



VAT In Trade With The
Member States

Intra-Community Transactions and VAT – An Overview

This brochure is addressed to taxable persons intending to trade with
other taxable persons in the
Member States from 1 May 2004 on

Ministry of Finance
2003

Version 1.1

The brochure does not provide legal interpretation.

We offer you the latest brochure in the series „VAT In Intra-Community Transactions”. It is addressed mainly to taxable persons that intend to exchange goods with VAT-registered persons in other Member States, following Poland’s accession to the European Union.

As Polish legal solutions were not available when it was being developed, the brochure has been based on experiences gathered in other Member States. The brochure is largely discussing issues that aroused taxpayers’ doubts in those countries.

The aim of the brochure is to provide general knowledge of the VAT system functioning in the Member States, i.e. of new terms and solutions that will bring new rights and responsibilities to Polish VAT persons. It does not offer explanations concerning specific legal issues.

There are plans, once detailed legal regulations are known, to issue more informational materials, making it easier for Polish taxpayers to understand aspects of the intra-Community trade.

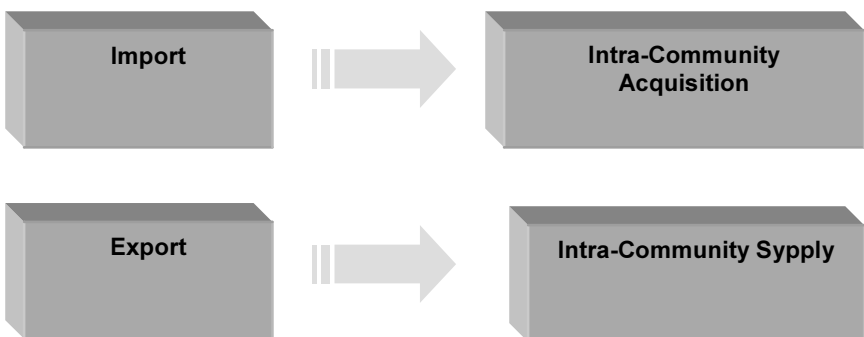
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1. Introduction

As a result of Poland's accession to the European Union, Polish VAT legislation will be amended to adjust it to laws laid down in the EU VAT Directives (mainly the Sixth Council Directive no. 77/388 of 17 May 1977, concerning harmonisation of the Member States' regulations in respect of the turnover tax – a common system of the value added tax: a uniform tax base as amended).

With Poland's accession to the EU, the rules of levying VAT on trading activities between VAT-taxable persons in Poland and taxpayers registered for that purpose in different Member States will be radically modified- this is closely connected with the abolition of customs and tax borders between Poland and the EU. However, businesses that are not involved in foreign trade, or those that trade exclusively with the non-EU countries, will not be affected by any major changes in that area.

In respect of the intra-Community trade in goods, terms such as „import” and „export” have been replaced by new terminology: „an intra-Community acquisition” and „and intra-Community supply”.



In the Member States VAT on goods traded between VAT-taxable persons is not collected at the border. Instead, such an operation takes place in the buyer's country (in the supplier's country a zero VAT rate is applied).

However, when a VAT-taxable person in the Community supplies goods to EU non-taxable persons, then he is obliged to charge VAT according to a rate applicable in his country. An exception is acquisition of new means of transport (see Chapter 7 „New Means of Transport”), when the buyer is liable to pay the tax on a new means of transport in the country where it is used. A similar rule applies to distance sale (see Chapter 6 „Distance Selling”).

The European Union has abolished the compulsory submission of customs returns (the SAD) to Custom Office, whenever goods cross country borders and enter the territory of another Member State. This has been replaced by so-called extended informational requirement in the VAT return and obligatory provision of additional information in the recapitulative statements (see section 8.2 „Quarterly Recapitulative Statement”).

In the intra-Community trade in goods the VAT number plays an important role. For Polish taxpayers the VAT number will be a taxpayer's identification number (NIP) prefixed by a two-letter country code: „PL”

Also legislation concerning national statistics will have new regulations (see Chapter 10 „Statistics”).

2. The Single Market

On 1 January 1993 the European Union established the Single Market. This term denotes an area without internal borders, characterised by a free movement of goods, persons, services and capital. Especially, the free movement of goods assumes abolition of border controls between the Member States and a free exchange of goods over national frontiers. Such arrangement further requires an introduction of a uniform VAT system in the Member States.

This requirement results from the abolition of fiscal border control, e.g. purposed to charge taxes, to capture data for foreign trade statistics and to control cargoes.

Transport of goods between the Member States is carried out efficiently, without unnecessary and retarding bureaucratic procedures. In annual terms, this means approximately 60 million fewer customs and tax forms to be completed by traders and handled by the customs administration. Their gain is not only in time-saving, but also in monetary terms (for instance due to improved financial liquidity), as the obligation to pay VAT on imports is abandoned.

The territory of the EU Single Market encompasses areas of the 15 Member States. The table below lists the Member States and their territories included in or exempted from VAT liability (as of 2003).

Member State	Including...	Exempting...
Austria		
Belgium		
Denmark		
Finland		Aaland Islands
France	Monaco	Martinique, French Guyana, Guadeloupe, Réunion, St. Pierre and Miquelon
Germany		Heligoland, the Buesingen territory
Greece		Mount Athos, also known as Agion Poros
Ireland		
Italy		Livigno, Campione d'Italia, Italian part of the Lugano Lake
Luxembourg		
the Netherlands		
Portugal	Azores Islands	Madeira
Spain	Balearic islands	Canary Islands, Ceuta, Melilla
Sweden		
UK	The Isle of Man	Channel Islands, Gibraltar

2.1 Value Added Tax in the European Union

VAT (standing for Value Added Tax) is an indirect (turnover) tax levied on goods and services. Within a given country liable to the tax are goods and services, which includes also imports. Exports are liable to a 0% VAT rate in the exporter's country (the exporter retains the right to deduct the input tax) and taxable in the importer's country. The rule in force is non-discriminatory levying of VAT (and other taxes) on domestic and imported goods. Thereby, taxes on imports may not exceed rates applicable to the same domestic products.

Of breakthrough importance for the establishment of uniform VAT legislation in the Member States was the Sixth Council Directive dated 17 May 1977. This Directive defines the basic components of the tax, such as taxable goods, the tax base, the tax point, the mechanism allowing to reclaim tax paid at earlier stages.

Attempts to standardise VAT rates have proved unsuccessful, as particular countries have different interests. Only the minimal rates have been approved. The Member States agreed that the amount of the base (standard) rate must be at least 15%, and the reduced rate (one or two reduced rates are permitted) may not go below 5% (with some exceptions). Also the basis for levying the tax has been fully standardised, that is the range of VAT-taxable goods and services, goods and services subject to exemption, reduced rates, etc.

