

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

meridian

# *VAT trends*

Jan/Feb 2011

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## Austria

### Reverse charge for cleaning services for buildings

As of 01 January 2011 the cleaning of buildings is also considered as construction services. This covers all types of cleaning of premises or surfaces, which are part of a building. Examples of new construction services are the cleaning of buildings, facades, windows, swimming pools, sewers, streets and car parks (snow clearing, sweeping ,etc.).

In case of a uniform service it is decisive whether the cleaning service is the main service or whether it only constitutes an ancillary service to a main service not classified as service connected with immovable property.

Servicing green space is not considered as cleaning services for buildings, neither is the cleaning of textiles such as hotel laundry, curtains or loose carpets.

The conditions for the application of reverse charge for construction services are that the service recipient

- Is entrusted with the provision of these construction services himself
- That he usually provides construction services.



## Bulgaria

### Changes in VAT legislation

The Bulgarian authorities published a list of VAT amendments, which are in force as of 1 January 2011 unless stated otherwise below:

- The VAT rate on hotel accommodation is increased from 7% to 9%. The scope of the tax applies to all types of hotel accommodation. The amendment will enter into force on 1 April 2011.
- The place of supply of cultural, sports and scientific events is distinguished based on whether the recipient is a taxable person or not. If the service is rendered to a taxable person the place of supply shall be: the place where the event actually takes place in cases of services of granting entrance (against entrance tickets or payment, including subscription entrance) to cultural, artistic, performance, sporting, scientific, educational, entertaining or similar events (including fairs and exhibitions) and services accompanying the entrance.
- The services supplied by air traffic control to airlines operating mainly on international routes will be zero rated as of 1 January 2012.
- Training for acquisition of key competence is explicitly considered as a VAT exempt authorized educational service.
- The conditions for applying the exemption on import of goods followed by an intra-Community supply have been clarified and the VAT number of the recipient must be stated. Additionally the importer shall present the following documents to customs:
  - copy of the registration certificate
  - written declaration, with which the importer certifies that he is a registered person at the moment of carrying out the import
  - transport documents, in which it is indicated that the goods are intended for another Member State.



## Bulgaria

### Changes in VAT legislation (cont.)

- An invoice or invoice notification on behalf and at the expense of the deliverer qualifying as a taxable person may also be issued by the recipient of the delivery, if an agreement between the parties is available in advance. The conditions and order for receipt of each invoice by the taxable person delivering the goods and services shall be determined in the regulations on implementation of this Law.
- VIES returns shall be submitted electronically under the conditions and order set out in the Tax-Insurance Procedure Code.
- supply of scrapping material and waste, including the processing of such materials;
- trading with the Emissions Allowances;
- supply of construction and assembling services (effective only from 1.1.2012);
- the intended introduction of the reverse charge mechanism in regard to the supply of gas has been postponed until an exception has been negotiated with the European Commission.
- Introduction of the bad debt relief (businesses will be allowed to decrease their VAT liability in respect to receivables against debtors that are in insolvency proceedings).



## Czech Republic

### Changes in the area of VAT

Further to our article in our July/August issue we would like to inform you that the new measures fighting VAT fraud and introducing a bad debt relief have been incorporated into the Czech legislation. Also, some further significant amendments have been introduced into the Czech VAT law. However, the effective date of the new VAT act has been postponed from intended 1.1.2011 to 1.4. 2011. The detailed guidelines from the Czech Ministry of Finance are still yet to be issued, however, below is a brief description of these changes:

#### 2011 VAT law changes

- Introduction of the extended reverse charge mechanism with respect to the supply of certain goods and service to tax payers VAT registered in the Czech Republic:
- In certain circumstances, customers (tax payer registered for Czech VAT) will be jointly and severally liable for payment of the VAT with respect to supply of goods and services, where such customer was aware that the supplier is intentionally not going to pay the VAT at stake. Such measure will also apply where the invoiced price has no economic grounds and is below the standard market price.
- Changes of VAT deduction rules. Tax payers will be only allowed to execute their right to deduct input VAT once they are in the possession of a valid VAT invoice / tax document.
- Further, with respect to input VAT deduction, the amended VAT act defines that in order to deduct input VAT charged, the VAT invoice / tax document will have to fulfill all obligatory invoice requirements as stipulated by the VAT law.



