



meridian

VAT trends

November/December 2008

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BULGARIA

Modification to the Intrastat thresholds in Bulgaria

From 1 January 2009, the thresholds that trigger a requirement to submit Intrastat declarations in Bulgaria will increase. The new threshold for arrivals will be set at 250,000 BGN and the threshold for dispatches will be 400,000 BGN.

The threshold for distance sales remains 70,000 BGN.



CHINA

Purchase VAT rebates halted for foreign Companies

With effect from 1 January 2009, foreign companies' purchases of 'made-in-China' equipment will be removed from value-added tax reimbursements together with the withdrawal of the exemption of imported equipment from VAT.

There will be a six-month transition period, enabling foreign enterprises to continue to obtain VAT rebates for their 'made-in-China' equipment purchases until 30 June 2009, provided the relevant purchases fulfil the conditions stated under the new policy.

Furthermore, foreign companies' equipment purchases which have been granted VAT tax rebates are not applicable to VAT deductions from sales.



CZECH REPUBLIC

Amendment to the Czech VAT Act in 2009

On the 1 January 2009, extensive amendments to the Czech VAT Act become effective, which could result in substantial consequences for every taxable

person that is involved in business transactions within the Czech Republic. The following article provides an outline of the new amendments.

Click here to access a summary of all the important changes [Full Article](#)

New Intrastat rules in 2009

Several changes come into force in relation to Intrastat reporting obligations:

- Intrastat reports including more than 15 lines (separately for dispatches and arrivals) may only be filed electronically. Companies will have to register with their relevant Customs office by the end of January 2009 in order to be able to file the electronic Intrastat reports.
- A new type of paper form has been introduced, however the old form can be used until 31 December 2010 if it meets all the new requirements.
- Higher thresholds of 8 million CZK have been introduced. These thresholds apply separately to dispatches and arrivals.
- A supply of goods with installation is considered only as the price of the goods without the actual price for the installation.
- Transaction codes are new, two digits codes and the number of these codes has been increased to 28 in order to outline the nature of transaction in more detail
- On the other hand, the number of Incoterm codes has been decreased and merged into 4 groups (K, L, M and N).



ESTONIA

Amendment to Corporate law and VAT law

On the 18 and 19 November and on the 4 December 2008, the Estonian Parliament adopted amendments to the VAT law. Most of the amendments became effective from the 1 January 2009.



ESTONIA

Amendment to Corporate law and VAT law (continued)

- Dwelling maintenance services were exempt until the end of 2008. These services will become taxable from the 1 January 2009.
- The taxable value in transactions between associated persons will be subject to adjustment if the result of the distortion of the price would be the reduction of VAT revenues. The open market value will represent the taxable value.
- Transfer of securities that give the right to use or dispose with the immovable property as an owner, might be subject to VAT as a transfer of immovable property.
-
- VAT grouping is another significant change. Persons that are registered as a single taxable person act in transactions with a third person as a single person. Previously, they acted on their own name. The new rule on VAT grouping will be effective from 1 January 2010.

Reduced rate of VAT to increase

The amendment to the VAT Act will increase the rate of reduced VAT from 5% to 9% from 1 January 2009 and will limit the list of items subject to reduced VAT. The new reduced VAT rate will apply only to books, medical products, hotel accommodation and periodic publications.

All other supplies that are currently subject to the reduced rate at 5% (goods and services related to funerals, concerts, the handling of dangerous waste, etc.) will be subject to the standard VAT rate at 18% from 1 January 2009.

For more information, or if you have any questions concerning the VAT changes and application of the new rate, please contact your Meridian Client Service Manager or your local Meridian office.



GERMANY

Interests payable on 8th and 13th Directive claims

The German VAT authorities (Bundeszentralamt für Steuern) should be awarding interest on delayed claims filed under the 8th and 13th Directive, based on a recent decision by the German Federal Fiscal Court (Bundesfinanzhof).

