VAT Flash News

VAT FLASH NEWS by

ayming

100th Edition

Dear all,
We are pleased to send you our 100th VAT Flash News.

For this very special anniversary, and after 5 years of existence, we decided to restyle it with a brand-new design. Therefore, feel free to share your feedback with us and tell us if you like it!

As each month we selected some VAT news and insights that may be of your interest. Hope you'll enjoy them!

Mojça GROBOVSEK , International VAT Director

Summary

En savoir plus

1/ AUSTRIA: Triangular transactions changes

The implementation of the simplification measure for triangular transactions provided for in the Value Added Tax System Directive took place in Austria with Art. 25 UStG 1994.
From Art. 25 Para. 2 UStG 1994 it follows that the intra-community acquisition within the meaning of Art. 3 Para. 8 second sentence UStG 1994 of the intermediary is deemed to be taxed.

Consequences of the recent Court Decision:

- **Application of the triangular transaction rule is also permitted if the middle trader is already registered for VAT (but not resident) in the country of destination but uses the VAT number of another Member State.**

- **Insofar as the middle entrepreneur is registered for VAT purposes in several Member States, only the VAT number used by the middle entrepreneur for the acquisition is relevant for the existence of a triangular transaction.**

2/ UK: Making Tax Digital for VAT in 2022

What is changing from 1 April 2022?

From the first VAT period starting on or after 1 April 2022, VAT registered businesses with a**n annual turnover below the VAT registration** threshold (and are therefore not already signed up to MTD) will now be required to sign up for MTD. **Please note that this includes self-employed individuals and landlords.**

3/ SLOVENIA: Introduction of reverse charge for foreign BtoB sellers as from 22 January 2022

Slovenia's National Assembly approved adoption of Article 194 of the EU VAT Directive for the VAT Act. That means that **VAT** compliance obligations **can be shifted** from foreign **B2B seller to their resident customers.** This simplification means VAT is not charged by the vendor, and the recipient records the transaction as a 'reverse charge' with no cash payment.

4/ FRANCE: Reverse charge of Import VAT - New Online Service

Following the introduction of the new VAT reverse charge mechanism, the **French** customs administration has **set up the online service "Données ATVAI"** ("Reverse Charge of Import VAT" Data) for companies liable for reverse charge VAT on imports.

They will be able to consult the **essential data** of their **customs declarations** including self-assessed import VAT. **The aim is to enable** them to check the pre-filled amounts on their VAT return (CA3) for a given period.

The reverse charge VAT amounts related to **imports** into France for a reference month are available in "Données ATVAI" from the **14th of the following month.**

Thus, the data for the January 2022 customs declarations have been available in “Données ATVAI” since 14 February 2022.

To access this service, companies must :

- **Have a user account on the customs portal**
- **Have a valid French VAT number.**

5/ EUROPE : Anti-VAT fraud initiatives get Parliament vote

The European Parliament voted on 16 February 2022 in favour of harmonising pan-EU e-invoicing and supporting the adoption of the definitive VAT system reform to:

- **facilitate cross-border interoperability;**
- **ensure legal compliance;**
- **increase transparency in commercial transactions; and**
- **limit fraud and errors.**

The Parliament acknowledged that Member States are already adopting various forms of e-invoicing and live reporting. But that this should be coordinate to promote ease of adoption by businesses and efficient exchange of tax data. Any parliamentary vote is non-binding on Member States of the EU.

Other measures backed by Parliament tied to the 2019 EU Tax Action Plan and EU VAT reforms:

- **Boost intra-tax authorities communications and admin cooperation to detect fraud**
  Flexibility of reduced VAT rates;
- **Expand EU Single VAT Registration via OSS return**
- **upping the legal status of the VAT Committee**

Switch to definitive VAT system

The Parliament restated its support for the reforms of the current ‘temporary’ origin-based VAT rules for B2B goods transaction. This was open to criminal fraudsters using the zero-rating intra-community supply process to collect billions in VAT. And creates complexity and costs for law-abiding businesses. The 2018 draft definitive VAT regime proposes to move to a destination-based model, supported by easier ways to report and remit that VAT. However, many Member States have objections to the proposal which is effectively blocked.

EU digital reporting requirements proposals

EU VAT in the Digital Age reforms include a channel for harmonised Digital Reporting Requirements (DRR) and Continuous Transaction Controls (CTC) by EU states. This grew from the 2020 EU Tax Action Plan proposals for a fairer and more efficient EU tax regime.

