IVA Newsletter – April 2016

Dear VAT professionals,

In this issue:

1. Last Call for the Vienna Conference

If you still haven't registered for the upcoming IVA Conference in Vienna, you still have a chance to do so at: ivavienna2016@hoteldesk.co.uk.

Conference dates: 12 and 13 May 2016

Main topic

Can you really be fully VAT compliant in Europe? – with emphasis on the practical topics of VAT compliance

Speakers

Resumes of our speakers can be found on the following link:
http://www.vatassociation.org/conferences/forthcoming/25-vienna-2016#speakers

Time

The Vienna Conference will start on Thursday 12th May 2016 at 13:00, and will end on Friday 13th May 2016 at 16:30.

Venue

The Conference will take place in the Austria Trend Parkhotel Schönbrunn in Vienna.
Address: Hietzinger Hauptstr. 10-14, 1130 Vienna, Austria
Link to the hotel: http://www.austria-trend.at/de/hotels/parkhotel-schonbrunn

Conference Agenda

Link: http://www.vatassociation.org/images/conferences/2016-01-15_10-48-32/A4%20IVA%20Conference%20Agenda_Vienna_May%202016.pdf

Gala Dinner

The Dinner on the Thursday evening will take place at the Café Restaurant Residenz, located inside the Schönbrunn Palace, a 10-minute walk from Parkhotel Schönbrunn.

Address: Schloss Schönbrunn. Kavalierstrakt 52, 1130 Wien, Austria
Link to the restaurant: http://www.cafe-residenz.at

2. Welcome to our New IVA Members

Please welcome the latest members of the International VAT Association:

- ✓ Assistance Formation Conseil (France), represented by Philippe Talon
- ✓ Clayton Utz (Australia), represented by Andrew Sommer
- ✓ Fiebich & PartnerInnen Steuerberatung und Wirtschaftsprüfung GmbH (Austria), represented by Dr. Klaus Fiebich

3. Communication from the European Commission

The Communication from the Commission was published on 7 April 2016: an Action plan on VAT "Towards a single EU VAT area – Time to decide".

Link to the document: http://www.vatassociation.org/vat-news/news-from-ec/238-towards-a-single-eu-vat-area-time-to-decide

4. Recent Member's Requests

1. Request on exit export deliveries

By degree dated 15 Jun 2015 the German Ministry of Finance has confirmed that a zero-rated (exempt with credit) export delivery can also be documented on the basis of a document issued by customs authorities of other member states.

In most cases the export confirmation is issued by the customs office in charge for the supplier – i.e. a German supplier will start the export procedure in Germany (where the business is established) and initially will receive a German document. This is in line with current requirements.

However,

- ✓ If the goods are commissioned / packed in another member state the export procedure will be started there
- ✓ If the value does not exceed 3.000 € the export declaration can be filed at the EC border / customs authority (i.e. in Poland if export goes to Ukraine).

In this case the exporter will only hold a non-German document to provide the proof of export.

The clients or the German Tax Inspector may be unaware of what this documentation looks like and also what information is included in order to confirm the export and to be considered as the provision of sufficient proof of export from the EU.

Hans-Martin Grambeck from Nesemann & Grambeck (Germany) would be happy if you could provide the IVA with an example / template of a customs document generally issued by your local customs authorities; email to: grambeck@umsatz-steuer-beratung.de.

If you would like to receive the replies on this survey please let us know at: info@VATassociation.org.

2. Request on time limit for VAT exemption on exports

Our member Lide Mendibil from Ritchie Bros. Shared Services BV (Netherlands) would like to hear your views and experience in regards to the time limits that Member States establish for exportations, in order to apply the VAT exemption.

The countries she is interested in are: DE, UK, FR, ES, FI, IT and PT.

With time limit for exportation, Lide is referring to the time elapsed between the sale of the goods and the confirmation of exit from customs.
Her question is: **What is the time limit for an exportation to be considered made on time and the VAT exemption considered valid?**

This question is relevant in her company where the exportations are done in their name, but it is the clients who take care of the documentation. They rely on the clients to collect the necessary export documentation to justify their VAT exemption. Sometimes their clients delay their exportations and they wonder what the time limits should be, if any, to be considered as a local supply or as an exportation.

Lide's findings:

- The EU VAT Directive does not mention any time limit for export supplies.
    - Read: CJEY 19/12/2013 BDV C-563/12
- The Netherlands: local regulation does not mention any time limit. Lide's company has a ruling agreement with the local tax officer for a time limit of 9 months (from delivery date till confirmation of export)
- Spain: local regulation mentions that goods should be transported to the port within 1 month after delivery. Article 9 Real Decreto 1624/1992
- UK: local regulation mentions a 3 month time limit (VAT notice 703 Export of goods from the UK)

Lide would greatly appreciate if you would comment on her findings and/or add you own.

We look forward to receiving your feedback and comments at: info@VATassociation.org.
If you would like to receive the replies on this survey please let us know at: info@VATassociation.org.

