



meridian

VAT trends

January / February 2010



Is your business involved in the World Cup in South Africa?

We can help you score a VAT goal!

By Philippe Moncelet and Jenny Nittmann



Whether you are a FIFA Partner, World Cup Sponsor, national football association, broadcaster or hospitality provider – being involved with the 19th World Cup in South Africa will mean that your business is likely to incur a variety of costs. With South Africa's standard rate of VAT at 14%, it is worthwhile to examine if and how South African VAT costs can be minimized to increase your World Cup related profits by decreasing your indirect tax costs. Meridian is your ideal partner to help you maximise your South African VAT recovery opportunities.

Background Information

The World Cup is said to match the 2008 Summer Olympics as the sports event with the most competing nations. Naturally, the tournament therefore draws significant interest for businesses using this event to promote their goods and services. Despite the economic downturn, this year's competition is still expected to be the most profitable ever for FIFA, and sponsors and commercial partners have already made huge investments. Between five of FIFA's biggest strategic partners and the six worldwide sponsors, a total of approximately USD 850 million has been spent in form of sponsorship fees.

The South African "Tax Bubble"

In order to attract more businesses to South Africa for the duration of the Championship, the South African Government implemented comprehensive tax measures through The Revenue Laws Amendment Act No 20 (2006), mixing reliefs and simplified processes aiming to minimize direct and indirect taxes on certain sales of goods and services in relation to the World Cup.

In short, this so-called "tax-free bubble" around FIFA-designated sites has been introduced so that profits on consumable and semi-durable goods sold within these areas will not be subject to income tax; neither will VAT be applied.

Further, it allows for the rebate of Customs duties, taxes and levies on the importation and subsequent exportation of the said goods into South Africa.

Can your business benefit from this "bubble"?

The "tax bubble" will apply to concession-operated outlets such as those selling food, beverages or merchandise within these designated sites.

Certain services will also receive these exemptions – provided these services are:

- Necessary for the staging of the tournament;
- Are bought within the designated sites; and
- Are paid for by members of the public, FIFA or Local Organising Committee ("LOC") officials.

The exemptions apply to South African residents and non-residents, and will apply only in respect of income tax and VAT, which will be zero-rated on goods and services.

The exemptions are available to certain entities involved in the staging of the tournament. These are referred to as "Part II" and "Part III" entities.

If your business is either directly related to FIFA, or is a commercial affiliate to FIFA, a licensee, a broadcaster, merchandising partner, designated services or hospitality provider, or a flagship store operator, you should qualify for the available

beneficiary VAT treatment of your sales, purchases, imports and exports.

Furthermore, if your business incurred South African VAT on the purchase of certain goods or services in relation to the World Cup, it is worthwhile understanding if VAT should have been charged on your invoices.

What are the opportunities?

Once we have established that your business is eligible for the South African VAT relief and refund opportunities, the VAT incurred on taxable goods or services acquired to be supplied at the Championship site will be deductible as input tax subject to the normal South African input tax rules.

Meridian can assist your business to reclaim your eligible South African input or import VAT in accordance with the required VAT compliance procedure:

- VAT registration with the South African Revenue Services ("SARS") as e-filers (non-established businesses will be required to appoint a representative person residing in South Africa and open a South African bank account or use a South African bank account of one of its subsidiaries);
- Submission of SARS VAT returns via e-filing on a two-monthly basis including the required documents (e.g. proof of payment, valid tax invoice);
- SARS is committed to approve and refund the VAT refunds with a period of 21 business days of receipt of the claim, unless the claim is incomplete or defective;
- Assistance with special import and export procedures to avail of special reliefs from import VAT and duties under the ATA carnet regime;
- Review of invoices issued by South African suppliers to ensure that VAT was correctly charged;
- Deregistration from VAT at the end of the Championship.

What are the next steps?

SARS have announced that there will be very strict and short windows of opportunity to request a refund of your South African VAT.

