

Barcelona, Hotel Front Maritim, 26-30 June 2017

by Patrick Wille, President of VAT Forum

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Who is liable to pay the VAT? – Monday 26 June 2017

One of the most important principles in VAT legislation is to decide who should pay the VAT. Article 196 of the EU VAT Directive determines who should pay the VAT on the services described in article 44. Furthermore, article 195 of the EU VAT Directive determines who should pay the VAT on supplies of gas, electricity, heating and cooling, whereas article 197 deals with the liability to pay VAT on triangular transactions. Those articles determine the circumstances in which the customer is obliged to pay the VAT. However, articles 194 and article 199 and 199a provide an option for Member States, allowing them to decide for themselves under what conditions an extended reverse charge rule may be applied. Different Member States have implemented these articles in completely different ways, which makes applying the correct VAT treatment when invoicing a very big challenge for companies. In order to decide who has to pay the VAT, you need to find out what kind of transaction is concerned and the Member States where the supplier and customer are established or registered for VAT. A full overview of the liability rules applicable throughout the EU will be supplied in the documentation binder.

Chain transactions – Tuesday 27 June 2017

In the EMAG court case (C-245/04), the ECJ decided that where two successive supplies of the same goods, effected for consideration between taxable persons acting as such, give rise to a single intra-Community dispatch or a single intra-Community transport of those goods, that dispatch or transport can only be ascribed to one of the two supplies, and only that supply will be exempted from tax.

This judgement has important implications for companies involved in chain transactions. An in-depth discussion will be held, taking into account the provisions of the EC VAT Directive, national legislation and the EMAG Case.

Triangulations (ABC transactions) imply that three parties are involved; hence several conditions need to be fulfilled:

- is it acceptable for the middleman (B) to be established in the country (A) from which the goods are shipped?
- Which party must or may take care of the transport of goods?
- The middleman (B) must not be established in the country to which the goods are shipped (C), but can he be registered for VAT in that country?

What special points apply if the chain consists of more than 3 parties?

What are the consequences if the goods are imported by one of the parties in the chain?

Use and enjoyment provisions throughout the EU – Wednesday 28 June 2017

A very substantial number of Member States have implemented some use and enjoyment rules and imposed additional conditions and circumstances in order for the use and enjoyment rules to apply in certain cases. Member States also continue to change their legislation in respect of the application of the use and enjoyment rules.

The implementation of the use and enjoyment rule options throughout the EU will be dealt with in depth for B2B supplies, considering all the parameters that can play a role in the applicability of the use and enjoyment provisions.

Additionally, the impact of the European Court Case C-1/08 Athesia Druck on the application of the use and enjoyment rules will be analysed.

The session will consist of numerous practical and ready-to-use examples of implementations of different use and enjoyment rules in several Member States, focusing on those which have the most impact on business.

Furthermore, we will link these principles to the ERP system: how can you manage the use and enjoyment rules in your ERP?

A full overview of the implementation will be provided in the documentation binder.

Chargeable event and the chargeability of VAT - Thursday 29 June 2017

Articles 63 to 71 of the EU VAT Directive deal with chargeability and the chargeable event for domestic supplies, intra-Community supplies, intra-Community acquisitions and importation of goods. The optional derogations provided for in article 66 lead to very different results in various Member States, depending on the way those derogations were implemented or not implemented. Moreover, the rules changed significantly in 2013 and the ECJ has made some important judgments in this respect (e.g. BUPA C-419/02, FIRIN C-107/13 and TNT C-169/12).

All these complex rules have also implications for reporting in the VAT return. This means that invoices sometimes have to be reported for VAT in a different period than the period in which they are booked.

Recharging of headquarters' costs to branches and group companies - Friday 30 June 2017

Costs are often centralised at the headquarters of a multinational company. These costs are then re-allocated on an annual basis to different permanent establishments in other Member States, or to group companies that are separate entities. How should this re-invoicing of services be dealt with when services are invoiced to a branch, taking account of the decision of the ECJ in the FCE Bank Case (C-210/04), which states that "a fixed establishment, which is not a legal entity distinct from the company of which it forms part, established in another Member State and to which the company supplies services, should not be treated as a taxable person by reason of the costs imputed to it in respect of those supplies"?

At the time of re-allocating overhead costs, should the original service or supply of goods be (re)considered or should the re-allocation of overhead costs be considered as a kind of recharging of costs?

In the Skandia America Case (C-7/13), the ECJ concluded that the supply of services from a main establishment in a third country to its branch in a Member State that belongs to a VAT group constitutes a taxable transaction, and that the purchaser of those services is liable for the value added tax payable.

How far can this conclusion reach? Who is the actual recipient of the service if the invoice is addressed to the head office, but the service is used (consumed) by a fixed establishment in another country. What if this service is recharged by the head office to the fixed establishment? How should the place of supply and VAT liability rules be applied?



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Venue: Hotel Hotel Front Maritim****, Pº García Faria, 69, 08019 Barcelona, Spain.

The sessions start at 8.30 am and end at 5.00 pm.

Participants who wish to stay at the Front Maritim Hotel, can book a single room for 146 euro per night, including breakfast and 10% VAT, by using the code 'VATFORUM' on the hotel's website (<http://www.hotelfrontmaritim.com>). These conditions apply until **11 June 2017**.

Language: English

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Registration fees (excluding VAT):

- 350 Euro (members of VAT Forum) per seminar
 500 Euro (non-members) per seminar
- 1 600 Euro for members of VAT Forum for the full week
 2 230 Euro for non-members for the full week
- become a member of VAT Forum (1000 Euro for 12 months – excluding VAT): members' prices apply immediately

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