VAT rates applied in the EU (as of 1 May 2002)

Member State	Reduced rate – less than 5%	Reduced rate	Base rate	Parking rate
Austria	-	10/12	20	-
Belgium	-	6	21	12
Denmark	-	-	25	-
Finland	-	8/17	22	-
France	2.1	5.5	19.6	-
Germany	-	7	16	-
Greece	4	8	18	-
Ireland	4.3	13.5	21	-
Italy	4	10	20	-
Luxembourg	3	6	15	12
the Netherlands	-	6	19	-
Portugal	-	5/12	19	-
Spain	4	7	16	-
Sweden	-	6/12	25	-
UK	-	5	17.5	-

**VAT equivalents in national languages of the
Member States and the Candidate Countries**

Member State	Equivalent of VAT
Austria	Mehrwertsteuer (MWSt) Umsatzsteuer (USt)
Belgium	Belasting over de Toegevoegde Waarde (BTW) Taxe sur la Valeur Ajoutée (TVA)
Denmark	Merværdiafgift (MOMS)
Finland	Arvonlisävero (ALV)
France	Taxe sur la Valeur Ajoutée (TVA)
Germany	Mehrwertsteuer (MWSt) Umsatzsteuer (USt)
Greece	Arithmos Forologikou Mitroou (FPA)
Ireland	Value Added Tax
Italy	Imposta sul valore Aggiunto (IVA)
Luxembourg	Taxe sur la Valeur Ajoutée (TVA)
Netherlands	Omzetbelasting (OB) Belasting over de Toegeroegde Waarde (BTW)
Portugal	Imposto sobre o Valor Acrescentado (IVA)
Spain	Impuesto Sobre el Valor Añadido (IVA)
Sweden	Mervärdeskatt (MOMS)
UK	Value Added Tax

Candidate Countries	Equivalent of VAT
Cyprus	Φόρος Προστιθέμενης Αξίας (ΦΠΑ)
Czech Republic	Daň z přidané hodnoty (DPH)
Estonia	Käibemaks
Hungary	Általános Forgalmi Adó (ÁFA)
Lithuania	Pridėtinės vertės mokestis (PVM)
Latvia	Pievienotās vērtības nodoklis
Malta	Value Added Tax
Poland	Podatek od towarów i usług
Slovakia	Daň z pridanej hodnoty (DPH)
Slovenia	Danek na dodano vrednost (DDV)

3. Intra-Community trade in goods

3.1 General information

In respect of intra-Community transactions between VAT-taxable persons established in different Member States, the terms “export” and “import” have been replaced by terms such as “intra-Community supply” and “intra-Community acquisition”. The same terms will be used by Polish VAT-taxable persons to denote a sale (supply) and purchase (acquisition) to and from VAT registered persons in other Member States, respectively.

The scope of intra-Community supplies and acquisitions concerns only goods (its purchase and sale).

In the country of dispatch (where transport commences) goods supplied to taxpayers registered for VAT purposes are taxable at a 0% rate as an intra-Community supply and the output tax is accounted for in the recipient country by the buyer of the goods as an intra-Community acquisition of goods.

The buyer accounts for the tax due in a VAT return, applying a rate operated in the country to which the goods are shipped (where the transport ends).

When goods are supplied to non-taxable persons in other Member States, the tax is charged and accounted for according to general rules by the supplier registered for VAT purposes in the Member State, from which the goods were dispatched (the supply is deemed a domestic sale).

Exceptions from these general rules concern:

- goods intended to be installed or assembled in the buyer's seat and the so-called distance sale, if a Member State's threshold for distance sales has been exceeded, in which case tax should be charged and accounted for by the supplier in this Member State to which the goods are supplied (the threshold exempts goods liable to the harmonised excise duty, a distance sale of such goods is always taxed in the State of destination).
- supplies of goods liable to the harmonised excise duty (mineral oils, spirits, alcoholic beverages, tobacco products) and purchased for purposes other than private consumption, and supplies of new means of transport, in the case of which VAT, as a general rule, is payable by the buyer in the Member State of destination; and
- supplies intended for diplomats, international organisations, armed forces of the NATO countries and other entitled persons and entities in other Member States that under special circumstances can be exempted from VAT liability (such an exemption may be indirect, i.e. represented by a refund of tax already paid by the entitled persons).

3.2 Intra-Community supply of goods

Supplies effected between businesses established in different Member States are termed "intra-Community supplies". When a Polish VAT trader supplies goods to a trader located within the Community, then the supply – just like exports today – is liable to a 0% VAT rate, provided that the below and other requirements are met:

Condition	Description
1	The supply is effected for a VAT-taxable trader in another Member State
2	The taxpayer shows correct VAT identification numbers (his own and his trading partner's) on the invoice, together with a two-letter country code.
3	Goods are dispatched or transported from the territory of Poland to the place of supply in another Member State.
4	The taxpayer has retained a proof, as laid down in the VAT law, confirming that the goods have left Poland.

Should anyone of the above requirements (or other, laid down in the VAT law) be unfulfilled, then tax is chargeable and accounted for in Poland according to a rate applicable to such goods in the country. VAT will not be charged on goods that are zero-rated in Poland.

Traders effecting intra-Community transactions are obliged to complete relevant quarterly recapitulative statements (see section 8.2 „Quarterly Recapitulative Statements”).

In Poland both intra-Community supplies and acquisitions of goods will entail the obligation to complete and submit the recapitulative statement. !

Example 1

Following Poland's accession to the EU, Polish VAT business X is supplying machinery to German VAT-taxable customer Y. In order to avoid the obligation to account for Polish VAT (as on a domestic transaction), Polish business X has to make sure whether business Y is VAT trader in Germany. Business X identifies the transaction in its monthly VAT return and quarterly recapitulative statement as an intra-Community supply. German business Y indicates the transaction in its VAT return as an intra-Community acquisition and accounts for VAT in Germany.

3.3 Transactions effected by VAT traders with final consumers (unregistered for VAT purposes) from the EU countries

In respect of supplies effected by VAT-taxable traders to final consumers (that are not VAT registered), the operative rule is that requiring payment of tax on goods in the country of their origin. Consumers making acquisitions in any Member State pay VAT at purchase in the country of origin of the goods.

The exceptions to this rule are: supplies of new means of transport (consistently taxable in the country, to which a consumer brings new means of transport) and so-called distance sale (goods are dispatched to final consumers on the supplier's account; if the value of such sales at supplier's exceeds a threshold set by the State of destination. Please note that special taxation rules applying to intra-Community transactions are also valid for goods liable to the harmonised excise duty (mineral oils, spirits, alcoholic beverages and tobacco products).