## Czech Republic

### 2011 VAT law changes (cont.)

- Changes with respect to the import VAT exemption rules where goods are being imported into the Czech Republic (including where goods are released into the free circulation), however, are subsequently dispatched into another EU Member State where the recipient of the good in such Member State is liable to account for the respective acquisition VAT.
- Amendments in regard to corrections of tax basis (net amounts) and VAT amounts in the VAT returns.
- Changes with respect to the place of supply of event related services in line with the VAT Package (Art. 53 and Art. 54 of the Council Directive 2006/112/EC) supplied to taxable and non taxable person effective from 1.1.2011.
- Introduction of new rules with respect to private and exempt use of capital assets and capital assets built through the taxpayers own activities.

### New VAT return form

Further, please note that a new VAT return form has been introduced with effect from 1.1.2011 even though the new VAT law will be effective only from April 2011. The new VAT return form (templet no. 17) will have to be used for the period January / 1.Q 2011 for the very first time and can be downloaded under the following link:

[http://cds.mfcr.cz/cps/rde/xbcr/cds/5401\\_vzor\\_17.pdf](http://cds.mfcr.cz/cps/rde/xbcr/cds/5401_vzor_17.pdf)

Further, the Ministry of Finance issued the respective guidelines (template no. 13) on how to fill out the new VAT return including how to prepare the VAT return during the transitional period between January and March 2011 and these can be accessed under the following link: [http://cds.mfcr.cz/cps/rde/xbcr/cds/5412\\_vzor\\_13.pdf](http://cds.mfcr.cz/cps/rde/xbcr/cds/5412_vzor_13.pdf)

From January 2011, there are certain changes with respect to the process of submitting the VAT returns and the VAT return form itself.

- Before the deadline for the submission of the VAT return, it is possible for the tax payer to superceed the already submitted VAT return with a corrected VAT return while marking on the first page of the VAT return boxes „regular“ and „corrected“. In the same way, it is possible to superceed a supplementary VAT return with a corrected one, while marking on the VAT return the boxes „supplementary“ and „corrected“.
- Where a supplementary VAT return is submitted and the VAT amount declared is lower than the initial one, or where the tax payer only changes the data previously submitted, newly, the tax payer will have to describe also the reasons for these changes in an appendix / attachment to the VAT return.
- With the introduction of the bad debt relief, where the tax payer corrects the output VAT with respect to its receivables against its customers who are in insolvency proceedings, such tax payer will have to submit as an appendix copies of all the invoices that are under concern in relation to the bad debt relief as well as details listing the cutomers' identification, initial invoice details



## Czech Republic

### New VAT return form (cont.)

and details of the corrected / re-issued VAT invoice / tax document as per the attached link: [http://cde.mfcr.cz/cps/rde/xbcr/cde/evidence\\_danove\\_ucely\\_doporuce\\_ny\\_tvar.pdf](http://cde.mfcr.cz/cps/rde/xbcr/cde/evidence_danove_ucely_doporuce_ny_tvar.pdf)

- With respect to the details / lines / rows on the VAT return, these have changed also as far as the amended VAT act changed its layout and implemented the respective amendments / changes.

Initially, it is expected that the amended VAT act will be effective from January 2011, however, due to the delayed effective date of the VAT act (1.4.2011), there are certain transitional arrangements that have to be adhered to in the VAT return period January - March.

### New Tax Code

Further to the new VAT act, with effect from 1.1.2011 a new Tax Code has been introduced into the Czech legislation. The Tax Code replaces the Act on the administration of taxes and fees (Act. No. 337/1992 Sb., Zákon o správě daní a poplatků) and below are the most important changes in regard to VAT.

