

# NEWSLETTER I/2014



The Tax Representative Alliance (TRA) is an Alliance of specialized VAT consulting firms from all over Europe. TRA was founded some months ago and has member firms in 19 European countries.

## New TRA members in Denmark, Belgium, the UK and Austria

In the last quarter of 2013 new firms from four different countries have joined our Alliance. GTS Nordic ApS is TRA's brand new member representing Denmark. This firm has been providing customized compliance services and advice to foreign companies and contractors doing business in Denmark since 1999. GTS Nordic ApS provides VAT Representation, Employment Services and Back Office Services. The firm has a long term relationship with leading Danish and international law and accounting firms and banks.

Deny Cargo BVBA is another brand new TRA member, representing Belgium. This firm has been a freight forwarder (air - sea - road), logistics service provider (7000 sq meters free and bounded warehouses) and customs broker since 1988. The firm provides full VAT compliance and advice with a wide range of experience and offers a tailor made service, handling the supply chain of its clients from A to Z.

New UK member, Archer Wise, has been established since July 2005 and has expertise in advising both companies and individuals on their compliance with respect to the UK tax authorities. In addition to compliance work, the firm has a strong client base that requires specialist tax planning services. It is focussed in domestic and international businesses (subsidiary company, non-resident company etc.). Their scope covers all areas of taxation, including international taxation reliefs, allowances, treaties and planning.

Treuhand - und Revisionsgesellschaft m.b.H. was established in 1953 and is located in Vienna. In 1973, Heinz Manfreda became CEO and in 1991 his son, Roland Manfreda, joined the company. They and their staff provide a wide range of tax consulting services, e.g. accounting, payroll services, tax advisory, VAT representation, compilation of annual financial statements, and they also offer professional business consultancy, management and auditing. The clients of Treuhand - und Revisionsgesellschaft m.b.H. are mainly small and medium sized companies in various industries.

Learn more about: GTS Nordic <http://www.gtsnordic.com> //Deny Cargo BVBA <http://www.denycargo.be> //Archer Wise <http://www.archerwise.com> //Treuhand und Revision GmbH <http://www.manfreda.at/>

## TRA's representative in Poland, Boguslaw Kedzior, has participated in the Brussels Tax Forum 2013

The Brussels Tax Forum 2013 was held on 18<sup>th</sup> November 2013. The Forum, hosted by the EU Commissioner Algirdas Šemeta, responsible for Taxation, Customs, Statistics, Audit and Anti-Fraud, has brought together policy makers, experts, stakeholders and the general public from all over the world to discuss tax issues of political and general interest. The topic chosen for this year was 'An efficient VAT system'.



Boguslaw Kedzior, Partner at Intertax Audit Sp. z o.o, TRA's representative firm in Poland, was granted the privilege to attend this Forum, which was aimed at the simplification and modification of the EU VAT bureaucracy into a more harmonized and burdenless VAT system.

Poland has introduced, with effect from 2014, significant amendments to their VAT Act. The most revolutionary one has been the change of the provision regarding the arising of the tax accrual, which has been changed for the first time in twenty years. Until the end of December 2013, the general rule on tax accruals was linked to the issuance of an invoice.

Since 2014, as a general rule, a tax accrual shall arise at the moment of supplying the services or goods, and shall no longer be connected to the issuance of an invoice, and also for services or goods partially provided, for which payment was specified. For services/goods provided continuously for a period of longer than one year, without terms of payment or settlement, the accrual takes place at the end of each fiscal year, until the services are fully provided.

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## **FRANCE: VAT rate increase except for cinema and performance tickets**

From 1<sup>st</sup> January 2014, VAT rates in France are being modified in accordance with article 68 of the 3rd amending Finance Law for 2012.

The standard rate applicable for most services and goods rises from 19,6% to 20%.

The intermediate rate related to catering, sales of prepared food products, transport, and renovation works for old buildings, rises from 7% to 10%.

The VAT rate applicable in Corsica rises from 8% to 10%.

Initially, this amended finance law also planned the reduction of the 5.5% rate to 5% but this measure has recently been rejected during a vote on its first reading at the French Parliament.

On the other hand, the VAT rate applicable to entrance tickets in cinemas, as well as for live shows (theatre, concert, circus), has decreased from 7% to 5.5% (and 2.1% in Corsica).



## **Standard VAT Return - EU Commission proposal for a harmonized European VAT environment**

The European Commission, at the end of October 2013, has published a proposal for a Council Directive to amend Directive 2006/112/EC, in order to harmonize the information companies declare in the VAT tax forms of the different member States. The target is to reduce burdens and restrictions to the cross-border trade transactions.