Save for exceptions provided in section 3.1, non-VAT consumers in other Member States, when purchasing from Polish VAT taxpayers goods that stay within the EU, pay VAT included in the price of the purchased goods. A Polish trader supplying goods to non-taxable persons in the European Union will have to charge and account for VAT on the goods as if supplying within the territory of Poland.

Example 2

Polish VAT-taxable trader X supplies goods other than new means of transport to a non-taxable natural person in Denmark. The supply of goods is effected in Poland and liable to Polish VAT, whether the goods are collected by the buyer in Poland or shipped on his order to Denmark. Trader X reports the transaction as a domestic supply.

If the goods are shipped to Denmark on the seller's order (distance selling) and the total value of taxpayer's X sales to Denmark exceeds the threshold set for such supplies in Denmark, then the supply is effected in Denmark. Consequently, taxpayer X is obliged to apply for VAT registration in Denmark and account for the Danish VAT on the supply.

3.4 Acquisition of goods from other Member States within the territory of Poland

When a trader is VAT-registered in Poland and acquires goods from another Member State that are supplied by a VAT-taxable trader registered in the country from which the goods are supplied (where transport commences), then the buyer will consequently have to pay VAT in Poland. The applicable tax rate is that charged on supplies of the same goods in the territory of Poland.

All amounts of output VAT tax have to be identified in a VAT return submitted for the period in which an intra-Community acquisition of

goods gave rise to VAT-liability. As a general rule, this is the input tax accounted for in a VAT return according to general rules (as required by the VAT act).

Example 3

VAT-taxable business X in Poland registered for intra-Community transactions acquires goods from taxpayer Y, a VAT-registered trader in Germany, stating his taxpayer's identification number (NIP). The goods are shipped from Germany to Poland.

The intra-Community acquisition of goods is effected in Poland, so taxpayer X is obliged to charge and account for tax due in his VAT return, as well as submit a recapitulative statement that identifies the transaction as an acquisition. Taxpayer Y also submits a recapitulative statement to his tax administration, reporting the transaction as an intra-Community supply of goods.

3.5 Transport of own goods between the Member States

As a general rule, following Poland's accession to the European Union, a transfer of goods to other EU countries being a supply effected by a VAT-registered taxpayer will be deemed, for VAT purposes, an intra-Community supply of goods.

As a general rule, the transfer of own goods between the Member States is also considered an intra-Community supply of goods, on the one hand, and intra-Community acquisition of goods, on the other. When a VAT-registered trader effects a business-related transfer of his own goods from Poland to another Member State (for instance, when own goods are moved from Poland to another Member State to be resold or used by the taxpayer's business conducted in the territory of the other

State), then the trader is liable to report VAT in the other Member State on the intra-Community acquisition of goods. As a rule, such a taxpayer is obliged to apply for VAT registration in that State.

Example 4

Taxpayer X, registered for VAT in Poland, transfers some of his own stock to Denmark. Taxpayer X is obliged to apply for VAT registration in Denmark, where he will be deemed a taxpayer effecting an intra-Community acquisition.

In a tax return in Poland taxpayer X will report 0% VAT rate on the transferred goods (provided that he has documents certifying their transfer abroad, etc., and presents for this event the VAT number issued to him in Denmark). In addition, taxpayer X is obliged to report this supply in the recapitulative statement submitted in Poland.

3.6 Temporary transfer of own goods and other cases of transfers of goods that are not recognised as intra-Community transactions

Even though most cases when own goods are transferred between the Member States on account of one's own business activity are considered for VAT purposes either as an intra-Community supply of goods, or as an intra-Community acquisition of goods, cases of temporary transfers of goods specified below, as well as other cases, are exempted from rules applying to such situations:

1. goods are intended to be installed or assembled in the territory of the other country, with or without a test run,
2. goods are dispatched or transported by a VAT-registered taxpayer, or on his account in the case of a distance sale,

3. the transfer of goods intends to deliver them on boards of ships, planes or trains, when a passenger transport service is provided in the territory of the Community,
4. goods are intended for export from the country, to which they are transferred,
5. goods are intended for an intra-Community supply,
6. in the other country goods are intended to be processed for the VAT-registered taxpayer by a service provider, provided that after being processed the goods are shipped back to the Member State from which they were originally dispatched,
7. goods are intended to be temporarily used in the other country to allow a taxable-person established or residing in the Member State to which the goods are supplied to provide services,
8. goods are intended to be temporarily used in the other country, but not longer than 24 months.

Although the above-described cases of transfers of goods are not recognised for VAT purposes as supplies, a taxpayer should preserve commercial evidence (laid down in the tax legislation of a relevant country) that the goods left the territory of the country and then returned.

3.7 Installed and assembled goods

When a taxpayer supplies goods to be either installed or assembled in another Member State and the goods are outside the range of the service provided there by the taxpayer, then the place of supply is deemed that State and the taxpayer is liable to pay VAT there. The taxpayer is obliged to register for VAT in that Member State in order to account for output tax chargeable on the supply of the goods.

3.8 Import and export

Rules concerning exposure to VAT of economic transactions with the third countries (non-EU) will basically not be amended after Poland's accession to the European Union. This means that Customs Offices will carry on with their responsibility for collecting taxes on goods imported from the third countries.

A majority of the currently applied rules will remain in force with respect to the third countries. Regarding imports from those countries, Customs Offices will collect customs duties, taxes (also VAT), import duties and gather statistical information.

Customs administration will also control compliance with restrictions concerning import and export of goods.

4. VAT identification number – its role and significance

4.1 General information

The VAT identification number plays a crucial role in the trade in goods effected between VAT-registered taxpayers in the Member States.

*The correct use of a trading partner's VAT number is one !
requirement for entitlement to application of a zero VAT rate to
an intra-Community supply of goods.*

By stating his VAT identification number, the buyer shows the supplier that he is VAT-taxable and obliged to account for VAT on intra-Community acquisition of goods at home.

The trading partner's VAT identification number has to be displayed on invoices, in quarterly recapitulative statements and other documents relative to the exchange of goods effected between the Member States.

4.2 VAT numbers in the Member States and the Candidate Countries

Each taxable person has his unique number for intra-Community trade issued by the tax administration of this Member State where the taxpayer is registered for VAT purposes. In some cases, the same number is used also for other tax-related purposes (e.g. the income tax in Spain), in other cases the national VAT number is used, and some countries, for instance Germany, issue special numbers to taxpayers to be used exclusively in the intra-Community trade.

