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Voluntary Disclosures lead to stricter VAT Penalties in Germany

According to the German Ministry of Finance, higher penalties should be imposed in conjunction with voluntary disclosure.

It is usual to expect more lenient fines and interest penalties if you file a voluntary disclosure after becoming aware of an error in the VAT return.

At the present, the following penalties are to be expected:

Penalty of 10% of VAT share up to a limit of EUR 25.000,00 at full discretion of the tax administration for late returns and for unpaid VAT due a monthly interest at 1% on the unpaid VAT. Furthermore an interest charge on the penalty of 0,5% per month must be paid.

After detection of an error, a voluntary disclosure must be submitted no later than five years and not as previously no later than 10 years.

The penalties will be increased as follows:

- 10 % charge of the tax due of late returns from 0 € to EUR 100.000,00
- 15 % above EUR 100.000,00
- 20 % above EUR 1.000.000,00

Merisma Tax & Payroll moves to brand new Office in Norway

Our Norwegian partners have moved offices to a fresh and modern location close to the beautiful harbour area in Oslo. Merisma Accounting, the sister company of Merisma Tax, has merged with another accounting company, making them one of the largest accounting groups in Norway. Merisma Tax is not part of the merger, and is now ready for action on their own. Welcome to Oslo!



Mini One Stop Shop Scheme transposed into Romanian legislation

The transposition into the national legislation on the provisions of the article 5 of the Directive 2008/8/EC was approved by the Emergency Ordinance no. 8/ 2014 amending the Romanian Tax Code.

Briefing on the legal basis

Changes to the EU VAT rules referring to the place of supply of telecommunications, broadcasting and electronic services will enter into force on the 1st of January 2015. Starting with this date, these services supplied by a business to a final consumer (B2C) will be taxable in the country where the customer is established or has his permanent address or usual residence (hereinafter "Member State of consumption") regardless of where the taxable person supplying these services is established (Article 58 of the VAT Directive 2008/8/EC of 12 February 2008 amending the Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax).

MOSS Scope

To support the businesses supplying telecommunications, broadcasting and electronic services in more countries, a new special scheme known as the Mini One Stop Shop (MOSS) will come into operation on 1st of January 2015.

The MOSS scheme will allow companies to register, submit returns and pay the relevant VAT due to the Member States of Consumption through the web portal of the Member State of Identification (typically the Member State in which the business has its business establishment). The simplification consists in the opportunity of the business not to register in all the Member States where it is liable to pay VAT, but to benefit of the electronic services through the web portal of the Member State of Identification. Also, the business will be taxed at the VAT rate applicable in the consumer's Member State.

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Use of the MOSS will be optional and is available both to businesses with establishments in the EU (the EU scheme) and to those established outside the EU (the non-EU scheme). The current VAT on E-Services scheme (VOES) which applies to non-EU businesses supplying e-services in the EU will be replaced by the MOSS.

Further information is available on the [MOSS Scheme Briefing](#), and in the Guide to the Mini One Stop Shop available on the website of the [European Commission](#).

In addition, recommendations on the co-ordination of the audit of the MOSS are in the process of being produced, with the intention that those recommendations of relevance to businesses will be published for taxpayers consultancy.

Further information on the MOSS implementation, including procedures regarding the special scheme will be published on the Romanian National Agency for Fiscal Administration website.

Poland - The Conference VAT Place of Supply of Services/

Mini One Stop Shop (MOSS) - Warsaw, 9. September 2014

The speakers at the conference organized by the Ministry of Finance in collaboration with the European Commission:

Donato Raponi, Ewa Wdowczyk-Szpytma, Alessio Nardi - European Commission, Thomas Ecker - Austria, Małgorzata Woźniak - Poland and Fabio Celozzi - Italy, Kirill Zõkov - Estonia, Kamila Zakrzewska - Poland.

The following topics were discussed in detail during the conference:

What is a digital service?

Who is making the supply? The meaning of Article 9A.

Who is the customer?

How to determine the place of consumption? Use of presumptions.

France: VAT and sale of discount cards (12 June 2014 ECJ Judgment in case C-461/12-Granton adevertasing BV)

The sale of cards giving the right to preferential purchasing terms to affiliated partners of the card provider, such as shops, restaurants, cinemas and hotels, is subject to VAT, according to a recent ruling of the European Court of Justice. The decision on whether a discount card is subject to or exempt from VAT essentially depends on the card's legal and economic characteristics and the conditions under which it is marketed.