Claims that have been refunded later than 15 months after the end of the claim period, are subject to interest. The interest rate is 6% p.a. (0.5% for every month where the refund has been received after the 15 month period).

Meridian has reviewed all claims that it has submitted and which are affected by this recent development, and will file requests to the German VAT authorities in order to demand interest. However, this is only possible for claims which were positively assessed (fully paid / partially paid) and it is not possible for outstanding claims, which have not yet been assessed.



IRELAND

Partial VAT Recovery on cars from 1 January 2009

Previously, VAT registered businesses had no right to deduct VAT incurred on the purchase of company cars.

Recent amendments within the Finance Bill 2008 will now enable businesses who engage fully in taxable activities to receive a 20% input VAT input credit on costs incurred on the purchase, importation, intra-Community acquisition, or hire of cars for business purposes, provided the following criteria are fulfilled:

- First registration has to be on or after 1 January 2009.



IRELAND

Partial VAT Recovery on cars from 1 January 2009 (continued)

- Usage of the car must be minimum level of 60% related to business purposes.
- CO₂ emissions have to be less than 156g/km.

The Revenue Commissioners have indicated they will recoup of some or all of the VAT reclaimed against a car that has been disposed or fails to meet/achieve the 60% business test within 2 years.

Introduction of Travel Agents Margin Scheme

The Finance Bill 2008 introduces a travel agents' margin scheme and is due to come into effect on 1 January 2010, making Denmark the last remaining EU member state that does not operate such a scheme.

The scheme will apply to travel agents and tour operators who act as principals by purchasing such services as transport/accommodation from third parties to onward sell to travellers. Any profit margins arising from such sales will be subject to VAT at 21.5%.

The Finance Bill 2008 also outlines that travel agents and other businesses such as hotel reservation companies will be liable to VAT at 21.5% on commissions relating to transactions where they act as an intermediary, as opposed to principal, in arranging passenger transport or accommodation.

Revenue Audits / Adjustments to Penalty Regime

A new provision to allow voluntary disclosures has now been implemented into legislation. Therefore, taxpayers will have to ensure their communication with Revenue auditors is more official and professional.

The standard penalty has increased to €4,000 for VAT compliance infringement, while further penalties of €3,000 to €5,000 will apply for various careless or intentional acts or omissions.

Other Amendments

An extension of four days has been given in regards to the filing and payment deadline for VAT returns filed through the Revenue Online Service. Therefore VAT returns need to be submitted on the 23rd of the month.

Effective from the 1 January 2009, any taxpayers whose matters are dealt with by Revenue's Large Cases Division will be required to file returns electronically.



ITALY

New Cash Accounting System

The Italian VAT authorities intend to extend and expand the cash accounting mechanism in Italy for the period 2009 to 2011, which was previously only allowed for supplies made to certain public bodies and a restricted number of taxable persons. The new system will allow for the accounting of VAT on a cash basis, delaying the VAT amount due until the point at which consideration for the goods or services supplied is received. There is however limitations for this new system and this includes the requirement that the payment of VAT must be made within one year from the point at which the taxable event takes place.

In accordance with EU Directive 2006/112/EC and conditions contained in the Decree, the new system will come into force after the approval from the Council of the EU.

Additionally, a Ministry Decree will have to be issued in order to identify appropriate rules concerning the conditions that taxable persons will have to meet in order to be able to use the new scheme. An example of one of the parameters that will need to be taken into consideration, is the turnover of the companies.

Increase of VAT on pay-TV

Prior to November 2008, the VAT paid by pay-TV 's subscribers was 10% (half the normal 20% rate.) This tax break was designed to promote an alternative to



ITALY

New Cash Accounting System (continued)

the existing "duopoly" in Italy. With a measure approved by Berlusconi's Government in November 2008, and justified on the grounds of the latest European Union anti-competition guidelines, VAT on pay-TV subscriptions will double from the 1 January 2009. It is a measure that Sky Italia, the main pay-TV in Italy, admitted could greatly slow the growth the company has achieved in its five years of existence.