It is important that every VAT-registered taxpayer dealing in intra-Community trade should use his VAT identification number together with a two-letter country code.

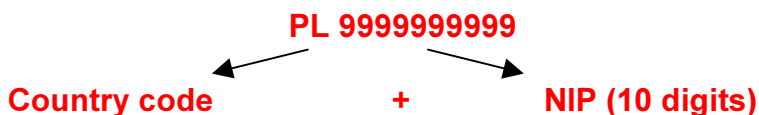
Member State	Country code	VAT number format	No. of characters	Comments
Austria	AT	U99999999	9	U always at the front
Belgium	BE	999999999	9	Only digits
Denmark	DK	99999999	8	Only digits
Finland	FI	99999999	8	Only digits
France	FR	9999999999 or X999999999 or 9X99999999 or XX99999999	11	A digit or a letter may take the first and second positions. All letters are allowed except I and O
Germany	DE	999999999	9	Only digits
Greece	EL	999999999	9	Only digits
Ireland	IE	9999999X or 9X99999X	8	Ending with a letter
Italy	IT	99999999999	11	Only digits
Luxembourg	LU	99999999	8	Only digits
Netherlands	NL	999999999B99	12	A three-character ending contains the letter B plus two digits in the range 01-99.
Portugal	PT	999999999	9	Only digits
Spain	ES	X99999999 or 99999999X or X9999999X	9	One letter in the first position, in the last position, or both
Sweden	SE	999999999999	12	Only digits
UK	GB	999999999 or 999999999999 or GD999 or HA999	5,9 or 12	The five-character number may contain letters GD (government department) or HA (health authority)

Candidate Country	Country code	VAT no. format	No. of characters	Comments
Cyprus	CY	99999999X	9	Letter at the end.
Czech Republic	CZ	99999999 or 9999999999 or 99999999999	8, 9 or 10	Only digits
Estonia	EE	999999999	9	Only digits
Hungary	HU	99999999	8	Only digits
Lithuania	LT	999999999 or 9999999999999	9 or 12	Only digits
Latvia	LV	999999999999	11	Only digits
Malta	MT	99999999	8	Only digits
Poland	PL	9999999999	10	Only digits
Slovakia	SK	999999999 or 99999999999	9 or 10	Only digits
Slovenia	SI	999999999	8	Only digits

***Indication of an incorrect VAT identification number of a !
EU trading partner makes a supply of goods taxable in the
territory of Poland.***

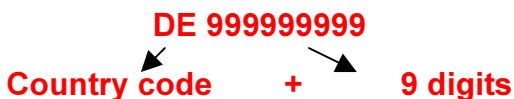
4.3 VAT numbers of Polish taxpayers

Polish VAT-registered taxpayers will not be issued new VAT identification numbers for intra-Community transactions. Instead, they will be obliged, subject to a prior notification of a Tax Office with relevant jurisdiction about an intended intra-Community transaction, to use a taxpayer's identification number (NIP) prefixed by a two-letter country code PL, according to the below format:



4.4 VAT numbers of German trading partners – problems

EU traders have many problems with the VAT identification number of the German taxpayers, as Germany operates a separate VAT number (Umsatzsteuer-Identifikationsnummer) used exclusively for the purpose of intra-Community supplies and acquisitions. It is composed of the country code DE and nine digits.



Additionally, German VAT-registered taxpayers have another number for domestic use (so-called internal tax number – Steuernummer). This comprises ten or eleven digits (without the country code). The structure of the internal numbers is Land-specific.

99/999/99999
or 99 999 99999
or 99999/99999
or 999 999 99999
or 999/999/99999
or 999/9999/9999
or 99/999/9999/9

4.5 VAT number validation procedure

The VAT number validation procedure, as operated in the Community, serves to ascertain the validity of foreign VAT numbers. Laws do not specify how often the procedure should be initiated (it is facultative).

It is the trader who decides whether to validate all his trading partners, or only new ones. The trader resolves how often the validation procedure will be applied in the whole business life cycle.

When a trader applies a 0% VAT rate to a supply, which subsequently turns out to be illegitimate (due to non-compliance with requirements laid down for an intra-Community supply – see section 3.2 “Intra-Community Supply Of Goods”), then the trader is liable to account for VAT on the said supply as though it was a domestic supply.

4.5.1 Enquiries to the tax administration

One of the obligations that the Community legislation has imposed on national tax administrations is validation, on a taxpayer’s request, of the VAT number of the taxpayer’s trading partners (this also applies to the partner’s address and name). This requirement is restricted to validation of details of taxpayers in other Member States.

In Poland, domestic taxable persons will be entitled to request such information from the Ministry of Finance (i.e. its dedicated organisational unit, whose contact details will be posted on the website www.mf.gov.pl late in 2003) and Tax Offices via telephone, fax, e-mail or by regular mail.

An enquiry will have to comprise:

- the NIP of the enquiring person, his trading name, or the first name and surname (for sole traders) and the address,
- the VAT number of a trading partner issued in another Member State and, if needed, the surname/trading name and address of the foreign partner.

The Ministry of Finance (its special organisational unit) or a Tax Office will provide the following responses:

- Yes, this VAT identification number is valid, or
- No, this VAT identification number is not valid, or
- Yes, this VAT identification number was issued to the given taxpayer with the specified address and name, or
- No, this VAT identification number was not issued to the given taxpayer with the specified address and name.

For security and data protection reasons national tax administrations do not disclose names and addresses of taxpayers that were issued VAT identification numbers.

On the other hand, trading partners in other Member States will be able to validate a Polish trader's VAT number (as well as his name and address) by contacting their tax administrations.

Both the address and trading name (respectively, name and surname in the case of sole traders) are important for a foreign trader wishing to validate a Polish taxpayer's identification number. Should any inaccuracies be found, the foreign trader will be informed by his tax

