



EUROPEAN VALUE ADDED TAX (VAT)

Preface

This European Value Added Tax (VAT) guide was prepared by Bert Laman, LL.M, Head of the Praxity and the Mazars Global Indirect Tax Group. It sets out some of the key aspects of the European VAT system, a sales tax system that is applicable in all Member States of the European Union¹, as well as a number of other countries. Knowledge of the VAT system is an important consideration for companies based in Europe, as well as companies from outside of Europe that import, buy and sell goods, or render services in or to Europe.

Every Member State of the European Union has a VAT framework. The laws establishing the VAT are national laws, each framed within certain parameters specified by the current *EU VAT Directive* (No. 2006/112).

The information in this guide is intended to provide general guidance only. Professional advice is recommended if undertaking a specific transaction or if you need guidance for a specific set of circumstances.

Praxity has established a Global Indirect Tax Group, comprising experienced VAT specialists. They work closely together on joint client assignments as a fully integrated international team. Our specialists can provide assistance to help your clients you're your business comply with the various rules and regulations regarding the import, export and movement of goods, as well as mitigating any excise taxes or import duties.

If you have any questions or comments relating to this European VAT Guide, or any other international VAT related questions, please contact:

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This guide is intended as a general guide and should not be acted upon without further advice.

¹ The Member States of the European Union are: Austria, Belgium, Bulgaria, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, the Slovak Republic, Slovenia, Spain, Sweden and the United Kingdom. Croatia is joining the EU on 1 July 2013.

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1.0 The EU VAT system

1.1 General introduction to VAT

Value added tax (VAT) is a general tax levied on all goods and services bought and sold for use or consumption within the EU. VAT is calculated on the value added to goods and services by a trader at each stage of the production and distribution chain.

Contrary to sales and use taxes, VAT is a multi-stage tax charged at each stage of the supply chain. It is collected through a system of partial payments. It allows taxable persons (businesses identified for VAT purposes) to deduct, from the VAT due, the amount of VAT that they have paid for business purchases in the preceding (production) stage. This system ensures that the tax is neutral, regardless of the number of transactions.

The principles and structure of VAT are incorporated in EU law. However, the EU still comprises many different countries. To a great extent VAT legislation has been harmonised, although local VAT legislation can and does still differ substantially.

1.2 Who pays the VAT?

Ultimately, VAT is borne by the final consumer in the form of a percentage added to the final selling price of the goods or services. The supplier (the business identified for VAT) pays the VAT due on the supply of goods or services to the local tax authorities after deducting the VAT incurred from its suppliers.

1.3 Transactions subject to VAT

Within the EU, the following transactions are subject to VAT:

- The supply of goods by a taxable person within the territory of a EU Member State
- Intra-Community acquisitions of goods in a EU Member State, whereby goods are transported from one EU Member State to another
- The supply of services if the recipient is established within the EU
- The importation of goods from outside of the EU.

1.4 Exemptions

There are transactions (goods or services) that fall under a category exempt from VAT. When sold to the buyer, normally a final consumer, no VAT may be charged. For example, VAT exemptions can include certain public interest activities, such as medical care and school education, and specific insurance and financial services.

The disadvantage of exempt supplies is it is not possible to deduct VAT paid on the inputs.

1.5 EU VAT Directive

The current EU VAT system came into effect on 1 January 1993. With the introduction of the single market in 1993, fiscal customs based controls at the internal EU Member State borders were abolished in favour of a new VAT system of control for intra-Community trade. Under this new VAT system, local VAT legislation has been respected and therefore maintained. The 1993 VAT system resulted in the elimination of around 60 million customs documents a year, leading to a significant relief in the administrative burden faced by EU businesses. Although existing local VAT legislations in the EU have been respected, they have been integrated to a certain extent through the introduction of a single **EU VAT Directive**.

The **European VAT Directive** dictates VAT regulations that all EU Member States are required to implement. However, it does allow EU Member States to introduce exceptions and partial revocations (derogations) from the VAT regulations, as stated in the directive. Moreover, the directive does not set the VAT rates that EU Member States must apply. Only a minimum rate of 15% is set. This means that VAT rates differ widely. Currently, EU Member States apply standard rates ranging from between 15% and 27%. They may also apply one or two reduced rates, with a minimum of 5%.

1.6 Cross-border supplies of goods and services

A VAT zero rate may be applied on cross border supplies of goods to businesses in other EU and non-EU countries, subject to strict terms and conditions. If the correct use of the VAT zero rate cannot be proven (i.e. by supporting documentation), the local tax authorities may enact a VAT assessment on the supplier, possibly accompanied with penalties and interest.

For cross border supplies of services, the 'place of supply' rules determine which tax jurisdiction is allowed to levy VAT. Individual rules are applied for goods and for services, as well as for business-to business (B2B) and business-to-customer (B2C) supplies. In each case, there is a general rule and exceptions that can cater for certain types of transactions.

2.0 Cross border supply of goods

2.1 Introduction

When supplying and transporting goods from one EU Member State to another EU Member State, these supplies are known as intra-Community supplies, not export of goods. The term 'exports' is reserved for supplies of goods to a country that is outside of the EU.

2.2 Supplying goods to companies

The supply of goods by a company from one EU Member State to a company established in another EU Member State is, in principle, subject to zero per cent VAT in the EU Member State where the goods are dispatched (known as the EU Member State of origin). The subsequent acquisition is subject to VAT in the EU Member State where the goods are destined. Currently, the definition of acquisition refers to *'the acquisition of the title to a good as the owner'*. These cross border supplies between EU Member States are called 'intra-Community supplies'.

In order to apply the VAT zero-rate, a supplier must present written proof – at the request of the local tax authority – that the goods have been transported to a company established or registered in another EU Member State. In order to prove to the tax authorities that the goods have actually been removed, the following evidence is deemed important and should therefore be retained, stored and archived by the supplier:

- Freight notes
- Customer orders
- Correspondence with customers
- Sales invoices
- Packing lists
- Bank statements.

A combination of the abovementioned documents provides stronger evidence than a single document.

In addition, the supplier should, whenever possible, acquire a valid VAT identification number from its client. This VAT identification number must be stated on the sales invoice.

Case study example

A Dutch company supplies computers to a French company. The goods will be transported from Amsterdam to Paris. The Dutch company does not charge VAT on the invoice issued to its French customer. The French company reports the VAT amount due on the acquisition of the goods in France to the French tax authority. In principle, the same VAT amount can be deducted as input VAT in the French VAT return.

This example shows that the levy of VAT is little more than an administrative formality whereby a trader, who is entitled to deduct VAT, purchases goods. The VAT due on an intra-Community acquisition must be declared in the domestic VAT return and can, in principle, be deducted as input VAT in that same VAT return. Companies are legally required to carry out this procedure, even if it does not result in the payment or the receipt of any VAT.

The VAT amount due is calculated using the remuneration charged. Amounts in foreign currencies must be converted to the currency of the country in which the buyer is based. The last quoted selling exchange rate on the date the VAT became due is used for the currency conversion.

If the evidence of transport is insufficient, or if the VAT identification number of the recipient is not valid, the supplier will be at substantial risk of being subjected to an additional VAT assessment from the local tax authority. This situation may lead to additional VAT payments, possibly accompanied by a single or multiple monetary fines.

To verify whether a VAT number originating from any EU country is valid, a supplier can use the online tool provided by the EU, at:
http://ec.europa.eu/taxation_customs/vies/.

While this is a useful tool, it's important to recognise that it does not offer conclusive answers relating to the details provided by a company and whether these match the VAT number. It is therefore only advisable to use this online tool as a preliminary check. If in doubt, please contact your customer for any documents or confirmations required.

2.3 The (temporary) transfer of own goods to another EU Member State

Frequently, entrepreneurs will temporarily move goods to another EU Member State, with no intention of selling the goods to a third party on arrival. For example, a company moves goods to a warehouse located in another EU Member State. These movements of goods are effectively treated as an intra-Community transaction.

Case study example

If a Belgian entrepreneur moves specific goods to Germany and keeps them in local storage, the entrepreneur is considered to have made a deemed supply to himself, followed by a deemed acquisition in Germany by himself. The supply is subject to zero per cent VAT in Belgium, whereas the deemed acquisition is subject to local VAT in the country of arrival (Germany). It means that the Belgian entrepreneur will have to register for VAT in Germany and submit VAT returns in Germany.

When the transferring entrepreneur does not issue a pro forma invoice, the price used as the basis to calculate VAT is unknown. In these situations, VAT regulations state that the price applied is either the purchase price of the goods in question, or the price of similar goods. The entrepreneur can also choose to issue an invoice to himself.

If an entrepreneur moving goods either uses the goods, or intends to use them for taxable supplies, VAT due on the deemed acquisition can be simultaneously deducted from VAT due on taxable supplies. This is done on the VAT return.

2.4 Installation, delivery and assembly in another EU Member State

For intra-Community transactions subject to VAT, there are several exceptions to the general rule. The most important relates to the delivery of goods that are subject to assembly or installation in the buyer's country or another EU Member State. Contrary to the general rule, if the buyer requests an assembly or installation of the goods, the acquisition is not subject to VAT. This is because the supply (including installation) is deemed to have been made in the country where the goods are installed and is subject to VAT in that country.

