

A row of white megaphones on black poles, angled upwards against a blue sky with white clouds. The megaphones are arranged in a line that recedes into the distance. A vertical red line is positioned above the word 'meridian'.

meridian

# *VAT trends*

Sept/Oct 2010





## The Channel Isle of Jersey

### GST increase

The Channel Isle of Jersey has announced a proposal to increase its Goods and Services Tax (GST) from 3% to 5% as part of its 2011 budget. This will come into effect on 1 June 2011.



## Greece

### Greek tax amnesty

Law 3888/2010, which was enacted on 30th September 2010, provides for a settlement scheme, which is optional and may cover all pending tax files (both non-audited and audited but still disputed tax cases) of business enterprises and freelance professionals relating to the accounting years ending on or before 31st December 2009.

An overdue debt scheme is enacted as well, which covers mainly debts towards the Greek State, which have been entered into the public accounts and have become overdue. The scheme provides for beneficial settlement terms, including the waiver of late payment surcharges and/or reduction of additional taxes.



## Latvia

### Constitutional Court rules in favour of the businesses in a refund position as of 01/07/2003

On 1 July 2003, a law was enacted which restricted the right to deduct input VAT for a period of 3 years from the submission deadline of the first VAT return where the tax could have been reported. However, this law entered into force just over three

months after being officially published, whereby several taxpayers did not have the time to acknowledge the new rules and deduct input VAT that they had incurred more than 3 years before 1 July 2003. The Latvian Constitutional Court has held that this sort of delay was incompatible with the national constitution and that taxpayers should therefore be allowed to deduct in full the input VAT incurred before the entry into force of the law from 2003.



## Luxembourg

### Administrative change to VAT returns

From 2011, the administration will abandon the practice of mailing VAT returns to taxable person.

The respective returns (monthly, quarterly and annual) can either be obtained from one of the Administration tax office or be downloaded from the AED website: <http://www.aed.public.lu/formulaires/index.html>

Should you wish to know more please contact your Meridian client services manager.



## Poland

### VAT rates expected to increase

The Polish VAT rates are expected to rise by 1 point from the 1<sup>st</sup> January 2011 increasing the standard VAT rate from 22% to 23% and the reduced rate to 8%. The new super reduced rate is to be introduced at 5% (the lowest rate that is allowed in the EU), which will essentially apply to the majority of the supplies that are currently taxed at either 0% or 3% under specific derogation arrangements.



## Portugal

### VAT rate to rise from 21% to 23% from 1 January 2011

The standard VAT rate is expected to increase again from 1 January 2011. Please see below a table outlining the current rates and the new rates:

VAT Rate	Previous (until 30 <sup>th</sup> June 2010)	Current (from 1 <sup>st</sup> July 2010)	New (from 1 <sup>st</sup> January 2011)
Standard rate	20%	21%	23%
Reduced rate	12%	13%	13%
Superreduced rate	5%	6%	5%

The following rates will increase within the autonomous regions of Azores and Madeira from 1st January 2011:

- Standard VAT rate: from 15% to 16%
- Reduced VAT rate: 9% (unchanged)
- Super reduced VAT rate: 4% (unchanged)

In addition, the new rate will also apply to a number of items currently liable to the reduced or intermediate rates of VAT.

Items	Current (from 1 <sup>st</sup> July 2010)	New (from 1 <sup>st</sup> January 2011)
Chocolate milk	6%	23%
Flavoured, vitaminised or enriched milk		
Milk drinks and desserts		
Soy desserts		
Soft drinks, fruit and vegetable juice and nectars		
Supplies of services by lawyers to retired people		
Firefighting equipment		
Use of sporting facilities	13%	23%
Canned meat and molluscs		
Canned fruits, fruit preserves, fruit jelly, jams, and fruit pulp		
Canned horticultural products		
Food oils		
Animal or vegetable margarines		
Appetizers made of horticultural products or seeds		
Appetizers or snacks made out of corn, wheat or potato flour, in individual packages		
Ornamental flowers, foliage and flower arrangements for decoration purposes		
Ornamental plants		



## Romania

### New VAT return template

The Romanian tax authorities have updated the VAT return template in order to take the VAT rate increase from 19% to 24% into account.

For any businesses that would like further details, please contact Meridian Global Services.



## Slovakia

### Increase of VAT rate in Slovakia

The Slovakian government recently decided to increase the VAT rate from currently 19% to 20% with effect from 1 January 2011.

The increase was decided against the background of the high public finance deficit and it is expected that the VAT rate will remain at that level until the country's public finance deficit falls under 3 percent of GDP.



## Switzerland

### VAT rate changes

The Swiss tax authorities have issued the below guidance on the temporary VAT rate changes from 2011 to 2018. The changes in VAT rates effective from 1<sup>st</sup> January 2011 are as follows:

Current VAT Rate	New VAT Rate
7.6%	8.0%
3.6%	3.8%
2.4%	2.5%

The correct rate to apply during the transition is determined by the tax point of the supply of the goods or services.

Taxable supplies made after January 2011 should be charged at the new rates, even if the invoice and/or payment was issued in 2010.



## European Union

### **Council creates Eurofisc network to strengthen cooperation on VAT fraud and detect new fraud schemes**

The Council adopted a regulation to enable the 27 Member States to step up their efforts in combating fraud with regard to VAT (12193/10 +13994/10 ADD 1).

The main step in this fight is the creation of Eurofisc, a network of national officials to detect and combat new cases of cross-border VAT fraud.

The new regulation, which recasts regulation 1798/2003, seeks to make cooperation between tax administrations more effective and give Member States the means to combat VAT fraud more effectively.