- Newly, the deadline for an additional assessment of VAT has been clearly defined. It will start from the day following the submission deadline of the VAT return, i.e. on the 26th day of the following month of the VAT return period (26th day after the VAT return has been submitted) and will be 3 years. Further, in certain circumstances, an extension of

this deadline by further 12 months will be possible.

- In the case that a VAT return has been filed late, the tax administrator had the possibility to issue a penalty assessment for up to 10% of the VAT obligation. Newly, the fine will depend on how many days the VAT return is overdue with a penalty of 0,05% for each day that the return is overdue (up to a maximum amount of CZK 300,000).
- The calculation of the interests on the delayed payment will, however, remain unchanged, however, will start to be calculated from the 5th day after the VAT was due.
- In the case where penalties, fines and interests have been assessed by the tax administration, the possibilities to remit (excuse) these assessments have been limited.
- There have also been several changes in the area of tax representation requirements and powers of attorney.

### 2011 Intrastat changes

Changes in the Czech Intrastat regulation effective from January 2011, can be summarized as following.

- Only one time declarations (upon reaching the threshold) may be submitted in the paper form, all other Intrastat declarations have to be submitted electronically.
- Net mass is declared with 3 decimal positions after the decimal point. Where the net mass is less than 1 kg, it is declared as it is after the decimal point (for example: 0.432). However, if the net mass is greater than 1 kg, the value is rounded mathematically to the whole kilogrammes as follows: 45.682 kg => 46.000 kg ; 45.499 kg => 45.000 kg).



## Czech Republic

### 2011 Intrastat changes (cont.)

- Amount in supplementary units has to be declared with 3 decimal positions after a decimal point, too. Three decimal positions have to be declared even in situations when it is not natural, however, please see below an example:
  - declaration of 12 pieces (PCE) must be written as 12.000.
- The same applies to supplementary units NEL and NPR. If the supplementary unit is unspecified (ZZZ) the value in supplementary units must be 0.000.
- The region of origin which was declared with dispatches is now completely removed.
- With respect to declaration of goods of small value, the threshold of such small value will no longer be CZK 6,000, but, EUR 200.
- Changes in relation to incorrectly declared data will have to be made once the incorrect value / amount reaches 5% with respect to the goods declared. Previously, the 5% referred to the goods declared within the same code „KN“.

If you have any questions in respect to the above changes, please contact your Meridian Client Service Representative and we will be happy to provide you with more details in this regard.



**France**

## **Intrastat (DEB): changes from the 1st of January 2011**

Please note that as from the 1<sup>st</sup> of January 2011, the obligations to file DEB (declaration d'échanges de biens) and the data to be provided will change.

As from 2011, only two levels of obligations will be applicable in contrast to 4, before the 1<sup>st</sup> of January 2011.

Please find below an overview of the new threshold.

### Before the 1<sup>st</sup> of January 2011

Arrivals	Level of obligations	Dispatches
From 2,300,000 euros. Detailed declaration.	1	From 2,300,000 euros. Detailed declaration.
From 230,000 euros. Detailed declaration but limited data to be provided.	2	From 460,000 euros. Detailed declaration but limited data to be provided.
From 150,000 euros. Simplified declaration.	3	From 150,000 euros. Simplified declaration.
No declaration	4	From the 1 <sup>st</sup> euro, simplified declaration with limited data to be provided.

### After the 1st of January 2011

Arrivals	Level of obligations	Dispatches	Level of obligations
Above 460,000 euros	Detailed declaration	Above 460,000 euros	Detailed declaration
Below 460,000 euros	No declaration	Below 460,000 euros	Fiscal information with limited data to be provided

The first declarations concerned are those, which will be issued for January and, which will have to be filed by the 11<sup>th</sup> of February 2011.

Should you wish to learn more about the new data to be provided, please contact your Meridian client services manager.