5. Important VAT/GST Information

5.1. Germany – VAT refund restrictions to prevent Tax Losses

On 16.02.2016 the Federal Ministry of Finance published a letter as regards VAT refunds for intra-Community supplies and export supplies, which may prove controversial. The Federal Ministry of Finance denies VAT refund where the supplier invoices with VAT due to a lack of documentary evidence, despite it being determined, that the substantive requirements for zero-rating have been met. The suppliers would have to issue invoices including VAT in cases of any doubt. The recipients should be cautious. Their input VAT refund is at risk. The Federal Ministry of Finance is attempting to prevent tax losses under the VAT refund procedure. Apparently, the letter is not to be applied to the regular assessment procedure. It is to be hoped, that it is also understood by the tax offices.

1. **Circular letter of the Federal Ministry of Finance**

With its circular letter of 16.02.2016, the Federal Ministry of Finance added the following short but probably contradictory paragraph 1a into sec 18.11 of the German Administrative VAT Circular: "Input VAT amounts which are separately stated in invoices for export supplies or intra-Community supplies shall not be refunded where it is established that the requirements of sec 6 para 1 to 3a of the German VAT Act or Sec 6a para1 and 2 of the German VAT Act are met. As regards the assessment of the refund claim under the VAT refund procedure, these cases are deemed to be unduly charged VAT in terms of Sec 14c para 1 of the German VAT Act. Therefore, they cannot be deducted as input VAT by the recipient (see Sec 14c.1 para 1 sentence 5 no 3 and sentence 6 as well as Sec 15.2 para 1 sentences 1 and 2) and cannot be refunded under the VAT refund procedure. The VAT assessment of the supply carried out by the supplier remains unaffected."

2. Legal basis

The Federal Ministry of Finance upheld the principles which were determined by the Federal Fiscal Court and already included in Sec 6a.2 of the German Administrative VAT Circular that the supplier must provide a formal proof that an export supply or intra-Community supply was carried out. Where the supplier cannot provide such proof in the form of documentary and accounting records in full, or not in a timely manner, it is generally assumed that the requirements for zero-rating are not met. It may, in exceptional cases, be otherwise if it is determined that the requirements of Sec 6 para 1 to 3a of the German VAT Act for export supplies or Sec 6a para 1 and 2 of the German VAT Act for intra-Community supplies have been met. To date, it has not been considered an unduly charged VAT in terms of Sec 14c of the German VAT Act if, in these cases, invoices have been issued with VAT. Only Sec 6.12 of the German Administrative Circular contains a note, albeit vague, in this respect. However, generally, it complies with article 4 lit. b of Directive 2008/9/EU to the extent that at least the input VAT from invoices for intra-Community supplies is not refunded through the VAT refund procedure. Germany has not implemented this restriction in national law. This has not been challenged by the Federal Ministry of Finance's letter. The Federal Ministry of Finance denies input VAT deduction in accordance with article 4 lit. a of Directive 2008/9/EU which covers unduly charged VAT in terms of Sec 14c of the German VAT Act.

3. Background: Tax losses

Tax losses would have occurred under the refund procedure, as input VAT from invoices for intra-Community supplies and export supplies had been refunded while these invoices were corrected at a later date. Firstly, the suppliers' invoices included VAT due to a lack of evidence. If the supplier confirmed this vis-à-vis the Federal Tax Office, input VAT was refunded to the recipient. Then, suppliers cancelled the invoiced VAT at a later time and had the VAT refunded by their tax office. The foreign recipients, however, have not refunded the input VAT to the Federal Tax Office. The Federal Ministry of Finance seeks to eliminate this problem.

4. Application is limited to refund procedure

The Federal Ministry of Finance's letter will presumably be applied to the refund procedure only, although the mentioned principles, at first glance, could also be applied to the regular assessment procedure. This follows from the above mentioned practical background and it can also be derived from the heading of the Federal Ministry's letter and the implementation in Sec18.11 of the German Administrative VAT Circular. The assessment procedure shall remain unchanged. However, it would have been better if the Federal Ministry of Finance had explicitly formulated this in its letter.

5. Practical aspects

Basically, only the supplier should provide evidence that the conditions for the zero-rating are objectively met. Otherwise, it could be argued, by the recipient's competent tax office, that the requirements are objectively met and input VAT cannot be deducted when the supplier is not granted zero-rating due to doubts raised by his tax office. On the one hand, it does not correspond with the German system that the supplier has to have available documentary and accounting evidence. Furthermore, the tax treatment would be left to the finance authority's sole discretion. As regards the refund procedure, this however, becomes reality. As soon as the recipient confirms that a supply abroad has occurred, the Federal Tax Office will deny the VAT refund. Thereafter, the supplier would have to correct his invoices and issue invoices without VAT. The formal requirements in Sec 6 para 4, as well as Sec 6a para 3 of the German VAT Act, are thereby overruled as regards supplies to recipients which are not registered in Germany.
It is to be hoped that, in the end, we will not have two sets of weights and measures as the Federal

Ministry of Finance determined in its letter that the treatment of the supply on behalf of the recipient remains unaffected. The supplier's competent tax office could therefore insist on VAT liability on the grounds of formal faults. This could be the case even if, in the Federal Tax Office's view, a case provided for in Sec 14c of the German VAT Act exists, hence VAT being unduly invoiced. This could have only been prevented by the Federal Ministry of Finance giving some kind of binding effect to the Federal Tax Office's decision which would also have to be observed by the supplier's competent tax office

The above information was kindly provided by Küffner Maunz Langer Zugmaier, Germany. If you need any further information you can contact Ronny Langer, email to: ronny.langer@kmlz.de.

