



# LowendalMasai

TAX COST SOURCING CASH

FEBRUARY 2009  
**VAT News**  
BI-MONTHLY MAGAZINE

## LATEST VAT RATE NEWS

The VAT rate on food in Finland has been reduced from 17% to 12%.

## CONTENTS

- Country news **2**
- VAT rate change **3**
- New VAT returns
- News from the EU Commission
- Overview of VAT rates **4**
- European Court of Justice
- VAT chart + addresses **5**

## EDITORIAL

'VAT Compliance' and 'VAT Control Framework' are the current buzz-words among company VAT specialists. The first things that spring to mind are ensuring VAT cash-flow is managed properly, the correct output VAT is reported in the correct jurisdiction and the input VAT is recovered from the correct country within the time limit. But the VAT compliance requirements are, in fact, more far-reaching and their impact is increasing constantly. Although the measurable costs, such as the time spent on staff and advisory services, are important for VAT managers the hidden

Continue on page 2



## New Place of Supply rules require major changes to ERP-systems

The new Place of Supply rules for services between businesses will come into force in less than eleven months.

As of January 1st 2010 most cross-border B to B services will be subject to the reverse charge rules, which will change the need to use the VAT refund scheme. There will still be exceptions to the main rule and local VAT will still apply for some services, such as those connected with immovable property (real estate), passenger transport, cultural and educational events, and hotel and restaurant services.

The new rules will be accompanied by additional legal reporting requirements, services need to be listed in a separate return which must include detailed client information.

LowendalMasai has been engaged by a number of companies to prepare for the change. The projects involve mapping the various flows, analyzing the impact from a technical, contractual and financial point of view and making sure the ERP and invoicing systems are updated and the necessary changes implemented so the company will comply with the new requirements.

The most common problems we have met are the timing issues and the availability of IT departments to make the required system changes in the tax calculation and reporting modules.

Continued from page 1

costs, such as management time and potential exposures are, in fact, far more important and can have a severe financial impact.

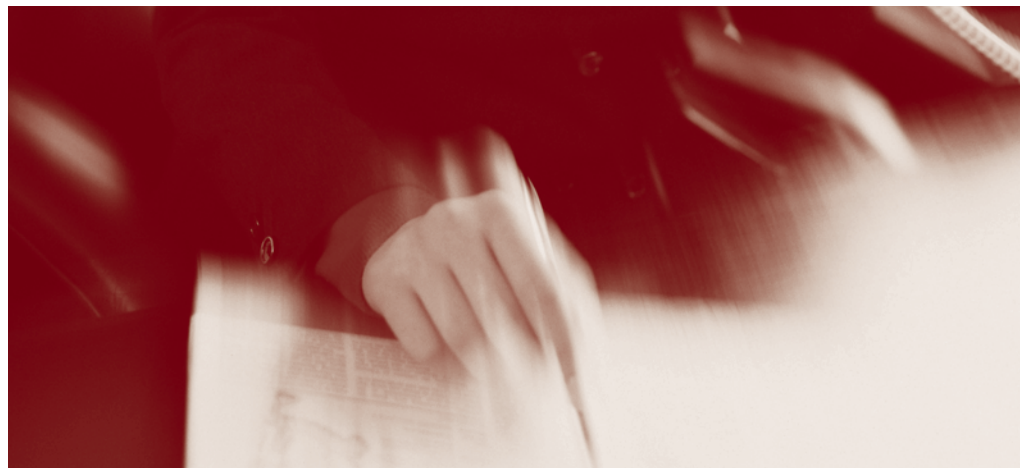
Knowing the VAT rules is only part of the solution – the easy part. The difficult part is making sure the new rules are implemented in all the various systems within a company. From January 1st 2010 the newly-adopted EU changes will require companies to file European Sales Lists for the services they provide to their business customers in other countries. This will have a major impact on IT-systems, especially as the new Place of Supply rules for B2B service will come into force on the same date.

A similar operation took place seventeen years ago when the internal market started and companies were required to set up systems to list the goods they supplied to other Member States. As this was an alternative to time consuming physical checks by Customs there were clear advantages for businesses. This time, however, it is the increasing fear of fraud by Member States that is behind this extra administrative burden. To make matters worse the listing will be required on a monthly basis and Member States have already started reshaping their penalty systems for when a listing is filed late or incorrectly.

The VAT landscape is constantly changing. We have to make sure we stay in control.

Yes we can....

Marc Huis



#### COUNTRY NEWS

#### BELGIUM

In their fight against fraud, in situations where VAT underpayment was the result of fraud, the Belgian administration has increased the book and documentation assessment and retention period to seven years.

#### COUNTRY NEWS

#### IRELAND

The Irish administration has announced that companies that have to report less than € 3,000 a year need only file a VAT return once every six months. Companies that report between € 3,000 and € 14,400 must file a VAT return every four months.

From January 1st onwards 20% of the VAT on the cost of all newly registered company cars is deductible, provided at least 60% of the car usage is for business purposes and provided the CO<sub>2</sub> emissions are less than 156 gram.

#### COUNTRY NEWS

#### LATVIA

The standard VAT rate has been increased from 18% to 21% and the reduced VAT rate has been increased from 5% to 10%. The range of goods qualifying for the reduced rate is restricted to pharmaceuticals, medical equipment, certain products for infants, domestic public transport services and the supply of thermal energy, electricity and natural gas to newspapers, journals, bulletins and other periodicals will be subject to the reduced rate just for 2009.

