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VAT trends

March/April 2009

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AUSTRIA

Reduced VAT rate for pharmaceutical products

With effect from 1 January 2009, pharmaceutical products are subject to the 10% reduced rate of VAT (previously, the 20% standard VAT rate applied). The reduced rate is applicable to all pharmaceutical products, both in the field of human and veterinary medicine, as defined by the Austrian Pharmaceutical Products law. The definition of pharmaceutical products does not extend to medical devices, however, which continue to be subject to the standard rate of 20%.

Sale of phone cards – new VAT rules

The VAT treatment of the sale of phone cards by distributors is to change with effect from 1 January 2010. Under the current rules, when an individual purchases a phone card from a distributor (e.g. a newsagent or tobacconist) the distributor is effectively treated as buying-in the telecommunication service from the network provider and reselling it to the end-user. This results in an invoice from the network provider to the distributor and an invoice from the distributor to the end-user. With effect from 1 January 2010, however, the telecommunication service will be regarded as being supplied directly from the network provider to the end-user. As a result, the sale of the phone card will no longer be regarded as a taxable supply by the distributor to the end-user. Instead, the margin earned by the distributor will be treated as consideration for the supply of an intermediary service from the distributor to the network provider. Under the new EU-wide place of supply rules for services, that will be effective from 1 January 2010, this intermediary service will be subject to VAT where the customer (the network provider) has established its business or has a fixed establishment to which the service is provided.



BELGIUM

Car leasing - clarification

The Belgian Ministry of Finance has clarified that car

leasing is to be treated as a supply of services, even if the lease contract contains an option for the lessee to purchase the vehicle, provided that option has not been exercised. According to the place of supply rules, these services are taxable in the country where the supplier of the leasing services (the lessor) has established its business, regardless of where the car was originally purchased or is subsequently used. If the lessor originally purchased the car in Belgium, and the car did not leave the country (i.e. the car was leased for use in Belgium), the vendor is likely to have charged Belgian VAT. This VAT should either be recoverable via the EU 8th Directive refund mechanism (if the lessor is not established or registered for VAT in Belgium) or alternatively via the lessor's Belgian VAT returns.



CANADA

Ontario to introduce HST

The province of Ontario is to harmonise its sales tax system with effect from 1 July 2010. From this date, a 13% Harmonised Sales Tax (HST) will replace the current 5% federal Goods and Services Tax (GST) and the 8% Ontario Retail Sales Tax (RST).



CZECH REPUBLIC

VAT on cars now deductible

With effect from 1 April 2009, VAT incurred on the purchase of all cars can now be deducted in full, provided that they are to be used wholly for taxable business purposes. If a car is used partly for business purposes and partly for non-business purposes, VAT can only be deducted to the extent of the business usage. If VAT is deducted in full, based on an intention to use the car wholly for business purposes, but it is then used either partly or wholly for non-business purposes, an obligation to pay VAT in respect to the private usage will arise. Partially exempt businesses will, of course, only be entitled to



CZECH REPUBLIC

VAT on cars now deductible (continued)

to recover the VAT that relates to business usage to the extent that the car is used, or deemed to be used, for taxable activities.

This change only relates to cars that are purchased, acquired or imported in the Czech Republic on or after 1 April 2009. Similarly, VAT on cars that are supplied by way of a financial leasing arrangement will only be deductible where the cars are brought into use on or after 1 April 2009. The subsequent onward sale of any cars on which VAT has been deducted under the new rules will be taxable, whereas the sale of any cars on which VAT has not been deducted under the old rules will remain exempt.

Accelerated VAT refunds

Under normal circumstances, if a business that is registered for Czech VAT is due a VAT repayment for a particular tax period, the Czech tax authorities will usually issue a refund within 30 days of the date on which the VAT return for that period is submitted. With effect from January 2009, this period has been reduced to 15 days for those taxpayers who submit their VAT returns electronically via the Ministry of Finance's online portal.