5.2. India – VAT and GST. Past, Present and Future

Commodity taxation in India is centuries old, the current system being followed in India owes its origin to the British rule. India is a Union of 29 States. The Constitution of India empowers the Central (Federal) Government to levy and collect certain taxes and also empowers the States (Provinces) to levy and collect certain taxes.

Excise duty is levied on goods manufactured in India and the payment of such duty to the exchequer shall be made when such goods are removed from the factory of their production. The concept of sale is absent in the excise law and hence the word removed. Customs duties are levied on import of goods into India and on certain goods exported out of India. Tax on services is of much more recent origin, since 1994 service tax is levied on services provided. These are the major duties and taxes levied and collected by the Central Government.

The States levy and collect tax on sale of goods within their borders. The Centre levies a tax on goods sold from one State to another and the State from where the movement of such goods commences is empowered to collect the tax. The tax levied and collected by States on sale of goods within its borders was known as Sales Tax and now it is known as VAT. The tax levied by the Centre on sale of goods to a customer who is located outside the border of one State and is collected by the State from where the movement of goods originates is known as Central Sales Tax.

Contrary to the principles of consumption tax, India follows the origin principle and not the destination principle. The tax is levied and collected at the originating point and not at the final destination or consumption. Due to this strict border controls in the form of check points and inspection of vehicles during their movement by tax authorities hinder free movement of goods, from its origin point to its destination especially when the destination of the vehicle is outside the State.

India, probably, may be only amongst few Countries were consumption tax is levied and collected both by the Centre as well as by the State. In Developed economies like Australia and EU VAT / GST is collected by only one Government and distributed to provinces or States as per a pre-determined formula. Dual power is the challenge which India currently encounters in its reform to GST.

Registration with the tax authorities is another big challenge. While registering with excise or service tax authorities a tax payer after logging into the Government portal and obtaining a registration number must also submit documentary evidences in physical format so that the registration obtained through e-mode is activated in order that that the registered entity can gain access to the portal for payment of duties and taxes. Registration is followed up by inspection of premises, in certain cases, prior to activation. The challenge is encountered when registering with the State authorities. As premised above, there are 29 States in India and if a tax payer has 20 permanent establishments each in different State from were operations are carried on then each establishment must separately obtain registration in each of the 20 States.

The question of one single levy and collection of VAT/GST is ruled out in India due to its Constitutional structure. VAT / GST is currently collected in the name of Excise Duty, Service Tax and State VAT. These and further other minor taxes will be merged in two legislations, the Central Goods and Services Tax (CGST) and State Goods and Services Tax (SGST). CGST will be levied across the Country on all transactions above the exemption limit and SGST will be levied by the respective State on goods and services consumed, above the exemption limit, within its borders. It must be appreciated here, that India will move from origin principle to destination principle as and when the new law becomes applicable. However, the credit of tax paid towards CGST will be available only against CGST and SGST against SGST, meaning, credit of CGST against SGST and vice versa will be prohibited. Given this scenario it will be a truncated GST.

The Government is confident that implementation of GST will boost the Indian Economy and the GDP of the Country will see a 2% increase. Though the tax gap in a Country like India cannot be eradicated in full use of information technology in implementation of the law will bring down the same considerably as linking transactions will become much easier making it difficult to keep the transaction out of books unless both the buyer and the seller in unison agree to resort to such mechanism.

It is expected that GST will ensure ease of compliance thereby bringing down the cost to the business. Criticism is also gaining ground that GST will force business to invest in technology, those who have never embraced technology will be forced to change and those are already into technology will also be forced to make changes due to the new requirements of the law. However, this will be only a one time affair, hopefully.

India is blessed with green agriculture, dry desert, enchanting wildlife, free flowing rivers, sprawling lakes, beautiful snow, challenging mountains, romantic hill stations, long sea shores, several religions, multiple languages, the list is endless. There is no parallel for this Country anywhere in the World. It is this fullness of India which makes it a difficult Country to administer and this is the reason why it takes long time to put in place a well-knit uniform tax law like GST. But the day this is done India will become a trendsetter for other Countries. Many Governments are waiting to learn from the Indian Dual GST experience and hopefully we will set the trend for a new World order.

The author of this Article is our member Rajendra Kumar from (Sanjiv Shah & Associates) India. If you need any further information you can contact Rajendra Kumar at: rajendrakumarp@icai.org.