In the case in question, the card provider covered the costs of manufacture, distribution and marketing without receiving any commission from the affiliates. The affiliates undertook to supply goods and services to cardholders at the preferential prices marked on the card. Depending on the case, the cardholder could either receive a price discount or free goods or services. The cards were transferable but could not be exchanged for money.

The card provider considered that the sale of cards should be VAT exempt, as they represented a means of payment. However, the Court considered that the activity underlying the use of the card was not a financial activity undertaken by the card provider, as in the case of a transaction made using a credit or debit card.

Therefore, according to the Court ruling, the sale of discount cards is subject to VAT.



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France - First cross-border rulings issued by the EU VAT Forum

The European Commission has published in early July 2014 the first cross-border rulings issued by the EU VAT Forum.

These rulings concern

- (1) the charge-back of costs of organizing trainings between companies of the same group established in a different EU Member State than where the training takes place,
- (2) application of the margin scheme to rebilling of travel and access costs to a symposium
- (3) the provision of a set of material and human resources used by the recipient for construction works in another Member State,
- (4) supplies of SIM cards for mobile phone
- (5) a case of applying a simplification for intra-Community supplies of goods whose transport includes a transshipment in the Member State of departure.



MOSS Registration, Returns and Payments. Short presentations of three Member States regarding their MOSS system (Poland, Italy, Estonia)

There were also three discussion panels during the conference devoted to the presented topics, during which the representatives in the conference made up of businesses from Poland and many other EU countries asked the speakers questions that expressed their doubts / concerns related to the changes in VAT in 2015 and the functioning of the MOSS system.

What is a digital service?

Main issues:

- The concepts of telecommunications, broadcasting and electronic services. Positive and negative lists. The approach of using open-ended lists.
- When are programmes ‘provided to the general public’? When are programmes for ‘simultaneous listening or viewing’?
- What is the distinction between broadcasting services and programmes on demand?
- “Over the top” services.

Who is making the supply? The meaning of Article 9A.

Main issues:

- The cases when services are not supplied directly to the final customer but via intermediaries. Often long and stretching across borders supply chains.
- The presumptions.
- Rebuttal of the presumption.
- Nature of the contractual relations.

Unfortunately, it will not be possible to avoid contacts with the tax authorities of each country to obtain their opinion on the given transaction. In 10/2014 a separate website devoted to the place of taxation will be launched by the European Commission. Currently there is no mechanism which would resolve conflicts causing double taxation. However, the Commission optimistically assumes that all countries have accepted the Explanatory Notes and therefore there will not be many conflicts and disputes in this area.

Who is the customer?

Main issues:

- Status of the final consumer (a non-taxable person), a natural person (that is a private individual), a legal person.
- The concept of “established”.

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The supplier of telecommunications, broadcasting and electronic services may regard any customer who does not provide him with a VAT identification number as a non-taxable person.

How to determine the place of consumption? Use of presumptions.

Main issues:

- Presumption of location of a customer.

The presumptions are intended to offer some flexibility in terms of future IT developments.

- The cases where the various presumptions could clash.
- Rebuttal of presumptions by the supplier by tax authorities.
- The risk of frauds.

Event in Santa Monica (USA) “New European Union VAT Rules for Telecommunication, Broadcasting and Electronic Services - What you need to know” - Sept 16, 2014.

Alessio Nardi (DG TAXUD, EC) announced at the end of the conference that soon the representatives of the EC will go to Santa Monica to encourage American companies to disclose and declare to the EU tax authorities their transaction under the new VAT rules in 2015. Let us hope that these incentives will meet the expected positive response of the American business.

Spain - Outstanding VAT measures just about to be approved

The Spanish Parliament is debating the tax system reform which shall also affect VAT with remarkable expected changes.

The new project includes the qualification as VAT subject of deliveries of shares, which granted the recipient the property, use or enjoy of Real Estate.

It also removes from the exempted area the Notarization of financial transactions that up to the date were considered as exempt, and obliged Notars to be included in the prorate regime.

Regarding location rules, when goods are object of assembly so far we distinguished between those deliveries in which cost of assembly exceeded of 15% out of total cost, these were considered as located for VAT purposes where the assembly took place, and those that did not exceed that threshold which were considered as located for VAT purposes in the source Country. With the new regulation project these thresholds shall disappear and all these deliveries shall be considered located for VAT purposes where the assembly takes place.