## Germany

### Changes in the area of VAT

With respect to the changes to the annual tax law 2010, (among others) the following has been changed in the German VAT law with effect from January 2011.

- The application of the reverse charge mechanism with respect to supply of industrial scrap, scrap metal and waste materials. Also, services consisting of cleaning of buildings including the cleaning of building facades, rooms, inventar and window cleaning, where the business customer itself supplies cleaning services will be subject to the reverse charge mechanism.
- German VAT law has been amended in light of the VAT Package in regard to event related services where the provision of services in regard to events is taxable, where the business customer has established its business. The exception is in light of the Art. 53 of the Council Directive, that the admission fees (granting right to the entry to events) and ancillary services will be taxable where the event actually takes place.
- The extension of the application of the use & enjoyment rules have been introduced. Where the following services are supplied to a taxable person and are effectively used and enjoyed outside the European Union, the place of supply will be in the country, where the services are used and enjoyed:
  - transport services of goods (including similar services connected thereto);

- work on (or valuation of) moveable tangible property;
- supplies procured by a taxable person applying the Tour Operators Margin Scheme (TOMS);
- telecoms services (B2C);

- Newly, the annual VAT returns will have to be submitted in an electronic form. Only on a request, the respective tax office may agree on different submission forms.
- Also, requests for standing extensions (extensions for submission of monthly or quarterly VAT returns to prolong the deadline for an extra 1 month) will have to be submitted only electronically.

If you have any questions with respect to any of the above questions or in relation to any aspects of German VAT, please contact your Meridian Client Service Representative.



## Greece

### VAT rate increase

As a result of a new tax law approved by the Greek Parliament on the 15<sup>th</sup> of December 2010, the current reduced VAT rate is increased by 2% and the super reduced rate by 1%.

11% is increased to 13% and the super reduced rate from 5.5% to 6.5%. The new rates are effective from 1 January 2011.



## Greece

### VAT rate increase (cont.)

VAT Rate	Current	New (from 1 <sup>st</sup> January 2011)
Standard rate	23%	23%
Reduced rate	11%	13%
Super reduced rate	5.5%	6.5%

From the 1<sup>st</sup> January 2011

- Medicines intended for human consumption
- Accommodation in hotels or similar establishments (including holiday accommodation and letting of places in camping or caravan sites)
- Children's picture, drawing or colouring books are to be taxed at the super reduced rate of 6.5%.



## Italy

### The Archive of business authorised to perform Intra-community movements

New measures against VAT fraud have been enacted recently from the Italian Tax authorities.

Starting from 1st March 2011, VAT taxable persons (established or not in Italy) that perform intra-community transaction of goods or services will not be able to perform these transactions unless the entity has been accepted in the new register known as "The Archive of business authorised to perform Intra-community movements". This change has been implemented with art 27 of the DL 78/2010. This article has introduced

three amendments to art 35 DPR 633/1972.

The first change relates to the new letter e-bis) in paragraph 2 of art 35. Based on this new letter entities, which are intended to make intra-community transactions, must notify this to the VA on the VAT Registration Form. This will make the VA aware that the Taxable person intends to make these types of transactions.

The second change provides for new paragraphs 7-bis and 7-ter. These two paragraphs lay out that, for taxable persons which have manifested the will to make intra-community, the Italian VA have 30 days to make an official rejection to the authorisation to make intra-community transactions. If the VA does not write back to the business with any question within 30 days, the taxable person will be registered automatically in the Archive. The procedures of rejections are established with official Act of the Director of the Italian Tax Authority. The provision is mainly intended for new businesses because entities already registered have been automatically registered in the Archive (in the majority of cases).

The third amendment is directly related to the EU Anti tax fraud strategy (ATFS), led by a group of experts in EU Tax fraud created within the European Commission.

As part of the strategy new art 15-quarter establishes the criteria and the conditions of inclusion of the VAT number in the data bank of the taxable person (art 22 of CE regulation 07/10/2003).