Case study example

A Dutch company sells food supply equipment to a French company. The Dutch company supplies and installs the equipment in France using its own staff and staff hired in France. In this situation there is no intra-Community acquisition with regard to the goods installed in France. The Dutch company makes a supply (and installation) that is subject to VAT in France. Based on local French VAT rules, the VAT liability shifts to the French customer. This means that the Dutch company does not legally have to register itself for VAT, and it is not required to declare VAT in France.

Note that the actual charging of foreign VAT and the process for VAT registration by the supplier may be legally required in some EU Member States. In certain EU countries,

such as France, a reverse charge mechanism may be applied, whereby the VAT liability shifts to the client. The legislation in the various EU Member States tends to differ on this point. For this reason, it's advisable to seek professional advice and guidance about local VAT registration requirements when supplying and installing goods in other countries.

2.5 Chain transactions

In cases where two parties trade in just two countries, the VAT requirements can be deemed as relatively straightforward. However, in reality, transaction chains often involve a large numbers of parties. One of the key challenges in a transaction chain is determining the sales that are subject to VAT, and in which territory.

2.5.1 Intra-Community supply in chain transactions

Although three (or more) parties may be involved in the chain transaction, the zero rate for an intra-Community supply can only be applied once when the chain transactions involve one physical cross border movement of the goods. The place of the intra-Community supply is the EU Member State where the goods departed from. Any other supplies in the chain are treated as domestic supplies in either the EU Member State where the goods departed or where they were received. It depends on where in the chain the supply actually falls.

In chain transactions, the supplies that qualify as intra-Community supplies must be identified. These supplies are subject to zero per cent VAT (assuming all conditions are met). Other supplies might lead to mandatory local VAT charges. In general, the trader who owns the goods at the moment of transportation would usually declare the acquisition of the goods in the country of arrival. In case of doubt or difficulties, contractual agreements may need to be examined.

Case study chain transaction example

Company A supplies goods to company B, who in turn supplies these goods to company C. Assume that A and B are registered for VAT purposes in France, with France being the country where the goods are dispatched. C, to whom the goods are delivered, is registered in the Netherlands (please refer to Figure A). Company C arranges for the goods to be transported from France to the Netherlands. In this example, it is clear that the supply from B to C has to be treated as the intra-Community supply. As C is the owner of the goods at the moment of transportation, C should declare the acquisition of the goods in the EU Member State of arrival (the Netherlands).

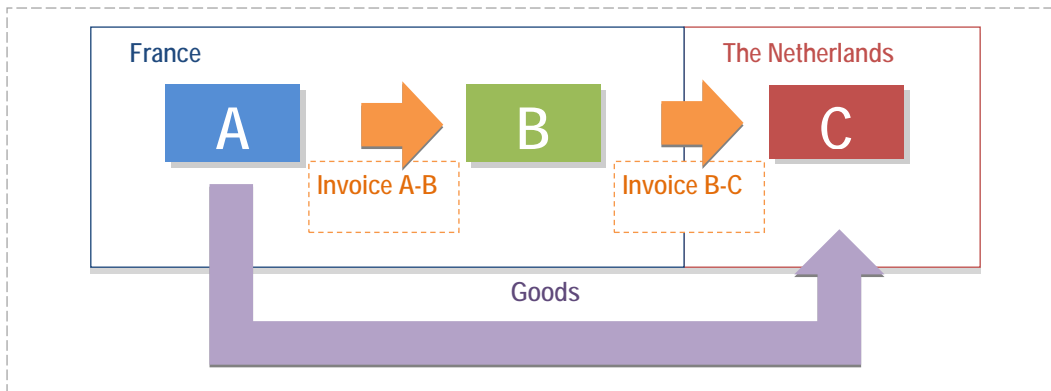


Figure A. Chain transaction

2.5.2 Triangulation supply chain

Triangulation is another variation that adds to the complexities associated with chain supplies. In a classic case of triangulation, company A supplies goods to company B, who in turn supplies these goods to company C, and the goods are transported directly from A to C (please refer to Figure B. Triangular transaction).

The supply from A to B would always be in the EU Member State from which the goods are dispatched, and would either be subject to local VAT or zero per cent VAT. The VAT treatment regarding the supply from B to C depends on where, between A and C, the cross border transfer of goods occurred. This is where the intra-Community supply is.

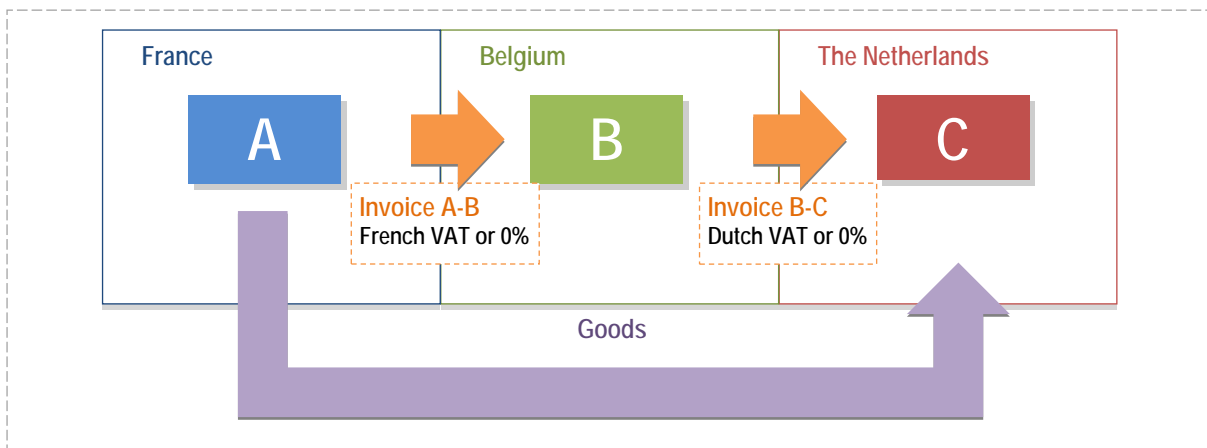


Figure B. Triangular transaction

For example, if the A to B supply qualifies as the intra-Community supply, the goods will be delivered to B in the same EU Member State where C is located. This makes B's supply to C a domestic supply. As a result, B must register itself for VAT purposes in the EU Member State of C. This situation normally occurs if the goods are transported because of a contractual agreement between A and B, whereby A dispatches the goods directly to C on B's behalf.

Alternatively, if the B to C supply qualifies as the intra-Community supply, the goods will be delivered to B in the EU Member State where A is located. This makes A's supply to B a domestic supply in A's EU Member State, while B's supply to C takes place in that same EU Member State subject to zero per cent VAT. This situation normally occurs when goods are transported as a result of a contractual agreement between B and C. Consequently, B may be required to register for VAT purposes in either A or C's EU Member State.

To reduce the administrative and compliance burden on traders with regard to VAT registration and reporting, the simplification measure for triangulation was introduced within the EU.

The simplified measure for triangulation requires the presence of two supplies of goods in succession, made between three VAT-registered traders in three different EU Member States. In short, a simplified triangular transaction comprises a trader in one EU Member State ordering goods from a trader in a second EU Member State, to be delivered to a trader in a third EU Member State. From this chain transaction the following two deemed intra-Community supplies may be deduced:

1. Supply from A to B: zero per cent VAT is due as a result of a (deemed) intra-Community supply
2. Supply from B to C: zero per cent VAT is due as a result of a (deemed) intra-Community supply.

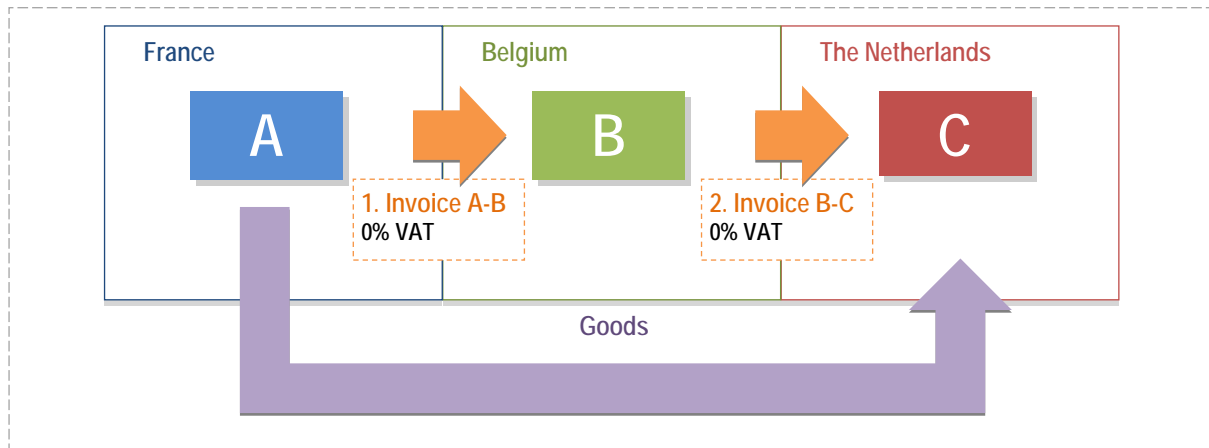


Figure C. Simplified triangular transaction

Case study for simplified triangular transaction

Company A makes an intra-Community supply to company B. Company A is allowed to issue a zero rated VAT invoice, providing the VAT identification numbers of both A and B are stated on the invoice. Company A must declare the supply both in its local VAT return, **AND** in the EU Sales Listing.