Extension of reduced rate

The Ministry of Finance has drafted an amendment to the Czech VAT Act, which would see the 9% reduced VAT rate extended to the supply of certain labour intensive services (most notably restaurant and hairdressing services) as well as to the supply of electronic/audio books. This initiative has yet to be approved by both chambers of the Czech Parliament, and to be signed by the President, and it is not currently clear when these changes are likely to come into effect.



CYPRUS

With effect from 1 May 2009 to 30 April 2010, hotel and other holiday accommodation services will be

taxed at the reduced rate of 5%. This rate will also apply to the provision of any food and drink (including alcoholic beverages) that are provided together with the accommodation as part of a single supply, i.e. where the quoted rate includes certain meals (e.g. bed and breakfast, half-board, full-board) or is "all inclusive".



ESTONIA

Reduced rate increased

With effect from 1 January 2009, an amendment to the Estonian VAT Act increased the reduced rate of VAT from 5% to 9% and at the same time limited the number of supplies that are subject to the reduced rate. The new reduced VAT rate will only be applicable to books, medical products, hotel accommodation and periodic publications. All other supplies that were previously subject to the reduced rate of 5% (including concerts, goods and services related to funerals and the handling of dangerous waste) are now subject to the standard rate of 18% with effect from 1 January 2009. The standard VAT rate of 18% remains unchanged.



FRANCE

Reduced rate for restaurant and catering services

In March, the French president, Nicolas Sarkozy, won a seven-year battle for France to be able to apply a reduced rate of VAT to restaurant and catering services. These services, which are currently subject to the standard rate of 19.6%, are expected to be taxed at the reduced rate of 5.5% with effect from 1 July 2009. This move, which will cost French taxpayers an estimated €3 billion a year, is to be introduced against a backdrop of promises by the French restaurant industry to hire an addition 40,000 workers over the next two years and to pass on at least part of the VAT saving to consumers by reducing a number of menu items by 11.8% in time for the expected 1 July implementation date.



GREECE

VAT package – draft legislation published

On 3 April 2009, the Greek Ministry of Finance submitted draft legislation to the Greek parliament for approval. In addition to implementing the changes that are to be introduced by the EU VAT Package, with effect from 1 January 2010, the draft legislation will also implement Directive 2006/112/EC (the principal EU VAT Directive) and Directive 2006/69/EC (a Directive which introduced certain measures aimed at combating tax evasion and avoidance and at simplifying the way in which VAT is charged) – both of which Greece has failed to fully implement to date.



HUNGARY

Proposal to increase standard rate

The Hungarian parliament has approved an increase in the standard rate of VAT from 20% to 25% with effect from 1 July 2009. A new reduced rate of 18% will also be introduced for certain supplies, in addition to the current reduced rate of 5%. The government had originally proposed increasing the standard rate from 20% to 23%.



INDIA

GST still on course

In its interim budget on 16 February 2009, the Indian Government reiterated its intention to introduce a Goods and Service Tax (GST). The GST is expected to be introduced with effect from 1 April 2010.

Service tax rate reduced

The service tax rate has been reduced from 12% to 10% with effect from 24 February 2009. Taking into account the additional education tax that is payable, the overall reduction is from 12.36% to 10.30%.



ITALY

Deadline for 8th Directive claims

The Italian Supreme Court has ruled that 8th Directive refund claims do not have to be made within six months of the end of the calendar year in which the tax became chargeable. Instead, foreign taxpayers should have the same rights as Italian taxpayers, i.e. a two-year period from the date of payment in which to recover VAT.



KAZAKHSTAN

Standard rate reduced

Amongst other changes, a new Tax Code that was brought into effect on 1 January 2009 introduced a reduction in the standard rate of VAT from 13% to 12%. The new rate is effective from 1 January 2009.

New Tax Code – other changes

The other main changes that the new Tax Code introduced are as follows:

- The VAT reporting period has been changed from monthly to quarterly;
- The deadline for submitting VAT returns, and for making VAT payments, has been extended;
- VAT refunds will now automatically be granted to some large taxpayers who have a good compliance history;
- Warranty repairs, including the cost of any spare parts needed to carry out those repairs, are now exempt from VAT;
- The exemption for financial services has been extended to include hedging operations, futures and forward contracts, options and financial derivatives;
- The VAT exemption for geological and exploration works has been abolished;
- The supply of goods and services in Special Economic Zones can no longer be zero-rated.



