

CHANGES TO EU VAT PACKAGE

As part of the European Commission's (EC) long-term plan to simplify complex EU VAT rules, changes to VAT legislation will come into play from **1st January 2010**, affecting EU VAT and supplies of cross-border services within the EU. If you are the owner of a UK business (whether registered for VAT or not) and provide services to business customers in other EU member states, receive services from anywhere outside the UK, or incur VAT in other EU member states, it is imperative that you prepare for major changes to your VAT procedures and, quite possibly, your entire accounting system.

Implications of the impending VAT changes

EU VAT rules can vary in each EU member state despite the fact that all are supposed to be based on the same EU Directives. In a welcome development, the current minefield of cross-border VAT rules will be simplified for business to business (B2B) transactions, in the form of the new EU VAT Package.

Although 1st January 2010 may seem a date in the distant future, you will need to make major and immediate changes to your VAT administration and filing procedures, undertake additional record-keeping and possibly make significant changes to your accounting systems in order to produce the information needed by this date.

Origination of supply of services

UK to EU: Under the current rules, if you supply cross-border services you must charge local VAT unless the supply falls into one of several categories, such as intangible services, land-related, performance-related, etc. when different rules apply. In reality, however, there are so many exceptions to the rules that very few services remain subject to local VAT.

From 1st January 2010, all such cross-border B2B supplies will be supplied free of VAT. However, the customer will be required to account for VAT in their VAT returns using the reverse charge mechanism, similar to import VAT on goods although the customer accounts for output VAT through their own VAT return rather than at the port, (unless the supply falls within certain exceptions, as mentioned above). This is designed to avoid the supplier charging their own VAT that the customer would otherwise have difficulty in reclaiming. This is, therefore, the reverse of the current system and will considerably reduce the complexities with far fewer exceptions to consider.

EU to UK: For UK businesses receiving services from suppliers in other EU member states there will be a greater emphasis on applying the reverse charge, where you are required to account for output VAT and reclaim it in the same VAT return as input tax, subject to your normal rules. For most fully taxable businesses the reverse charge will not have any financial or cashflow effect. For businesses unable to reclaim all the VAT they incur on expenditure, such as those that are partially exempt or those in the charitable or not-for-profit sectors, there may be additional VAT costs as it may not be possible to reclaim the reverse charge VAT in these situations.

EC Sales Lists

Currently, EC Sales Lists must be filed by all UK VAT registered traders when supplying only goods to traders registered for VAT in other EC member states. From **1st January 2010** EC Sales Lists will also need to be filed for EU cross-border services, imposing a significant additional burden on your business and requiring changes to your accounting systems.

The EC Sales Lists for services will need to be filed electronically no more than 21 days after the end of each calendar quarter (14 days for paper returns). The time-limits for filing existing EC Sales Lists for goods will also be reduced, in line with the above deadlines, from 1st January 2010.

Affected businesses will therefore be required to make the necessary changes to their accounting systems in order to produce the data needed to compile and file EC Sales Lists by the relevant deadlines. Businesses must report the total value of sales to each VAT registered EU customer along with their country code.

Where an EU business customer is not registered for VAT, eg. exempt businesses, the supply can still be made free of VAT but there is no need to make any declaration on an EC Sales List.

Immediate action required

Your immediate priorities should therefore be:

- (i) begin making the necessary changes to your accounting systems in order to report the necessary data; and
- (ii) begin collecting the VAT registration numbers of your EU business customers if you have not done so already.

Reclaiming EU VAT

The current hard-copy process for reclaiming VAT incurred in another EU member state is recognised as inefficient and time-consuming both to make the claims and for the local tax authority to process them. From **1st January 2010**, a new online VAT refund procedure will be introduced across the EU for all claims submitted after this date.

Further details are expected in due course, advising businesses on how they should submit invoices in support of their claim, since several member states still require the original hard-copies. Importantly, this will include claims submitted by 30 June 2010 for VAT incurred in the calendar year 2009.

As would be expected, there is a great deal of detail underpinning this brief summary of the legislative changes ahead, so should you think that you are likely to be affected please contact UHY Hacker Young's VAT Department or your usual UHY contact for further information.

UHY Hacker Young LLP

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If you require further advice please do not hesitate to contact London office VAT partner Simon Newark, or your usual UHY Hacker Young partner.