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VAT and Cross-Border Supplies



INFO PACK



What are the basics that one needs to know about VAT?

A qualified accountant providing tax advice to his clients will already possess basic VAT knowledge and be aware of the VAT treatment of standard domestic transactions.

As a rule, supplies of goods and services in the EU are subject to VAT at a standard rate of at least 15% (the current EU average is around 21%). For some supplies a reduced rate may apply and sometimes the supply is zero-rated. In those cases, the business supplier can still deduct input VAT even though his own output supplies do not trigger tax. However, some transactions are VAT exempt: they do not trigger tax but they exclude the deduction of input VAT.

The European Commission regularly publishes the [VAT rates applied across EU Member States](#).

1 What are the basic rules if my client supplies goods or services to customers in another EU Member State?

As a rule, "cross-border supplies", as we call them, should not trigger VAT in the Member State where the supplier is located.

However, they will in most cases trigger VAT in the country where the customer is established or where the supply is physically carried out.

2 What if my client ships goods to non-business customers in another EU Member State?

For supplies of goods to consumers (non-business customers) in another Member State the client has to charge either the VAT of the Member State where the supplier is located or of the Member State where his customer (consumer) is located.

This depends on whether the supply threshold is exceeded or not. Those supply thresholds vary among Member States. The European Commission regularly publishes the [distance selling thresholds for EU Member States](#).

3 Is that different if my client's customer is in business?

Yes, the supply of goods to business customers should generally be zero-rated for the supplier.

The client has to know whether his customer is in business, i.e. whether the customer is a so-called [taxable person](#) for VAT purposes.

This is assumed, if the customer provides the client with a valid VAT identification number from another EU member state. However, the client has to verify whether such VAT identification number from another EU Member State is valid, which can be done via the European Commission's database [VIES](#).

Additionally, there are a number of facts to be considered, e.g. what type of goods are supplied, who is responsible for the shipping, where are the goods located at the time of the supply, are further parties involved etc. All these factors can have an influence on the place of supply and on the question whether the supply is zero-rated for the supplier. The European Commission's website provides some further information about the [place of supply](#).

Be aware that the invoicing and documentation requirements to keep cross-border supplies of goods zero-rated are more demanding than for domestic transactions. Furthermore, additional declaration requirements (intrastat) may occur.

4 And if the shipment of goods goes to non-EU countries?

In such case, we speak about an export. If certain customs formalities and documentation requirements are met, the supply should normally be zero-rated for the supplier.

5 What if my client supplies services, not goods?

VAT on services generally occurs where the services are supplied, if it is within the EU.

However, this depends on the status of the customer receiving the service and on the nature of the services supplied.

Regarding the status of the customer receiving the service, a distinction must be made between a non-taxable person (a private individual who is the final consumer) and a taxable person acting as such (a business acting in its business capacity).

In case the customer is a private individual who is the final consumer, VAT is generally due at the place where the service has been supplied. This will most often, but not always, be where the service supplier is established. The service supplier will in those cases account for VAT on his services in the Member State where he is established, applying the VAT rate of that country.

Depending on the nature of the service, VAT may however be due in another member state than that where the supplier is established. This is for example the case with services connected to immovable property; transport of passengers or goods; cultural, artistic, sporting, scientific, educational, and

entertainment services. From 1 January 2015, this is also the case for telecommunication, broadcasting and electronically supplied services.

In case the customer is a business acting in its business capacity, VAT is due at the place where the customer is located. The customer – not the service supplier – has to account for VAT (reverse charge).

Beware that specific invoicing, documentation and declaration requirements have to be considered.

Supplies of services to a customer outside of the EU are generally zero-rated; the service supplier can usually recover related input VAT.

6 How does my client have to invoice his customers?

More details regarding the [EU invoicing rules](#) can be found at the European Commission's website. Be aware that each EU member state may lay down specific additional rules on certain matters.

7 Are there any special rules that me and my client need to be aware of?

There are a number of supplies which can be subject to specific rules, e.g. transport services, supplies related to land and buildings, supplies of [telecommunications, broadcasting and electronic services](#), supplies of means of transport, supplies of second hand goods, works of art etc. Be aware that if your clients supply goods or services subject to special rules in their own country it is quite possible that special rules will also apply in other member states and, if this is outside your normal expertise, it may be advisable to seek specialist advice on your clients' behalf in advance of the transactions.

Additionally, for supplies of certain goods like alcohol, tobacco products, fuel, special rules may apply and excise duty may need to be considered. The European Commission's [website on excise duties](#) provides some further information.

8 How can I register my client for VAT and file my client's VAT returns in another EU Member State

Basic information in English on the administration of VAT in all 28 member states can be found at [Vademecum on VAT obligations](#). Some, but not all, member states offer the possibility of registering online.

There are still considerable differences across EU member states regarding the content of VAT returns, their filing and the VAT payment. Electronic filing of VAT returns should be possible, but the associated webpages are usually only in the national language and registration may require some administrative

process and documentation. The European Commission has proposed an EU standard VAT return that would reduce some of the differences in requirements but it is still in the legislative process.

It can be helpful to consult colleagues in other Member States to assist in registering your clients and submitting their returns.

9 What if my client is a small business?

Generally speaking, small businesses follow the same rules and have the same obligations as larger ones. However, many member states have provisions in place to assist the smaller business. For example, businesses selling to customers via post do not have to register in a member state unless their turnover exceeds certain limits.

Additionally, many member states have longer periods of account for small or micro businesses so instead of having to file a return every month it may be possible to file quarterly or even annually. Some Member States also offer simplified VAT accounting or cash accounting for smaller businesses.

10 What if something goes wrong?

It is vitally important that your clients contact you before they consider cross-border transactions and that you consult an appropriate expert in other countries where appropriate. Errors can be extremely costly, because interest on underpaid tax will arise and accumulate quickly when cross-border transactions are frequently carried out

The process of correction of errors after the submission of a VAT return varies across member states.

One particularly high risk area is that of your client being an unknowing participant in missing-trader or carousel fraud. Where a trader has "gone missing" without paying over VAT on sales it is possible for member states to look to seek to reclaim the loss by restricting the input VAT recovery from other businesses in the same supply chain.

11 That sounds as if a lot of information and knowledge is required. Wouldn't it be wise to refrain completely from advising on VAT in cross-border transactions?

No. You should be aware of the potentially contentious matters in both your home country and – at least in a general way – of the pitfalls in other countries. You should ask your clients to involve you as early as possible when they consider cross-border business. You may refer to a specialist in those matters. However, you should remain the intermediate between your client and the specialist adviser.

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