Company B is also allowed to issue a zero-rated invoice, providing that it states on the invoice that the simplified triangulation procedure applies to the goods supplied to C and it lists the VAT identification numbers of both B and C. Please refer to [Figure C. Simplified triangular transaction](#) for an illustration of these transactions.

As a result, no registration in either EU Member State A or C is required for company B.

The simplified measure for triangulation may only be used in cases where three companies in three different EU Member States are involved.

The general rules apply to all other cases. As a result of these complexities, professional guidance from specialists with European VAT expertise is recommended.

2.6 Supplying goods to VAT exempt entrepreneurs

Section 2.2 outlines how intra-Community supplies to entrepreneurs are generally subject to VAT in the EU Member State of destination, and the buyer reports the VAT amount due on the acquisition of the goods. A different rule applies to entrepreneurs that specifically supply goods and services exempt from VAT. These entrepreneurs include hospitals, banks, insurance companies, doctors, educational institutions, etc.

In principle, supplies to VAT exempt entrepreneurs are always taxable in the country where the VAT exempt entrepreneur purchases the goods. This means the supplier has

to charge VAT to the customer. As a result, the acquisition of these goods is not subject to VAT in the EU Member State of destination.

Should the intra-Community purchases by a VAT-exempt entrepreneur in a single calendar year exceed a specified threshold, the acquisition is taxed, rather than the supply. In these cases, the supplier makes a zero-rated supply. Therefore, the general rule as described in section 2.2 applies.

NB: The thresholds may differ between EU Member States (see Appendix III).

Case study example

The threshold for VAT exempt entrepreneurs established as a legal entity in the Netherlands is EUR 10,000. This threshold is of importance for foreign suppliers, and also Dutch entrepreneurs who supply goods and services exempt from VAT. From the moment the purchase threshold is exceeded, the Dutch VAT exempt entrepreneur is legally required to submit a VAT return in the Netherlands. Consequently, he or she will be legally required to report and pay VAT on the acquisitions in the Netherlands.

There is no retroactive effect when the threshold is exceeded. This means that for a VAT exempt entrepreneur making purchases in other EU Member States which did not exceed the threshold in the previous calendar year, will only be confronted with taxed acquisitions in the current year after their value has exceeded the total threshold applicable in the country where that entrepreneur is based. In other words, an entrepreneur's intra-Community supplies to VAT exempt buyers in another EU Member State are generally subject to VAT in the EU Member State of the supplier. However, once the total value of the transactions exceeds the threshold applicable in the buyer's EU Member State, the supplies are taxable in the EU Member State of the recipient.

VAT exempt entrepreneurs may choose to pay VAT on their acquisitions, regardless of whether the threshold will be exceeded. To do this, the entrepreneur must submit a written application to the tax inspector and the registered VAT number to foreign suppliers. This will inform them that the customer is entitled to receive zero-rated supplies. Applying to register and pay VAT, which remains valid for at least two years, is often considered by suppliers and customers to be the safest option.

2.7 Supplying goods to consumers

In general, purchases made by private individuals are subject to VAT in the EU Member State where the goods are purchased. Having purchased the goods, these private individuals are allowed, without any further formalities, to travel throughout the EU with those purchases.

Due to the differences in VAT rates that exist between countries, making cross border purchases – sometimes referred to as 'border hopping' – may result in considerable

savings. For example, a Dutch holidaymaker buying a camera in Luxembourg will pay less (Luxembourg) VAT and potentially a lower price than in the Netherlands.

There are two exceptions to the general rule, which state that private individuals pay the VAT of the EU Member State where the goods are purchased. The first exception concerns the 'distance-selling' of goods: the VAT may sometimes be levied in the buyer's country of residence. The second exception concerns the purchase of new vehicles, such as cars and boats: the concerning VAT is always levied in the buyer's country of residence.

2.7.1 Distance selling

Purchases made by private individuals are generally subject to VAT in the country where the goods are purchased. To be more specific, the country from which the goods originate. It is easy to comprehend why private consumers, given means and opportunity, will usually make their purchases in the EU Member State with the lowest VAT rate. While differences between the VAT rates exist in the various EU Member States, this practice will no doubt continue.

Means and opportunity notwithstanding, the travel range and availability of time for private individuals is generally limited. There are, however, ways to overcome these limitations – using what's known as 'distance-selling'.

Mail-order firms and online retailers, for example, will happily supply goods to private individuals in other EU Member States. Distance selling could, without effective countermeasures, rapidly increase in countries with the lowest VAT rates, leading to undesirable effects on state treasuries and loss of income for entrepreneurs based in EU Member States with higher VAT rates. To alleviate some of these effects, special regulations have been implemented.

Distance selling is defined in the *European VAT Directive* as the supply of goods by an entrepreneur:

- To a private individual or an individual or an organisation with (legal) characteristics comparable to those of a private individual (such as entrepreneurs – including, but not limited to (charitable) foundations and associations – carrying out fully VAT exempt transactions only and, as such, has no right to deduct input VAT)
- Where goods are transported or sent to another EU Member State by the entrepreneur, or at his/her expense.

Distance-selling regulations do not apply to supplies to:

- Taxable entrepreneurs
- The supply of new vehicles
- Excisable goods or goods supplied that are intended for assembly or installation.

Under the distance-selling regulations, the supplying entrepreneur is required to charge the VAT rate effective in the country where the goods are to be shipped (the EU Member State of destination).

Case study example

A Luxembourg mail-order firm specialising in home furniture sells a new three-piece leather suite to a Dutch couple and ships it to The Netherlands. Regardless of the fact that the general rule applicable to sales to private individuals requires that VAT is levied in the country where the goods are purchased, the mail order firm – falling under distance-selling regulations – must charge 21% Dutch VAT on the supply. The mail-order firm is subsequently required to report and pay the Dutch VAT to the Dutch tax authority. If the Dutch mail-order firm has not already done so, it must register for VAT purposes in the Netherlands.

The distance-selling regulations provide for one notable exception concerning cases whereby the total value of goods (exclusive of VAT) supplied by a distance-selling entrepreneur:

- To a given EU Member State
- During a single calendar year
- Does not exceed the distance-selling threshold.

If all of these above conditions are met, the entrepreneur can charge the applicable VAT rate of the EU Member State where the goods departed from.

The distance-selling threshold differs between EU Member States (see Appendix III). However, it is generally set between (the local currency equivalents of) EUR 35,000 and EUR 100,000.

For example, where goods are transported or sent to the Netherlands, the threshold is EUR 100,000, the same as in Germany. In Belgium, however, the threshold is EUR 35,000 and in the United Kingdom the threshold is GBP 70,000. When calculating the threshold, it is important to keep in mind that EU Member States of destination may be using a different currency.

Please note that distance-selling entrepreneurs are – under certain terms and conditions – entitled to forego the exception and choose to pay VAT in the EU Member State of destination. Distance-selling entrepreneurs based in a EU Member State with a (comparatively) high VAT rate are advised to exercise this right. Submitting a written request to do so may be prudent.

2.7.2 New vehicles

Due to the differences in VAT rates, making more expensive purchases in an EU Member State with lower VAT rates, such as new vehicles (for non-business use), may make financial sense. This is because the general rule dictates that VAT is levied in the EU Member State from which the goods originate.

However, as with distance selling, the purchase by a private individual (or an entrepreneur comparable to a private individual) of new vehicles in another EU Member State and transferred to the EU Member State of residence will be subject to VAT in the EU Member State of destination.

For example, a Dutch resident purchasing a new Volkswagen in Luxembourg, hoping that it will be cheaper, will still be required to pay Dutch VAT. From a supplier's perspective, this transaction is subject to zero-rate VAT in Luxembourg.

Specific forms of transport are also included under the term vehicle. The **EU VAT Directive** provides a clear definition of the types of vehicles that are subject to VAT of the EU Member State of destination:

- Motorised land vehicles equipped with an engine with a displacement or cylinder capacity of more than 48 cubic centimetres, or is constructed or adapted to be electrically propelled using more than 7.2 kilowatts (about 9.65 horsepower)
- Vessels with a length of 7.5 metres or more (with some exceptions)
- Aircraft with a take-off weight of more than 1,550 kilograms.

The **EU VAT Directive** also provides a definition of a new vehicle:

- A motorised land vehicle is considered new when less than six months have elapsed since the date of its first entry into service and, since that date, has travelled less than 6,000 kilometres under its own power
- A vessel or aircraft is considered new when less than three months have elapsed since the date of its first entry into service and has travelled, under its own power, less than a 100 hours for a vessel/boat, or 40 hours for an aircraft.

For any other vehicles that don't meet the abovementioned criteria, the normal VAT rules on the supply of goods apply.