6/ NETHERLANDS : Intrastat threshold 2022

The Netherlands has updated its 2022 Intrastat reporting thresholds as follows:

- **Acquisitions: raised from €800,000 to €5m per annum**
- **Dispatches: no change on 2022 at €1m per annum**

There are no detailed Intrastat thresholds for the Netherlands. The reporting deadline remains the 10th of the month following the reporting month end. A new portal for Intrastat submissions, IDEP+, has been launched. Businesses must first register with the tax authorities to gain login details.

7/ SWITZERLAND : New marketplace deemed supplier VAT rules

Tax loophole to be closed by making platforms responsible for VAT

Switzerland is set to follow the EU by imposing deeded supplier obligations on digital platforms. This makes them responsible for the VAT charging and remittance on low value imported consignments being sold to consumers.

Need for level-playing field on VAT for local e-commerce

Currently, imported consignments with an intrinsic value not exceeding CHF 5 are VAT exempt. Any e-commerce seller with total income above CHF 100,000 must VAT register in Switzerland to charge VAT to local B2C sales. However, the Federal Tax Administration has noted that there are still large amounts of evasion, and it has limited powers to enforce the rules. This creates an unfair advantage for non-resident e-commerce sellers operating in Switzerland.

Ending low-value consignment relief

The Administration is therefore now consulting on ending the low-value VAT exemption, and imposing deemed supplier rules on marketplaces. This follows the EU's e-commerce package reforms introduced in July 2021.

8/ EUROPE : EU solution to double taxation on IOSS VAT

Overcharged import VAT recovery via IOSS return proposal

The European Commission (EC) has proposed a solution to the problem of double taxation arising on the new Import One-Stop Shop process for declaring VAT on imports not exceeding €150. It suggests allowing sellers or deemed supplier marketplaces to reclaim in subsequent returns any import VAT incorrectly collected at Customs.

VAT charged incorrectly for second time on import

Following the 2021 e-commerce package, import VAT on B2C sales of import consignments not exceeding €150 should be charged by the vendor in the checkout. The vendor – or marketplace – then includes their IOSS number on the package to indicate to Customs that they do not need to charge import VAT.
However, there is a reported number of cases – perhaps 5% – where import VAT is incorrectly charged when it has already been levied in the checkout process. This may be because:

- **Seller does not include their valid IOSS number on the customs invoice or declaration**
- **Customs is unable to validate the IOSS number.**

Proposal to allow reclaim of paid import VAT

The EC is therefore proposing that sellers or marketplaces may reclaim any such double taxation through their next return. The seller or marketplace would also refund their customer when they have made the payment to Customs (via delivery agent etc). The advantages of this solution would be:

- **Follows common practise and Directive legal basis on being able to correct or offset VAT via VAT returns**
- **It would provide a clear audit trail within the IOSS reporting ecosystem**

- **The seller or deemed marketplace will have the data and processes to manage this correction efficiently, refund the customer and reclaim the double tax through their return**

9/ BELGIUM : B2B e-invoicing 2023?

3-phase launch for B2B electronic invoicing starting July 2023?

An ambitious, and potentially subject to delay timetable for the introduction of mandatory B2B invoices in Belgium is being circulated to gather options. This is made up of three stages:

- **July 2023: Large taxpayers**
- **Oct 2023: Mid-sized taxpayers; and**
- **Jan or Jul 2024: Small taxpayers**

Ministry of Finance backs e-invoicing

The Belgian Ministry of Finance had confirmed in the 2022 budget plan's statement on rollowing out a B2B / B2C e-invoicing regime. Draft legislation will be issued in 2022 for consultation. Belgium has around €3.6billion in missing VAT revenues according to the EU's last VAT Gap estimate.
Currently, B2B e-invoicing is permitted without the requirement to produce a paper-invoice provided both partiers confirm their agreement and there are sufficient secure controls over the issuance, receipt, and storage processes.
The Belgian budget in October 2021 included a provision for the phased introduction of electronic invoicing for Business-to-Business transactions.

Pre-clearance live invoice reporting to government

This would seek to replicate the success of Italy SdI, and follow plans for France delayed to 2024 and Poland for preclearance invoices. This would require a draft electronic invoice to be first submitted to basic validation and recording by the Ministry of Finance. Only at this point could the invoice be considered valid for forwarding to the customer. The tax authorities would then be able electronically check the invoice in the supplier's and customer's VAT return as matching. The aim is to detect errors and fraud, estimated to Belgium €3.6 billion each year based on the EU VAT Gap.

The government gave no indication of implementation timetable. The ongoing EU VAT in the Digital Age proposals includes a strand around harmonised transaction-based reporting across the member states. This originated from the 2020 Tax Package measures for a fairer and more efficient EU tax regime.

En savoir plus