Therefore, if your business is going to:

- Import goods into South Africa;
- Incur costs in South Africa;
- Make local sales of durable and semi-durable goods during the World Cup; or
- Has any other involvement in the World Cup

... and you would like to find out if and how you can benefit from the special South African VAT bubble, for further information and a competitive price quote please contact us on:

info@meridianglobalservices.com

Don't let this opportunity pass your business by – or you might be scoring an own-goal!



AUSTRIA

Confirmation of requirements for deductible invoices

A recent decision of the Independent Finance Tribunal (*Unabhängiger Finanzsenat*) confirmed the requirements for valid VAT invoices.

Background information

An Austrian company had appealed against a decision of its local financial authority, in which invoices issued by a wholesale trader with a general description of the goods supplied and a gross amount only, had been rejected for input tax deduction.

The decision

According to Directive 2006/112/EC and Austrian VAT law, a VAT invoice has to contain the amount and nature of the goods supplied. Collective names are not permitted, however, the Austrian tribunal confirmed that names and amounts “customary in the trade might be used” on wholesale invoices to describe the nature of the supply.

Furthermore, it is mandatory for VAT invoices to contain the net amount, VAT amount, VAT rate and gross amount. Any trader issuing VAT invoices must adhere to the invoice requirements.

If you wish to read the full case, please follow this link:

<https://findok.bmf.gv.at/findok/showBlob.do;jsessionid=FF2039C15CE1389EBD7A60A74D0D1C6A?rid=44771&base=UfsBmfPdf>



AUSTRALIA

VAT legislation changes

In Australia, the Tax Laws Amendment (2009 GST Administration Measures) Bill 2009 was introduced into Parliament.

The Bill contains amendments to give effect to a number of administrative measures intended to make the GST law more transparent, and to reduce compliance costs for businesses and include measures to:

- Impose a four-year amendment period for claiming input tax credits and fuel tax credits;
- Allow residents of Australia's External Territories to claim refunds of GST or WET under the tourist refund scheme (Exposure Draft Regulations have also been released for public consultation to support the proposed GST refund mechanism for bulky goods exported to Australian External Territories);
- Increase the range of entities entitled to act as a principal for GST accounting purposes;
- Clarify how the gambling operator's margin is calculated;
- Ensure that overpaid refunds of GST, luxury car tax or fuel tax are treated as an amount due and payable from the date of the overpayment; and
- Ensure the GST treatment of a supply to an associate without consideration is as an input taxed supply, a GST-free supply, or a financial supply where appropriate.

The amendments were previously released in form of an “Exposure Draft Legislation”, but the actual differs from the proposal - the most significant change being in relation to the four year time limit on entitlements to input tax credits and fuel tax credits. In particular, while the Bill provides for the same circumstances in which the four-year period can be extended, it includes a new section to ensure that there will be no entitlement beyond the four years, if the Commissioner can no longer recover the tax from the supplier, and a tax invoice was not issued within the four years.



AUSTRALIA

VAT legislation changes (cont.)

Second Exposure Draft released

The Assistant Treasurer released a second set of draft reform legislation on GST administration for public comment.

This Second Exposure Draft proposes:

- Amendments to the present rules for attributing input tax credits to clarify that taxpayers are able to defer the attribution of input tax credits, subject to the four-year restriction on claiming input tax credits contained in the above Bill.
- Insertion of a new division to ensure that the appropriate amount of GST is collected (and the appropriate amount of input tax credits claimed) in situations where there are payments between parties in a supply chain which indirectly alter the price paid or received by the parties for the goods supplied. This is achieved by creating an adjustment to apply in situations where an entity (the payer) supplying goods to another entity for re-sale makes a monetary payment to a third party (the payee) in connection with the payee's acquisition of those goods. One common example of this type of transaction is a manufacturer's rebate which is paid directly to a customer;

Both of these amendments are intended to apply from 1 July 2010. As soon as the Bills are ratified we will inform our readers of the approved changes.

If you would like to learn more about recovery of the GST in Australia, please do not hesitate us here at Meridian.



BELGIUM

VAT rate changes

The Belgian VAT legislation has been amended with effect from 1 January 2010.