As mentioned above, the supply of new vehicles is always subject to VAT at the EU Member State of destination. Therefore, the supplier makes a zero-rated supply and the acquisition of the new vehicle(s) is subject to local VAT, irrespective of the person performing the acquisition.

With this in mind, a private individual, or a legal entity with characteristics comparable to a private individual (such as entrepreneurs – including, but not limited to charitable foundations and associations) that is carrying out fully VAT exempt transactions only and, as such, has no right to deduct input VAT, may bypass the VAT levy by purchasing the vehicle through an intermediary based in an EU Member State with a lower VAT rate. The intermediary could, for instance, buy the vehicle at the lower rate and

subsequently pass it on to the individual in the EU Member State with the higher VAT rate.

Legislators have already anticipated this VAT loophole. Anyone selling a new vehicle in another EU Member State is deemed to be a taxable entrepreneur. This potentially means that private individuals may be involved in the levy of VAT, though only with regard to the sale of new vehicles. Being classified as a taxable entrepreneur entitles the private individual to deduct the input VAT (that is, the VAT paid in the course of conducting the business) included in the price paid for the vehicle by the private individual (seller). If requested, the input VAT will be refunded to the private individual.

NB: The deductible VAT amount is limited to the VAT that would have been due if the intra-Community supply of the new vehicle was not exempt. This measure is implemented in order to prevent misuse of the VAT system.

3.0 CROSS BORDER SERVICES

3.1 Place of supply of services

When a company is supplying cross border services, it is important to understand in which country this service is subject to VAT. The 'so-called' place of supply rules provides a framework. This can assist a company to determine which country's VAT rules apply to these services and how the company in question must account for the VAT due on the supply of services.

For VAT purposes, the place of supply of services is the place (country) where a service is treated as being supplied. This is the place where it is subject to VAT (if any). With services, determining the place of supply can be complicated. Various rules can apply. The two important criteria are:

- Nature of the service supplied
Status of the service recipient: taxable person acting as such (a business acting in its business capacity) or a non-taxable person (a private individual, for example).

Because of this complexity, the rules for determining the place of supply of services have been subject to many revisions and amendments. The most recent major changes came into effect on 1 January 2010, along with other changes to VAT rules regarding international transactions.

As of 1 January 2010, two general rules for determining the place of supply of services were introduced:

1. Business to business (B2B) supplies are usually subject to VAT in the country where the customer is established
2. Business to consumer (B2C) supplies are, in general, subject to VAT in the country where the supplier has its place of establishment.

In addition, certain services are subject to special place of supply rules.

3.2 Business to Business (B2B) services

3.2.1 General rule

The general rule for supplies of B2B services states that the supply is subject to VAT in the country where the customer is established. This means that in cross border situations the supplier does not charge VAT to its customer.

If the customer is established within the EU, the VAT liability shifts to the European customer. In this instance, the customer must report the VAT due in its VAT return. Subsequently, the customer can deduct the same amount as costs (to the extent allowable by local VAT legislation). The invoice must contain reference to the **European**

VAT Directive regulations concerning the shift of the VAT liability to the customer. Also, the European customer's valid VAT identification number must be stated on the invoice.

3.2.2 Special rules

Where there are general rules, there are also exceptions. Certain services are subject to special rules. These include:

- **B2B services relating to land**

If a company supplies services relating to land and property, the service is subject to VAT in the country where the land or property is located.

Land and property include the land itself and any buildings or other structures located on the land. It also covers production plants, machinery or equipment that are considered an installation or edifice in their own right (e.g. a refinery or fixed oil/gas production platform). Machinery installed in buildings that are not regarded as fixtures (i.e. easy to dismantle) are generally not regarded as 'land' but as 'goods'.

Examples of services relating to land are:

- professional services of estate agents, auctioneers, architects, solicitors, surveyors, engineers and similar professional people relating to land, buildings or civil engineering works
 - the supply of hotel accommodation
 - the provision of a site for an exhibition stand or booth at an exhibition, whereby the exhibitor obtains the exclusive right to a well-defined area in the exhibition hall
 - services supplied during the course of construction, refurbishment, conversion, enlargement reconstruction, alteration, demolition, repair or maintenance (including painting and decorating) of any building
 - services of estate agents
 - supply of warehouse space, if the lessee obtains the exclusive right to a well-defined area in the warehouse.
- **B2B services relating to the hire of a means of transport**

A means of transport includes vehicles and other equipment and devices designed for transporting passengers or goods. Examples are road transport vehicles, such as cargo trucks, trailers and semi-trailers, railway transport vehicles, such as cargo trains. This category also includes caravans, motorcycles, bicycles, ships, yachts and airway transport, such as cargo/passenger aeroplanes.

The place of supply when providing a means of transport depends on the length of time the vehicle/s is in continuous use by the recipient of the service.

Long term hiring (more than 90 days for boats or ships and more than 30 days for other vehicles) fall under the general rule.

For short term hiring (90 days or less for boats and ships and 30 days or less for other vehicles), the place of supply is subject to VAT where the vehicle is actually placed at the disposal of the customer.

- **B2B restaurant and catering services**

The place of supply for restaurant and catering services is the place where the services are physically carried out.

For restaurant and catering services supplied on board ships, planes and trains, the place of supply is the place of departure for journeys within the EU. Please note that this special rule only applies to journeys with stops in two (or more) different EU Member States. Consequently, this rule does not apply to journeys within one EU Member State without crossing its borders. Also, this rule doesn't apply to journeys to or from destinations outside of the EU.

- **B2B passenger transport**

The place of supply for passenger transport is where the transport takes place.

If a journey involves travel through different EU Member States, the supply of passenger transport will be made in all of the EU Member States where the transport occurs. The VAT must therefore be calculated and charged according to the relative distances covered in the concerning territories during the entire journey.

When buying travel, hotels, holidays, certain other services, and/or supplies enjoyed by travellers from third parties and reselling these services in your own name, different place of supply rules apply. It's recommend that professional guidance and advice is sought in these situations.

- **B2B admission to events**

There is a special rule for supplies with regard admission to events. As of 1 January 2011, B2B services relating to admission to an event are subject to VAT in the country where the event takes place.

In general, the definition of admission includes the right of entry to shows, exhibitions, and other events. However, please be aware that the definition of admission may vary between different EU Member States.

3.2.3 VAT liability

Having determined the place of supply, the next step is to determine which party is liable for reporting and paying the VAT due to the relevant tax authorities. If a cross border service is subject to VAT under the general rule, the VAT liability automatically shifts to the customer if the customer is a EU company. In this case, the supplier does not charge VAT to its customer. The customer accounts for the VAT due in its VAT return and can usually deduct the same amount as input VAT. The invoice must contain a reference to the shift of the VAT liability to the customer (for example, 'reverse charge'). The European customer's valid VAT identification number must be stated on the invoice. If a service is subject to one of the exceptions to the general rule, the VAT liability does not automatically shift to the EU customer. Whether a reverse charge mechanism

applies, whereby the VAT liability shifts to the EU customer, depends entirely on the VAT legislation of the country where the place of supply is deemed to be located. Professional advice and guidance on local reverse charge mechanisms is recommended.

3.3 Business to Consumer (B2C) services

3.3.1 General rule

The general rule for B2C supplies of services states that the supply is subject to VAT in the location where the supplier is established. B2C supplies under the B2C general rule are services supplied to private individuals, charities, government departments or other legal entities with no business activities.

To ensure that VAT revenue is allocated to the EU Member State where the actual use of the services takes place, several exceptions have been introduced.

3.3.2 Special rules

- **B2C services provided by an intermediary**

Intermediary B2C services are subject to VAT in the country where the underlying transaction, in which the intermediary intervenes, is taxable.

- **B2C services relating to immovable property**

These services are subject to VAT in the country where the immovable property is located.

For example, a guest staying in a hotel in Amsterdam will have to pay Dutch VAT for the use of the hotel accommodation.

- **B2C services comprising the valuation of, or works on, moveable tangible property**

These services are subject to VAT in the country where the services are physically carried out.

For example, if a car driven by a Spanish private individual breaks down in France and is repaired locally, French VAT has to be charged to the Spanish individual.

- **B2C passenger transport and transport of goods**

These services are subject to VAT according to the distances covered. However, B2C intra-Community transport of goods (goods departing from one EU Member State and arriving in another) is subject to VAT in the country of departure.

For example, when, at the request of a private customer, goods are transported from Germany to France, German VAT must be charged on the transport. This is irrespective of where the company carrying out the transport, or where the customer, is resided.

- **B2C ancillary services for the transport of goods**

These services (such as the loading and unloading of cargo) are subject to VAT in the EU Member State where those services are physically carried out.

For example, when a French company unloads a truck in Rotterdam on behalf of a private individual resident in Belgium, the supplier will have to charge Dutch VAT.

- **B2C services relating to cultural, artistic, sporting, scientific, educational, entertainment and similar activities**

These services are subject to VAT in the country where these activities actually take place.

For example, a ticket purchased by a tourist visiting Spain for a football match will have Spanish VAT included in the ticket price.

- **B2C restaurant and catering services**

These services are subject to VAT in the country where the services are physically carried out. For example, guests dining at a restaurant in Paris will be charged French VAT.