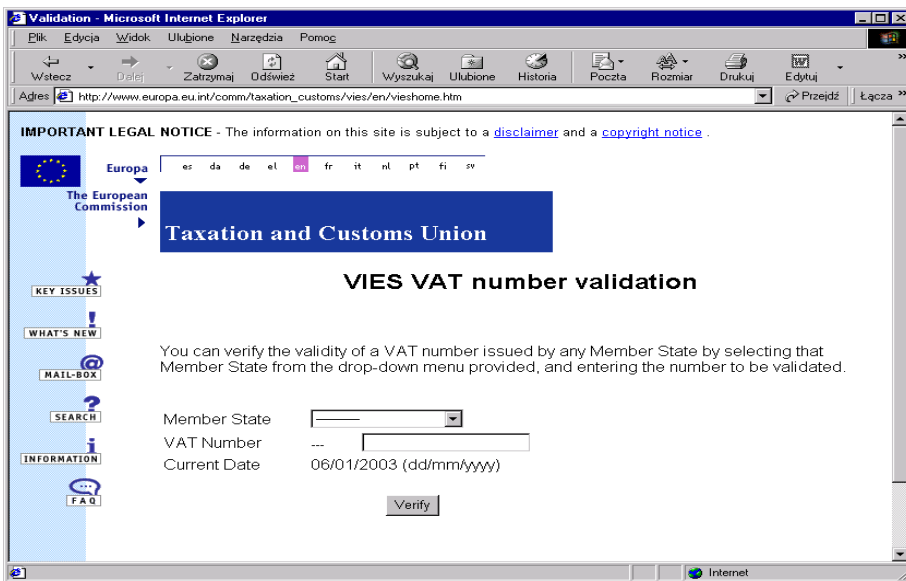
administration that a given Polish taxpayer is not registered for VAT and the 0% VAT rate will not be applicable to the trader's intra-Community supplies.

Consequently, it is crucial to update your details at the Tax Office and to use the same trading name (name and surname for sole traders) and address, as those submitted to the Tax Office on the TIN application form. !

4.5.2 Website of the European Commission

http://www.europa.eu.int/comm/taxation_customs/vies/en/vieshome.htm

Since 2002 the European Commission has maintained a website with the above address in order to make it easier for taxpayers effecting intra-Community supplies to validate their trading partners' VAT identification numbers. The objective is to ensure immediate and accurate information. The website extracts data immediately from the Member States' databases. Any user enquiring about a VAT identification number in a specific Member State is answered in real time. A person wishing to confirm the VAT number of a EU taxpayer is only required to key in the country code (alternatively, he can use the provided list of the Member States) and state the trading partner's VAT number. The website will also enable to validate VAT identification numbers of Polish taxpayers.



The website is accessible to the public and ensures a similar standard of service as national systems, giving “YES” or “NO” answers to questions about the validity of a given VAT identification number.

The website contains warnings and instructions in 11 official languages of the European Union, which facilitates its use. From the date of Poland’s accession to the European Union, the website will be available also in the official languages of the candidate countries, including Polish.

4.5.3 Contacting a trading partner

When a trader intending to effect an intra-Community supply is doubtful about the identification details and the VAT number of his trading partner in another Member State, he should request the partner to confirm the VAT number, as well as name and address (specimens of relevant letters in 15 EU languages can be found also on the British tax administration’s website):

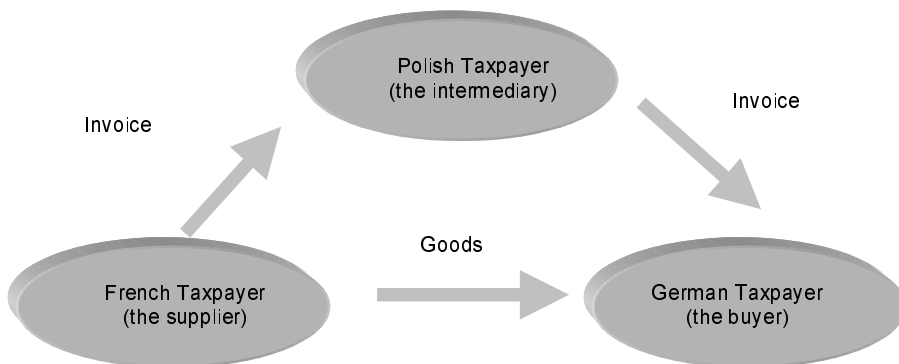
<http://www.hmce.gov.uk/business/importing/ecsaleslists/eslforeign.htm>

5. Triangular transactions

5.1 General information

The term 'triangular transaction' is used to describe supplies of goods involving three traders, when the goods are supplied immediately from the first to the last trader in the chain. In the context of the intra-Community trade a triangular transaction can take place, when goods are transferred directly from a supplier in one Member State to a final recipient in another Member State, according to instructions issued by an intermediary located in yet another Member State.

The below diagram is an illustration of such a transaction:



A Polish VAT-taxable trader receives an order from a VAT-registered German trader. The Polish trader carries out the order by having the goods sent directly from its own supplier in France (VAT-taxable) that arranges for transport. As the diagram shows, in this case there are actually two supplies effected (i.e. one between the French trader and the Polish trader, and another between the Polish trader and the German trader). However, goods are physically transferred only once, between

France and Germany (the Polish trader issues an invoice for the German trader and, respectively, the French trader to the Polish trader).

The supply was effected.....	VAT procedure
from the French trader to the Polish trader	The French trader reports an intra-Community supply to a trader in Poland (because in the discussed example this supply was accompanied by a transfer of goods), the trader in Poland reports an intra-Community acquisition of goods and accounts for tax due on the acquisition in Poland.
from the Polish trader to the German trader	In addition, the Polish trader reports an intra-Community acquisition of goods in Germany (where the transport ended or goods were supplied) and a supply of the goods in Germany according to the German tax rules. The Polish trader may also be obliged to register for VAT in Germany.

5.2 Tax rules applying to triangular transactions

When a trader is VAT-registered in a Member State from which goods are dispatched and the dispatch is effected by the same trader, then he can apply a 0% VAT rate according to requirements laid down in section 3.2. Then VAT is payable by the intermediary purchasing the goods

(second in the chain) due to his intra-Community acquisition of goods (unless the simplified procedure is applied – see section 5.3 “The Simplified Procedure”).

When a trader is an “intermediary” (second in the chain of a triangular transaction), and states his registration number for intra-Community transactions issued in a given Member State (other than the State from which the goods are dispatched), he is liable to account for VAT on an intra-Community acquisition of goods in that Member State. The trader effects also a supply for a business established in the Member State that receives the goods, being third in the chain of a triangular transaction. Consequently, he can be obliged to register for VAT in the Member State being the ultimate place of supply in order to report tax liable on intra-Community acquisition and supply of the goods in the State of destination.

The above triangular transaction taxability mechanism is merely an illustration. To correctly account for such a transaction, it is necessary to identify on each occasion, which of the first two parties to the transaction makes arrangements for the transport of goods, as only this party will be entitled to treat the supply it effects as an intra-Community supply (having met predetermined conditions).

5.3 The simplified procedure

In triangular transactions the intermediaries are allowed to avail of the simplified procedure, which is offered across the European Union; according to the procedure the final trader participating in a triangular transaction (third in the chain) is obliged to account for the tax due. In this case it is not necessary for the intermediary (second in the chain of a triangular transaction) to seek VAT registration in the Member State to which the goods are supplied (the buyer’s country).