LATVIA

Increase in the standard and reduced VAT rate

With effect from 1 January 2009, the standard VAT rate in Latvia will increase from 18% to 21%, and the reduced rate from 5% to 10%.

From the same date, some supplies previously under the reduced VAT rate will change to the standard VAT rate of 21%. Hotel accommodation, media broadcasts and books are some of the supplies that will be affected by the change.

The reduced VAT rate will continue to apply to goods such as medical products, and services such as the supply of natural gas to households.



LITHUANIA

Changes to VAT rates

The changes to Lithuanian VAT Law have been published and changes to VAT rates have been introduced.

With effect from 1 January 2009, the rates will change as follows:

1. The standard VAT rate is increased from 18% to 19%;

2. The reduced VAT rate of 5% is abolished with the exceptions of:

- supplies of pharmaceuticals and medical devices reimbursed by the state. The 5% VAT rate will be applicable to these goods until 1 July 2009, and
- supply of heating of residential premises and heating water. The 5% VAT rate will be applicable to these goods until 1 September 2009

3. The reduced VAT rate of 9% is abolished with the exception of the supply of books and non-periodical info-publications

The amendments also introduce a transitional period during which the old VAT rates (i.e. 18%, 9% and 5%) apply to provision of certain goods and services.

Supplement to the official commentary on the VAT Law

Furthermore, the Lithuanian government has recently issued supplements to the official commentary on VAT law, part 1 of article 22. In accordance with the commentary, services rendered in relation to the development of soft skills should be treated as vocational training, provided that they strictly relate to the profession of employees. Under the current VAT Law, vocational trainings are VAT exempt.

The commentary further provides a detailed definition of which additional services provided together with training services are VAT taxable and which are VAT exempt.



POLAND

Amendments to the VAT act

The recently adopted Bill of the 7 November 2008 has been implemented into Polish VAT law resulting in significant amendments, the majority of which have been long awaited by local as well as foreign businesses.



POLAND

Amendments to the VAT act (continued)

The main purpose of introducing the amendments was to help simplify complex Polish regulations governing the tax on goods and services. Furthermore, several changes have been a direct result of the European Court of Justice's judgements issued in the proceedings against Poland. This article will focus on some of the most important amendments out of the extensive Bill.

Introduction of a 'call-off stock' institution

1. Before the 1 December 2008 foreign companies transferring their own goods in the territory of Poland had an obligation to register for VAT in Poland in order to account for the intra-Community acquisition of their goods as well as a domestic supply of goods upon sale to the local customer. Due to an amendment introducing a mechanism known as a 'call-off stock', a foreign company now does not have an obligation to register for VAT in Poland when performing such activities (as long as all conditions are satisfied) as the Polish customer will be able to account for the intra-Community acquisition of goods upon withdrawing them from the stock.

Harmonisation of the place of supply of services with the EU Directive

Further to the reasoned opinion recently issued by the European Commission to the Republic of Poland, which was published by Meridian in the May/June 2008 VAT *trends* = the following amendments have been introduced in the Polish VAT Act:

1. As of the 1 December 2008, the services similar to cultural, artistic, sporting, educational, scientific or entertainment activities, like shows and exhibitions, were added to the Polish equivalent of Article 52(a) of EU Directive, as well as the supplies carried out by the organizers of those services and services ancillary to those listed in this article.

All these services are now deemed to be supplied where they are physically carried out.

2. From the 1 December 2008, all the services of consultants, engineers, lawyers, accountants and other similar services are taxable where the customer is established, if provided to customers established outside the Community or to taxable persons established not in the same EU Member State as the supplier (equivalent of Article 56(1) of EU Directive). Prior to the amendments, the scope of services falling under this provision was only applicable to the services referred to by the legislator and listed under the Polish statistical classification code (i.e. PKWiU).

