

Recovering overpaid and under-claimed VAT in the UK

In 1996/97 the UK suddenly introduced a three-year restriction which effectively banned companies from recovering overpaid and/or under-claimed VAT beyond a three year period (the cap).

This decision has been challenged in the EU Courts and the UK Administration has been ordered to allow taxpayers a reasonable time to exercise their rights. After the latest cases (Fleming vs. HMRC and Conde Nast Publications vs. HMRC) the authorities have announced a transitional period until March 31st 2009 to allow taxpayers to submit an uncapped claim for overpaid and/or under-claimed VAT in the period before the cap was introduced. It is no longer necessary to explain why there has been a delay in taking appropriate action or to specify the date on which the error was discovered. Theoretically a claim could date back to April 1st 1973 when VAT was introduced. Obviously any claims must be supported by documentary evidence which will be verified by HMRC.

Bearing in mind the fact that interest will be due even small claims can lead to considerable repayments.

On July 1st 2008 the **Portuguese Administration** reduced the standard VAT rate from 21% to 20%. At the same time the standard VAT rate applicable in Madeira (an autonomous region of Portugal) was reduced from 15% to 14%.

Last month the **Dutch Government** announced that the envisaged standard VAT rate increase from 19% to 20% due to come into effect on January 1st 2009 will not take place. The main reason for withdrawing the rate increase is the fear that the additional tax will have a too negative effect on the Dutch economy.

In August the **Estonian Government** announced that it is seriously considering increasing its reduced rate from 5% to 9% and its standard rate from 18% to 19%.

The **Swiss Government** has published its plans to reduce its standard rate from 7.6% to 6.1% and, at the same time, abolish the various lower rates currently applicable.

Mismatch in cross-border movement of goods

In 1993 the physical controls related to the flow of goods between Member States were replaced by an administrative system whereby taxable persons sending goods to another Member State report this on their local VAT return as an intracommunity dispatch and taxable persons receiving these goods report them as an intracommunity arrival. Although, in theory, there should not be any (or hardly any) mismatch as the rules regarding dispatch and arrival are harmonised, in practice there is a considerable mismatch. The latest numbers available report that in 2007 dispatches were € 77 billion higher than arrivals. This represents 3% of the total flow of intracommunity goods. The European Commission has commissioned a further investigation to analyse the gap.

Authorised Economic Operator (AEO)

AEO is part of the European Commission's Customs Security Programme (Taxud) introduced in 2003 to counter terrorism threats. It is a programme whereby a producing or shipping company can, on a voluntary basis, obtain the status of a 'secure trading partner', which will provide certain advantages by speeding-up the process of customs clearance and the transport of goods to and from custom-areas. To obtain this status a company must meet quality criteria, such as a good reputation, an auditable administration, solvency and the implementation of appropriate security measurements. The advantages of being certified are for instance that your company will be subject to less physical inspection and document check, receives priority treatment if consignments are selected for controls, can have these controls carried out at a certain place.

In 2007, dispatches were € 77 billion higher than arrivals.

The advantage of being a 'secure trading partner'.



Public consultation on invoicing legislation

The European Commission has launched an online consultation in order to obtain feedback from businesses regarding improvements to the existing invoicing rules. Although the invoicing rules were harmonised in 2004, there are still many local exceptions and specific rules that hinder day-to-day business. Comments are welcome until September 19th.

Incorrectly filed refund claims can lead to additional penalties.

REFUND NEWS

UNITED KINGDOM

New penalty regime

In our last newsletter we informed you that the UK Administration is introducing a new system of penalties for errors in VAT returns. The level of the penalty to be paid will be determined by the reason why a mistake is made. In general, if the reason is carelessness on the part of the taxable person the penalty can amount to 30%. If the taxable person makes a deliberate mistake the penalty can amount to 70% with a minimum of 20%. If the mistake is deliberate and is concealed the penalty will be between 30% and 100% of the VAT amount that has been over claimed.

These penalties will apply to all 13th Directive claims lodged from July 1st 2008 onwards and all 8th Directive claims lodged from January 1st 2009 onwards.

REFUND NEWS

ITALY

Refund procedures or local registration

In an action brought by the Commission against Italy (**Case C-244/08**), the ECJ has been asked to give a judgment on the existing practice in Italy whereby non-established traders who have a permanent establishment in Italy from which taxable activities are carried out are still required to submit refund claims (8th and 13th Directive) even though they should be able to file local VAT returns and recover any in/out VAT using the local VAT return.

COUNTRY NEWS

BELGIUM

The Belgian Administration has reduced the document storage period from ten to seven years. This means that all relevant information regarding the financial year must be stored for seven years from January 1st of the year following this financial year.

The document storage periods generally applicable in the different member States are shown in the table on page 6.



COUNTRY NEWS

DENMARK

As of January 1st 2009 Denmark will introduce a general reverse charge for all services purchased from traders not established in Denmark.

COUNTRY NEWS

HUNGARY

The Hungarian Administration has simplified the invoice requirement. VAT invoices relating to the supply of goods no longer need to include the customs tariff code (VTSZ number). Invoices relating to services that have been provided no longer need to include the service code (SZJ number).

EUROPEAN COURT OF JUSTICE

The European Court of Justice enjoyed a judicial vacation from July 14th to August 31st. Hence fewer interesting cases.

Case C484/06 Koninklijke Ahold NV ◦ This case concerned the rules for rounding off VAT amounts, (rounding off the VAT amount on every single article bought in the supermarket or rounding off the final VAT amount payable). The outcome is that there are no specific rules regarding allowing a Member State to round the VAT amount down per item.

Case C25/07 Alicja Sosnowska ◦ The Court ruled that under EU VAT Law there is no legal basis for allowing the Polish Administration to extend the period for refunding the VAT due to the taxable person from 60 days to 180 days unless the Polish Administration is provided with an additional financial guarantee.

Did you know?

The average global indirect tax rate is currently 15.7% with an EU average of 19.5%.

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STORAGE REQUIREMENTS

Member States are free to determine the period during which purchase and (duplicate) sales invoices must be stored. In the table below we have indicated the storage period stipulated in the respective VAT legislation of Member States calculated from the end of the year in which the invoice was received/issued.

Please note that there are some exceptions for invoices relating to immovable property.

MEMBER STATE	YEARS	MEMBER STATE	YEARS
Austria	7	Latvia	5
Belgium	7	Lithuania	10
Bulgaria	5	Luxembourg	10
Cyprus	7	Malta	6
Czech Republic	10	Netherlands	7
Denmark	5	Poland	5
Estonia	7	Portugal	10
Finland	6	Romania	5
France	6	Slovakia	10
Germany	10	Slovenia	10
Greece	6	Spain	4
Hungary	5	Sweden	7
Ireland	6	United Kingdom	6
Italy	5		

VAT CHART