## Italy

### New VAT Communication for transactions equal to or greater than €3000

On the 22 December 2010 with art. 21 of the Italian Legislative Decree no. 78/2010 the Italian authorities introduced new electronic measure to prevent VAT Fraud. This obligation is intended for all taxable person (residents and not-residents). All VAT transactions (goods and services) equal to or greater than three thousand Euro net of VAT have to be reported.

The amount of €3000 is raised to €3600 for movements where the issues of the invoice are not required (e.g. fiscal receipt or receipted bill). The Italian Internal Revenue Measures, at the same time, defined the technical specifications for electronic filing. The above-mentioned transactions are excluded from the communication obligation until 30/04/2011.

When the transaction refers to more connected contracts amongst one another the overall amount of all contracts should be equal to or greater than three thousand Euro. For tender, continuous supply of services the annual amount of compensation due is on the whole equal to or greater than €3000.

Some transactions are excluded from the communication:

- Importations;
- Exportations pursuant to art. 8
- Operation with black list countries
- Other transactions, which already should be reported to the Court Registrar (i.e.: insurance contracts, supply of electricity, hydro and gas services).

The following information should be reported on the communication, for every transfer or supply:

- Relevant year;
- VAT number or, in absence, the Fiscal Code of the supplier and the customer;
- In case of person not established and without Fiscal/VAT number the identifying data;
- The Net and VAT due (or the total amount if no invoice has to be compulsorily issued);
- The Gross when there is not an obligation to issue an invoice (receipts).



## Latvia

### Latvian VAT rate increase

With effect from **1 January 2011**, the standard rate of VAT in Latvia has increased by 1% and the reduced rate by 2%.

Please see below a table outlining the current rates and the new rates:

VAT Rate	Current	New (from 1 <sup>st</sup> January 2011)
Standard rate	21%	22%
Reduced rate	10%	12%

Electricity supplies for households have moved from the former reduced VAT rate to the new standard VAT rate of 22%.



## Poland

### Amendments to Polish VAT Act

#### Amendments to Polish VAT Act effective from 1 January 2011

##### VAT rates increase

In late December 2010 a piece of legislation amending various acts was published in Polish Law Journal in relation to realization of the budget act. As a result, the VAT Act has been amended as follows with respect to VAT rates.

1. Introduction of a new VAT rate of 5% from 1 January 2011

Due to the fact that the EU permission for Poland to apply the current 3% VAT rate to certain goods and services will expire on the 31 December 2010, a new 5% VAT rate will be introduced from 1 January 2011 to certain goods. A list of the goods, which are liable to 5% VAT rate has been published in Annex 10 to the VAT Act.

Not all the goods, which are currently taxed at 3% are present on the list of the goods that will be the subject to 5% rate from the new year.

2. Temporary increase of VAT rates from 1 January 2011 to 31 December 2013

- The current standard 22% VAT rate will increase to 23%.
- The current reduced 7% VAT rate will increase to 8%.

3. Conditional further increase in VAT rates in years 2012 and 2013

VAT rates in Poland may further increase if the ratio between public debt and gross domestic products will breach 55% threshold in 2011, 2012 or 2013.

The new conditional VAT rates could then be as follows:

- Standard rate may increase to 24% and further even to 25%.
- Reduced rate may increase to 9% and further even to 10%.
- Super-reduced rate may increase to 6% and further even to 7%.

##### New VAT return forms

Further to the new VAT rates applicable from 1 January 2011, new VAT return forms have been published, which should be used as from the declaration for the first tax period of 2011.

##### Restrictions in right to deduct input tax related to certain types of motor vehicles and fuel

On 27 December 2010 another set of amendments to the VAT Act was published in Polish Law Journal. The most significant changes include temporary restrictions in the right to deduct input tax incurred on purchase or rental/leasing of certain types of vehicles and on purchase of fuel further to permission, which Poland received from the European Commission in this matter in September 2010.