The changes affect the VAT rates applicable to certain supplies of food and beverages in restaurants, as take-away or as part of the supply of accommodation.

New Rules with effect from 1 January 2010

Sales for on-site consumption (i.e. restaurant service):

- **Food:** **12%**
(down from previously 21%)
- Non alcoholic beverages: 21%
- Alcoholic beverages: 21%

Sales of take away food and drinks:

- Food: 6%
(except caviar and margarine)
- Non alcoholic beverages: 6%
- Alcoholic beverage: 21%

Please note that the supply of furnished accommodation, with or without breakfast, is subject to the 6% reduced rate.

Only breakfast supplied in hotel restaurants is subject to the 6% reduced rate. Breakfast in a normal restaurant will be subject indeed to the normal rate of 12% for consumption on the premises, and 6% for take away consumption.

Neither lunch nor dinner is subject to the reduced rate. Here, the rules for normal restaurant services apply (see above).

If you have any questions regarding the above, please do not hesitate to contact your Meridian client services manager.

¹ Decision: E.T. 117.557, 23 December 2009



HUNGARY

EC Sales and Purchases List

The Hungarian Tax Authority published the final form of the 2010 EC Sales and purchase list (form 10A60).

From 1 January 2010 – in line with the European legislation – Hungarian businesses and taxable persons will be required to file a periodic ESL (EC Sales list or recapitulative statement) reporting the intra-EC supplies of services falling under the new business to business reverse charge.

The ESL report will be combined for goods and services, and can be submitted only electronically.

The form consists of 5 pages:

- Page 1 - details of taxable person (VAT number, company name and address) and period;
- Page 2 (sheet 01) – EC Sales (goods);
- Page 3 (sheet 02) – EC Acquisitions (goods);
- Page 4 (sheet 03) – EC Sales (services);
- Page 5 (sheet 04) – EC Acquisitions (services).

As a general rule, the filing period of the ESLs corresponds with the filing period of the VAT return, but if EC Sales of goods exceeded the threshold of £100,000 in any of the previous four quarters, the company is required to submit ESLs monthly.

The submission deadline is the 20th day of the month following the reporting period.



IRELAND

Finance Bill – Changes to the VAT Act

The Finance Bill of 2010 makes a number of changes to the VAT Act which include:

- Changes to the existing VAT exemptions relating to medical care and postal services;
- Change to the taxpoint in respect of telephone cards; and
- Change to the VAT liability of certain supplies made by local authorities and public bodies from 1 July 2010.

For more details in respect of the changes, the Finance Bill can be accessed via the Irish Tax & Customs site:

<http://www.revenue.ie/en/practitioner/law/finance-bill-2010/index.html>



ISRAEL

Reduction of VAT rate

With effect from 1 January 2010 the standard VAT rate in Israel has been reduced by 0,5% from 16,5% to 16%. The decrease of the VAT rate was implemented earlier than planned as a result of the continued growth in the economy. The new 16% VAT rate is only a temporary measure and is due to be decreased again to 15.5% in 2011.



ITALY

Reverse Charge Accounting

Circular Letter No. 12, which was issued on 12 March 2010, confirms that where services fall under the new general place of supply rule for services of Art. 44 of Directive 2008/09/EC, and received from a supplier established in a Member State other than Italy, that Italian businesses may treat the invoice from the supplier as evidence for the reverse charge accounting, despite the requirement to issue a „self-billing“.



ROMANIA

2010 Intrastat thresholds

By Order Number 670 issued by the president of the National Institute of Statistics, the intrastat thresholds for 2010 will remain unchanged. Intrastat filing for dispatches of goods exceeding RON 900,000 in value per calendar year or RON 300,000 for arrivals of goods will remain compulsory.

New VAT return & VIES

The National Agency for Fiscal Administration has posted a draft of the new VAT return and VIES Recapitulative Statement to be used from 1 January 2010.

Please find herewith links to the new forms.