The standard VAT declaration is being developed by a high-level group, in place until October 2014, which advises the Commission on reducing administrative burdens linked to EU legislation. It focuses on SMEs and micro enterprises, as well as on how to make Member State public administrations more efficient and responsive to the needs of stakeholders when implementing EU legislation. This solution can be particularly useful for e-commerce and distance sales, in which the customer is a private individual and the supplier needs to register, declare and pay the VAT in the Member State of the customer. These obligations can create obstacles to cross-border trade and a standard VAT return can reduce those obstacles. The exchange of timely information between Member States is a key element in reducing fraud and improving compliance and a standard VAT return can also help in this regard.

This solution has been the most demanded in the different consultations submitted to the businesses and Member States.

The idea behind a standard VAT declaration is to allow all businesses to provide standardised information to each Member State submitted in a common, preferably electronic, format. In this way a business submitting a VAT return in one Member State can easily complete and submit a VAT return in another Member State because the information and submission is standardised. The standard VAT declaration should be available to all businesses, because to limit it to certain categories of businesses would only serve to reduce its scope, increase complexities and thereby increase burdens.

Equally, to lower costs and complexities for Member States, only one VAT return should be offered at EU level, the standard VAT declaration. The proposal lists a maximum number of twenty six boxes of information to be completed by businesses, for which Member States may choose to exempt businesses from all but five. Additionally, Member States may require extra information for the control and administration of VAT for specific regions, territories, or special regimes allowed exceptionally in VAT legislation. Only in these duly justified cases may Member States require businesses to provide more than the twenty six standard boxes of information. For the submission, the proposal provides for a minimum standard.

All businesses should be allowed to submit monthly VAT returns, with VAT being due and paid by the end of the month following the VAT return period. Beyond that, Member States may introduce further burden reductions to allow for longer VAT return periods of up to one year and to extend the due date for submission and payment by up to a further month. This should ensure that no business is required to file more frequent VAT returns nor submit or pay the VAT due within a reduced deadline.

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The proposal also encourages electronic filing. Businesses should have the right to submit in all Member States the standard VAT return electronically, including by electronic file transfer, using advanced electronic signatures interoperable throughout the EU or other technologies offering a similar level of security. The payment terms would also be subject to harmonization.

The total value of intra-Community supplies of goods and of intra-Community acquisitions of goods can be established on the basis of the EU sales lists and thus should not be included in the standard VAT return. However, a transitional period is necessary to adjust national statistical systems. To reduce burdens on business and to exclude information needed for statistical, and not VAT purposes, the additional information requirements should be standardised and kept to a minimum.

A schedule of actions to be assumed by the Commission to provide general assistance to the Member States has also been published.



## VAT - A matter of priority for the EU Commission

In the opinion of Donato Raponi, the representative of the European Commission at Brussels Tax Forum 2013, issues relating to VAT are among the priorities of the EU Commission.

A particular issue is the reduction of the administrative costs, including those related to VAT compliance. As we all know, the obligations related to VAT are different across the EU. The main goal of the European Commission is the maximum standardization in all European countries. In the first place, the Commission proposed Standard VAT returns.

Subsequently the next step is the standardization of invoicing. The aim is to improve the functioning of the common EU market and to eliminate distortions of the competition. Also the proposals are a reaction to changes in the functioning of enterprises that have occurred in recent years, especially those related to the new technologies.

A group of experts was appointed by the European Commission five years ago to discuss with the "business community", the issues related to VAT in the EU and actions to be taken in the future. Entrepreneurs are concerned that they would have to bear the costs connected with the fight against tax fraud and, in their opinion, it is not like it should be.

How then should the relationship between taxpayers and tax administrations be modernized? These and other matters were the basic discussion points in the Brussels Tax Forum 2013.

## THE NETHERLANDS: Electronic filing required for VAT returns/EC sales lists

Foreign entrepreneurs who are subject to value added tax (VAT), but are not 'established' (actual presence/substance) in the Netherlands, are obliged to file their VAT returns/EC sales lists electronically (and no longer on paper forms) as from 1<sup>st</sup> January 2014.

The Dutch tax administration will provide these VAT entrepreneurs with a user name and password for an internet portal that is to be used for the VAT return/EC sales list filings. The deadlines for filing and payment will not change.

Unfortunately, the internet portal has very limited functionalities for uploading relevant information. Due to these limits, the Dutch tax administration may ask questions more frequently.