Quarterly VAT returns

Commencing the 1 December 2008, the general rule regarding the frequency of filing the VAT declarations remains monthly. However, any taxpayer may opt to file quarterly VAT returns. The only condition is to inform the tax office of such an intention by the 25th day of the second month of a given quarter at the latest, for which a taxpayer would like to start filing quarterly declarations. A taxpayer that opted for quarterly VAT returns may go back to filing monthly VAT returns, however not earlier than a year. Taxpayers accounting for VAT in a quarterly system will have to pay deposits (advance payments) with regards to the 1st and the 2nd month of a quarter, which will be 1/3 of an output VAT that was due in the preceding quarter. Upon request, taxpayers with fluctuating output VAT due each quarter have an option to pay the actual amount of output VAT due with regards to the 1st and the 2nd month of a quarter.

Abolition of 30% additional penalty

As a result of the judgements issued by the Polish national administrative courts, an additional tax liability known in Polish legislation as 'sankcja' was eliminated from the VAT Act with effect from the 1 December 2008. There is only one exception when 'sankcja' will still be applicable, namely with regards to non-compliance with an obligation to install cash registers, as stipulated in the VAT law. It is important to remember, that 'sankcja' will not be applicable to tax proceedings, which were raised and not closed with a final decision by the 1 December 2008.



POLAND

Amendments to the VAT act (continued)

New rules on refunds of VAT

1. Previously, in a situation where a taxpayer had not performed any taxable activities in Poland, or performed only activities taxable outside the country in a given tax period, the taxpayer was obliged to forward the amounts of input VAT incurred in that period to the next tax period. However, after 1 December 2008:

- an option was given to these taxpayers to request a refund of the input VAT incurred in a given period;
- in principle, such refund will be made upon request within 180 days unless a taxpayer provides a 'bail bond'.

2. With effect from the 1 December 2008, a time limit to refund the excess of input VAT over the output VAT (other than for the taxpayers mentioned in point 1) was standardised to 60 days. However, under certain conditions, a taxpayer may request refund to be made within 25 days.

Restrictions on deduction of input VAT

From 1 December 2008, deduction of input VAT is no longer dependent on the corresponding deductibility for income tax purposes.

Tax point on exports

From 01 December 2008, the tax point on export of goods is deemed to occur in the month when the transaction takes place and not in the month when the supplier received a proof of export, as it used to be previously.

Accounting for import VAT

It is possible to defer the payment of import VAT to the inclusion in a VAT return declaration, instead of paying the VAT due to the customs office. This provision, however, will only be available to those taxpayers who use a simplified procedure and their tax accounting period is a monthly.

Tax base in foreign currency

If the tax base (net amount) is expressed in a foreign currency (i.e. other than Polish Zloty), the conversion should be made in accordance with the average exchange rate of a given currency published by Narodowy Bank Polski, on the last working day preceding the tax point date. If a company is entitled to issue invoices before the tax point occurs, the conversion should be made in accordance with the average exchange rate of a given currency published by Narodowy Bank Polski on the last working day preceding the issue date of the invoice.

Increase in small value gifts threshold

In accordance with the amended VAT Act, a taxpayer does not need to account for VAT upon handing over goods, whose net value is not higher than 10 PLN. Previously the threshold was set at 5 PLN gross value.

The above-summarised changes are not an exhaustive list of the amendments made in the Polish VAT Act. Meridian will be happy to provide its professional services in this respect if any further information is needed.



SLOVAKIA

Adoption of the Euro (1 January 2009)

From 1 January 2009, Slovakia adopted the euro (EUR) as an official currency. The euro conversion rate is set to **1 EUR = 30.1260 SKK**. This rate has to be used when converting Slovak crowns (SKK) to EUR.