VAT return:

http://static.anaf.ro/static/10/Anaf/legislatie/OPANAF_77_2010.pdf

VIES Recapitulative Statements:

http://static.anaf.ro/static/10/Anaf/legislatie/OPANAF_76_2010.pdf

Since 1 January 2010 both the VAT return and VIES must be filed on a monthly basis. Recapitulative statements for the reporting of intra-EU supplies of services are reported together with intra-EU supplies of goods and submitted to the tax office by the 15th of the following month.

VAT invoices

There is no longer a requirement to mention on an invoice that a supply is "VAT exempt without credit", "VAT exempt with credit" or "not included in the taxable base", however the relevant article of either the Fiscal Code or the EU Principal VAT Directive must still be quoted.



UNITED KINGDOM

2010 Budget

The UK Chancellor, Alistair Darling, presented his budget to the House today. The budget included a number of specific changes to the operation of VAT, including changes to the rules for energy and emissions as well as the non-business use of certain assets. There were also more wide ranging changes.

One of the most important parts of the budget from an indirect tax perspective is the reform of the penalty regime, which spans most indirect taxes. These reforms will be staged over some time but will include fixed penalties for late filing and / or payment of returns as well as incremental penalties for persistent or prolonged delays. Full details of these are available from Meridian.

Also of a general concern is the array of anti avoidance measures, which so often have a habit of catching innocent bystanders. Most directly relevant to the VAT sector is the increased onus on taxpayers to disclose arrangements that bear the "Hallmarks of Avoidance". Legislation will be introduced in Finance Bill 2010, to come into force in the autumn, to increase taxpayers' and promoters' obligations to disclose such arrangements and the extent of their use. These will include extending the number of "Hallmarks" that lead to a requirement to disclose as well as increased penalties for non compliance. Full details will be set out in the Finance Bill 2010, which will be introduced later in the year.

On the other hand, HMRC will continue to offer Time to Pay arrangements; a measure that was introduced in November 2008 and allows viable businesses facing difficulty to negotiate terms to meet their VAT obligations.

A summary of the VAT – Specific announcements is set out below. Clearly, there are a number of industry specific issues arising as well as the more wide ranging measures announced and most will require pro-active management and control. Meridian has



UNITED KINGDOM

2010 Budget (cont.)

experienced professionals who can assist you in managing the required changes and ensuring on going compliance.

With this in mind, please do not hesitate to call your Meridian contact to discuss any of these issues in more detail.

Summary of VAT Specific Changes

Assets Acquired for Business and Non Business Use

Where certain assets, such as immovable property, boats and aircraft are purchases for business and non business use, the current rules allows for full recovery of associated VAT up front with VAT then being paid over a period of years on the private use. With effect from 1 January 2011, VAT recovery will be restricted to the business element only. Guidance is to be introduced on the distinction between business and non business use.

Measures will be introduced to ensure taxpayers who previously acquired assets under the existing rules either unravel the arrangement or continue to pay VAT on the private use.

Changes to zero-rating of qualifying aircraft

Current UK VAT legislation defines aircrafts that can be supplied at the zero-rate as those that weight not less than 8,000kg and are not designed or adapted for recreation or pleasure. The legislation will be amended to define a qualifying aircraft based on the status of the customer. Supplies of aircraft will be zero-rated only where used by airlines operating for reward primarily on international routes. The change will affect supplies made on or after 1 September 2010.

The change has taken place to align the definition set out under the EU Principle VAT Directive and as a result has narrowed the domestic interpretation. We would happily review your business model to ensure that the VAT impact this creates is minimised, whilst remaining compliant with changes to the UK VAT legislation.

Reverse Charge for Emissions Allowances

As part of HMRC's plan to combat Missing Trader Intra-Community (MTIC) fraud, a domestic reverse charge will be introduced in relation to emissions allowances. Historically, the domestic reverse charge provisions were limited to supplies of goods (mobile phones or computer chips) under Section 55A of the VAT Act 1994. However, new measures will widen the scope of Section 55A to supplies of services and it is intended that the new reverse charge procedure for emissions allowances will apply from 1 November 2010. At the same time, the interim zero-rating measure that was introduced on 31 July 2009, following large scale fraudulent activity within the carbon credits market, will be withdrawn.