In order to be eligible for the simplified procedure:

- a trader already has to be a VAT-registered in one of the Member States, but
- he cannot be registered for VAT or liable to VAT registration for any reason in the Member State, to which the goods will be supplied,
- the last trader in a triangular transaction (third in the chain) also has to be VAT-registered for intra-Community transactions in this Member State, in which he receives the goods,
- the invoice has to bear a note that the procedure is simplified.

Application of the simplified procedure releases the intermediate supplier from VAT registration in the Member State to which goods are supplied, he is not obliged to account for the transaction in that State, either, as such obligation is taken over by the final user (the buyer) of the goods.

6. Distance selling

6.1 General information

A distance sale transaction is effected when a VAT-registered person in one Member State sells and dispatches, or transports on his own account, goods to a non-taxable person in another Member State. Such a non-taxable person can be a private individual, a public agency, a charity organisation and a business unregistered for VAT due to having turnover below the registration limit, etc. An example of a distance sale is the business of mail-order bookshops that carry out orders by mail.

6.2 Distance sale from Poland to a Member State

As a general rule, for a distance sale the place of taxation of a supply is the Member State to which goods are dispatched or transported. If, however, the annual distance sales of goods do not exceed a threshold set in the State of destination, then the place of taxation is the Member State, where the goods are stored for dispatch, or where their transport commences.

In respect of the distance sale, when the value of supplies to any other Member State goes beyond the annual threshold set by that State, then

- VAT chargeable on all subsequent sales is accounted for in the Member State to which goods are supplied; and
- a VAT-registered trader that effects the supply is liable to compulsory VAT registration in the recipient Member State.

Below are presented thresholds that, if exceeded within a year, require taxpayers to register for VAT and to account for it in the given Member

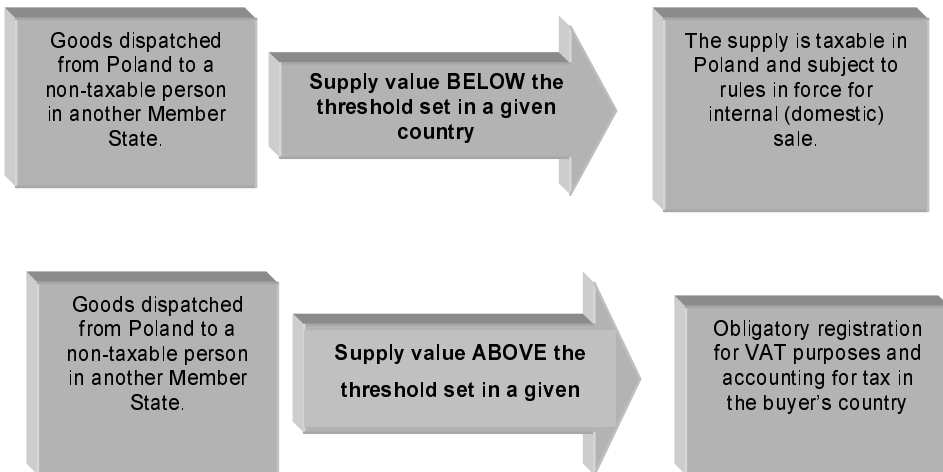
State (the Candidate Countries lay down their thresholds in their national laws):

Member State	Threshold	State	Threshold
Austria	100 000 EUR	Italy	35 000 EUR
Belgium	35 000 EUR	Luxembourg	100 000 EUR
Denmark	280 000 EUR	Netherlands	100 000 EUR
Finland	35 000 EUR	Portugal	35 000 EUR
France	100 000 EUR	Spain	35 000 EUR
Germany	100 000 EUR	Sweden	320 000 SEK
Greece	35 000 EUR	UK	70 000 GBP
Ireland	35 000 EUR		

In order to ascertain threshold's validity, it is recommended to contact tax administration in the Member State to which the goods are supplied – the address list of tax administrations can be found in Chapter 11 “Addresses of VAT Administrations In The Member States” and on the website

www.mf.gov.pl

It should be borne in mind, however, that the above thresholds are subject to change and each Member State decides about the threshold for itself. Therefore, to obtain valid information about the thresholds it is recommended to contact a tax administration relevant for the country to which a distance sale is targeted.



6.3 Distance sale from a Member State to Poland

When:

- a distance sale is effected by a VAT-taxable person in a Member State for Polish taxpayers that are not VAT-registered, and
- the total amount of a distance sale in Poland in a given calendar year exceeds the threshold set in the Polish VAT act,

then the supplier in that Member State is obliged to register for VAT in Poland and to account for VAT on his sales according to the Polish laws. The threshold that, if exceeded, makes a VAT-taxable person in a Member State effecting a distance sale to Poland register for VAT in Poland and account for VAT liable on the transactions shall be laid down in the VAT act (a taxpayer in another Member State intending to effect distance sales in Poland may also choose to account for VAT on the sales in Poland prior to such transactions).



7. New Means of Transport

7.1 General information

In the Single Market special solutions are operated, pursuant to which VAT payable on the acquisition of New Means of Transport (NMT) is accounted for in the Member State to which a new means of transport is supplied.

7.2 Definition

In the meaning of VAT regulations a “means of transport” is a machine designed for transporting passengers or cargo, such as watercraft, aircraft or a motorised land vehicle, that meets special criteria. The term “new means of transport” denotes:

- motorised land vehicles for transporting passengers or goods, with cylinder capacity over 48 cc or engine power exceeding 7.2 kW, if supplied to the destination within 6 months since its first entry into service or with mileage within 6 000 km;
- vessels exceeding 7.5 meters in length, if supplied to the destination within 3 months since its first entry into service or worked for not more than 100 hours; and
- aircraft with a take-off weight of more than 1 550 kilograms, if supplied to the destination within three months since its first entry into service or if worked for not more than 40 hours from being commissioned.

It is recognised that a new means of transport is put to use for the first time as dated on the invoice issued for its first supply, unless laws of the Member States state otherwise.

A detailed definition of new means of transport for VAT purposes will be laid down in the articles of the VAT Act, and the list of machines classified as new means of transport will be included in an Appendix to the Act.

7.3 Taxation and taxpayers obligation

A general rule is that supplies of new means of transport dispatched or transported to the buyer by the seller, by the buyer, or on their account, to another Member State, that are effected in favour of taxpayers, legal persons or other non-taxable entities are VAT-exempt, with the right to deduct the input tax (a solution identical with a 0% VAT rate).

The tax base is the price that has to be indicated on the invoice. The supplier of a new means of transport is obliged to provide on the invoice information allowing to identify a product as a “new means of transport”.