5.3. Luxembourg – 2017 tax reform

On 29th February, the Luxembourg Government presented its 2017 tax reform. This is only an announcement, meaning that no agreement has yet been reached by the Government on the text of the draft law introducing these measures. Therefore, changes may still occur before the final text is presented to Parliament and additional changes may also be made in the course of the legislative process.

Tax measures for companies

- ✓ **CIT rate – decrease in 2 steps**

The Corporate Income Tax ("CIT") rate will be brought down from 21% to 19% in 2017 and finally to 18% in 2018. Taking the Municipal Business Tax ("MBT") and the solidarity surcharge

into account, it would bring the global corporate tax rate applicable in Luxembourg-city from currently 29.22% down to 27.08% in 2017 and 26.01% in 2018.
A reduced 15% CIT rate will apply to companies with a taxable income which does not exceed EUR 25.000.

- ✓ **Minimum NWT to be increased**

The minimum Net Wealth Tax ("NWT") applicable to SOPARFIs amounting currently to EUR 3.210 (solidarity surcharge included) will be increased to EUR 4.815 as of 2017.

- ✓ **Loss carry forward no longer unlimited**

While losses generated until 2016 will remain deductible without any limitation, the carry forward of losses generated as from 2017 will be limited to 10 years and to 80% of the taxable income of companies.

- ✓ **0,24% tax to be abolished**

The 0.24% registration duty applicable to deeds including the assignment of receivables will be abolished in 2017.

Tax measures for individuals

- ✓ **Final withholding tax on interest to be increased from 10 to 20%**

The final withholding tax levied on savings income of Luxembourg residents ("RELIBI") will be increased from the current rate of 10% to 20% as of 2017.

- ✓ **Temporary budget balancing tax to be abolished**

The temporary budget balancing tax of 0.5% ("impôt d'équilibrage temporaire") which is currently levied on the monthly gross professional income will be abolished in 2017. This change is in line with the announcement made at the time the tax was introduced, as it was intended to remain in place for only 2 years.

- ✓ **Tax scales/tax brackets**

A new 41% tax bracket will be introduced as of 2017 for taxable income between EUR 150.000 and EUR 200.004 and a new 42% tax bracket will apply to income exceeding EUR 200.004. Currently, the tax rate applicable to the highest tax bracket is 40%.

- ✓ **Separate tax for married couples as from tax year 2018**

As of tax year 2018, married couples will be able to opt whether they would like to continue being taxed collectively in tax class 2 or whether they would like to be taxed separately.

- ✓ **Changes to tax credits**

The tax credit available to employees and pensioners of currently EUR 300 EUR will be increased to EUR 600 EUR for annual income between EUR 936 and EUR 40.000 and it will be decreased progressively to 0 for annual income between EUR 40.000 and EUR 80.000.
The single parent tax credit ("crédit d'impôt monoparental") will be increased from EUR 750 to EUR 1.500 in 2017 but only in case of an annual income not exceeding EUR 35.000.

- ✓ **Company car - taxation rules of benefit in kind to be amended**

In order to encourage the use of low-polluting cars, the amount of benefit in kind to be taxed for the use of a company car (currently equal to 1.5% of the acquisition cost of the car) will become dependent upon the level of CO_2 emissions of the car and will vary between 0.5 and 1.8%.

- ✓ **Increased tax deductions for contributions to pension schemes**

Tax deductions for contributions to pension schemes ("assurance prévoyance-vieillesse") will be deductible up to an increased amount of EUR 3.200, no matter the age of the individual. As of today, the maximum deductible amount depends on the age of the individual who subscribes to the pension scheme.

- ✓ **Measures to improve the access to housing**

Several tax measures will be introduced which aim to improve access to housing. These include mainly:

- reduced taxation at a ¼ rate on capital gains (compared to the current ½ rate) on the sale of real estate between 1 July 2016 and 31 December 2017,

- increased tax deductions for contributions to saving plans for housing under certain conditions from currently EUR 672 to EUR 1.344 for individuals until they reach the age of 40 years old,
- maximum amount of tax deductible interest expenses on mortgage loan to be increased

✓ **Measures for family businesses**

Capital gains on the transfer of real estate or land belonging to a business may be exempt if the business is transferred to the next generation of a same family.

The above information was kindly provided by ATOZ Tax Advisers, Luxembourg. If you need any further information you can directly contact Keith O'Donnell, email to: keith.odonnell@atoz.lu and Samantha Merle, email to: samantha.merle@atoz.lu.

5.4. Poland – standard audit file for tax in Poland also for Foreign Entities

On March 9, 2016 the Polish Ministry of Finance published on its webpage information on the Standard Audit File for Taxes (SAF-T) that the Polish tax authorities may require since July 1, 2016 from the so called "big entities".

As a rule by the "big entity" it is understood the entity which in the last two years fulfils at least one of the below two conditions:

✓ hired annually at least 250 employees, or
✓ its annual turnover from the sale of goods, services or financial operations exceeds EUR 50m or the value of its assets at the end of these years exceeds EUR 43m.