LATVIA

VAT rates increased

With effect from 1 January 2009, the standard rate of VAT was increased from 18% to 21%. In addition, the reduced rate was also increased from 5% to 10% and its scope was limited to fewer types of supply.



LITHUANIA

VAT rate changes

With effect from 1 January 2009, the standard rate of VAT has been increased from 18% to 19%. At the same time, the reduced rates of 5% and 9% have been abolished, although a number of supplies will continue to be subject to these rates for a limited period of time.

The reduced rate of 5% will continue to apply to the supply of pharmaceuticals and medical devices that are reimbursed by the state until 1 July 2009. It will also apply to the supply of heating and hot water for residential premises until 1 September 2009.

The reduced rate of 9% will continue to apply to the supply of books and certain other non-periodical publications until 30 June 2009. These supplies were previously subject to the 5% rate prior to 31 December 2008.

The reduced rates may also continue to apply to certain other supplies that, according to the transitional rules that have been introduced, are deemed to have been supplied when these rates were still in force.



THE NETHERLANDS

VAT package – draft legislation issued

On 30 March 2009, the Ministry of Finance sent the draft VAT package legislation to the Lower House of the Dutch Parliament for approval.



POLAND

VAT invoicing changes

A number of changes have been introduced to the VAT invoicing requirements in Poland that should simplify matters for foreign taxpayers in particular. In summary:

- It is no longer necessary to indicate the gross amount on each invoice in words;
- Invoices no longer need to show the gross amount for each VAT rate/liability of supply. It is now sufficient to simply indicate the total gross amount for the invoice as a whole;
- It is no longer necessary to indicate the time of supply if this is the same as the invoice date (previously, both dates had to be shown, even if they were the same);
- In most cases, it is no longer necessary to state the Polish statistical classification of the goods or services on the invoice.



ROMANIA

Monthly VAT returns for intra-Community acquirers

Businesses that acquire goods in Romania from other EU Member States are now required to file VAT returns monthly. This may affect some businesses that currently submit returns quarterly in Romania and who have such transactions.



SLOVAKIA

Amendments to the VAT Act

On 17 February 2009, the Slovak Parliament approved an amendment to the VAT Act, which subsequently came into effect on 1 April 2009. The most significant changes that have been introduced relate to group registration, retrospective registration and the rules for the deduction and refund of input VAT.



SLOVAKIA

Amendments to the VAT Act (continued)

Group registration

The amendment introduces the concept of VAT group registration for the first time in Slovakia. As a consequence, two or more taxable persons, who each have their seat or place of business in Slovakia, and who are connected financially, economically or organisationally, can apply to be treated as a single taxable person for VAT purposes

Provided that the application for group registration is filed by 31 October of the current year, the tax authorities should register the group with effect from 1 January of the following calendar year. This means that if an application is filed on or before 31 October 2009, the group registration should be effective from 1 January 2010. If the application is filed after this date, however, e.g. on 1 November 2009, then the earliest that the group registration can take effect will be 1 January 2011.

The company that is appointed as the representative member of the group should file the application. Although the representative member acts on the group's behalf, all members of the group remain jointly and severally liable for the VAT obligations of the group as a whole.

The main benefits of group registration are the improved cash flow and reduced administration that result from the fact that transactions between group members are no longer deemed to be taxable supplies for VAT purposes and hence are not subject to VAT.

Retrospective registration

The amendment also addresses situations where businesses fail to register for VAT at the correct time. In this scenario, such businesses will now be obliged to file a tax return covering the whole period from when they should have been registered to date, and to pay any output VAT that is due on any taxable supplies that they made during that period. At the same time, however, these businesses will also be able to deduct any input VAT that they incurred in that same period, subject to the normal rules. In addition

to these amendments to the VAT Act, the Tax Administration Act was also amended at the same time, such that the penalty for late registration has been increased to a maximum of EUR 20,000. These new rules are only applicable to registration obligations that arise on or after 1 April 2009.

