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INTERNATIONAL TAX UPDATE

Amendments to the EU VAT System

This bulletin summarizes important changes to the EU Value Added Tax (VAT) system. The newly adopted measures will have a significant impact on all industries doing business in or with the EU.

The package of amendments to the VAT system adopted by the European Council on February 12, 2008, will be effective on January 1, 2010. The package of measures (known as the "VAT package") is aimed at simplifying VAT arrangements for businesses and consists of:

- New place-of-supply rules for services
- Special rules for telecommunications, broadcasting and electronically supplied services
- New VAT refund system for EU-based taxpayers

The newly adopted measures will ensure that VAT on services will accrue to the country of consumption, establish a new and quicker procedure for claiming VAT refunds and establish special arrangements for providers of telecommunications, broadcasting and electronically supplied services. Finally, the VAT package also enforces the exchange of information between Member States, which is necessary to underpin the new arrangements.

Following is an overview of the most important changes.

PLACE-OF-SUPPLY RULES FOR SERVICES

Beginning January 1, 2010, the newly adopted rules on the place of supply of services will mean that as a general rule business-to-business (B2B) supplies of services will be taxed where the customer is situated, rather than where the supplier is located. Together with this new general rule for B2B supplies comes the extension of the reverse charge mechanism and the introduction of the obligation to file a recapitulative statement in respect of reverse-charged services.

For business-to-consumer (B2C) supplies of services, the place of taxation will continue to be where the supplier is established.

However, in certain circumstances, neither the general rule for B2B nor that for B2C supplies will be applicable and specific rules will apply to reflect the principle of taxation at the place of consumption. These exceptions concern services connected with immovable property; restaurant and catering services; passenger transport; the hiring of means of transport; cultural, sporting, scientific and educational services; and telecommunications, broadcasting and electronic services supplied to consumers.



TELECOMMUNICATIONS, BROADCASTING AND ELECTRONIC SERVICES

With regard to telecommunications, broadcasting and electronic services, the new place-of-supply rules will be delayed until January 1, 2015. From that date, telecommunications, broadcasting and electronic services will be subject to VAT at the place where the non-taxable consumer is established. This means that service providers in the fields of telecommunications, broadcasting and electronically supplied services will be obliged to charge VAT in accordance with the rules and rate of the EU country of destination (*i.e.*, the country of consumption).

The introduction of the new place-of-supply rules for services rendered at a distance is accompanied by an extension of the one-stop-shop arrangement. In this way, the provider can register for VAT through a Single Point of Registration (SOR) in the European Union and the VAT due can be reported through a single European VAT return.

VAT REFUND

The refund procedure for taxable persons established in another Member State (the current Eighth Directive) will become an electronic procedure. Refund applications will be addressed to the Member State of refund through an electronic portal set up by the Member State in which the applicant is established. The applicant must indicate on the refund application its rate of deduction (the pro rata) and the items on the application must be coded from 1 to 10 for the purpose of any restrictions on the right to deduct input tax. The Member State of refund must notify the applicant of its decision within four months of the date of receipt of the application and, where the application is approved, the VAT must be repaid within 10 working days after the notification deadline passes.

The refund procedure for taxable persons established outside the European Union (the current Thirteenth Directive) remains unchanged, however.

FOR MORE INFORMATION

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