However, B2C restaurant and catering services supplied on board ships, aircraft or trains during the section of a passenger transport within the EU, are subject to VAT in the country where the transport departed.

For example, a meal served in a restaurant on board a ferry sailing from the UK to Rotterdam (or any other EU port) is subject to UK VAT (if departing from the UK).

- **B2C short-term hiring of transport means**

Hiring a means of transport for a short-term duration is subject to VAT in the country where the means of transport is actually placed at the disposal of the customer. Short term hiring is defined as the continuous possession, or use of a means of transport, throughout a period of no more than 30 days or, in the case of vessels capable of transporting persons, no more than 90 days.

As of 1 January 2013, B2C long-term hiring of a means of transport is subject to VAT in the country where the private customer is established, has a permanent address or usually resides.

There is an exception for cases where the supplier of a pleasure boat is established in the same EU Member State in which the boat is put at the disposal of the customer.

- **B2C electronically supplied services**

Electronic services provided by suppliers established in a third country (i.e. non-EU country) to non-taxable persons (B2C) established or residing in the EU, has to be taxed in the country where the customer has a permanent address or is resided.

For example, if a private person residing in Sweden makes use of a U.S. online library, Swedish VAT is paid on the amount the U.S. company charges. In cases like this it would be likely that the U.S. company would register itself for VAT purposes in Sweden.

For more detailed information, see section 3.4.

- **B2C broadcasting and telecommunication services**

Radio and television broadcasting services and telecommunication services supplied to non-taxable customers (B2C) in the EU, by companies established in a third country, are subject to VAT in the country where the private customer effectively uses the service.

- **B2C services provided to a customer established in a non-EU country**

When a customer is resided in a non-EU country, the following B2C services are subject to VAT in the country where the customer is established:

- advertising services
- services of consultants and lawyers
- financial services
- telecommunications services
- broadcasting services
- electronically supplied services.

3.4 EU e-commerce VAT rules

3.4.1 e-services

The VAT rules on e-services may have consequences for all businesses based outside of the EU that are providing electronic services to private individuals that are residents in the EU.

In this instance, electronic services are viewed as:

- The supply of websites or web-hosting services
- Downloadable material, such as images, information, music, films or games, including access to databases
- Digital books and other electronic publications
- Electronic auctions, etc.

NB: Merely communicating through electronic means for a business transaction does not necessarily constitute the presence of an e-service.

3.4.2 Levy of e-service VAT

The supply of e-services to businesses is subject to VAT in the country where the business is based (the general business to business rule). The VAT is subsequently shifted to the recipient of the e-service, using the reverse-charge mechanism.

According to the general rule applicable to B2C transactions, e-services supplied by EU based businesses are deemed to have been supplied in the country where the supplier is based.

Exceptions occur in the following situations:

- The customer is an EU resident and the e-service provider is either based outside of the EU or supplies the service through a fixed establishment based outside of the EU
- The customer is not an EU resident
- EU based e-service providers.

Whether a customer is a resident of the EU or not may be determined using the information the customer provides. However, the service provider is held responsible for verifying this information by applying accepted commercial security measures, similar to security checks on customer identities and payment transactions.

For e-services supplied to non-EU resident customers, the e-service is subject to VAT in the country of residence. As such, no EU VAT should be mentioned on the invoice.

3.4.3 Non-EU-based e-service providers

All non-EU-based suppliers of e-services are required to charge and account for the local VAT on e-services that are supplied to private individuals and other customers that are not registered for VAT and are not resident in the EU. This means that the e-service supplier must keep track of the VAT rates that are applicable in the EU Member States where the e-service business operates.

Case study example

A U.S. supplier of downloadable software, supplying this to a private individual resident in the Netherlands, is legally required to charge Dutch VAT on the invoice. The U.S. supplier must register itself for VAT purposes with the Dutch tax authority, in order to report and pay VAT due that relates to the supply.

Those non-EU-based suppliers of e-services to private individuals in multiple EU Member States are not required to register for VAT purposes in all EU Member States where they supply. A special VAT scheme enables these suppliers to register and account for EU VAT in a single EU Member State of choice. Reporting and paying any VAT due is done using the chosen EU Member State of registration. The local tax authority handles the payments to the remaining EU Member States.

NB: Despite the special VAT scheme, the reclaim of input tax must be filed in every EU Member State where the input tax has occurred.

The VAT rules for non-EU suppliers selling to businesses based in the EU remain unchanged, with the VAT paid by the importing company under self-assessment arrangements (reverse-charge mechanism).

In summary

Customer	Where is VAT due?	Who is liable for VAT?
Company based in the EU	VAT is due in the customer's EU Member State	The customer is liable for VAT at the rate applicable in the EU Member State where he/she is based. However, the service supplier should be in possession of the customer's VAT identification number
Individual resident in the EU	VAT is due in the EU Member State where the supplier is registered (EU Member State of choice)	The supplier is liable for VAT at the rate applicable in the customer's EU Member State (for example, in the Netherlands, a VAT rate of 21% applies)

3.4.4 Points to consider

To summarise, **non-EU-based suppliers** of e-services are advised to consider the following:

- Non-EU suppliers must determine whether they are dealing with private individuals (or other non-registered customers) or whether they are dealing with businesses
- For those dealing with private individuals, the supplier must identify the EU Member States where private individuals are residents, in order to apply and charge the correct VAT rate
- If dealing with private individuals, the supplier must register for VAT in one EU Member State, and periodically file VAT returns. The supplier may appoint a tax representative to assist with the VAT formalities
- Suppliers dealing with business customers must ascertain the VAT identification numbers of business customers and state this number on invoices.

Non-EU based suppliers may consider a fixed establishment in a EU Member State where there is a lower VAT rate applicable to the e-services supplied.

3.5 Changes coming in 2015

Starting 1 January 2015, all electronically supplied services, telecommunication services and broadcasting services supplied to private individuals will be subject to VAT in the private consumer's country of residence.

For EU-based suppliers of these types of services, the supplier will need to charge the appropriate local VAT rate on the invoice issued to the customer. It also means that the

supplier will have to keep track of the VAT rates that are applicable in each EU Member State where the business operates.

To relieve some of the administrative burden imposed by these 2015 changes, the EU-based supplier will be allowed to report the (foreign) VAT due in the VAT return in the supplier's EU Member State of residence. The local tax authority will allocate and forward the applicable amount of VAT to the respective countries (often called the mini-one-stop system).

This new rule is similar to the current rules for non-EU suppliers that supply e-services to private individuals. For non-EU businesses the scheme will be extended to telecommunications and broadcasting as well.

4.0 VAT liability in other EU countries

While there are a number of reverse charge rules that means VAT registration is not mandatory in EU countries, other than the country where a business is based, VAT could still be due in another EU country.

Liability to pay VAT in other EU countries may occur in the following situations:

- When a business is making local supplies in another country. In a number of countries this leads to an obligation to charge local VAT and consequently VAT registration with the local tax authorities is mandatory. In certain countries, for instance Belgium, France and the Netherlands, charging local VAT is not even allowed when the client is a locally based company. Instead, a reverse charge has to be applied.
- In the case of 'so called' distance selling (refer to section 2.7.1 in this guide for details).

Distance selling occurs when a supplier from one EU Member State supplies, and is responsible for the delivery of goods, to any person in another EU Member State who is not registered for VAT. The customer may be a private individual, a public body, a charity or a business that is too small to register, or only conducts operations that are entirely VAT exempt.

The goods an entrepreneur supplies through distances selling in other EU Member States, to parties that are not registered for VAT, are normally subject to VAT in the supplier's country. However, if the value of the distance sales to any EU Member State rises above its threshold, that country becomes the place of supply and the VAT on any further sales to that country is due there. EU countries' thresholds do differ (see Appendix III).

- When an entrepreneur supplies goods and installs or assembles these goods in another EU member state when that state has not implemented a reverse charge. (See section 2.4 for details).
- As a result of a permanent transfer of goods from one EU Member State to another (please refer to section 2.3 for details). This situation occurs if goods are transferred to create a stock, from which supplies will subsequently be made.
- Triangulation supply cases (see section 2.5.1 for details). Triangulation is the term used to describe a supply chain of goods involving three or more parties when, instead of the goods physically passing from one party to the next, they are delivered directly from the first party to the last in the chain.
- When goods are imported from countries outside of the EU, but are destined for another EU Member State (transportation without customs regulations). For example: a Dutch company decides to import goods from Asia into Germany for

further supply to businesses based in Germany and Austria. In this case, VAT registration in Germany is required.

- When goods are acquired in another EU Member State other than the country where the company is based. This type of transaction requires mandatory company registration in the country where the goods are acquired.
- For certain services rendered to foreign entrepreneurs, for instance services relating to land and for supplies with regard to the admission to events. See section 3.2.2 for B2B and section 3.3.2 for B2C rules applying to event admissions.
- When certain services are rendered to private individuals, charities, government departments or other legal entities with no business activities (see section 3.3.1 for details).

5.0 Companies based outside of the EU

5.1 Introduction

Businesses that are established outside of EU Member States must clearly understand any VAT registration obligations in respect of transactions undertaken with or within EU countries.