Foreign entrepreneurs who are in a 'significant' VAT refundable position may enter into certain agreements with the Dutch tax administration to avoid the delay of refunds. In addition, the internet portal is only able to accept EC sales lists with a maximum number of 99 different EU VAT identification numbers.



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## Latvia: As from 1<sup>st</sup> January 2014 is within the European Monetary Union



Latvia replaced its previous currency, the lats (LVL) with the euro (EUR) on 1 January 2014. This is a major achievement for Latvia and for the euro area as a whole. Latvia enters the euro zone as the single currency bloc marks its 15th anniversary. Estonia joined the euro zone in 2011, and Lithuania aims to do so in 2015.

As of 1<sup>st</sup> January 2014, the Bank of Latvia will change unlimited amounts of lats into euros at the official conversion rate 1 EUR = 0.702804 LVL for an unlimited period of time and free of charge. Commercial banks will provide unlimited cash exchange services free of charge until 30 June 2014 and post offices until 31 March 2014.

Latvia, which becomes the fourth smallest economy in the euro zone after Malta, Estonia and Cyprus, expects the euro to lower its borrowing costs and encourage investors by eliminating currency risk. Latvia will be able to borrow more cheaply on international markets, and businesses hope that this will bring down the high interest rates charged by banks for business loans. The euro brings stability and certainty, definitely attracting investment, and the result will be new jobs, new taxes and so on. A lot of citizens see wider economic benefits of Latvia joining the euro area, because smaller countries can see a lift from euro membership as businesses profit from executing transactions in a single currency. In particular, Latvian businesses expect borrowing costs to fall and investment to increase. It will be easier for the exporting business, and easier for those companies that focus on the European Union market.

For Latvia, it is the result of impressive efforts and the unwavering determination of the authorities and the Latvian people. Thanks to these efforts, undertaken in the aftermath of a deep economic crisis, Latvia entered the euro area stronger than ever, sending an encouraging message to other countries undergoing a difficult economic adjustment. Rating agencies raised the country's credit rating by one notch. Latvia's government now predicts that once the country adopts the euro in 2014 its rating should go up still further, to an "A" category.

*The coin shows either the European Union before its enlargement on 1<sup>st</sup> May 2004, or, as of 1<sup>st</sup> January 2007, a geographical image of Europe; it also features the numeral 1 and the inscription EURO. The reverse of the coin features the portrait of a Latvian folk-maid in profile, originally depicted on the reverse of the 5 lats silver coin in 1929. It is semi-encircled by the inscriptions LATVIJAS on the left and REPUBLIKA on the right. The coin's outer ring bears the 12 stars of the European Union. Throughout a turbulent 20th century of foreign occupation, Latvia experienced six different currencies: from reichsmark to rouble. The euro will be the seventh. Yearning for stability and predictability, most Latvians hope this currency will also be the last.*

### VAT treatment of long term hiring of means of transport

As from 1<sup>st</sup> January 2013, a change was brought to the VAT Legislation regarding long-term hiring of means of transport to non-taxable persons, whereby VAT would be charged where the non-taxable person was established, had a permanent address or usually resided.

However, in the case of hiring a pleasure boat to a non-taxable person, VAT would be charged where the pleasure boat is actually put at the disposal of the customer, where this service is actually provided by the supplier from his place of business or a fixed establishment situated in that place.

It is very important that one is able to identify when input tax can be claimed. No amount of VAT can be treated as input tax unless it is proven that tax was chargeable on goods and services which have been or which will be used by a person in the course of furtherance of his/her economic activity.

In this regard, subject to the above paragraph, VAT paid on the hire or leasing arrangements of motor vehicles, vessels or aircrafts will not be treated as input tax if the lease of a particular means of transport is not used for the purpose of the economic activity of the business.

## The Netherlands - General License required for Fiscal Representation on imports related to subsequent distance sales and new securities policy

On 25<sup>th</sup> December 2013, an updated decree of the Dutch State Secretary of Finance on fiscal representation (for Dutch VAT purposes) came into force. It is not allowed for foreign entrepreneurs to appoint a fiscal representative with a limited license in the Netherlands ('LFR') for the importation of goods, if these goods are subsequently sold to private individuals (or legal entities without VAT identification numbers) elsewhere in the European Union ('EU') under the so-called distance sales regulation. In order to benefit from the VAT deferral facility at importation (article 23 license), foreign entrepreneurs, in such a case, have to appoint a fiscal representative with a general license in the Netherlands ('GFR'), instead of an LFR. As a result, especially logistics service providers will have to reconsider their current LFR portfolio in the upcoming period for the necessary changes to take effect (formal switch from LFR to GFR).