It specifies the cases in which Member States must exchange information spontaneously, the procedures for providing feedback on such information and situations in which member states must conduct multilateral controls.

The Eurofisc network, in which all Member States will participate, will enable targeted and swift action to be taken in order to combat new and specific types of fraud. It will involve a multilateral early warning mechanism, and the coordination of both data exchange and the work of liaison officials in acting upon warnings received.

### **EU VAT refund deadline delayed to 31<sup>st</sup> March 2011**

The European Union Commission has announced that the deadline for the submission of EU VAT refunds has been postponed from the 30<sup>th</sup> September 2010 to 31<sup>st</sup> March 2011.

This change reflects the huge challenges and confusion the 27 EU Member States have incurred while implementing Europe's new foreign VAT recovery electronic mechanism. The reason for the new system was to reduce the cost for companies of trading across borders and simplify the process of foreign VAT recovery.

As part of the 2010 VAT Package, each Member State created a VAT recovery online portal to process foreign VAT reclaims. The new regime would allow claimants to file the reclaims of foreign VAT to their own tax authority through the local portal, and the tax authority would then pass on the claims to each appropriate country. However, the countries experienced many issues during the set-up of the new portals, including:

- In some countries the launch of the portals had been delayed
- In countries, with VAT grouping arrangements, it is not possible to register subsidiaries of groups - only the holding company.
- Whilst there is a facility to amend claims in most portals, these are not always being passed onto the relevant countries.

The Commission decided on the delay of the deadline to ensure that all claims can be submitted in time has also agreed to intervene in the design and technical operation of the portals to try and establish conformity among the 27 portals.

## **Oasis East Sp. z o.o. case C-395/09**

Judgement of the European Court of Justice in Oasis East Sp. z o.o. case C-395/09 on the entitlement to deduct Polish input tax upon receipt of the services, in relation to which the payment was made directly to the entrepreneur established in one of the countries treated as 'tax havens' according to the Polish VAT Act.

### **Summary of the issue**

Oasis East Sp. z o.o. produces and sells water refrigeration devices. As part of its business activities it uses the administrative services provided by a company established in one of the countries, which under the Polish VAT Act are treated as 'tax havens'. Oasis East is required to self-account for the Polish output tax on the receipt of such services. However, under the specific Polish VAT law, which has been in place before Poland joined the EU, Oasis East is not entitled to deduct the corresponding Polish input tax.

Oasis East applied to the Ministry of Finance for an individual interpretation on whether since 1 of May 2004, when Poland joined the EU, it was allowed to deduct the Polish input tax at issue. The company received a negative response and the case was appealed to the Polish administrative court. When the case was heard before the National Supreme Court it was decided to stay the proceedings and refer the case to the European Court of Justice.

The national court asked whether the Community law allows Member State to apply such restrictions to the input tax deduction as those at issue.

ECJ ruled that Member States are not allowed to maintain national law, which excludes, in a general manner, the right to deduct input tax.

## **Opportunity**

This case has opened the door for the Polish VAT registered taxpayers to recover Polish input tax that they have not deducted previously since 1 May 2004 when purchasing the services, the price of which was paid to a undertaking established in a territory classified as a 'tax haven' by the Polish VAT Act.

## **ECJ Decision – EMI Group Ltd – C-581/08**

### **VAT Treatment of business samples**

#### **Summary**

The ECJ confirmed that the UK rules around the VAT treatment on promotional free copies of music recordings were wrong. The case also provided the ECJ with an opportunity to confirm that the UK's rules on the VAT treatment of business gifts are broadly correct.

#### **The case**

EMI is involved in the production and sale of recorded music and in music publishing. Since 1987, with a view to promoting its new recordings, EMI has been distributing free copies of those recordings to various promoters, e.g. press, advertising agencies. EMI accounted for VAT on those samples.

However, it was later noted that the UK legislation relating to samples was incompatible with the Principle VAT Directive, and a claim for reimbursement was soon submitted to HMRC for overpaid output VAT.

In addition, EMI stopped accounting for VAT on those samples for which HMRC issued an assessment for underpaid output VAT.

To reach the outcome, the ECJ discussed a number of questions including the Principle VAT Directive's interpretation of samples, gifts of small value and whether the taxable status of the recipient had any impact.

#### **Opportunity**

This case has opened the doors for businesses that use promotional samples as sales tools across the music, drinks and retail industries to

submit VAT refund claims for possible overpaid output VAT.

For further details of the case, please refer to this [LINK](#)

## “A best-practice solution to deal with SAP tax determination and billing pitfalls”

**October 13.10.10**  
**Recording is available details below.**

This live and interactive 60 minute webcast focused on tax determination and billing pitfalls within SAP.

### [REGISTER](#) to view the recording

During this session, we provided an overview of the common issues users experience with SAP VAT determination and billing, focusing on the implications and impact to business, before offering recommendations to address the challenges.

To make this forum interactive, we encouraged participants to ask our experts live questions and share their experiences.

### **We examined a number of key problem areas, including:**

- Incorrect selection of VAT partner functions and VAT ID
- Incorrect tax departure country
- Incorrect tax destination country
- Incorrect invoice number ranges
- Lack of functionality manage to fiscal groups and VAT groups
- Lack of functionality manage VAT warehouses and bonded flows

## Refund Directive - SCAC Meeting

**October 11.10.10**

Mark O'Riordan, CEO, Meridian Global Services and Stephen Dale of Landwell Associates delivered a [presentation](#) to the EU Steering Committee for Administrative Co-operation (SCAC) for the Refund Directive on the 11th of October, 2010. This presentation highlighted the challenges facing European businesses as a result of the implementation of the Refund Directive.

[Click here to view](#)

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