If a business provides goods or services within the EU, there is a potential to register for VAT in one or more EU Member States, even if the business is not established there. In some circumstances, it is advisable for non-EU businesses to voluntarily register for VAT. The following points should be considered.

5.2 Mandatory registrations

5.2.1 Supply of goods

The general rule throughout Europe is that the place where the goods are situated is the place of supply.

A non-EU company that holds goods within a Member State and supplies those goods to customers in that country, or elsewhere within the EU, is deemed to be making a supply in the country where the goods are held. In such circumstances, the overseas business is, in principle, liable to register for VAT in the country where the sale is deemed to take place.

A non-EU business may also consider importing goods into the EU, allocating these goods to a customer after the importation has occurred. In this instance, the non-EU business is obliged to pay VAT and duty on importation and needs to register for VAT for the onward supply of the goods.

Similarly, if a non-EU business takes possession of goods in a Member State and the goods remain there, the supplier is obliged to charge local VAT. The onward sale of the goods by the non-EU business is also supplied in that Member State. This means that VAT registration is required.

5.2.2 Supplies of services

The supplies of certain services are subject to different place of supply rules, whereby VAT registration may be necessary, even if the supplier doesn't have an establishment within the EU. Some examples are:

a. Electronically supplied services to non-taxable persons (B2C) established or resident in the EU

The place where the user resides is the place of supply and where the service is liable to VAT. This means that the VAT is taxable in the EU Member State where the user lives. As such, a non-EU business must, in principle, register for VAT purposes in any EU Member State where it has users that purchase additional options for electronic services, such as online games. Subsequently, the business is legally required to collect and remit VAT on its sales.

For non-EU based companies that render electronically supplied services in the EU, a specific process applies. In short, instead of registering for VAT purposes in each EU Member State where it performs these services, it is sufficient to only register for VAT purposes in one EU Member State. Through a 'notification of electronic services', the company can file the VAT return in that EU Member State. In this VAT return, the company must list, by EU Member State, the total revenue and the total VAT due. The sum of all VAT due must then be paid to the EU Member State of registration. Deductible VAT cannot be processed in the notification and must be recovered in each EU Member State individually.

b. Services relating to immovable property, including the services of estate agents, architects and building contractors

In these instances, the place of supply is where the land or property is situated. This means that an overseas entrepreneur is obliged to register for VAT in the country where the supply is deemed to take place (country where the land/property is located).

c. Services relating to admission to events.

An overseas entrepreneur that is obliged to register for VAT, but fails to do so, could incur penalties for late registration and demands for back payment of tax due. It may also be mandatory for an entrepreneur to appoint a local fiscal representative.

NB: In some EU countries, the obligation of accounting for VAT rests with the recipient of the goods or services. In these circumstances, an overseas business is not obliged to register for VAT.

6.0 Administration requirements

6.1 Invoices

The invoice is one of the most important documents in company business transactions. The supplier must make clear on the invoice:

- The exact goods or service supplied
- How the payment must be made
- How the VAT must be paid.

From the customer's perspective, the invoice is important as it enables the VAT paid to the supplier to be reclaimed from the relevant tax authorities.

The information that must be stated on an invoice is largely determined by the **EU VAT Directive** rules. Given that VAT is a relatively formal tax, it is very important to fully comply with these rules. Failure to comply with the invoicing requirements can result in restriction of the customers' right to deduct VAT, problems in reclaiming foreign VAT that has been charged or penalties.

The invoicing requirements are listed below. They include a number of new requirements that were introduced on 1 January 2013.

6.1.1 Invoice requirements

The **EU VAT Directive** rules require that an invoice must contain the following information:

- The date on which the invoice is issued
- A sequential number
- The 'VAT identification number' (VAT registration number) of the business that supplies the goods or service. In the case of a VAT tax group, the invoice must show the VAT identification number of the company that supplies the applicable goods or service
- The recipient customer's VAT identification number in situations when the VAT is levied on the customer and for intra-Community supplies
- The name and address of both the supplier and the customer. Use of the trade name is permitted, providing it is registered with the Chamber of Commerce
- The quantity and nature of the supplied goods, or the scope and nature of the supplied service
- The date when the supply of the goods or service actually took place or was completed, or the date on which 'payments on account' (advance payments) were made for supplies of goods or services
- The chargeable amount, specifying fee rates, exemptions and unit prices (excluding VAT), and also discounts and refunds that are not included in these
- The applicable VAT rate and the amount to which this is applied
- The amount of VAT payable (in EUR)
- If the customer buying the goods or service issues the invoice, rather than the supplier, the invoice must include the reference 'Self-billing'
- If the supply is an intra-Community supply, some indication of this

- If an exemption applies, the invoice must include some indication of this, e.g. by means of the text 'Exempt'
- When the VAT is levied on the customer using a reverse charge arrangement, the invoice must include the reference 'Reverse charge'
- For an intra-Community supply of a new means of transport, provide a clear reference that the means of transport is new
- If a margin scheme for travel agents is applied, the invoice must include the reference 'Margin scheme – Travel agents'
- If a margin scheme for certain goods is applied, the invoice must include one of the following references - 'Margin scheme – Second-hand goods', 'Margin scheme – Works of art', or 'Margin scheme – Collector's items and antiques'
- If a tax representative has been appointed, the invoice must include the name, address and VAT identification number of that tax representative.

6.1.2 Foreign trade

When a business engages in foreign trade, the invoice will usually have to be produced in another language. As from 1 January 2013, businesses are permitted, in most cases, to apply the invoicing rules of their own country. These domestic invoicing rules are then applicable to intra-Community supplies from their own EU Member State **and** cross-border supplies if the VAT is 'reverse charged' to the customer.

The foreign invoicing rules only apply in the following situations:

1. When the business issues an invoice on which foreign VAT is charged
2. The customer from another EU Member State issues the invoice (self-billing) for a supply, which for VAT purposes is deemed to be made in another EU Member State
3. The company's fixed establishment in another EU Member State makes the supply.

The changes introduced on 1 January 2013 may raise questions for cross-border supplies of goods and services about the precise information that must be stated on the invoice.

6.1.3 Invoicing for cross border supplies of goods

For cross border supplies of goods within the European Union, the VAT rules stipulate that the invoice must show, by means of 'some indication', that it relates to an intra-Community supply. The business is free to choose how it does this. It is advisable to use one of the following references:

- 'Intra-Community supply' **or**
- 'Intra-Community supply' **plus** 'Art. 138, VAT Directive 2006/112'.

The customer's VAT identification number must also be stated on the invoice.

Prior to 2013, an invoice also had to be issued when a 'payment on account' (advance payment) was made for the supply of goods or services. As of 1 January 2013, this is no longer required in the case of a payment on account for an intra-Community supply. This means that the VAT relating to an intra-Community supply only becomes payable when the invoice is issued, even if a payment on account has already been made earlier.

6.1.4 Invoicing for cross border services

For cross border services within the European Union, as of 1 January 2013, reference must be made (in principle), in the local language of the supplier, referencing that the reverse charge is applicable. It is advisable to include the exact translation of the English reference 'Reverse charge', in the language of the customer's country. As an extra safeguard, including both the English and the translated version is highly recommended

In addition, the customer's VAT identification number must be stated on the invoice.

For cross border services to customers established outside of the European Union, there are no additional requirements.

6.1.5. Invoice delivery format

The invoice can be submitted on paper 'hard copy' or in an electronic format. An invoice can only be sent in electronic form if the customer has accepted this process.

When invoices are sent in electronic form, the business must guarantee:

- The authenticity of the origin
- The integrity of the content
- The legibility of the invoice.

For example, the business can use the advanced electronic signature method or electronic data interchange (EDI) method. The business can select the preferred method or technology that it uses for this.

6.1.6 Simplified invoice

As of 1 January 2013, businesses are permitted to issue a simplified invoice in just two situations:

1. When the amount of the invoice is no higher than EUR 100 (incl. VAT)
2. When the invoice in question is an additional document or message that makes changes to an original invoice, and refers specifically and unambiguously to that original invoice.

A simplified invoice must, in any case, contain the:

- Date of issue
- Name and address of the business
- Nature of the supplied goods or service
- VAT amount payable **and**
- Where applicable, a reference to the original invoice.

6.2 VAT returns

If a business is required to submit VAT returns, these VAT returns must be completed on a regular basis, generally once a quarter. Businesses are legally required to complete and sign each VAT return, and submit it within two months of the end of the period it covers.

NB: The two month submission period is a maximum. EU Member States are legally allowed to set shorter periods.

Filing a VAT return is required, even if a business did not conduct any activities in the EU during this period. A VAT return must also be filed if the value of the VAT refund to which a business is entitled exceeds the VAT it has to pay.

6.3 EU Sales List

When performing intra-Community supplies of goods or services to businesses established within the EU, the supplier must submit a 'Declaration of Intra-Community Supplies' (EU Sales List).

In general, the EU Sales List must be submitted to the tax department no later than the last day of the month following the calendar quarter it covers. The supplier must state its VAT identification number on the EU Sales List and state, by customer, the:

- VAT identification number of the EU customer
- Total value of the intra-Community supplies of goods and services made to the EU customer in that period.