From 1st of January 2015, services rendered by electronic means, Telecommunications, television and radio broadcasting shall be located where the recipient (individual not Company or

No single bank account for Dutch VAT refunds anymore

In order to reduce the administrative burden for companies, the current rule that an entrepreneur may only use one single bank account in its own name for Dutch VAT refunds, will be abandoned. This will be formalised in the upcoming Dutch tax rules (2015). However, as per a decree, the Dutch State Secretary of Finance has announced that the new situation will be in effect from 9 September 2014. This is especially good news for situations where a foreign entrepreneur wants a third party to receive the VAT refunds (e.g. fiscal representatives and tax agents/intermediaries).

Please note the following conditions apply:

The foreign entrepreneur needs to file a written request with the Dutch tax administration to make use of a third parties' bank account for the refunds. Included in this request must be a statement declaring the bank account (IBAN) for the VAT refund to be paid out and the name of this bank account; The foreign entrepreneur explicitly declares in his request that he revokes his right to appeal to non-liberating payment.



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Romania - mulls reduction of VAT on certain products

Following a VAT cut in bakery products that came in 2013, the Romanian Government is considering a similar reduction for other products as well given that the former measure is considered a fiscal success. Last year, effective 1 September 2013, the government cut the 24% VAT for bread, flour and wheat to 9% in an efforts to combat tax evasion.

The negative impact of this measure on budget returns was compensated for by an increase in excise duties for alcohol and luxury products. Apart from a VAT decrease in the cost of food products, the prime minister believes Romania has to find new retail markets and sources of investment. Back from a visit to Beijing where he met representatives of Chinese companies interested in investing in Romania, the prime minister said his country could complement its budget returns and EU funding with Chinese investments in energy and infrastructure projects worth 6 billion EUR.

The minister said that "It is important to attract more investment, create new jobs and ensure our energy independence, all the more so as Romania is in favour of and believes it is necessary to impose new economic sanctions on the Russian Federation. This means that Romanian producers and the Romanian economy in general have to look for new markets and new investments."



entrepreneur) resides, established or domiciled. A one-stop solution has been previewed, either for Companies from outside the EU, as for Companies with clients in another EU Country.

A new reverse charge rule shall be recognized for mobile phones, tablets laptops and other electronic devices, as well as for silver, platinum and paladium. The condition to applicate this reverse charge rule shall be that sales to a same client exceed in a month 5.000 Eur.

Finally, we must detach the tax rate increase in many health products from 10% to 21% from this regulation approval.

New corporate tax rules in Portugal as from 1 January 2014

The Corporate Income Tax Reform ("CIT Reform"), effective from 1 January 2014 represented one of the most ambitious tax initiatives undertaken by the Portuguese Government. Its main purposes include raising the competitiveness of the Portuguese tax system, promoting investment in the country and reinstating Portugal's position in the European context.

Two of its main measures were:

- 1) The progressive reduction of the CIT rate
- 2) The introduction of a simplified taxation regime

Progressive reduction of the CIT rate

The CIT Reform set out a reduction of the general CIT rate from 25% to 23% effective in 2014. In addition, taxable income within the first bracket of €15,000 will be subject to a special reduced CIT rate of 17% applicable only to small or medium enterprises.

It is further intended to reduce the general CIT rate from 23% to 21% in 2015 and to 17% or 19% in 2016. However, this reduction will depend on the results achieved by this Reform, the assessment of the country's economic and financial progress and the expected reform of the VAT and Personal Income Tax systems.

Simplified taxation regime

The CIT Reform reintroduced an optional simplified CIT regime applicable to taxpayers that meet the following requirements:

- Income not exceeding EUR 200,000 and an overall balance sheet value not exceeding EUR 500,000 during the previous tax year (we understand that the reference to the balance sheet total refers to the total value of assets);
- Are not exempt from taxation nor subject to a special taxation regime;

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- Are not obliged to legally certify their accounts;
- Are not held directly or indirectly, by more than 20% of its share capital, by another taxpayer that does not meet the above mentioned requirements;
- Have not waived the application of the simplified regime during the previous 3 years; and
- Adopt the general accepted accounting principles applicable to micro entities, as per Decree-Law n. 36-A/2011, March 9.

Under the simplified CIT regime, the taxable basis is determined by the application of different co-efficiencies according to the nature of the income, as follows:

- 4% of the sales of goods and services rendered by hotels, restaurants and similar activities, with the possibility to reduce this rate by 50% and 25%, respectively, in the first and second tax years following the start of activity;
- 75% of income derived from the performance of professional activities;
- 10% of the income derived from remaining services and subsidies related to operation;
- 30% of income derived from subsidies not related with operation;
- 95% of income derived from contracts aimed at the assignment or temporary use of intellectual or industrial property or the provision of know-how;
- 100% of the acquisition value of net worth increases obtained for free.