The Ministry of Finance also explained that the SAF-T may be also required from foreign entities not having in Poland their fixed establishment but only registered for VAT in Poland.

Information about the logical structures of SAF-T are available at the following webpage: http://www.mf.gov.pl/kontrola-skarbowa/dzialalnosc/jednolity-plik-kontrolny

The above information was kindly provided by Independent Tax Advisers, Poland. If you need any further information you can contact Dorota Baczewska-Golinska, email to: dbaczewska@itadp.pl.

5.5. UK – Representatives for Overseas Businesses

Representatives for overseas businesses and joint and several liability for online marketplaces

Who is likely to be affected?

Overseas businesses selling goods to UK consumers via online marketplaces and businesses that control and support the sale of such goods through their online marketplaces.

General description of the measure

There are two aspects to this measure. The first part makes changes to the existing rules which allow HM Revenue and Customs (HMRC) to direct an overseas business to appoint a VAT representative with joint and several liability. The changes make this a more effective power and also give HMRC greater flexibility in respect of seeking a security. The second part is the introduction of a new provision which will enable HMRC to hold an online marketplace jointly and severally liable for the unpaid VAT of an overseas business that sells goods in the UK via that online marketplace. Neither of these changes will apply automatically to any businesses and HMRC will use them on the highest risk cases to tackle non-compliance.

Policy objective
The government is taking action to protect the UK market from unfair online competition. The objective of this measure is to give HMRC strengthened operational powers to tackle the non-compliance from some overseas businesses that avoid paying UK VAT on sales of goods made to UK consumers via online marketplaces. It is directed at getting overseas businesses that are or should be VAT registered in the UK paying VAT due either directly or through a VAT representative. If the overseas businesses continues to be non-compliant, HMRC can make the online marketplace jointly and severally liable for the unpaid VAT on goods sold through its online marketplace. The measure will level the playing field for businesses.

Background to the measure: There has been no prior consultation on this measure.

Operative date: The measure will have effect from Royal Assent to Finance Bill 2016.

Current law: Current law in Section 48 of VAT Act 1994 (VATA) gives HMRC the power to direct a 'person' to appoint a VAT representative, with joint and several liability, where the 'person' is not established in the UK and/or another EU Member State.

Proposed revisions

VAT representatives: The government will legislate in Finance Bill 2016 to amend Section 48 of VATA1994 to provide HMRC with strengthened powers for directing the appointment of a VAT representative. This will include a requirement that the VAT representative is in the UK and will also provide more flexibility in respect of seeking a security.

Joint and several liability on the online marketplaces: New legislation will be introduced in Finance Bill 2016 to enable HMRC to hold an online marketplace jointly and severally liable for the unpaid VAT of an overseas business that sells goods in the UK via the online marketplace's website.

Summary of impacts:

Exchequer impact (£m)

2016 to 2017	2017 to 2018	2018 to 2019	2019 to 2020	2020 to 2021
nil	+65	+130	+315	+365

These figures are set out in Table 2.1 of Budget 2016 as 'Value Added Tax: tackling overseas trader evasion' and have been certified by the Office for Budget Responsibility. They represent the combined Exchequer impact of the new HMRC powers to deal with overseas businesses and the new Due Diligence Scheme.
The amount of VAT revenue forgone on such under-declarations is estimated to be £1-1.5 billion in 2015 to 2016. This estimate has been derived from UK import data, supplemented with operational and other intelligence to identify high risk imports, the proportion of goods undervalued, and the extent of the undervaluation. More details can be found in the policy costings document published alongside Budget 2016.

Economic impact: The proposal to provide HMRC with additional powers for directing the appointment of a VAT Representative and greater flexibility in respect of seeking security may have a very small positive impact on inflation.
The costing accounts for a behavioural response whereby some non-EU online sellers or fulfilment houses may find ways to mitigate the impact of this measure.

Impact on individuals, households and families: This is a VAT compliance measure, and could result in a minor increase in inflation which would increase prices. It is expected to have a negligible impact on individuals, households and families, and is not expected to impact on family formation, stability or breakdown.
Equalities impacts: The measures are only aimed at non-compliant overseas sellers. It will not disadvantage sellers who are operating legitimately.

Impact on business including civil society organisations: This measure will level the playing field for businesses. This measure is expected to have a negligible impact on businesses. The online marketplace population is small, with a few major players and HMRC understands that these businesses already have existing processes in place for the removal of sellers that break the rules of the marketplace. Affected businesses will incur one-off costs of familiarisation with the new rules. Any ongoing additional costs are expected to be minimal. This measure is not expected to have any impact on civil society organisations.

Operational impact (£m) (HMRC or other): HMRC will incur one-off capital costs of approximately £700,000 and resource costs of approximately £22.5 million between 2016 to 2017 and 2020 to 2021.

Other impacts: Other impacts have been considered and none have been identified.

Monitoring and evaluation: This measure will be kept under review through communication with affected taxpayer groups.