Rules for VAT deduction

VAT can either be deducted in the taxable period when the entitlement to deduct first arises or alternatively in any subsequent taxable periods within the same calendar year.

Refund of excess VAT

The amendment has also changed the rules regarding the refund of excess VAT (i.e. situations where the amount of input VAT that is deductible exceeds the amount of output VAT that is payable in a particular taxable period).

Provided that certain conditions are met, the Slovak tax authorities must now refund excess input VAT within 30 days of the filing deadline for the period in question (normally 60 days). The conditions that must be met are as follows:

- The taxpayer must file VAT returns monthly;
- The taxpayer must have been registered for VAT for at least 12 months prior to the period in which the excess deduction arose; and
- The taxpayer must not have had any outstanding liabilities towards the Slovak tax authorities during the prior 12 months.



SLOVENIA

Electronic filing becomes mandatory

With effect from 1 January 2009, all VAT-registered businesses must file both their VAT returns and EC Sales Lists electronically, through the internet portal of the Slovenian tax authorities. This applies equally to businesses that are established outside of Slovenia but which are registered for Slovenian VAT on account of making taxable supplies there.



SLOVENIA

Accelerated VAT refunds

The Slovenian government has put forward a proposal to shorten the length of time that it takes for VAT-registered businesses to obtain a refund of VAT. Under the current rules, if a VAT-registered business is due a VAT repayment for a particular tax period, the Slovenian tax authorities normally have 60 days from the date on which the VAT return for that period is submitted in which to make the refund (30 days if the business meets the definition of “exporter” for these purposes). The government is proposing that this period be reduced to 21 days, and has already won the approval of the parliamentary Finance and Monetary Policy Committee. Further developments are expected shortly.



SOUTH AFRICA

VAT registration threshold increased

With effect from 1 March 2009, the threshold for compulsory VAT registration has been increased to ZAR 1 million (approximately EUR 88,000). The previous threshold was ZAR 300,000 (approximately EUR 26,000).



SRI LANKA

Standard rate reduced

With effect from 1 January 2009, the standard rate of VAT has been reduced from 15% to 12%. Goods that were previously subject to the reduced rate of 5% are now either exempt from VAT or else subject to the new standard rate.



SWITZERLAND

VAT rate increases – referendum to be held

The Federal Council has submitted a bill that would see all three rates of VAT temporarily increase for a

period of seven years, from 1 January 2010 to 31 December 2016. Under the proposal, the standard rate would increase from 7.6% to 8% (+ 0.4%), the reduced rate would increase from 2.4% to 2.5% (+ 0.1%) and the special rate for hotel accommodation would increase from 3.6% to 3.8% (+ 0.2%). As these changes will require an amendment to the Swiss Constitution, a referendum on the bill is to be held on 27 September 2009.



TURKEY

Temporary rate reduction

The VAT rate applicable to certain goods has been temporarily reduced from 18% (the standard rate) to 8% (the reduced rate) from 14 April 2009 to 30 June 2009. The reduction, which only applies to goods that fall under certain customs tariff headings, includes the supply of certain telecommunications and computer equipment.



UNITED KINGDOM

Budget and Finance Bill 2009

The UK Finance Bill 2009 will today (6 May 2009) receive its second reading in the lower chamber of the UK parliament, the House of Commons. Once the Bill has passed through both chambers of parliament (the House of Commons and the House of Lords) it will receive Royal Assent (currently expected on 21 July 2009) and the changes announced by the UK's Finance Minister, the Chancellor of the Exchequer, in his budget on 22 April will then become law. The following is a summary of the main VAT-related announcements in the budget:

Measures to implement the EU VAT Package

Legislation will be published as part of the Finance Bill, and in secondary legislation, to implement the changes that are to be introduced by the EU VAT Package with effect from 1 January 2010.



UNITED KINGDOM

Budget and Finance Bill 2009 (continued)

Change of Standard Rate

The 2008 Pre-Budget Report announced a temporary reduction in the standard rate of VAT from 17.5% to 15% for a 13-month period from 1 December 2008 to 31 December 2009. As expected, the standard rate of VAT will return to 17.5% from 15% with effect from 1 January 2010. Anti-forestalling measures are also to be introduced to prevent manipulation of tax points in the period leading up to the rate change.

