

Changes in VAT legislation 2010 – Practical Approach



NEW EUROPEAN VAT RULES: WHAT DOES THIS MEAN FOR YOUR BUSINESS?

On 1 January 2010, new VAT rules became effective in the European Union (the "**New Rules**"). These New Rules form the implementation of two Directives adopted by the European Council in 2008.

The New Rules primarily change:

- The **place of supply of services** provided to taxable persons in other Member States. The place of supply determines the Member State in which VAT is levied. By default, such services are now deemed to take place in the Member State where the recipient of the services is established. This change increases legal certainty regarding the treatment of services for VAT purposes. Under the old rules, the place of supply was less uniform. A limited number of exceptions continues to apply.
- The **procedure for the refund of VAT** paid by businesses outside of their Member State of establishment. Businesses can now file pan European VAT refund claims centrally, and electronically, with the competent tax authority in their own Member State. Supporting information, such as evidence of expenses, can also be submitted electronically. Interest accrues over late payments of refunds.

Action is required!

The New Rules have implications for your business if you conduct business internationally. Implementation of the New Rules requires your attention as they involve procedural changes that are accompanied by new legal and administrative requirements. The New Rules are expected to lead to an increased number of audits. Compliance is thus key!

Content

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Attention should be paid to

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Attention should inter alia be paid to:

- **ensuring that required client information is available.** This involves recording clients' VAT ID numbers and obtaining statements from clients confirming whether or not any services supplied are used for business purposes;
- **verifying clients' VAT ID numbers** with the competent national tax authority;
- **examining client service relationships** in light of the new place of supply rules in order to establish and implement their revised treatment for VAT purposes;
- **verifying invoices received from service providers** to determine that these have implemented the New Rules and do not charge VAT where the reverse-charge mechanism applies. Any such VAT paid unjustly is non-refundable;
- **reporting services provided to businesses in other Member States** in a similar fashion as was already required for intra-community supplies of goods (EC-sales and services list). It may be desirable to harmonise the reporting periods;

- **requesting refunds for VAT paid in other Member States** through the online portal offered by the tax authorities of your Member State of residence. **All applications filed after 31 December 2009** should be filed according to this new method. Note that **the deadline for filing** applications has been extended from 30 June to 30 September of the following year;
- **filing VAT returns for services** supplied to, and received from, businesses in other Member States and countries outside the European Union in accordance with the New Rules. Income from such services now falls into different reporting categories.

You may wish to ascertain yourself of your organisation's compliance with the New Rules. In addition to the cross-border perspective this necessitates, you will require a local approach as country-specific VAT legislation must also be taken into account. Our team of pan European VAT specialists is ideally suited to assist you in this. Please feel free to contact us for further information and advice. We are more than happy to assist you.

This client briefing does not necessarily deal with every important topic or cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice.

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