Source: https://www.gov.uk/government/publications/vat-representatives-for-overseas-businesses-and-joint-and-several-liability-for-online-marketplaces/vat-representatives-for-overseas-businesses-and-joint-and-several-liability-for-online-marketplaces

The above information was kindly provided by Steve Botham from Covertax Chartered Tax Advisers, UK. If you need any further information you can contact Steve Botham, email to: steve.botham@covertax.co.uk.

6. Further European VAT News

Czech Republic

The Czech authorities have extended again the scope of the domestic reverse charge. This extension applies retroactively from 1 February 2016 to electricity and gas sold to retailers as well as electricity rights.

Regarding other items to which this scheme was already applicable, the threshold of CZK 100,000 on domestic reverse charge on specific goods such as metal products and IT equipment is no longer mandatory. Businesses can agree to apply revere charge on these products irrespective of the volume. This agreement should meet certain conditions.

In addition to the above, Czech Republic is planning to expand the reverse charge on supplies by non-established suppliers (article 194 of the VAT Directive). From 1 May 2016, all supplies made by a non-established and non-VAT registered business to a registered company in the Czech Republic will be subject to reverse charge, irrespective of whether the customer is established.

Reverse charging VAT is an exception to the general rule on VAT. Normally, it is the supplier who must account to the tax authorities for any VAT due on the supply. However, for certain goods and services, the obligation to account for the VAT element of the transaction is ´reversed´ and passed to the customer. From an accounting point of view, this system is easy for the customer as it only requires the VAT element to be booked both, in the input VAT account and output VAT account, with the corresponding nil effect in the VAT position.

Estonia

Estonia has joined the club of countries allowing import VAT to be reported in the VAT return. There are a number of conditions to be met to apply the postponed accounting and these should be kept for a minimum period of six consecutive months after the simplification has been granted. Import VAT is general paid upon importation. However, most countries allow simplifications on this requirement such as deferring the payment to a later stage (import VAT deferral) or reporting the import VAT as due and deductible in the periodic VAT return (postponed accounting of import VAT).

Where a service is supplied on a periodic basis and there are no prepayments made within those periods, the tax point occurs at the end of each calendar year. Tax point rules on continuous supplies are important for businesses providing rental services, leasing services or continuous supplies of products such as gas or electricity.

Latvia

Latvia has amended the Taxes and Duties Act in order to adopt the EU Directive no 2014/107/EU (related to OECD’s Common Reporting Standard) on the automatic exchange of information between tax authorities of different jurisdictions.

This protocol, signed by more than 90 countries, establishes the automatic exchange of financial account information for tax purposes between the parties, beginning in 1 January 2016. The first exchange is planned to happen on September 2017.

Portugal

The Portuguese Parliament approved the application of the reduced VAT rate of 6% to feminine products and the deduction of 15% of VAT paid in relation to veterinary expenditure (up to a limit of 250 EUR per annum) from the personal income tax.

Switzerland

The Swiss Government is planning to introduce a number of changes to the Swiss VAT legislation, these include:

- ✓ The removal of the low value package VAT and customs relief threshold. This threshold is currently set at CHF 65 and means that most goods imported into the country under this threshold can be imported VAT and Duty free.
- ✓ Introduction of the CHF 100,000 VAT registration threshold to non-resident businesses that provide only services in the country.

The above information was kindly provided by:

- ✓ Fiscal Solutions (UK), www.fiscalsolutions.co.uk; contact: contact@fiscalsolutions.co.uk
- ✓ Marosa (UK), Pedro Pestana, email to: pps@marosavat.com
- ✓ VAT Systems (France), www.vatsystems.eu; contact: news@vatsystems.eu

7. Upcoming Returns

- ✓ The Belgian Annual Sales and Purchase Listing is due by the end of March.
- ✓ German Annual VAT returns are normally due by the 31 May. The extended deadline is 31 December.
- ✓ The Annual VAT return in Latvia is due by 1 May.
- ✓ Austrian Annual VAT returns are due by the end of June (extensions may be granted).
- ✓ The Portuguese Annual VAT return is due mid-July.
- ✓ Italian Annual VAT returns are due by the end of September.
- ✓ The Annual Sales and Purchase Listings in Spain should have been filed last February.

The above information was kindly provided by Marosa, UK. If you need any further information you can contact Pedro Pestana, email to: pps@marosavat.com.

8. EANOVATE Summer VAT Course

EANOVATE Summer Course 2016, organised by Leeds University, Münster University, LUND University and UCL will take place on 31 August – 3 September 2016

Link to the Programme of the course: http://www.vatassociation.org/images/EANOVATE_-_Summer_Course_2016.pdf

9. News from the EC and the European Parliament

Fiscalis report on VAT gap estimations and methodologies – 11 March 2016

The Fiscalis Tax Gap Project Group (TGPG) has published its report on VAT gap estimations. The report brings together data provided by members of the TGPG, and covers information on the estimations themselves for a number of Member States, as well as the various methodologies used for data gathering, management and interpretation. With regard to VAT gap data collection overall, the report notably concludes that there are no one-size-fits-all methodology for such estimations as depending on specific cases different factors must be considered, for example the purpose of the estimations.
Source:
http://ec.europa.eu/taxation_customs/resources/documents/common/publications/studies/tgpg_report_en.pdf

Joint follow-up to the European Parliament resolution with recommendations to the Commission on bringing transparency, coordination and convergence to corporate tax policies in the Union, and the European Parliament resolution on tax rulings and other measures similar in nature or effect, adopted by the Commission on 16 March 2016.