Using the EU Sales List, each tax authority of each EU Member State can verify whether VAT has been paid with regard to each intra-Community transaction. The combination of listings and VAT returns enable EU Member States to exchange information regarding the flow of goods throughout the EU.

An entrepreneur who has only made intra-Community acquisitions does not need to submit a EU sales list with regard to the acquisitions. This requirement only applies to the supplier.

6.4 Statistics return

In addition to the VAT return and EU Sales List, a monthly Statistics return also needs to be filed if the:

- Value of the intra-Community **supplies** exceeds EUR 900,000 on a yearly basis
- Value of the intra-Community **purchases** exceeds EUR 900,000 on a yearly basis.

If a business both supplies and receives goods or services, but only one of these activities exceeds the limit of EUR 900,000, only the activity for which the limit is exceeded must be reported in the Statistics return.

6.5 Fiscal representation

When registering for VAT purposes in one of the EU Member States, non-EU businesses may be required to appoint a fiscal representative. The requirements of whether to appoint a fiscal representative vary between EU Member States and also depend on the transaction.

Please contact your advisor for more information on the appointment of a fiscal representative.

A fiscal representative acts on behalf of its clients in matters concerning VAT and related administrative obligations. The representative takes care of:

- Application for a VAT registration number
- On-going contact with the local tax authority
- Preparing and submitting VAT returns, EU Sales Lists, Statistics return declarations, and general record keeping in relation to these services.

Although there are some EU Member States that do not require a fiscal representative, doing so may nonetheless be beneficial for both non-EU entrepreneurs as well as EU entrepreneurs.

For example:

In a number of EU Member States, acting through a tax representative the foreign entrepreneur may import goods into the European Union without the immediate requirement to pay import VAT at the time of importation. Under this deferment system, the payment of the import VAT is suspended until the moment the VAT return must be filed. Since this import VAT may be deducted in the same VAT return, effectively, no import VAT will have to be pre-financed. This VAT deferment system is known, for example, in the Netherlands and Belgium.

7.0 Recovery of VAT in EU Member States

7.1 General information

Following the introduction on 1 January 2010 of new rules regarding the place of supply of cross border services, a new EU directive aimed solely at businesses based and registered in the EU for VAT came into force on that same date. This directive provides instructions on how to request a refund of VAT incurred in other EU Member States.

From 1 January 2010, EU businesses must submit an electronic refund application via the tax portal of the local tax authority where the business seeking a refund is based. Any claims submitted on paper and addressed to the tax authorities of the EU Member State where the VAT is incurred, are no longer valid.

The refund request is processed by the EU Member State where the VAT was incurred. Furthermore, the amount refundable is determined by applying the deduction rules of that EU Member State and the refund payment is made directly to the claimant.

The new rules on refund applications have been introduced to facilitate and expedite the processing of the claims. However, businesses should be aware of deadlines and issues connected with the refund procedure and make adjustments to their internal systems as necessary.

Refund applications by businesses based outside of the EU territory and not registered for VAT purposes in a EU Member State are not affected by changes introduced by this directive.

7.2 Refund application for EU businesses

7.2.1 Submission deadlines

The refund application must be received by the relevant tax authority on, or before, 30 September of the calendar year following the refund year. Please note that different due dates may apply to quarterly refunds, but any deadlines issued will not be extended.

Applications may relate to a period of less than three months, when the period represents the remainder of a calendar year.

7.2.2 Minimum amounts

Minimum amounts that can be recovered under each VAT refund application have been set by EU Member States. For annual applications (or applications concerning the final part of a year) is set at EUR 50 (or equivalent in national currency). For interim applications, the minimum amount is set at EUR 400 (or equivalent in national currency).

Items that have been omitted from earlier interim applications can usually be included in later applications filed in the same year.

7.2.3 Supporting documentation

Most EU Member States do not require any documentation in the first phase of a refund application, other than the application form itself. At a later stage, the EU Member State in question may request additional documentation, such as invoices (originals or copies), import documents, or other supporting documents.

7.2.4 Refunds and appeals

Fixed time limits apply to the processing of the refund applications and the tax authority's decision in relation to each application.

Commencing the day the EU Member State confirms receipt of the refund claim, the EU Member State processing the refund has four months to make and issue their decision on the refund application. This term may be extended if additional information is required. The claimant is required to provide the necessary information within one month.

If the tax authority approves the decision to issue a refund, the refund itself must be paid within ten business days after expiration of the abovementioned time limits. Should the payment of the refund be delayed, the applicant may be entitled to claim interest from the tax authority.

7.3 Non-EU Businesses (13th Directive)

The rules for businesses based outside of the EU seeking to recover EU VAT are similar to the rules for EU businesses. The exceptions are refund applications must be submitted on paper and be addressed to the EU Member State where the VAT was incurred.

A professional advisor or the local tax authority can provide guidance about the exact VAT refund process to ensure a swift recovery.

Further differences include:

- Not all EU Member States allow claims, unless there is a reciprocal agreement or treatment for the recovery of VAT and other turnover taxes with the country in which the non-EU business is established
- A fiscal representative (for VAT refund purposes) may need to be appointed in certain EU Member States
- Non-EU businesses are usually required to support refund applications with a certificate of taxable status, rather than a certificate of VAT status. This certificate should indicate that the non-EU business is a taxable entity/person for business purposes in its own country.

Individual EU Member States may choose to impose additional terms and conditions to allow non-EU businesses to recover VAT. A professional advisor can offer additional information and guidance.

APPENDICES

- I. Current VAT rates for each EU Member State.
- II. Thresholds for acquisitions by taxable persons not entitled to deduct VAT, non-taxable legal persons and farmers.
- III. Thresholds for distance selling.
- IV. Important contact information for each EU Member State.

APPENDIX I: CURRENT VAT RATES IN EACH EU MEMBER STATE

EU MEMBER STATE	STANDARD RATE	REDUCED RATES
Austria	20%	10%
Belgium	21%	12%/6%
Bulgaria	20%	9%
Cyprus	18%	8%/5%
Czech Republic	21%	15%
Denmark	25%	
Estonia	20%	9%
Finland	24%	14%/10%
France	19.6%	7%/5.5%/2.1%
Germany	19%	7%
Greece	23%	13%/6.5%
Hungary	27%	18%/5%
Ireland	23%	13.5%/9%/4.8%
Italy	21%	10%/4%
Latvia	21%	12%
Lithuania	21%	9%/5%
Luxembourg	15%	12%/6%/3%
Malta	18%	7%/5%/0%
The Netherlands	21%	6%
Poland	23%	8%/5%
Portugal	23%	13%/6%
Romania	24%	9%/5%
Slovakia	20%	10%

Slovenia	20%	8.5%
Spain	21%	10%/4%
Sweden	25%	12%/6%
United Kingdom	20%	5%/0%

Rates applicable on 15 January 2013.

APPENDIX II: THRESHOLDS FOR ACQUISITIONS BY TAXABLE PERSONS NOT ENTITLED TO DEDUCT VAT, NON-TAXABLE LEGAL PERSONS AND FARMERS

MEMBER STATE	CURRENCY	THRESHOLD
Austria	EUR	11,000
Belgium	EUR	11,200
Bulgaria	BGN	20,000
Cyprus	EUR	10,251
Czech Republic	CZK	326,000
Denmark	DKK	80,000
Estonia	EUR	10,226
Finland	EUR	10,000
France	EUR	10,000
Germany	EUR	12,500
Greece	EUR	10,000
Hungary	HUF	2,500,000
Ireland	EUR	41,000
Italy	EUR	10,000
Latvia	LVL	7,000
Lithuania	LTL	35,000
Luxembourg	EUR	10,000
Malta	EUR	10,000
The Netherlands	EUR	10,000
Poland	PLN	50,000
Portugal	EUR	10,000
Romania	RON	34,000
Slovakia	EUR	13,941.45
Slovenia	EUR	10,000
Spain	EUR	10,000
Sweden	SEK	90,000
United Kingdom	GBP	70,000

APPENDIX III: THRESHOLDS FOR DISTANCE SELLING

MEMBER STATE	CURRENCY	THRESHOLD
Austria	EUR	35,000
Belgium	EUR	35,000
Bulgaria	BGN	70,000
Cyprus	EUR	35,000
Czech Republic	CZK	1,140,000
Denmark	DKK	280,000
Estonia	EUR	35,151
Finland	EUR	35,000
France	EUR	100,000
Germany	EUR	100,000
Greece	EUR	35,000
Hungary	HUF	8,800,000
Ireland	EUR	35,000
Italy	EUR	35,000
Latvia	LVL	24,000
Lithuania	LTL	125,000
Luxembourg	EUR	100,000
Malta	EUR	35,000
The Netherlands	EUR	100,000
Poland	PLN	160,000
Portugal	EUR	35,000
Romania	RON	118,000
Slovakia	EUR	35,000
Slovenia	EUR	35,000
Spain	EUR	35,000
Sweden	SEK	320,000
United Kingdom	GBP	70,000

APPENDIX IV: IMPORTANT CONTACT INFORMATION FOR EACH EU MEMBER STATE

Foreign traders may find the following contact details useful for obtaining information on local VAT rules or to answer questions regarding the refund of VAT.