#### COUNTRY NEWS

#### DENMARK

A mandatory reverse charge applies for all taxable supplies where the place of supply is Denmark, the supplier is a non Danish entity and the customer is a taxable person (both Danish and non-established Danish traders).

#### COUNTRY NEWS

#### SLOVAK REPUBLIC

The Slovak Republic introduced the euro as of January 1st 2009. This has led to the euro threshold being reduced to € 35,000.



#### COUNTRY NEWS

#### POLAND

The Polish Administration has extended the list of services that may be deemed intangible services and thus eligible for the reverse charge. The Polish VAT Act has now been brought in-line with article 56 of Directive 112/2006/EC.

#### VAT RATE CHANGE

#### LITHUANIA

The standard VAT rate has been increased from 18% to 21% and the reduced rate of 5% has been abolished. An interim (reduced) VAT rate of 9% has been introduced for a limited number of services and goods.

#### VAT RATE CHANGE

#### ESTONIA

The reduced rate was increased to 9% and, at the same time, the range of goods and services eligible for the reduced rate has been decreased.

#### NEW VAT RETURNS

The Czech Republic, Romania, Denmark, Hungary, Poland, Italy and Spain have all made changes to their VAT return forms for the period starting January 1st 2009.

#### NEWS FROM THE EU COMMISSION

### Anti-fraud measures

On December 16th the Member States adopted the Commission's anti-fraud proposals aimed at making the exchange and collection of information regarding cross-border supplies of goods and services faster and more efficient.

From January 1st 2010 European Sales Lists will, in principle, have to be filed monthly instead of quarterly.

Member States may allow quarterly filing if the cross-border supply of goods does not exceed € 50,000 per quarter. During 2010 and 2011 the threshold for allowing companies to submit quarterly instead of monthly sales lists may be increased from € 50,000 to € 100,000 per quarter.

Member States may allow ESLs for the supply of services to be files quarterly.

*Tax fraud accounts for approximately 2 to 2.5% of GDP (€ 200 to € 250 billion).*

*Mandatory listing for EU cross-border services.*

## Invoicing news

On January 28th 2009 the European Commission adopted a proposal to change the VAT Directive in respect of the invoicing rules and published a Communication on technological developments in the field of electronic invoicing. Unfortunately, the aims of invoicing directive (2001/115) – the simplification, modernisation and harmonisation of the rules related to VAT invoices – have not been met in full. The options available to Member States create difficulties and an administrative burden for businesses that operate outside their jurisdiction. The development of e-invoicing in particular is hindered by the lack of harmonisation. In this new proposal the possibility of issuing electronic invoices remains in place. The requirement for a customer to accept electronic invoices has not changed. The requirements to guarantee the authenticity of origin and integrity of content have disappeared. The European Commission proposes treating electronic invoices in the same way as paper invoices. Some other suggested changes are that summary invoices are acceptable throughout the EU and need to be issued at least once a month with Member States no longer being able to impose any other specific conditions in this respect. Under the proposal an invoice must be issued no later than the 15th of the month following the month in which the VAT is due. What is also important is that the proposal clarifies that the invoice must comply with the rules of the Member State that issued the VAT number used by the supplier. As far as reverse charge services are concerned, the invoicing rules of the Member State that issued the VAT number to the customer determines which requirements are applicable.

## Better cooperation between tax authorities

On February 2nd the European Commission adopted two proposals for new Directives aimed at increasing tax administrations' ability to combat fraud by improving mutual assistance and cooperation. Commission document 2009/29 focuses on the recovery of taxes. In addition to simplifying and rationalising the procedures the new directive also introduces a compulsory spontaneous exchange of information regarding refunded taxes, thus allowing tax officials to participate actively in administrative enquiries in other countries.

*Currently only 5% of requests for assistance are followed up.*

### OVERVIEW OF VAT RATES

The Commission has published a report (DOC/2401/2009 – EN ) listing the VAT rates applicable as of January 1st 2009.

### EUROPEAN COURT OF JUSTICE

#### **Case C-414/07 (Magoora sp. zoo v. Dyrektor Izby Skarbowej w Krakowie)**

- o dealt with the deduction on fuel for vehicles used for taxable activities.

The issue at hand was the application of the so-called stand-still clause which authorises Member States to retain the legislation regarding input tax regulations they had in place when they joined the EU. Member States are not allowed to extend the exclusion that was in place.

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**Case C-174/07 European Commission v. Italian Republic** ○ dealt with the amnesty the Italian government allowed if taxable persons paid a fixed sum to regularise unpaid taxes. It came as no surprise when the Court confirmed that an amnesty was incompatible with the regulations.

**Case C-488/07 (Royal Bank of Scotland Group Plc)** ○ The ECJ decided that agreement on a pro-rata rate calculation method is at the Member States' discretion. In the case at hand RBS wanted to take advantage of the possibility to round up more than once.

**Case C-407/07 (Stichting Centraal Begeleidingsorgaan)** ○ This case dealt with the question of whether or not the cost-sharing exemption of article 13A-1-f, whereby the cost-sharing between members who use the costs for their exempt services, may also be applicable even if only one member receives the costs. The ECJ confirmed that in such a case the exemption is applicable.

**C-371/07 (Danfoss AS/Astra Zeneca AS)** ○ The ECJ ruled that if meals are provided to business contacts free of charge during a meeting the VAT remains deductible or does not need to be corrected. If meals are provided there is no VAT restriction if providing staff meals, there has to be a business reason.

## VAT CHART