Regarding the request to submit a legislative proposal on transparency of customs-free ports (ECON A5)

As far as VAT and customs are concerned, setting a maximum time limit during which goods can be sold VAT or customs-duty exempt in customs free ports would be disproportionate. Goods covered by customs free zone arrangement are non-Community goods (apart from Community goods placed in a free zone with the view of benefiting from customs measures that apply upon exportation) which are under customs supervision, in any case. However, targeted information exchange between customs and tax administration could be envisaged in case of suspicion of tax fraud. Therefore, the Commission does not envisage taking any action in this respect. For direct taxation the main question would seem to be transparency. A transaction undertaken in a free port would in principle fall within the direct taxation system of the Member State where the free port is located. Where such a Member State provides preferential direct tax treatment for such transactions, this Member State would have to notify the measure to the EU Code of Conduct on Business Taxation which would have to assess its compatibility with the criteria of the Code. In addition, a notification to the Commission prior to entry into force of the measure is also required for State Aid purposes, when the measure constitutes state aid. The Commission will explore with Member States how customs and tax legislation interact in the particular case of customs-free ports.

In the field of VAT, in which the EU has exclusive competence, the Commission has opened negotiations for an EU agreement for administrative cooperation and recovery of claims with Norway. In the field of administrative cooperation, the Commission is also pursuing the objective of "one single European voice" in the OECD.

Regarding the additional measures to address the tax gap (ECON D1/ TAXE 113, 114, 123, 140, 167)

Regarding VAT administration *(ECON D1/ TAXE 123)*, Article 12 of Council Regulation 1553/89 on the definitive uniform arrangements for the collection of own resources accruing from VAT requires the Commission to submit a report to the European Parliament and the Council every three years on the procedures applied in the Member States for registering taxable persons and determining and collecting VAT, as well as on the modalities and results of their VAT control systems. Within this framework, the Commission will therefore continue to evaluate the functioning of Member States' VAT administration in order to stimulate improvements, continue to facilitate the exchange of information on administrative practices and identify best practices, support Member States in their efforts to modernise VAT administration and enhance compliance and facilitate the provision of technical assistance to requesting Member States. In order to make the VAT regime really tailored to the Single Market and make it simpler, more robust and fraud-proof, in March 2016 the Commission will adopt an Action Plan on VAT. Tax compliance and the efficiency of tax administrations are also monitored in the context of the European Semester.

No initiatives on tax amnesties *(ECON D1/ TAXE 167)* are envisaged at this stage. Tax amnesties are a matter of national competence, and such schemes show significant specificities and differences from one Member State to another. The national economic context in which such schemes are adopted also varies greatly across the EU. Therefore, EU-wide coordination or harmonisation could be very difficult and have little added value.

Certain provisions arising from the revised Recommendations of the Financial Action Task Force (FATF) have been integrated in the recently adopted 4th Anti-Money Laundering Directive (2015/849). Concretely, this Directive requires information on beneficial ownership for companies *(ECON D1/ TAXE 113, 114, 140)* including details of the beneficial interests, to be held by the company and, in addition, in central registers, such as commercial registers or companies' registers or public registers; different levels of access are to be granted. A similar provision also deals with beneficial ownership information regarding trusts and other similar legal arrangements. Now it is up to the Member States to swiftly transpose the Directive and make it work. The Commission is also preparing a Communication which will consider extending anti-money laundering actions to explicitly tackle terrorist financing.

Regarding the call for the Commission to fully implement the EU Ombudsman's r***ecommendations regarding the composition of expert groups (TAXE 129)*** **(This concerns the IVA's membership for example of the VAT Expert Group and VAT Forum)**

The Commission is preparing new horizontal rules on expert groups, responding positively to Parliament's requests and to many suggestions submitted by the Ombudsman and the Parliament. These new rules, which fully reflect the line taken by First Vice-President Timmermans in his letter to the European Ombudsman of May 2015 in response to her inquiry on expert groups, will in particular include the following measures:

