

## ECOFIN agrees to adopt key elements of VAT Package dated 6 December 2007

On 4 December, the EU's Economic and Financial Affairs Council (ECOFIN) agreed to formally adopt key elements of the VAT Package, meaning sweeping reforms to the rules for determining the application of VAT for businesses that supply or purchase services. Some of the changes are due to take effect from 1 January 2010; changes to the taxation of supplies of telecommunications, broadcasting and electronically supplied services to private consumers by EU businesses will be implemented in 2015.

The VAT package is composed of interlocking elements intended to establish new rules for determining the place of supply for services (which determines which EU country applies VAT to those services) and minimising regulatory burdens on business engaged in cross-border trade. For some businesses, this will represent a fundamental change to the VAT jurisdictions to which they are exposed and their VAT reporting requirements.

The package also includes additional reporting requirements for EU businesses that supply services throughout the EU, and simplification procedures intended to assist businesses with the additional VAT reporting requirements that may be created. This includes the mini one-stop-shop for supplies of telecommunications, broadcasting and electronically supplied services to private consumers (which aims to provide a simplified system for registration and declaration of VAT) and simplified rules for the refund of VAT to businesses that are not registered for VAT in countries where they suffer VAT on costs.

### Key implications

The VAT package comprises the following four key elements:

Place of supply: the rules for determining the place of supply (and therefore the application of VAT) of services have been re-written, extending the range of services that will be deemed to be supplied where the recipient is established. This notably implies that supplies of telecommunications, broadcasting and electronically supplied services to private consumers in the EU will become taxable in the country of the customer. The entry into force of the latter new rule has been set on 2015.

Electronically supplied services: the existing special scheme (registration and filing of VAT returns in one Member State only) for electronically-supplied services (ESS) applicable to non-EU businesses will be expanded to include telecommunications and broadcasting services, and from 1 January 2015 extended to cover EU businesses that supply these services. The changes may have a substantial impact for EU and non-EU businesses.

Reporting obligations: additional filing requirements will be introduced for businesses making intra-EU supplies of services, adding a significant additional compliance burden for businesses, especially those that may be unfamiliar with having to report intra-EU transactions. Failure to comply with these reporting obligations can result in severe penalties being imposed.

8th Directive refunds: this mechanism, under which EU businesses can reclaim VAT incurred in Member States where they are not established for VAT purposes, will be reformed. The new system will involve: electronic filing; a detailed timetable for processing refund applications; and the right to interest on overdue refunds.

## Contacts

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