As a result, from 1 January 2011 to 31 December 2012, with regards to purchase or rental/leasing of passenger cars or other motor vehicles with maximum authorized total mass not greater than 3,5 tons, only 60% of the input VAT is deductible, however not more than PLN 6,000 per vehicle. The VAT Act sets out a number of exceptions to this rule, for example if the nature of business of a company is selling cars or renting/leasing them.



## Poland

### Restrictions in right to deduct input tax related to certain types of motor vehicles and fuel (cont.)

Moreover, from 1 January 2011 to 31 December 2012, it will not be possible to deduct any input VAT paid on fuel for passenger cars or other motor vehicles with maximum authorized total mass not greater than 3,5 tons. The same exceptions to this rule apply as above.

From 2013 there will be a new slightly different set of rules applicable in this matter.

**Draft amendments to Polish VAT Act that are expected to come into force from 1 February 2011**

### Mandatory reverse charge mechanism for goods and services

According to the draft amendments to the VAT Act, supplies of goods or services made in Poland by non-established suppliers will become the subject to the mandatory reverse charge.

This means that the recipient of the goods or services will always be liable to self-account for Polish VAT due on the supplies made by suppliers, who are not established in Poland or do not have a fixed establishment in Poland. There will be an exception to the above rule, which will apply to the supply of services related to immovable property, which will be rendered by a non-established company who is registered for VAT in Poland.

Currently, recipients of goods or services provided by non-established suppliers in Poland also may become liable to settle Polish VAT, however,

only if such a non-established supplier has not done so himself, i.e. has not settled Polish VAT.

### Abolition of restrictions in right to deduct input VAT upon receipt of services from suppliers established in the countries classified as 'tax heavens'

Further to the recent judgement of the European Court of Justice in Oasis East Sp. z o.o. Case C-395/09 (published in the previous VAT Trends), Polish government abolished from the Polish VAT Act the regulations that were found as conflicting with the EU VAT Directive and which relate to the lack of 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 heavens' according to the Polish VAT Act.



## Russia

### **New rules on zero-rated transport from 1 Jan 2011**

On 24 November 2010, Russia's Federation Council approved Law No 391528 "On the introduction of changes to Chapter 21, Part 2 of the Tax Code of the Russian Federation" ("the Law"). The Law makes significant changes in how taxpayers apply and substantiate zero VAT rate on transportation services and other services related to transporting goods (Articles 164 and 165 of the Russian Tax Code).

The Law establishes how zero VAT rate should be applied to goods transportation services and a range of other services.



## Russia

### New rules on zero-rated transport from 1 Jan 2011 (cont.)

According to the new rule, there is a closed list of services that are zero-rated. Most of the services named in the list can be grouped as follows:

- International goods transportation services (sub-paragraph 2<sup>1</sup>), which covers shipments made by all means of transportation provided that either the point of dispatch or the destination of the goods is located outside of Russia.
- Freight-forwarding service (sub-paragraph 2<sup>1</sup>), i.e. receiving and delivering freight, loading-unloading and warehousing services, and freight insurance services: According to the new rule the zero VAT rate can apply to freight forwarding services only if the services are being provided under a freight-forwarding contract.
- Transport and certain related services for oil, oil products, natural gas and electrical power transmission (sub-paragraphs 2<sup>2-2</sup> 2<sup>4</sup>). For these types of services, the Law provides special rules for applying zero VAT rate.
- Services provided at river and sea ports, as well as the trans-shipment and storage of goods brought across the Russian border at such ports (sub-paragraph 2<sup>5</sup>).

The Law adds new sub-paragraphs to Art.165 (sub-paragraphs 3<sup>1-3</sup> 3<sup>8</sup>) which establish the list of required documents for substantiating the taxpayer's right to apply zero VAT rate for each type of service outlined in

sub-paragraphs 2<sup>1-2</sup> 2<sup>8</sup> of RTC Article 164.

The Law cancels the mandatory submission to the tax authorities of customs declarations substantiating zero VAT rate for electrical power transmission services.