- New rules will reconfirm the Commission's commitment to strive for a balanced composition of expert groups. When defining the composition of these groups, the Commission and its departments shall aim at ensuring, as far as possible, a balanced representation of relevant areas of expertise and areas of interest, as well as a balanced representation of gender and geographical origin, while taking into account the specific tasks of every particular expert group, the type of expertise required and the response received to calls for applications.
- As requested by Parliament and the Ombudsman, in order to select expert group members, the Commission will introduce mandatory public calls for applications including the mandate of the groups concerned, except when members of expert groups are public authorities. Such calls shall be published on the Register of expert groups. This will be a visible move to make selection procedures more transparent and inclusive, and thereby also contribute to balanced composition of expert groups.
- As requested by Parliament, the Commission will improve conflict of interest management in relation to experts appointed in a personal capacity, who are due to act independently and in the public interest. In particular, new provisions will be approved introducing a definition of "conflict of interest" and providing for a specific conflict of interest assessment and management to be performed by all Commission services concerned, on the basis of detailed standard declarations of interests to be completed by experts. These declarations shall be published on the Register of expert groups.
- As requested by the Parliament and the Ombudsman, the Commission will enhance transparency by releasing a new version of the Register of expert groups reflecting the above measures and ensuring publication of relevant documents produced by expert groups. In this context, for the first time synergies between the Register of expert groups and the Transparency Register will be ensured; for example, registration on the Transparency Register will be required in order for stakeholder organisations and individual experts representing a common interest to be appointed as expert group members, or to be able to continue to be members of expert groups, if appointed before the adoption of the new rules. Furthermore, the availability and reliability of data published on the Register of expert groups will be improved, *inter alia* by introducing a meaningful and more accurate classification of members.

These positive developments clearly signal the Commission's determination to improving the management of its expert groups.

Commission launches feasibility study on the development of an EU VAT web portal – 18 March 2016

The European Commission has launched a consultation on the development of an EU VAT web portal. The web portal would provide a single access point for consulting VAT rules and procedures that apply across the EU. The development of the portal is based on a three-step approach. First, a VAT portal for the Mini-One-Stop-Shop (MOSS) was launched. Currently, the information in the MOSS portal is being updated and improved. As a last stage, the Commission intends to extend the portal gradually by adding new topics and to establish a comprehensive VAT

portal. The questionnaire itself asks potential users of such an EU VAT web portal for views on the relevance of various VAT related topics in the portal as well as more practical questions on its usage and user-friendly functioning.
Source: https://ec.europa.eu/eusurvey/runner/VAT_Portal_UserSurvey

VAT fraud in the food industry – 18 March 2016

The European Commission has replied to a question asked by the MEP Jeppe Kofod (S&D/DEN) with regard to VAT fraud in the food industry. In his question, Mr. Kofod points to statistics demonstrating an increasing number of VAT frauds in Denmark's food industry, and asks the Commission how it will address this form of fraud in its VAT Action Plan, and whether in line with the TAXE I Committee's demands will establish stricter penalties and for tax and VAT fraud. In his reply, Commissioner Moscovici lists measures and initiatives that the Commission has taken in the Eurofisc network context to address VAT fraud. He moreover confirms that the VAT Action Plan will "strengthen the VAT system". With regard to penalties, Commissioner Moscovici confirms that the Commission will launch a study on the impact of national sanction systems on tax compliance.

Question: http://www.europarl.europa.eu/sides/getDoc.do?type=WQ&reference=E-2016-000145&format=XML&language=EN
Answer: http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2016-000145&language=EN

VAT fraud – 22 March 2016

The European Commission has replied to a question asked by the MEP Barbara Kappel (ENF/FRA) with regard to VAT fraud. In her question, Ms. Kappel refers to carousel fraud as well as the desire of the Czech Republic to apply the reverse charge mechanism nationally in order to tackle against it. She therefore asks the Commission what is its view with regard to the reverse charge model, and what alternatives it is planning. In his reply, Commissioner Moscovici confirms that the Commission will address VAT fraud in its upcoming VAT Action Plan. In its dialogue with Member States, a number of options, including a generalised reverse charge mechanism, have been considered. The Commission however does not plan to put forward specific legislation for a sector-specific application of the reverse charge mechanism. In terms of alternatives, the Commissioner brings up the European Commission's provision of technical assistance to Member States, the use of better IT tools, exchange of good practices and improving access to information.
Question: http://www.europarl.europa.eu/sides/getDoc.do?type=WQ&reference=E-2016-000426&format=XML&language=EN
Answer: http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2016-000426&language=EN

"EU referendum: how would Brexit change VAT and import duties?" – 22 March 2016

As part of its "EU referendum panel", the Guardian has published responses by four tax experts to a reader's question concerning the potential impact of a Brexit on VAT and import duties. The question asks what would change in the case of a Brexit for a company that manufactures shoes in Spain. All experts reply that in the case of a Brexit the company in question would be subject to greater costs and compliance requirements.
Source: http://www.theguardian.com/small-business-network/2016/mar/22/eu-referendum-brexit-change-vat-import-duties

10. Decisions of the CJEU

CJEU decisions published March 2016

Case C-40/15, 17 March 2016, Aspiro SA
http://curia.europa.eu/juris/document/document.jsf?text=mehrwertsteuer&docid=175157&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1&cid=668217#ctx1
Article 135(1)(a) Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as meaning that claims settlement services, such as those at issue in the main proceedings, provided by a third party in the name and on behalf of an insurance company, do not fall within the exemption laid down by that provision.

We look forward to seeing you all in Vienna!

IVA Board

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