8. Requirements in accounting for intra-Community supplies and acquisitions

8.1 VAT return – new information

The VAT return will request new information that taxpayers involved in intra-Community supplies and/or acquisitions will be obliged to provide.

i.e.:

- total amount of supplies to VAT-taxable persons in other Member States,
- total amount of acquisitions from VAT-taxable persons in other Member States.

***Invoiced amounts in foreign currencies have to be converted
into zlotys (PLN) !***

8.2 Quarterly recapitulative statement

All traders that supply goods to VAT-registered trading partners in other Member States are liable to submit not only VAT returns to the Tax Office in whose jurisdiction they operate, but also the quarterly recapitulative statement that requests information about intra-Community supplies and acquisitions of goods (other names given to the statement in the Member States are: the quarterly report, the summary statement or the EC sales list).

In the Single Market recapitulative statements secure a control function. The data they provide can be used by tax administrations in all EU countries.

VAT-taxable persons carrying out intra-Community supplies and/or acquisitions will be liable to submit quarterly recapitulative statements to

Tax Offices with relevant jurisdiction (details concerning taxpayers subject to that obligation will be laid down in the Polish VAT act).

A quarterly recapitulative statement has to indicate:

- a) the period a given recapitulative statement concerns (the year and the quarter),
- b) business name of the Polish taxpayer or his name and surname (plus the date of birth),
- c) the taxpayer's address,
- d) the taxpayer's NIP, and
separately for each trading partner:
- e) in respect of intra-Community supplies:

Country code	Made up of two letters
Customer's VAT identification number	Only characters in the number should be stated, that is digits, letters (in the Irish number also characters such as "+" and "*" are permitted). Dots, dashes or spaces are not allowed.
Total amount of supplies in the given period of time	Rounded values in zlotys should be stated.
Indication of so-called triangular supplies ¹	

¹ When triangular and direct (non-triangular) supplies are carried out, then the triangular supplies have to be added up separately (the box in the column "triangular supplies" should be marked). !

f) in respect of intra-Community acquisitions:

Country code	Made up of two letters
Customer's VAT identification number	Only characters in the number should be stated, that is digits, letters (in the Irish number also characters such as "+" and "*" are permitted). Dots, dashes or spaces are not allowed.
Total amount of acquisitions in given period of time	Rounded values in zlotys should be stated.
Indication of so-called triangular acquisitions ²	

² When triangular and direct (non-triangular) acquisitions are made, then the triangular supplies have to be added up separately (the box in the column "triangular acquisitions" should be marked) !

The obligation to indicate intra-Community triangular supplies and/or acquisitions rests exclusively on the trader operating as an intermediary in such a triangular transaction (see Chapter 5 "Triangular Transactions").

Invoiced amounts in foreign currencies have to be converted into zlotys (PLN) !

The quarterly recapitulative statement is due to be submitted by the 25th day of the month following a calendar quarter, that is:

- quarter I (January – March) by 25 of April,
- quarter II (April – June) by 25 of July,
- quarter III (July – September) by 25 of October,
- quarter IV (October – December) by 25 of January of the next year.

***Recapitulative statements concern calendar quarters, therefore !
the quarterly recapitulative statement due for May and June
2004 has to be submitted by 25 July, 2004.***

In respect of the quarterly recapitulative statement it should be borne in mind that the details are gathered mainly to make it possible for the Member States to conduct control activities; they gather the same data in order to allow Polish institutions to control and match data in the monthly VAT returns. The quarterly statements have to be made available to other Member States not later than three months after a given quarter elapsed. Gathered information is stored for five years.

Also Polish quarterly recapitulative statements can be used to match and control data declared in VAT returns.

In some Member States (for instance in Ireland and Austria), when no intra-Community transactions have been effected, taxpayers are liable to submit so-called “nil” quarterly recapitulative statements.

Quarterly recapitulative statements submitted by taxpayers will be processed by the Polish tax administration (Tax Offices and the Ministry of Finance), and then, after being totalled, they will be communicated to each Member State.

After receiving such packages with data, foreign tax administrations will first and foremost check VAT numbers transmitted from Poland against

their databases with VAT-taxable persons. Should a VAT number be unavailable for a given reporting quarter and year, Poland will receive an error report. An involved taxpayer will be obliged to correct a wrong VAT number (otherwise one of the conditions for applying a 0% VAT rate to an intra-Community supply will not be met; consequently, a Polish trader will have to pay VAT on such a supply – see section 3.2).

8.3 Keeping records of transactions

A VAT-taxable person registered in Poland for intra-Community transactions has to keep records of all intra-Community supplies and acquisitions for each fiscal period.

When a business trades with other Member States it has to satisfy special additional requirements. These are presented below.

Beside “regular” accounts kept for VAT purposes, a taxpayer trading with VAT-taxable persons in other Member States should also preserve the following documents:

- VAT invoices issued by the taxpayer’s suppliers in other Member States;
- documents relating to goods acquired from other Member States;
- documents concerning goods dispatched or transported to other Member States (this also includes commercial evidence of the dispatch or transport of goods);
- copies of completed quarterly recapitulative statements relative to intra-Community acquisitions and supplies of goods.

and

- copies of INTRASTAT returns (if applicable; see Chapter 10 “Statistics”).

The Member States are involved in a broad administrative and control co-operation in the area of indirect taxes. Its forms were laid down in Council Regulation No. 218/92 of 27 January 1992 concerning administrative co-operation in the area of indirect taxation (VAT). A special IT system – VIES (VAT Information Exchange System) – has been created, that the Member States use to communicate and exchange information.

At present, the European Union continues its work on developing a new regulation to replace Council Regulation No. 218/92, that will probably become effective on 1 January 2004.

9. Administrative cooperation

9.1 VIES System

This system comprises national databases combined into an integrated EU network. National databases contain information about national VAT-taxable persons represented by their VAT numbers (VAT numbers plus identification details). Besides, the databases store data from the recapitulative statements.

Requests for the validation of VAT identification numbers are handled on-line (the waiting time is several seconds).

Information concerning recapitulative statements can be exchanged at three different levels. The basic level means that data on totals of each taxpayer's acquisitions by country and period is derived from the VIES. At the next level total values of particular taxpayer's acquisitions are presented, broken down into customers in particular States. At the last level information about concrete transactions is reported.

9.2 The co-ordinating institution

Each Member State has to designate a special institution responsible for the VIES. These institutions go under their English name – a Central Liaison Office (CLO). In Poland the CLO will operate as a unit within the Ministry of Finance.