In relation to these and other transactions, in order to ensure uniformity, further general guidelines with reference to the determination of the security (bank guarantee or cash deposit) to be provided have been published. Under the 'old' policy, the various tax offices wielded their own standards regarding the level of security to be provided for. Under the 'new' rules, the amounts are standardized. In principal, the security amounts to 5 per cent of the VAT due over a (monthly or quarterly) filing period on an average, with a minimum of EUR 5,000. In addition, for bulk goods, semi-manufactured products and means of production, the maximum security amounts to EUR 100,000. For finished products (i.e. consumer goods), a maximum security of EUR 500,000 is introduced. In situations where an increased risk of fraud is present (e.g. highly sensitive goods), the Dutch tax administration may ask for a higher amount of security to be provided.

Existing securities may be checked against the new standards. If, based on these new standards, a lower level of security is required, the fiscal representative may request the Dutch tax administration to re-adjust and to release the surplus. As a benefit, the risk towards the past can in such a case be mitigated as well.



## GERMANY: New regulations for the certification of zero-rated intra-community deliveries coming into effect on 1<sup>st</sup> Oct 2013

In the case of zero-rated intra-community deliveries within the EU, the consignor has to certify that he or the consignee has shipped the goods from his country into another EU country. This certification has to include a copy of the invoice and an entry certificate or an approved alternative document.

The invoice for a zero-rated delivery has to include an annotation that highlights the tax-free character of the delivery. This annotation should be exact. At a recent case, the Federal Tax Court has found the term "VAT @ zero for export" not to be sufficient. The entry certificate is a confirmation from the consignee to the consignor that the goods have physically arrived at the consignee's country.

It is also possible for a representative of the consignee to sign the entry certificate if he has the power of attorney. If the entry certificate is transmitted electronically, a signature is not necessary. However, it must be evident that the transmission has started in the area of the consignee. It is compulsory for entry certificates to be conserved along with the invoices for 10 years.

The entry certificate can be issued as a collective certificate incorporating the turnover of up to one quarter. It is sufficient if the entry certificate refers to the invoice numbers of the quarter in question. From 1<sup>st</sup> October 2013, it is no longer necessary to state the exact day the goods have arrived. The month of arrival is enough. However, other documents can also be used as proof of entry: Dispatching document, certificate of the forwarding company, in-advance certificate of the forwarding company, tracking and tracing protocol of a courier plus written or electronic order, postal receipt plus proof of payment.

## TAX NEWS

### VAT treatment of electronically supplied services

When determining where VAT is charged on a particular transaction involving electronically supplied services, one has to keep in mind whether the person supplying the service and the person receiving such a service are established within a European member state or in a third country.

If an EU taxable person is offering the service to an EU non-taxable person, VAT will be charged where the supplier of the service is established.

On the other hand, if an EU service provider provides the service to a Non-EU customer, VAT will be chargeable where the customer is established i.e. outside EU territory.

Likewise, if a supplier who is established in a third country i.e. outside EU territory, is providing electronic services to a customer who is established in an EU member state, the transaction will be taxable where the customer is established.

As from 1<sup>st</sup> January 2015, there will be a change in the way VAT will be charged. This change affects only those transactions which take place between an EU established supplier and an EU established non-taxable customer. The latter transaction will be taxable where the EU customer is established. In this way, there will be a level playing field for all businesses in the sectors concerned, regardless of their size or corporate structure. In order to ensure simple compliance with the new rules, the suppliers of these services will be able to comply with their VAT obligations in the whole of the EU by submitting a single VAT return in the Member State in which they are identified. For the end customer, the VAT rate will be the same regardless of where his supplier is established.

## Spain: Year-end VAT updates

Between the 1<sup>st</sup> and the 2<sup>nd</sup> quarter of 2014, the Spanish Government shall take to effect a fiscal reform which will include important measures to reactivate the economy. Regarding the economy, the Government has done its homework, and the public accounts are now much more balanced, with the risk premium being much more favourable than in 2012. Therefore, important tax measures are now expected regarding most taxes. This is the reason for such reticent and limited measures at the end of 2013.

Royal Decree 82/2013, dated 25<sup>th</sup> October, includes the following remarkable measures with regards to VAT:

Previous authorization applications to take advantage of the VAT exemption by joint ventures, or associations regarding the services rendered to their members, shall no longer be a condition for qualifying these transactions as exempt.