Place of supply of gas, electricity, heat and cooling

Amended rules have been announced in relation to the VAT treatment of supplies of gas, heat and cooling. The new rules will apply with effect from 1 January 2011.

Under current arrangements gas supplied via the natural gas distribution network, is treated as supplied where either a wholesale customer is established or the natural gas is consumed. As such, UK customers who are registered for VAT are required to account for VAT on supplies of gas that they receive from suppliers established abroad through the reverse charge mechanism. The existing rules are to be amended so as to cover supplies in all categories of natural gas pipeline. However the scope will be limited to supplies involving natural gas pipelines located in the EU or linked to such pipelines. Finally the relief from VAT at importation will be extended to all natural gas imported via a network (including liquefied natural gas by tanker). The above amended rules will also be



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2010 Budget (cont.)

extended to apply to heat and cooling supplied through networks.

Cost sharing exemption

There is to be a period of consultation with a view to implementing a scheme to exempt cost sharing arrangements where used by charities and other similar organizations.

Postal Services

Following a legal challenge, the European Court of Justice (ECJ) confirmed that Royal Mail, as the operator providing the public postal service, is the only body in the UK eligible to exempt postal services from VAT. However, the ECJ further ruled that the exemption only applies only to the public postal services acting as such and does not apply to services which are provided on individually negotiated terms. As such the Budget has clarified that supplies of services that the Royal Mail (including Parcelforce) is not required to make under a license duty, and services provided on terms and conditions that have been freely negotiated, will in future be subject to the standard rate of VAT.

This measure will have effect for supplies made on and after 31 January 2011.

Businesses that purchase relevant services may be affected, as they now have to pay VAT. This also presents an opportunity to potentially be able to make protective VAT refund claims from HMRC going back to April 2006 on freely negotiated contracts with Royal Mail where the consideration was treated as inclusive of VAT.

VAT - Increased Registration and Deregistration Thresholds

The taxable turnover threshold will increase from £68,000 to £70,000, from 1 April 2010. The threshold for deregistration will be increased from

£66,000 to £68,000. Finally the registration and de-registration thresholds for acquisitions from other EU Member States will be increased from £68,000 to £70,000.

Changes in Fuel Scale Charges

New VAT Fuel Scale Charge have been introduced from 1 May 2010.

Simplification of the partial exemption and option to tax rules

Not officially part of the UK budget but announced at the same time, two changes to simplify the partial exemption de minimis rules and some minor changes to simplify the option to tax legislation are to be brought in with effect from 1 April 2010. The partial exemption changes retain the £625 per month rule but allow for an annual de minimis test. The option to tax changing include a relaxation of the connected party finance rules and the cooling off period.

Senior Accounting Officer rules (“SAO”)

Many of our clients have been expressing concern about how the new Senior Accounting Officer rules will impact their business. As such, we thought we would provide you with a brief overview of what the rules mean and what your business should be doing.

What are the SAO rules in nutshell?

The SAO rules require companies to nominate a Senior Accounting Officer, who is responsible for monitoring and certifying the company’s complete tax accounting arrangements, including VAT. The rules will leave SAOs personally liable should they fail to ensure that their company has the appropriate arrangements or certify this to HMRC.

When do the SAO rules apply?

The SAO rules apply to financial years that began on or after 21st July 2009. As such, at the end of the first financial year that began on or after 21st July 2009, the SAO will need to provide HMRC with the relevant certification.



UNITED KINGDOM

Senior Accounting Officer rules (“SAO”) (cont.)

Which companies are affected by the new rules?

The new rules will apply to UK incorporated companies that have an annual turnover exceeding £200m, or a balance sheet total of more than £2bn. For groups, these figures apply to turnover or balance sheet totals from all UK group companies.

Who is the SAO?

The SAO is the director or officer in the company, nominated by the company to have overall responsibility for the company’s tax accounting arrangements.

What is the SAO required to do?

The rules require the SAO to:

- Take reasonable steps to establish, maintain and monitor appropriate tax accounting arrangements within their company (and identify any respects in which those arrangements are not appropriate);
- Annually certify to HMRC that the company has appropriate tax accounting arrangements.