The adoption of the Euro will influence many areas of business, including accounting, income tax, VAT, excise duties, local taxes and administration of taxes and customs. The Slovak tax authorities have published basic information in this respect on its website www.drsr.sk. The following article is an overview of the changes related to VAT and its administration.



SLOVAKIA

Adoption of the Euro (1 January 2009) (continued)

Tax returns

Tax returns submitted on or after the 1 January 2009, which relate to taxable periods that end before 1 January 2009, should contain amounts reported in SKK. EC Sales Lists, which are filed after the 1 January 2009, but relate to previous calendar quarters, should also contain amounts reported in SKK.

Tax returns and EC Sales Lists related to taxable periods and calendar quarters starting after the 1 January 2009 should contain data stated in EUR.

Payments of tax

If a tax return filed on or after the 1 January 2009, which relates to taxable periods ending before 1 January 2009, results in tax liability, the tax to be paid to the administration must be converted by using euro conversion rate and rounded down to two decimal places, i.e. rounded for the benefit of a taxpayer.

Refunds of tax

If the result of a tax return filed on or after the 1 January 2009, which relates to taxable periods ending before the 1 January 2009, is a tax overpayment/refund, this amount should be converted and rounded up to two decimal places, i.e. again rounded for the benefit of taxpayer.

Invoicing

Invoices for the taxable supplies performed after 1 January 2009 have to contain amounts reported in EUR. This means that the tax base and amount of VAT should be stated in EUR and rounded mathematically to two decimal places.

However, there is an exception for invoices issued after 1 January 2009, which relate to taxable supplies where the tax point has occurred before 31 December 2008, and the payment settlement for this supply was agreed in SKK. In this case the invoice should contain the tax base amount and VAT reported in SKK as well as EUR.

Adjustments of the tax base (Credit/Debit notes)

If the tax base is adjusted due to a credit/debit note after 1 January 2009, but it relates to taxable supplies with a tax point before 31 December 2008, the tax base and VAT should be calculated as follows:

- if the payment settlement was required in EUR, the exchange rate effective on the date of taxable supply should be used (the Euro conversion rate is not used);
- if the payment settlement was required in SKK or another currency other than Euro, the Euro conversion rate should be used when converting SKK to Euro.

Please note that when converting amounts from currencies other than SKK or EUR (e.g. USD), the tax base and VAT should be converted to SKK first (using the exchange rate from the date of taxable supply) and then consequently calculated to EUR using euro conversion rate.

VAT refund to foreign persons

Articles 56 – 60 of the Slovak VAT Act stipulate the procedure and conditions for VAT refunds to foreign persons. VAT to be refunded according to these provisions after the 1 January 2009, which relate to periods before the introduction of the Euro should be calculated using the conversion exchange rate and the sum should be rounded up for the benefit of the claimant.

Further, also monetary thresholds related to VAT refunds are to be amended as of the 1 January 2009. According to the Slovak VAT Act, a foreign person could file a VAT refund claim if the amount of VAT for the goods and services exceeds 1.000 SKK per calendar year. This threshold is changed to 25 EUR.

The limit of 8,000 SKK applicable for the claims related to period shorter than calendar year (but not less than three months) is to be changed to 200 EUR.

Monetary limit for the claims by travellers with residence outside European Union is to be changed from 5.000 SKK to 175 EUR.



SLOVENIA

Supply of gas and electricity to a taxable dealer

The Slovene tax authorities recently issued an explanation regarding the rules for the place of supply of gas and electricity through a distribution system to a taxable dealer.

For VAT purposes, a taxable dealer is a taxable person whose principal activity in respect of purchases of gas or electricity is reselling these products and its own consumption of these products is negligible.

According to the explanation of the tax authorities, the place of supply for gas and electricity is considered the place where the taxable dealer has established his business.

A registration for VAT purposes in Slovenia is therefore not relevant for determination of the place of supply for this transaction and it should be determined where the taxable dealer to whom gas or electricity is supplied is established.

