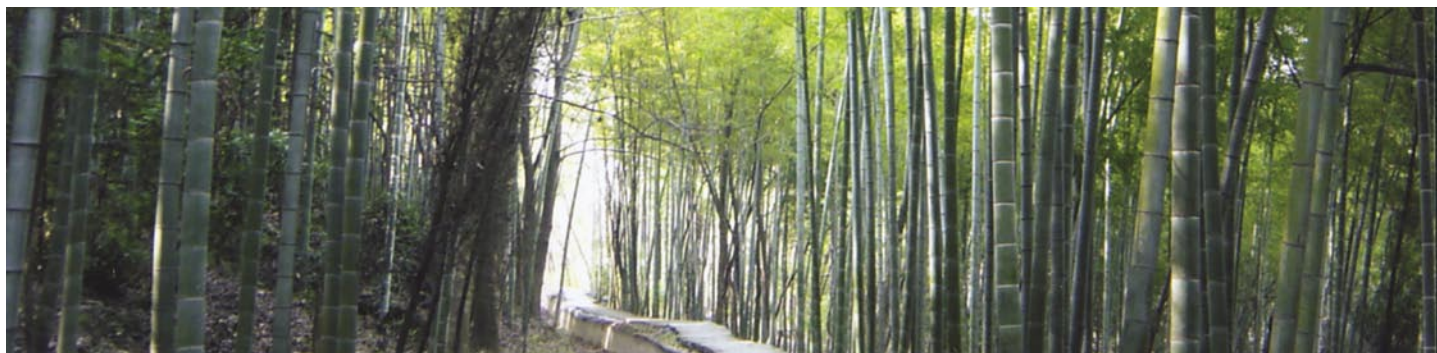


# PwC VAT Broadcast

## Austria

Issue 2, December 2006



In this issue

### The VAT year 2006 – retrospective and outlook

- 1 New invoice data: VAT identification number of recipient Reporting obligations and due dates
- 1 Invoices transmitted by fax – extension until end of 2007
- 1 Importation of goods followed by an intra-Community supply
- 2 Austria raised turnover threshold for small size businesses
- 2 Bulgaria and Romania to join EU on 1 January 2007
- 2 Taxation of passenger transport in Austria
- 2 Transaction chain supplies - EMAG
- 2 Fair events - Gillan Beach Ltd.

#### New invoice data: VAT identification number of recipient

As of July 2006, VAT invoices for supplies of goods or services exceeding the total invoice amount of EUR 10,000 must – in addition to the VAT identification number of the supplier - show the VAT identification number of the recipient if the supply is effected by a taxable person established in Austria to another taxable person.

If the VAT identification number is not shown on the invoice or is invalid the recipient is not entitled to deduct VAT shown on the invoice. If the recipient of an invalid VAT invoice can provide a valid VAT invoice within the respite of one month upon request of the tax auditor - according to the Austrian VAT guidelines - input VAT deduction will not be denied.

#### Invoices transmitted by fax – extension until end of 2007

Electronic invoices are only accepted as either VAT invoices, which entitle the recipient to input VAT deduction,

if these invoices are provided with an advanced electronic signature (AES) or transmitted by means of electronic data interchange (EDI). These requirements practically mean the end of faxed invoices.

As many businesses are still faced with problems regarding the reorganisation of the electronic invoicing (AES, EDI), the Austrian Ministry of Finance decided to extend the possibility to issue faxed invoices without AES or EDI until the end of 2007.

#### Importation of goods followed by an intra-Community supply

According to an information of the Austrian Ministry of Finance, as from 1 October 2006, the use of the special Austrian VAT identification number of a clearing agent is only applicable if the recipient of the goods can provide the foreign supplier with a VAT identification number of the country of destination. If the recipient does not use the VAT identification number of the country of destination, the

supplier must register for VAT purposes himself in order to benefit from import VAT exemption if the goods are subject to a subsequent intra-Community supply of goods.

### Austria raised turnover threshold for small size businesses

As from 1 January 2007, the sales of small size businesses with seat in Austria are exempted from VAT, if their annual turnover does not exceed EUR 30,000. So far, the turnover threshold amounts to EUR 22,000.

It has no impact on the exemption, if the threshold is exceeded once by no more than 15 percent within the period of five years. Ancillary transactions including the transfer of business are not included in the threshold.

### Bulgaria and Romania to join EU on 1 January 2007

Bulgaria and Romania are the next in line to join the Union. As of January 1, 2007 the EU legislation will enter into force. Amongst others, the EU Accession of these countries will have an impact on VAT issues.

The shipment of goods from Austria to Romania or Bulgaria is deemed as an exempted intra-Community supply of goods. The exemption for intra-Community supplies is applicable if the Austrian supplier obtains the Bulgarian or Romanian VAT identification number of the recipient. Moreover, the Austrian Businesses have to include the intra-Community supplies of goods in the Community Sales Listing and the Intrastat Declaration. If a customer is not registered for VAT in Bulgaria or in Romania, the supply is taxable in Austria (the place of the departure of the transport of goods). Therefore, a timely obtaining of the Romanian or Bulgarian VAT identification number and the validation of the VAT identification is recommended.

### Taxation of passenger transport in Austria

The European Court of Justice (ECJ) declared that the Austrian treatment of suppliers of cross-boarder passenger transports violated Community law.

Austria allowed taxable persons not established in Austria which carried out passenger transports in Austria not to submit tax return forms and not to pay the net amount of VAT when their annual turnover in Austria did not exceed EUR 22,000.

In deeming the amount of VAT due to be equal to the amount of deductible VAT and making application of the simplified rules contingent on Austrian VAT not appearing on invoices or in other documents serving as invoices, the Republic of Austria has failed to fulfil its obligations under Articles 18 (1) (a) and (2) and 22 (3) to (5) of the Sixth Directive.

The regulation of the Federal Finance Minister on the establishment of average rates for calculating amounts deductible by foreign undertakings providing international passenger transport (BGBl. II, 166/2002) will become ineffective after December 31, 2006 (ECJ 28.9.2006, C-128/05, Commission/Austria).

### Transaction chain supplies – EMAG

On April 6, 2006 the ECJ decided in case C-245/04 („EMAG“) that in a situation, where a chain transaction involves a cross-border intra-Community movement of goods, one supply within the chain only should be exempt from VAT as an intra-Community supply.

The ECJ agreed with the Austrian administrative practice that:

- a transaction chain supply can only consist of one “moved supply”, i. e. only one intra-Community supply;
- the place of supply for the “moved supply”, the intra-Community dispatch of the goods, is where the transportation or dispatch of the goods begins;
- the other supplies carried out before or after the “moved supply” are deemed to be carried out in the country of origin respectively destination.

However, the ECJ did not comment on how to determine the “moved supply”. Furthermore, it is yet to be seen how the Austrian Administrative Court will decide the position given the ECJ decision (ECJ 6.4.2006, C-245/04, EMAG).

### Fair events – Gillan Beach Ltd.

The ECJ decided that the supply by an organiser of a fair or exhibition of an inclusive service to exhibitors must be seen as a service supplied where physically performed (ECJ 9. 3. 2006, C-114/05, Gillan Beach Ltd.).



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