What penalties could the SAO or company face?

Should the SAO fail to do either of the above, they will be personally liable to a penalty of £5,000 for either offence, and a maximum of £10,000 for both offences.

The company may also be liable for a penalty of £5,000 if it fails to inform HMRC of the relevant SAO for their company.

What should you be doing now?

In order to comply with the new rules, you will need to take reasonable steps to ensure that your

company appropriate tax accounting arrangements. Like the new penalty regime that was introduced in 2009, the SAO rules are concerned with ensuring that taxpayers take appropriate and reasonable steps in relation to their tax accounting arrangements.

In order to provide HMRC with the relevant certification, you need to carry out an in-depth review of your business’s tax accounting arrangements.

It is likely that such a review will include:

- Documentation of the end to end process by which initial data is input into the accounting systems and then used to arrive at the numbers which form the basis of the VAT return;
- Identifying, understanding and documenting key tax compliance risks within the business;
- Putting in place a framework that will mitigate such risks and monitor activities on an ongoing basis to ensure that controls are working effectively;
- Ensuring that those who carry out delegated activities (e.g. AP/AR staff) have the right levels of training and support when it comes to making decisions that impact on VAT;
- Ensuring that there is a process in place to deal with tax sensitive transactions;
- Clearly defining responsibilities, policies and procedures within the organization;

The SAO rules are likely to be a challenging issue for most businesses but with careful preparation the risks they create can be managed.

If you would like to discuss the SAO rules further or think you may require assistance in relation to this, please contact your usual Meridian contact.

New Intrastat requirements from 1 January 2010

The “Intrastat General Guide” (Notice 60) was updated by HMRC to incorporate new EC Regulation (96/2010).



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New Intrastat requirements from 1 January 2010 (cont.)

The following changes were introduced with effect from 1 January 2010:

- The exemption threshold for Intrastat Arrivals has been increased from £270,000 to £600,000, and the threshold for Dispatches has been reduced from £270,000 to £250,000.
- Sales of new means of transport by VAT-registered businesses to private individuals in other Member States are no longer excluded from Intrastat reporting.
- All supplies of goods to British Embassies, Consulates and British armed forces bases situated in other Member States are excluded from Intrastat reporting.
- All supplies of goods to British armed forces bases situated within other Member States are now excluded from the reporting requirement.
- In respect of sales and purchases of vessels and aircraft, goods delivered to them and products of the sea, the reporting Member State is determined according to where the entity that has "economic ownership" of the vessel or aircraft is established.

Increase of VAT from 15% to 17.5% - Anti-forestalling rules

HMRC has revised their Guidance on the anti-forestalling rules in respect of hire purchase, conditional sale and credit sale agreements.

The anti-forestalling legislation applies to certain cases, such as:

- Pre-payments received from a connected person;
- Invoices issued to a connected person;

- Invoices issued, but which do not need be paid for at least six months;
- Prepayments received;
- Advance VAT invoice issued in excess of £100,000 (outside of normal commercial practice)

The anti-forestalling legislation will most likely apply, where there is a significant delay between the signing of the agreement and eventual delivery of the goods (e.g. cars).

Such a transaction is potentially liable to the supplementary charge, because the invoice would be not be payable in full within 6 months.

However, the supplementary charge will not apply if it is the supplier's normal commercial practice for the invoice to form part of the agreement and for it to be issued in advance of the supply of the goods; and the goods are intended and expected to be supplied within 6 months of the date of the invoice.

Lennartz accounting – New Policy

HMRC have published Revenue & Customs Brief 02/10, which introduces their interpretation of ECJ case *Vereniging Noordelijke Land-en Tuinbouw Organisatie v Staatssecretaris van Financien* – ("VNLTO"), case number C-515/07.

The case dealt with the question whether the so-called *Lennartz* accounting can be used by a taxpayer, who engages in activities that are not within the scope of VAT.

VNLTO looked after the interest of the agricultural sector. Its members paid a membership subscription. The greater part of the income went towards activities designed to promote their general interest, but VNLTO also provided other services to its members, for which it charged a separate fee.