AUSTRIA

FINANZAMT GRAZ-STADT
REFERAT FÜR AUSLÄNDISCHE UNTERNEHMER
 Betriebsveranlagungsteams Ausländerreferate
 Conrad von Hötzendorf-Straße 14 – 18
 A-8018 Graz
 Tel: +0043–316 88153 8000
 Fax: +0043–1514335938041

BELGIUM

Centraal BTW Kantoor Buitenlandse Belastingplichtigen (CKBB)
 Kruidtuinlaan 50 bus 3625 - 18de verdieping R
 1000 Brussel
 Website: www.minfin.fgov.be

Foreign entrepreneurs

Tel: +32/2/577 40 50 and 60
 Fax : +32/2/579 63 59

Refund department

Tel: +32/2/577 40 40
 Fax : +32/2/579 63 58
 Email: contr.btw.ckbb@minfin.fed.be

BULGARIA

NATIONAL REVENUE AGENCY

52 Dondukov Blvd
 1000 Sofia
 Bulgaria

Tel: NRA Call Centre (+359/2) 9859 6801
 Email: infocenter@nra.bg
 Website: www.nap.bg/en/

CYPRUS

MINISTRY OF FINANCE
VAT SERVICE-HEADQUARTERS
1439, Nicosia

Tel: (+357)– 22 60 27 23
Fax: (+357)–22 66 04 84
Email: headquarters@vat.mof.gov.cy
Website: www.mof.gov.cy

CZECH REPUBLIC

FINANČNÍ SPRÁVA (INTERNATIONAL TAX AFFAIRS)

VAT INTERNATIONAL COOPERATION UNIT

Lazarská 7
Praha 1, 117 22
The Czech Republic

Tel: +420 29685 4201
Fax: +420 29685 4416
Email: vies.dph@ds.mfcr.cz
Website: <http://cds.mfcr.cz/cps/rde/xchg/cds/xsl/4387.html?year=>

DENMARK

SKAT

Toldbodvej 8
6330 Padborg
Denmark

Tel: +45–72 22 18 18
Fax: +45–74 67 51 56
Website: www.skat.dk

ESTONIA

ESTONIAN TAX AND CUSTOMS BOARD
TAX DEPARTMENT

Endla 8
Tallinn 15177
Estonia

Tel: +372 676 1256
Fax: +372 676 1111
Email: katrin.kullamaaemta.ee
Website: www.emta.ee/?lang=en

FINLAND**VERO SKATT (FINNISH TAX ADMINISTRATION)**

Uusimaa Corporate Tax Office
P.O. Box 30
FI-00052 Vero
Finland

Tel: Calls from Finland 020 697 051
Calls from outside Finland +358 20 697 024

Website : www.vero.fi

FRANCE**DIRECTION GÉNÉRALE DES IMPÔTS****BUREAU GF2A ANIMATION DE LA FISCALITÉ DES PROFESSIONNELLE**

86-92, Allée de Bercy – Télédocus 971
75 574 Paris Cedex 12
France

Tel: +33-153 18 1113
Fax: +33-153 18 9501
Website: www.impots.gouv.fr

GERMANY**BUNDESZENTRALAMT FÜR STEUERN**

An der Küppe 1
53225 Bonn
Germany

Tel: +49 228 406-0
Fax: +49 228 406-2661
Website: www.bzst.bund.de

GREECE**MINISTRY OF FINANCE**

14th Directorate of VAT
Sina 2-4
10 672 Athens
Greece

Tel: +30-210 364 62 52,
+30-210 364 34 20, and
+30-210 362 77 17
Fax: +30-210 364 54 13
Email: elvies@otenet.gr

Website: www.minfin.gr

HUNGARY

APEH KIEMELT ADÓZÓK IGAZGATÓSÁGA
KÜLFÖLDIEK ADÓ-VISSZATÉRÍTÉSÉT INTÉZO FOOSZTÁLY
 H-1077 Budapest, Dob u. 75–81

Postal address: H-1410 Budapest, Pf. 138
 Tel: +36–14 61 33 00 and +36–13 22 02 20
 Fax: +36–13 22 19 85

ITALY

MINISTERO DELL'ECONOMIA E DELLE FINANZE (MINISTRY OF ECONOMY AND FINANCE)

Via XX Settembre, 97
 00187 Roma
 Italy

Tel: +39–848 800 444
 Website: www.finanze.it

IRELAND

Revenue Commissioners
 City Centre District
 9-10 Upper O'Connell Street
 Dublin 1

Tel: **+353–1 865 5000**
 Email: CITYCENTRECTVAT@REVENUE.IE
 Website: www.revenue.ie

LATVIA

VALSTS IENEMUMU DIENESTA LIELO NODOKLU MAKSATAJU PARVALDE
(LARGE TAXPAYERS DEP. OF THE STATE REVENUE SERVICE)

Jeruzalemes Street 1
 Riga LV 1010
 Latvia

Tel: +371–670 01 89
 Email: lnmp.consultation@vid.gov.lv
 Website: www.vid.gov.lv

LITHUANIA

VILNIAUS APSKRITIES VALSTYBINĖMOKESČIŲINSPEKCIJA
 Šermukšnių g.4

01509 Vilnius
Lithuania

Tel: +370-52 61 66 35
Fax: +370-52 68 76 89
Email: vmi@vmi.lt
Website: www.vmi.lt/en/

LUXEMBOURG

Land Registration and Estates Department (Administration de l'enregistrement et des domaines - AED)

Bureau D'Imposition X

14 Avenue de la gare
L-1610 Luxembourg

Tel: +352-44 90 51 (switch board)
Tel: +352-44 90 53 30(Bureau X)
Fax: +352-29 11 93 (Bureau X)
Email: lux.imp10@en.etat.lu

MALTA

VAT DEPARTMENT

CENTRE POINT BUILDING

Ta' Paris Road
Birkirkara BKR 13
Malta

Tel: +356 21 49 93 30
Fax: +356 21 49 93 65
Email: vat@gov.mt
Website: www.vat.gov.mt

THE NETHERLANDS

KANTOOR BUITENLAND

Kloosterweg 22
P.O Box 2865
6401 DJ HEERLEN
The Netherlands

Tel: (055) 538 53 85
From abroad: +31 555 385 385
Website: www.belastingdienst.nl

POLAND

**DRUGI URZĄD SKARBOWY WARSZAWA- ŚRÓDMIEŚCIE
(SECOND TAX OFFICE FOR WARSZAWA- ŚRÓDMIEŚCIE)**

ul. Jagiello ska 15
03-719 Warszawa
Poland

Tel: +48 (022) 511 35 00

Fax: +48 (022) 511 35 02
Email: us1436@mz.mofnet.gov.pl
Website: www.is.waw.pl/en/

OR

MINISTRY OF FINANCE (MINISTERSTWO FINANSÓW)

ul. Świtokrzyska 12
00-916 Warszawa
Poland

Tel: +48 (22) 694 55 55
Email: kancelaria@mofnet.gov.pl
Website: www.mf.gov.pl

PORTUGAL

DIRECÇÃO-GERAL DOS IMPOSTOS

DIRECÇÃO DE SERVIÇOS DO IVA

Avª João XXI, 76
1049-065 Lisboa
Apartado 8143
1802-001 Lisboa

Tel: +351-217 61 351/4
Fax: 351-217 93 65 08
Email: dsiva@at.gov.pt
Website: www.portaldasfinancas.gov.pt

ROMANIA

MINISTERUL FINANTELOR PUBLICE (MINISTRY OF PUBLIC FINANCE)

DIRECTIA IMPOZITE INDIRECTE

Strada Apolodor nr. 17
Sector 5, Bucharest

Tel: +4021 3199759 or +4021 319 9744
Fax: +4021 319 9752
Website: www.mfinante.ro

SLOVAKIA**DAŇOVÝ ÚRAD BRATISLAVA L**

Radlinského 37
P.O. Box 89
817 89 Bratislava

Tel: +421–25 73 78 81 18
Fax: +421–25 73 78 900
Website: www.finance.gov.sk/en/
Website: www.drsrc.sk/drsrc/english/

SLOVENIA**DAVČNI URAD LJUBLJANA (LJUBLJANA TAX OFFICE)**

Ljubljana Tax Office
PO Box 107
SI-1000 Ljubljana
Slovenia
Davčna ulica 1

Tel: +386–1 369-30-00
Fax: +386–1 369-30-10
Email: gp.durs-lj@gov.si
Website: www.durs.gov.si/en/

SPAIN**Agencia Estatal de Administración Tributaria (AEAT)**

C/. Guzman el Bueno, 139
28003 Madrid
Spain

Tel: +34–901 33 55 33
Email: consultas@aeat.es
Website: www.agenciatributaria.gob.es

SWEDEN**SKATTEVERKET**

Solna Strandväg 10

171 94 Solna

Tel: +46-8 564 851 60

Fax: +46-8 280 332

Email: huvudkontoret@skatteverket.se

Website: www.skatteverket.se

UNITED KINGDOM**HM REVENUE & CUSTOMS**

VAT written enquiries team

Alexander House

Victoria Avenue

Southend

Essex-On-Sea

SS99 1BD

Tel: +44 (0) 2920 501 261

Website: www.hmrc.gov.uk