If gas or electricity is supplied to a taxable dealer established outside Slovenia, no VAT should be applied.

The submission of VAT Ledgers is not compulsory for companies currently, however it will become an obligation to all taxable persons in 2010. It is important to note that all information must be submitted via the Internet in e-format. Therefore, the taxable person requires an electronic signature or a third party with an authorized electronic signature to submit the VAT returns.

Law 4/2008, also instigated significant amendments in regards to Bad Debts and reimbursement of the VAT charged on these debts.

Previously, the Spanish Administration set out that if a company incurred a bad debt, it had to:

1. wait for two years from the tax point before claiming the refund of the VAT paid to the Authority.
2. bring charges against the customer.

However the time-requirement to claim the refund has been reduced under the Law 4/2008, and now the supplier has to wait only 12 months since the tax point to claim any refund of the VAT paid. The requirement of bringing charges against the customer still remains.

Consignment stock

The Spanish VAT Administration recently requested a ruling in relation to the VAT treatment of consignment stocks in Spain. The main question was whether the intra-Community supply of goods occurs when goods are received into the warehouse or when the supplier bills the customer for the goods.

In the ruling V2730-07, the Spanish tax Administration deemed that the intra-Community supply of goods takes place at the time when the goods are received in the warehouse, as the right to dispose of the goods as the owner passes at this time, although the customer does not receive legal title to the goods at this stage. Consequently the customer must state the intra-Community acquisition on their VAT returns at the time when they receive the goods.



SPAIN

Monthly VAT returns

On 25 December 2008, the Spanish Administration implemented important changes into the VAT law with the release of legislation 4/2008. A main provision in the new law, now enables various companies to recover VAT on a monthly basis regardless of their turnover or range of transactions.

The new provision entails taxable persons to submit VAT on a monthly basis (it generally used to be quarterly) as well as VAT Ledgers.



UNITED KINGDOM

Changes to the Tour Operators' Margin Scheme (TOMS) delayed

Implementation of the changes to the TOMS, originally planned to be introduced from 1 April 2009, has been delayed to a later date which is still to be determined. This comes as a response to requests from businesses for a longer transitional period to prepare for the new rules.

TOMS is a special scheme for tour operators and other travel service providers in the EU. The scheme enables VAT to be accounted for on travel supplies without tour operators having to register and account for VAT in each Member State where these services are provided.

Under the scheme, the supply of a travel package is treated as a single supply taxable in the Member State where the tour operator is established. The tour operators cannot reclaim any VAT charged on the travel services and goods they buy and re-supply, however they only account for VAT on the margin they make.

Following the EU requirements there are three main proposed changes to the UK legislation.

Market valuation

In-house supplies (supplies made from own resources rather than purchased from a third party) sold as a part of a package with TOMS supplies must be accounted for within the TOMS.

The current UK TOMS calculation requires the margin to be apportioned with reference to the actual costs of in-house supplies. However, the ECJ decision in the case of MyTravel (C-291/03) accepted the concept of market valuation.

Therefore the use of market valuation will become compulsory.

Supplies to business customers for own consumption (the "opt out")

TOMS is also considered to be applicable when travel services are sold to other businesses. However, there is an "opt out" provision, which allows the travel supplier to disregard TOMS and apply normal VAT accounting principles.

Supplies to business customers for resale (the "opt in")

If the tour operators supply travel services to other businesses for their onward supplies, this supply falls outside TOMS. However, there is an "opt in" provision, which allows the supplier of wholesale travel services to apply TOMS.

According to the proposed changes, which follows the EU law, these "opt in" and "opt out" facilities will not be available anymore. The delay in implementation of the changes means that operators still have a choice in relation to the VAT treatment of these supplies.



EUROPEAN UNION

Danfoss & AstraZeneca – Christmas not over?

Just as we thought Christmas was over, we are pleased to inform you that the European Court of Justice (“ECJ”) has reached a decision in the Danish case (C-371/07) mentioned in the last issue of *VAT trends* regarding the right to deduct VAT on meals provided free of charge to business clients and employees.