Amongst others, the co-ordinating institution's responsibilities will include:

- co-operation in collecting the quarterly recapitulative statements,
- informational campaigns for taxpayers and the Tax Office staff,
- co-operation and exchange of information with foreign co-ordinating institutions,
- the role of a communication link with the European Commission.

10. Statistics

Accession to the European Union necessitates changes also in the statistical system concerning trade in goods. This results from the fact that after accession trade with the Member States is not subject to customs clearance. Customs documentation does not constitute a source of information for exchange of goods statistics with the Member States.

In order to be able to keep correct statistical accounts of intra-Community trade in goods, each Member State operates a special system called INTRASTAT. Within this system, data on intra-Community trade is gathered, controlled and processed.

Consequently, in the Member States two statistical systems for international trade in goods are used:

1. a statistical system for international trade, that encompasses exchange of goods between the Member States and so-called third countries, i.e. non-EU, based on information extracted from the SAD documents.
2. system INTRASTAT, i.e. statistical system for trade between the EU members.

In the INTRASTAT:

- information on the exchange of goods between the Member States is gathered directly from businesses involved in trading activities;
- businesses are obliged to submit INTRASTAT statistical returns on a monthly basis or combined statistical-tax returns to designated institutions in their countries;
- registers of businesses help monitor businesses that are liable to submit INTRASTAT returns;

- the correctness of the data in INTRASTAT returns is ensured by their comparability with the data in VAT returns.

All businesses involved in intra-Community trade may become liable for the preparation of monthly statistical INTRASTAT returns, where statistical data on their recently carried out transactions with other Member State has to be stated. The reporting responsibilities concern these businesses that account for VAT on intra-Community trade and whose value of turnover with the European Union exceeds a special annual threshold set by the statistics (separately for inward and outward goods). The level of the threshold and the rules for its application will be published early enough, so that every business could judge for itself, whether liable to the obligatory submission of INTRASTAT declarations and to what extent.

11. Addresses of VAT administration bodies in the Member States

Member State	Institution	Address	Telephone/fax
Austria	Finanzamt Graz-Stadt Referat für ausländische Unternehmer	Conrad von Hötzendorfstrasse 14-18 8018 GRAZ	Tel: (+43) (316) 88 10 Fax: (+43) 316 817608
Belgium	Central BTW – kantoor voor buitenlandse belastingplichtigen -information Controle Zaveltoeren-24ste verdieping	Stevenstraat 7 1000 BRUSSEL	Tel: (+32) (2) 5525933 5525934 Fax: (+32) (2) 5525541
Denmark	Told-og Skattestyrelsen	Hermodsgade 8 200 KØBENHAVEN	Tel: (+45) 358773 00 Fax: (+45) 31859094
Finland	Uudenmaan verovirasto Yritsverotoimisto	PL 32 00052 VEROTUS	Tel: (+358) (9) 73114327 Fax: (+358) (9) 73114700
France	Direction Générale Des Impôts Bureau de gestion de la fiscalité professionnelle	86-92 Allée de Bercy, 75574 PARIS CEDEX 12 Teledoc 971	Tel: (+33) (1) 53181113 Fax: (+33) (1) 53189501
Greece	Ministry of Finance 14 th Directorate of VAT and Indirect Taxes	Sina 2-4, 10672 Athens	Tel: (+30) 1 3647203 Fax: (+30) 1 3645 413
Spain	1.Subdirección General de Informacion y Asistencia Agencia Estatal de La Admistracion Tributaria (AEAT)	1/. C/Infanta Mercedes No. 37 28071 Madrid C/.Alcala 5	Tel: (+34) (91) 583 8976 Fax: (+34) (91) 583 8808 Tel: (+34) (91) 5958000

	2.Subdirección General de Impuestos Sobre el Consumo Dirección General de Tributos	28014 MADRID	(request „IVA“) Fax: (34) (91) 5958454
Netherlands	Belasting dienst Particulieren Ondernemingen Buitenland	Postbus 2865 6401 D J Heerlen	Tel: 00 31 45 573 6884 Fax: 00 31 455736684
Ireland	Taxes Central Registration Office	Arus Brugha 9/15 Upper O'Connell Street Dublin 1	Tel: (+353) 18746821 Fax: (+353) 18746078
Luxembourg	Administration de l'Enregistrement et des Domaines Bureau d'imposition 10	7 Rue de Plébiscite BP 31 2010 Luxembourg	Tel: (+352) 4490 51 (switchboard) (+352) 44905451 (Bureau 10) Fax: (+352) 291193 (Bureau 10)
Germany	Bundesamt für Finanzen	Friedhofstrasse 1 53225 BONN	Tel: (+49) 228 4060 Fax: (+49) 22 84062661
Portugal	Serviço De Administração do IVA	Ava. João XXI. 76 1000 Lisboa	Tel: (351-1) 793 6673 Fax: (351-1) 793 65 28
Sweden	Skattemyndigheten I Stockholms Län Skattekontor riks	106 61 Stockholm Sweden	Tel: (+46) 8 6941000 Fax: (+46) 86435230
UK	Aberdeen Non-established Taxable Persons Unit (NEPTU) Customs House	28 Guild Street Aberdeen AB9 2DY	Tel: +44 1224 844653
Italy	Ministero Delle Finanze Segretariato Generale	Viale dell' Aeronautica. 122 00149 ROMA	Tel: (+39) 06 5912983 Fax: (+39) 06 5912971

This brochure is one element of an informational campaign launched by the Ministry of Finance to acquaint Polish taxpayers with VAT-related issues in the intra-Community trade.

Within the series of publications under the same title “VAT In Intra-Community Transactions”;

in 2003 the following titles will be released:

- ◆ “VAT Identification Number In Trade Between VAT-Taxable Persons In The Member States” (a leaflet);
- ◆ “Two VAT Identification Numbers In Germany – Different Uses” (a leaflet);
- ◆ “61 Questions About Intra-Community Transactions” (a brochure);
- ◆ “VAT Identification Number In Trade Between VAT-Taxable Persons in the Member States” (a poster);
- ◆ “VAT In Trade With The Member States”, (a poster).

The following publications have been scheduled for the year 2004:

- ◆ “Completion Of VAT Return And Recapitulative Statement VAT-EU By Taxpayers Carrying Out Intra-Community Trade In Goods” (a leaflet);
- ◆ “Intra-Community Transactions and VAT” (developed on the basis of Polish experience) – a brochure;
- ◆ “Acquisition And Supply Of New Means Of Transport (a poster)”.

All informational materials quoted can be found in Tax Offices across the country. Electronic versions, enhanced by additional and updated information, are available on the Ministry's of Finance website:

www.mf.gov.pl

All comments and suggestions concerning this brochure are welcome.

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Świętokrzyska 12
Warsaw



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