

VAT Brief

In this edition of VAT Brief we highlight European VAT developments that may impact on businesses who undertake activities in France, Germany and the United Kingdom:

France - Extension of reverse charge mechanism for non-French established businesses as of 1 September 2006

Germany - Increase of the standard VAT rate as of 1 January 2007

United Kingdom - New anti fraud reverse charge system for businesses trading in mobile phones and CPU chips

Issue 9

August 2006

Should you require further information, please call your usual PwC contact or one of the following:

John Fay

email: john.fay@ie.pwc.com
Tel: +353 1 7048701

Caroline McDonnell

email: caroline.mcdonnell@ie.pwc.com
Tel: +353 1 6626526

Jilly Riley

email: jilly.riley@ie.pwc.com
Tel: +353 1 6626634

Renata Slobodova

email: renata.a.slobodova@ie.pwc.com
Tel: +353 1 6626772



France

Extension of the reverse-charge mechanism for non-French established businesses as of 1 September 2006

In order to reduce the levels of perceived VAT fraud involving non-resident companies, the French Tax Authorities are introducing major changes that will affect non-established businesses and their French VAT registered clients. These changes will take effect from 1 September 2006 onwards; VAT on

supplies of goods or services in France provided by a non-French established business will, from that date, be reverse-charged by the purchaser or recipient when he is registered for VAT in France.

The new regime applies to all transactions carried out by non-French established businesses with French VAT registered customers, whether established or not.

The new rule includes, therefore, most domestic supplies of goods or services

in France with the exception of a few transactions that continue to follow their own rules. In practice, the new provisions should apply to internal sales, sale with installation of goods, supplies of cultural, artistic, scientific, educational, sport services and domestic transport services etc.

As an example, a non-French established business that holds stock in France, from which it supplies goods to French VAT registered customers, will fall within the scope of the new provision; i.e. its customer will have to self account for the VAT under the reverse charge mechanism.

This change may simplify VAT compliance procedures of non-French established businesses selling goods or services in France to VAT registered customers, but may also have an adverse cash flow effect for these non-established businesses and in certain cases render the compliance more complicated than before.

From 1 September non-French established businesses that only carry out transactions with French VAT registered customers will no longer be able to register for VAT in France. This means that these businesses will no longer be able to recover the VAT incurred on their expenses in France by offsetting the tax on their VAT returns, but will have to file Eight or Thirteenth EU VAT Directive refund claims. These businesses will therefore likely suffer from a cash flow disadvantage.

Conversely, non-French established businesses will have to remain (or become so if not currently registered) registered for VAT in France and file VAT returns if they carry out transactions in France which are not within the scope of the new regime; e.g. sales to non-French VAT registered customers such as for example private individuals, State hospitals etc.

Therefore, all non-French established businesses supplying services or goods to French VAT registered customers should review the mapping of their supply flows in order to determine whether the new set of rules

will impact their VAT accounting and invoicing processes as the changes may require a new setup of their ERP system.

Germany

Increase in standard VAT rate as of 1 January 2007

The German Bundesrat has announced that the standard VAT rate in Germany will increase from 16% to 19% with effect from 1 January 2007, whereas the reduced VAT rate, which is mainly applicable for foodstuff, books and newspapers and certain passenger transport, still remains at 7%. As it will affect both suppliers as well as the recipients of supplies it is advisable to anticipate the possible consequences of the increase of the standard VAT rate.

The increased standard VAT rate of 19% will be applicable for all supplies of goods and services which will take place after 31 December 2006. For goods delivered and services performed before this date, the standard VAT rate of 16% will apply. In the case of advance payments which will be received before 1 January 2007, the VAT rate of 16% will apply. However, please note in Germany the VAT amount has to be adjusted at the time the supply is carried out. Therefore if the supply is carried out after 31 December 2006 the date of supply and not the date when the contract is concluded is decisive in order to assess whether or not the increased VAT rate applies.

The supplier as well as the recipient of a supply bears a risk of additional VAT burden.

If the supplier is, according to the contracts, not allowed to pass on the increased VAT amount to his customer, he has to bear the additional VAT. On the other hand, if the supplier is allowed to pass on the increased VAT amount, but the recipient is not entitled to fully deduct the VAT due as input VAT, the increased VAT amount will increase the price for the goods or the service received.

As mentioned above, the increase of the standard VAT rate from 16% to 19% effective as of January 1, 2007 will have an impact if you undertake business activities in Germany. Accordingly, the affected businesses should check the existing contracts and invoices and consider the consequences of the increase of the VAT rate.

United Kingdom

New anti fraud reverse charge system for businesses trading in mobile phones and CPU chips.

Following a series of high profile VAT frauds, in which fraudsters have imported goods from Europe tax free and then sold them in the UK with 17.5% VAT added before disappearing without passing the VAT on to the Government, the UK has sought changes to its general VAT rules for mobile phones and CPU chips.

The UK has requested a derogation from the European Commission to extend the "reverse charge" mechanism to domestic supplies of mobile phones, computer chips and certain other goods. Where a UK VAT registered supplier will supply these goods to a purchaser registered for VAT in the UK, the UK VAT on the sale will be self-accounted by the purchaser on a reverse charge basis (and not charged by the UK VAT registered supplier). It is expected that the derogation will be soon granted and this "reverse charge" mechanism will be implemented before the end of the year, possibly as early as October 2006.

The change in the reverse charge rules will bring new reporting and administrative requirements being a reverse charge sales list (similar to an EC sales list/VIES return). Accordingly, the affected businesses should begin to take the necessary steps in relation to VAT accounting systems to deal with a possible implementation date of October 2006.