The decision may be summarised as follows:

- Meals provided free of charge to employees and business contacts for strictly business purposes are deductible;
- The deductible VAT should be calculated as overhead costs for the business regardless of any national restrictions, i.e. fully deductible for companies that do not have VAT exempt activities.

What does this mean? In short it means that if your company in any Member State throughout the EU has provided free meals for business contacts or employees for *strictly business purposes* you may be entitled to a refund of any VAT not previously deducted be that through your local VAT return or as a 8th/13th Directive refund.

On a more technical level, it should be noted that the Auditor General originally defined deductible meals as meals *servicing principally the purposes of the business* whilst the ECJ in their decision defined it as meals for *strictly business purposes*, which would appear to be a more restrictive interpretation, however, we assume the ECJ merely referred to the terminology set out in Article 176 2006/112 EC. Regardless, the alternate wording should have no noticeable effect in practice.

How should you interpret *strictly business purposes* in this respect? As a rule of thumb, free meals provided to business contacts that are not out of the ordinary are, in our opinion deductible.

For employees, it would as a general rule depend on, whether the meal falls outside the normal working hours, i.e. free dinner in the evening for those working late, which is a common practice with a lot of companies in Denmark.

In addition to the standard statute of limitations throughout the EU, you would be allowed to go back to 1994 in Denmark, and in the UK you can go back to 1973 due to the Condé Nast case, however, the deadline for doing so is 31 of March 2009.

If you would like to have Meridian assist you in recovering any not previously deducted VAT on free meals *for strictly business purposes* (plus interest), please contact your Customer Services Manager.



ECJ Case C291-07
Kollektivavtalsstiftelsen TRR
Trygghetsradet

Notion of taxable person for the purpose of the application of the article 56(1)(c) of the Directive 2006/112 EC

A Swedish foundation that was carrying out both economic activities and activities falling outside of the scope of VAT, intended to buy consultancy services from a Danish company. They requested advice from the Skatteverket (Swedish Local Tax Board) on the tax consequences of the purchase and asked them to clarify whether they should be considered as a “trader” within the meaning of Chapter 5 paragraph 7 of the Swedish tax legislation. The question was referred to the ECJ by the Regeringsrätten.

The Court answered that the foundation should be considered as a taxable person and that the fact that the services purchased may be used to carry out activities, which fall outside of the scope of VAT, should not preclude the application of the article 56(1)(c) of the Directive 2006/112/EC.

This decision means that taxable persons have to account for local VAT when they are the recipients of intangible services the supply being used for the purposes of taxable or non-taxable activities.

This has given rise to the question whether or not IGIC is within the scope of EU VAT.

The European Court of Justice (“ECJ”) has in the case C-186/07 concluded that the ECJ has no jurisdiction to hear the case on the basis that the Islands are not part of Spain for VAT purposes. It also held that IGIC law does not refer to European Law, and the ECJ deems the IGIC nature to be different from EU VAT.

Therefore any claim regarding the IGIC has to be lodged to the Spanish tax authorities, which is the only competent body to rule on IGIC issues.



CANARY ISLANDS

Canary Islands Tax

The Canary Islands according to the Council Directive 2006/112/EC (“EU VAT Directive”) are deemed to not be within the EU territory for VAT purposes. However, the Canary Islands tax authorities and the Spanish tax authorities have set up an indirect tax system known as IGIC (Canary Indirect Tax), which is similar to the principles of Spanish VAT law and has many articles in common with the EU VAT Directive.



meridian

Meridian Global Services Head Office

Tallaght Business Park,
Tallaght, Dublin 24,
Ireland
Tel: 353 14590 500
Fax: 353 14590 540

Website: <http://www.meridianglobalservices.com/>

Contact Editorial Committee:

Vattrends@meridianglobalservices.com

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