Please note that the taxable basis assessed by this method cannot be lower than €4,074. Companies operating in the fuel, tobacco, vehicles and alcoholic beverages sectors should not include the applicable excise duties in the respective taxable basis for the purpose of the assessment above.

Additionally, taxpayers that elect to be taxed under this regime may deduct from their taxable basis: (i) the double taxation relief and (ii) withholding taxes which may not be compensated or reimbursed under the applicable law.

Romanian tourism representatives request a 9% VAT for half-board and full board accommodation

The National Association of Travel Agencies (ANAT) in Romania requests that the reduced VAT rate to be expanded to half-board and full board accommodation claiming that this measure will lead to an increase in the number of both Romanian and foreign tourists. It will also increase the consumption of travel services and the tourism's share within the GDP.

European Commission warns Romania on the VAT recovery

The European Commission has formally requested Romania to improve its VAT recovery process or shall face sanctions. The reasoned opinion from the EC, the step before proceedings at the European Court of Justice (ECJ), states that the time to repay claims under the EU 8th VAT Directive take in excess of six months. This is far in excess of the average time taken by other member states.

Note on reclaiming VAT under 8th Directive

EU companies may reclaim VAT incurred in another EU member state under the guidelines set by the 8th Directive. This dictates the administration and requirement that governments may impose on claimants, which includes speedy repayments of justifiable claims. In 2010, the EU VAT Package simplified the process enormously by enabling companies.

Non-EU companies looking to recover VAT suffered in an EU state may instead file a reclaim through the 13th Directive.



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Malta-Refund of VAT of Diplomatic and Consular Arrangements

Terms & Conditions

As from 1st July 2014 new regulations were introduced as to who and in what circumstances, a VAT refund can be claimed in terms of Diplomatic and Consular Arrangements.

Application for a refund of VAT may be made by diplomatic missions, consular posts and international organisations. This refund is only eligible where the amount on a single fiscal receipt is not less than €150 inclusive of tax. Such refunds can only be enjoyed on categories of goods purchased or services rendered for the sole and intended purpose of furnishing and equipping the diplomatic mission or international organisation premises as well as official residence.

The aggregate refund of tax payable in one calendar year cannot exceed:-

- €1,000 for a Head of Mission
- €850 for a member of diplomatic staff
- €700 for administration and technical staff



Currently the 9 percent VAT rate only applies for accommodation services and accommodation with breakfast included. The rest of the tourism services, including those of travel agencies selling tourist products in Romania are taxed at a full rate of 24 percent.

The VAT rate of 24 percent is higher than the level applied in most EU countries and puts the industry in a situation of non-competitiveness compared to the other countries it competes with on the tourism market. Bulgaria applies a rate of 9 percent since April 2011 for holidays purchased via travel agencies (over 102,000 Romanians went to Bulgaria via travel agencies in 2013), Greece reduced the VAT for restaurants at 13 percent during the economic crisis (some 100,000 Romanians left via travel agencies). Spain has a rate of 10 percent for both accommodation and restaurant services,” said the ANAT president.

Among the countries that apply a lower VAT rate for tourism services are Cyprus, Italy, France, Austria, Malta, Germany and Croatia. Such countries attract thousands of Romanian tourists annually.

Malta-Changes in interest Rate, & Remission of interest rules.

The rate of interest charged on late payment of VAT

As from 1st January 2014 the rate of interest due on unpaid tax has been amended from 0.75% to 0.54%

Remission of Interest Rules 2014

- Any interest incurred on VAT due which has not been paid may be remitted by the authorities only if enough reasonable cause for not paying VAT is presented to the VAT authorities.
- The authorities can impose any type of condition considered appropriate for the remission to actually take place. Conditions generally imposed are that the person concerned fail to make a payment/fail to comply with VAT requirements within such period. If any of the conditions imposed are infringed then the remission of interests will not be carried out.
- Interest chargeable on the amount of tax payable which falls under a payment plan and that does not exceed 2 years will stop being incurred from the date a person enters into such a payment plan.
- It is possible in the case of person benefitting from such remission of interest, for an amount, equivalent to the interest remitted, to be deducted from any interest due by the VAT Department to the person concerned in respect of any VAT refundable within 6 years from date of remission under these rules.