## Slovak Republic

### Changes in the area of VAT

Below is a summary of the changes in the application of Slovakian VAT, that become effective as of 1 January 2011.

- As we have advised in our last VAT Trends issue, the standard VAT rate has increased since January 1st, 2011 from initial 19% to 20%.
- Changes with respect to the place of supply of event related services in line with the VAT Package supplied to taxable persons. The service with respect to entry to events is the place where the event takes place, however, other than entry service and entry related services will fall under the new general rule, i.e. place of supply is the place where the service recipient (taxable person) is established.
- The day of taxable supply of partially and repeatedly provided goods and services is newly determined by the tax payer (supplier) and can be any date of the period to which the payment relates. During 2010, partially or repeatedly supplied goods and services were deemed to be supplied on the last day of the period to which the payment for the supply related. Therefore, the



## Slovak Republic

### Changes in the area of VAT (cont.)

re-introduced rule determines that the above supplies should be deemed to be supplied no later than on the last day of the period, to which the payment relates to.

- Changes in the VAT deduction rules with respect to long term assets.
- Additional conditions have been implemented with respect to VAT exemption of imports of goods, whereby such goods are subsequently after the import dispatched or moved to another EU country as an intra-Community supply of goods. These conditions have been tightened up and as a result of these changes, the importer or his tax representative will have to provide the customs authority newly with the following details:
  - Slovakian VAT ID number of the importer or its tax representative;
  - The VAT ID number of the end customer in the other EU Member State where the goods are transported to or the VAT ID number of the importer assigned to him by the EU Member State into which the goods will be moved to;
  - Evidence that the imported goods will be dispatched or transported from Slovakia to the other EU Member State, in particular the customs authority will be interested into the transport agreement or transport documentation.

- Amendments in relation to place of supply of electricity, natural gas, cool and heat and related services as well as VAT exemption on import of natural gas through the natural gas system or other connected network.
- Introduction of changes in the application of the extended reverse charge mechanism with respect to to foreign (non established) suppliers. Irrespective whether such foreign supplier is VAT registered in Slovakia or not, the recipient of the goods / services is always liable to account for the VAT due on such supply.

If you have any questions in respect to the above changes, please contact your Meridian Client Service Representative and we will be happy to provide you with more details in this regard.



## United Kingdom

### Dealing with the UK VAT rate change

#### A brief overview of the time of supply rules and anti-forestalling legislation

As many of our readers will be aware this January saw an increase in the UK VAT rate from 17.5% to 20% (the second year in a row that the UK has experienced a VAT rate rise in January). Many businesses will have faced difficulties in relation to supplies and invoices spanning the VAT rate change. As such, we set out below a brief overview of the UK time of supply rules and how they interact with the VAT rate change. We also discuss the anti-forestalling legislation introduced by HMRC to prevent businesses from manipulating tax points in order to avoid the impact of the rate rise.



## United Kingdom

### Dealing with the UK VAT rate change (cont.)

#### UK time of supply rules and impact on supplies spanning the VAT rate change

HM Revenue & Customs in their guidance on the VAT rate rise make clear that when determining which VAT rate should be applied to supplies, the starting point should always be the UK time of supply rules.

#### *Basic tax point*

As a reminder, in the UK, the basic tax point (i.e. time of supply) is when the goods are delivered (or made available to your customer), or if you are supplying services, when the service is performed. However, the basic tax point will be overridden if an actual point is created.

#### *Actual tax point*

An actual tax point can be created when you either issue an invoice or receive payment prior to the basic tax point or alternatively if you issue a VAT invoice up to 14 days after the basic tax point. In such cases, the actual tax point will be date the invoice was issued or payment received and that should be the date used for determining the VAT rate applicable.