For instance, for the services rendered by social assistance entities, entities related to sports or entities related to some cultural manifestations, previous recognition of social non-profitable nature shall no longer be a requirement for the exemption to be applicable, although a certificate of recognition can be applied for binding effects before the Tax Authorities.

One of the requirements to recover output VAT from unpaid invoices is to issue a correcting invoice and to send it to the debtor and also to the Tax Authorities. Transmission from 1<sup>st</sup> January 2014 shall be compulsory by telematic means. The Tax Authorities have created a specific form for this purpose.

Those companies/individuals different to insurance or financial entities that developed insurance or financial activity of any kind shall be obliged from 1<sup>st</sup> January 2014 to issue invoices. This measure implies the inclusion of a subjective requirement to take advantage of the exemption for financial or insurance activity.

Royal Decree 1042/2013, dated 27<sup>th</sup> December, has extended the cash accounting system application term until 31<sup>st</sup> March 2014. Due to the formal liabilities either for the tax payers under this regime or for the clients/suppliers of these taxpayers, this special regime is not being massively demanded as expected. Actually, some commercial discrimination has been settled surrounding those companies/entrepreneurs who apply for this regime.



## ROMANIA: Mandatory VAT cash accounting system changes to optional as from 2014

Romanian tax authorities have changed their controversial mandatory VAT cash accounting regime to a purely optional one.

The cash accounting system was introduced in Romania at the beginning of 2013. The system enabled small traders with a turnover below EUR 500,000 per year to pay VAT only when they had collected the output VAT on sales and to recover VAT on any inputs only when they had paid it. This system, increasingly common in other EU countries, provided some difficulties not only for the companies concerned, but also for a significant part of the business environment.



Customers of companies within the scheme had to accept and agree to the cash-basis. This created difficulties for large companies not within the scheme.

Many companies were in a regular Romanian VAT recovery position, whereas others were paid on time but were usually buying on credit, and their VAT deduction right was being postponed until payment, without any other advantage to balance the drawback.

The scheme required payment of sales VAT within 90 days, but many companies did not operate to these terms, which were leaving entrepreneurs with cash-flow problems.

The Romanian tax authorities, however, have been receptive to complaints and suggestions made by the business community on this issue and, as a consequence, has adopted a more flexible approach from 2014 - a voluntary one.

## Romania improves its VAT deferment regime for importers

Romania has extended its import VAT deferment scheme, according to an Order of the Ministry of Public Finance, issued at the end of November 2013.

Previously, only holders of specialised VAT deferment certificates were offered the opportunity to postpone the cash payment of import VAT. Typically, these were the big taxpayers, that had to demonstrate imports above the threshold of RON 100 million (approx. EUR 20 million) per year for prior years.

The new extension of the Romanian VAT deferment scheme enables many more importers to take advantage of the option of deferring VAT cash-flows. With the changes, the import VAT deferment regime is extended to other taxable persons, such as companies with the status of Approved Economic Operators (AEO)\* and to those authorised to perform in-house customs clearance formalities.

Moreover, AEOs are no longer required to provide a bank guarantee for imports of goods followed by a VAT exempt intra-Community supply.

\*Authorized Economic Operator (AEO) is the economic operator established in the European Community, authorized by the customs authorities further to a specific audit.

## OECD public consults on transfer pricing documentation and compulsory reporting for a uniform and sensible reporting system at a EU level

Within these days the OECD has released a public consultation on a review of the current transfer pricing documentation rules and the development of a template for country-by-country reporting to tax administrations of income, taxes and economic activity.

Issues like the possibility to share risk assessments with the tax payers, or the opportunity to request a line of business information regarding a multinational group are, among many other, outstanding topics the OECD needs opinion about.

A more specific guideline on materiality, could also be a new element to be taken under consideration in order to make the Tax Audit more fluid and efficient. Therefore the OECD requests information about possible mechanisms to determine materiality standards.

An extension of the check to the cross border payments is also one of the issues under discussion.

The target is to establish standard guidelines for uniform and sensible transfer pricing documentation support compulsory preparation at a EU level.

OECD seems to be also quite concerned about possible simplification within the documentation process, or confidentiality paths in order to avoid mistrust.

A first draft of revised guidance on transfer pricing documentation and country by country reporting has been submitted for comment by interested parties until February the 23<sup>rd</sup> 2014.

An event is being organized at the OECD in Paris by the end of March 2014 and some selected people among those who write comments shall be invited to attend it.