UNITED KINGDOM

Lennartz accounting – New Policy (cont.)

The ECJ held, that, although the activities of promoting members' interest were not subject to VAT, this did not mean they were non-business activities.

"Business" in this context includes any activity that is part of the wider purpose of the taxable person's undertaking.

Following this case, from 22 January 2010, the Lennartz accounting will only be available, where the goods are used in part for making supplies in the course of an economic activity that gives a right to input VAT deduction; and they are also used partly for the private purposes.

Taxpayers who have applied Lennartz accounting on the basis of HMRC's previous understanding of the law may opt to continue using Lennartz accounting in respect of the assets concerned.

Please note that the *Lennartz* accounting for deducting VAT on immovable property will be withdrawn with effect from **1 January 2011**.

HMRC publishes concession for B2B supplies of transport

HMRC has announced that it would treat supplies of freight transport (and services closely linked to freight transport services) as supplied outside the UK if the services are used and enjoyed outside the UK. This concession was announced in Revenue and Customs Brief 13/10, and is valid from 15 March 2010. It can be accessed through the following link: <http://www.hmrc.gov.uk/briefs/vat/brief1310.htm>



EUROPEAN UNION

Will e-invoicing finally be possible in practice?

Any business sending and receiving invoices in multiple European jurisdictions understands the significantly different invoicing rules amongst Member States. This is administratively burdensome and far away from meeting the objective of harmonized rules.

The European Council agreed on 16 March 2010 on a draft directive for the purpose of simplifying European invoicing requirements, especially with regards to electronic invoices. Parliament will still need to give its opinion, but the Council will adopt once this has been received.

Hopefully, this should smooth the way for a long awaited technology improvement in relation to the exchange of paperless invoices, or e-invoicing, which so far has been hindered by the differences in regulatory and compliance requirements.

The new directive aims to:

- Ensure acceptance of electronic invoices by financial authorities;
- These meet the same conditions as paper invoices;
- Removal of legal obstacles in relation to transmitting and storing e-invoices;
- Tackle VAT fraud by means such as deadlines for the issuing of invoices, etc.

DEVELOPMENTS AT THE EUROPEAN COURT OF JUSTICE

ECJ Judgement in case C-3/09 – (Erotic Centre)

Erotic Centre BVBA and the Belgian State made reference in the above mentioned case to understand if the appellant, Erotic Centre, could apply the reduced rate on their services of showing adult movies for a consideration to their customers. These films can be watched within the privacy of a private cubicle on the appellant's premises. Erotic Centre BVBA argued that the concept of admissions to the cinema as referred to in Annex H of Directive 77/388/EEC would apply to his business model.

The ECJ rejected this argument in their ruling on 18 March 2010. So, peep show fans in Belgium will continue to pay the higher rate of VAT on their films.

Judgment in case C-88/09 – Graphic Procede – Photocopying – Goods or Services?

The issue

The French VAT authorities questioned the treatment by Graphic Procede of their supplies of photocopying services as an intangible supply of services. They argued, as Graphic produces copies of papers where the originals belong to professions such as architects, doctors, etc, that they retain title to the original, that the company was supplying goods and not services.

The ECJ therefore reviewed the meaning of Art. 14(1) of The Directive as to the definition of a supply of goods. This is defined in legislation as the „transfer of the right to dispose“ as owner.

The Judgement

The Court, in short, found on 11 February 2010 that the supplies of photocopies are more in line with that of goods, and that therefore the company needed to treat such supplies within the rules for goods.

This is an interesting decision as the Court looked closely at the value of the goods and the services involved in making such supplies, however, it came to the conclusion that photocopying services per se should be treated as that of supplies of goods.

For a full review of the case, please following this [link](#).

The Institute of Chartered Accountants England and Wales (ICAEW) and Meridian presented a webcast on February 25th 2010.

The New EU VAT Legislation - Theory and Business Reality - A practical perspective on the new European VAT Rules addressing complex implementation issues.

[Link to event](#)

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