(We should also note that although the above time of supply rules apply to most types of supplies, there are different, more specific tax point rules for certain categories, such as continuous supplies of services, supplies of water, electricity, constructions services, royalties, short and long term property leases, and services provided by barristers and advocates. We do not have space in this article to go through the specific

rules here, but if you would like further information on any of these areas please do not hesitate to contact your usual Meridian contact)

In certain circumstances, businesses may find that they issued or received invoices dated prior to 4th January 2011 for goods / and or services delivered after the VAT rate change. For supplies that fall under the general UK time of supply rules mentioned above, this would mean the creation of an actual tax point prior to the rate change, and therefore the correct VAT rate applicable would be 17.5%.

On the other hand, businesses could find themselves issuing or receiving invoices dated after 4th January 2011 for goods and / or services delivered before the VAT rate change. However, this time the actual tax point would fall after the rate change, and therefore the correct VAT rate applicable under the time of supply rules would be 20%. This is despite the fact that the supply was delivered prior to the new rate coming in.

Both scenarios mentioned above create inequitable results in that the UK time of supply rules would, on the face of it, require businesses to account for VAT at different rate to the one in force at the time the supply is actually made. As a result, HMRC introduced special rules for sales spanning the VAT rate. In particular, in the above scenarios businesses may optionally over-ride the normal time of supply rules, and apply the VAT that was actually in force at the time of the supply was made (i.e. the basic tax point).

#### Anti-forestalling legislation

As we have seen above, it is possible to have scenarios where a business is correctly able to charge 17.5% VAT on supplies that are actually delivered after 4 January 2011. In order to



## United Kingdom

### Dealing with the UK VAT rate change (cont.)

prevent businesses making arrangements to take advantage of such rules, HMRC have introduced anti-forestalling legislation.

The anti-forestalling legislation will apply if you meet any of the following conditions:

- you supply the goods or services directly or indirectly to a connected person (such as another business controlled by you); or
- you provide or arrange funding of your customer's payment; or
- you issue a VAT invoice to your customer that does not have to be paid in full within six months; or
- the payment or VAT invoice is in excess of £100,000 (including any other supplies made as part of the same scheme or arrangements), and this is not normal commercial practice.

It should be noted that even if you meet one of the above conditions, the anti-forestalling legislation will still not apply unless your customer is unable to recover in full the VAT charged on the supply.

However, if the customer is not a fully taxable business and one of the bullet points above is met, HMRC will require the business issuing the invoice to account for a supplementary charge of 2.5% (in effect bring the rate of VAT charged on the supply back up to 20%).

Finally, businesses should bear in mind that they may inadvertently

breach one of the conditions above as part of their normal commercial practice. For example, in certain industries businesses will invoice annually in advance for services to be provided over the next year. Although in theory the anti-forestalling legislation would not apply here (as this type of invoicing is normal practice) business should take steps to ensure that they are able to evidence and document this in the event of an HMRC audit.

## “VAT risk management – global”



Event Date:  
Thursday 10 March 2011,  
3pm (London time)

**Meridian** and **ACCA** would like to invite you to this live, interactive 60-minute webinar, which will focus on managing VAT risks for businesses that operate across borders.

### Highlights

- Key VAT risk areas for businesses operating across borders
- Monitoring and controlling risk in multiple VAT registrations
- Common VAT problems in shared service centres
- VAT and corporate governance regimes (Sarbanes–Oxley, etc)

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## “VAT Compliance in SAP”



Event Date:  
Wednesday 6 April 2011,  
3pm (London time)

During this session, Meridian's SAP and VAT experts will provide a deep insight into why some key VAT compliance risks exist in an SAP environment, focusing on the implications and impact to business, before offering recommendations to address the challenges.

### Key risk areas will be presented:

- incorrect use of the VAT partner functions and VAT ID numbers;
- incorrect tax departure country;
- risks and shortcomings in dealing with triangulation and domestic reverse-charge flows;
- incorrect invoice number ranges for multiple VAT registrations;
- lack of functionality to manage fiscal groups and VAT groups;
- lack of functionality to manage VAT warehouses and bonded flows;

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# meridian

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