Registration/Deregistration thresholds

With effect from 1 May 2009, the VAT registration threshold will be increased from £67,000 to £68,000 and the VAT deregistration threshold will be increased from £65,000 to £66,000. The registration and deregistration thresholds for acquisitions from other EU member states will also be increased from £67,000 to £68,000.

Car Fuel Scale Charges

The scale used to charge VAT on fuel used for private motoring in business cars has been amended to reflect the change in fuel prices. Businesses will need to apply the new rates from the start of their first VAT period beginning on or after 1 May 2009.

Children's car seat bases

With effect from 1 July 2009, the 5% reduced rate of VAT for children's car seats will be extended to include bases for such seats.

Opting to Tax Land and Buildings

The procedure for opting to tax supplies of land and buildings, in respect of which taxpayers have made previous exempt supplies, will be simplified with effect from 1 May 2009 with the introduction of a new 'automatic permission condition'. This is intended to allow more taxpayers to opt to tax without seeking prior permission from HMRC. HMRC will also withdraw a related informal extra-statutory concession with effect from 1 May 2010, and will partly regularise another such concession from the same date.

Bingo participation fees

With effect from 27 April 2009, VAT will no longer be due on participation fees for playing bingo and other games of chance. At the same time, bingo duty will increase from 15% of gross profits to 22% for accounting periods beginning on or after that date. The money prize limit for bingo duty exemption for small-scale amusements has also been increased from £50 to £70 for bingo played on or after 1 June 2009.

New time limit for correcting errors

With effect from 1 April 2009, the time limit for correcting errors on VAT returns has been increased from 3 years to 4 years. The change does not apply to VAT periods ending before 1 April 2006, however, so periods that would be out of time on 1 April 2009 under the previous 3-year time limit will not come back into time as a result.

New penalty regime in force

The new penalty regime in the UK is now in force (see previous editions of VATtrends). It applies to returns or documents that are due to be filed with the UK tax authorities on or after 1 April 2009, in respect to tax periods starting on or after 1 April 2008. The penalty that can be imposed ranges from 30% to 100% of the tax that has been lost as a result of the error, depending on the circumstances. A penalty may be avoided if the taxpayer can demonstrate that it exercised "reasonable care" to prevent the error from arising.

Extended reverse-charge - derogation granted

On 19 March 2007, the EU Council granted the UK a derogation aimed at combating fraud. The derogation allowed the UK to introduce special rules whereby the liability to account for VAT on certain supplies of mobile phones and computer chips is shifted from the supplier to the customer. Although the new rules, which came into effect on 1 June 2007, are still in operation, the UK's derogation was set to expire on 30 April 2009. On 10 March 2009, however, the EU Council agreed, in principle, to the renewal of the UK's



UNITED KINGDOM

Extended reverse-charge - derogation granted (continued)

derogation was set to expire on 30 April 2009. On 10 March 2009, however, the EU Council agreed, in principle, to the renewal of the UK's derogation until April 2011. This decision has now been formally adopted by the Council, and as a result, the UK's derogation has now been extended until 30 April 2011.



VIETNAM

New VAT rates introduced

A new VAT law that came into effect in Vietnam on 1 January 2009 has replaced what was a single VAT rate of 5% with a new standard rate of 10%, a reduced rate of 5% and a zero rate. As a result of this change, several categories of goods and services have gone from being taxed at 5% to being taxed at the new standard rate of 10%.



EUROPEAN UNION

VAT package – national implementation status

The following Member States have all now published their draft legislation for implementing the EU VAT package changes that are to be introduced from 1 January 2010 onwards:

- Belgium
- France
- Germany
- Greece
- Ireland
- Lithuania
- Luxembourg
- The Netherlands
- Poland
- Sweden
- United Kingdom

We will update readers on the progress of the draft legislation in these countries, as well as on any other countries that publish their draft legislation, in future issues of VATtrends.



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