

**Norway**

3 March 2011

## **1. New VAT registration obligation for electronic services in Norway**

- The Norwegian Ministry of Finance has issued a discussion paper 24 February this year, related to a proposal for new rules for foreign entities supplying electronically deliverable services to consumers resident in Norway (B2C). The new rules are suggested to come into force from 1 July 2011. The hearing round will end 24 March 2011.
- The discussion paper outlines in further detail the suggested scope of the new rules. We have summarized the most significant propositions in the list below:
- The foreign entity will be obliged to register for VAT in Norway and charge 25 % Norwegian VAT on electronically deliverable services to consumers resident in Norway (B2C) from 1 July 2011. The existing rules for VAT on electronically deliverable services to business customers and public sector activities (B2B) are suggested to still apply, implying that the business customer has an obligation to report Norwegian VAT by the reverse charge procedure.
- A registration threshold of NOK 50 000 in taxable supplies is suggested [subject to confirmation after the public consultation]. A VAT registration obligation does not apply if the supplies are either exempt (without credit) or exempt (with credit) for VAT in Norway.
- A simplified VAT registration procedure may be chosen similar to the system in the EC if the foreign entity neither has a fixed place of business nor is resident in Norway.
- The foreign entity is suggested to have the complete responsibility for the calculation and payment of VAT to private consumers and non-taxable legal entities.
- A simplified VAT registration procedure is optional to the ordinary VAT registration obligation by use of a fiscal representative. The simplified VAT registration procedure is suggested in principal to imply a simplification of the documentation requirements as set out in the bookkeeping or accounting legislation.
- The VAT registration procedure and the VAT reporting according to the new suggested procedure will take place by use of electronically means, e.g. through internet.
- For the suppliers of electronically communication services (B2C), like telecommunication services, without any fixed place of business, but already registered for VAT in Norway with a fiscal representative according to the existing rules, the new simplified VAT registration procedure is optional.

- Foreign suppliers of electronically deliverable services B2B might opt to use the simplified VAT registration procedure for the supplies B2C.
- The simplified VAT registration procedure is not an option for foreign entities having a VAT registration obligation on the basis of making other business activities subject to VAT in Norway.
- The simplified VAT registration procedure implies that the foreign entity is not entitled to deduct any incurred Norwegian input VAT in the Norwegian VAT return. However, the foreign entity will have the right to apply for a refund of Norwegian VAT incurred in relation to the taxable activities in Norway by submitting an application to the Norwegian tax office.
- An ordinary registration procedure by use of a fiscal representative for VAT purposes will still entitle the foreign entity to deduct input VAT on a continuing basis through the VAT return. This alternative might be a cash flow advantage.
- The simplified VAT registration procedure requires that the foreign entity submit a statement to the tax office as soon as the conditions are met.
- The statement should contain the following information:
  - The name of the foreign entity
  - Postal address
  - Electronically addresses (www and @)
  - Tax registration number of the foreign entity in the country of establishment
  - A statement issued by the foreign entity declaring not to qualify for a VAT registration in Norway on the basis of making other taxable activities in Norway.
- The new VAT registration procedure implies an obligation to submit a simplified VAT return containing the following information:
  - The VAT identification number of the foreign entity (upon receipt of completion of the simplified VAT registration)
  - The basis for calculation of VAT
  - VAT amount in NOK
- The tax point is suggested to be the date of the payment as it is optional (no requirement) to issue an invoice for the services supplied.
- The VAT return is suggested to be submitted on a quarterly basis (even if only submitting nil returns)
- The VAT return has to be submitted electronically through World Wide Web access (www).
- The submitting of the VAT return and the payment of the corresponding VAT is suggested to fall due the 20<sup>th</sup> of the month following the VAT reporting period.
- The foreign entity has an obligation to keep track of the transactions forming the basis for the VAT reporting with a three weeks limit liability of access upon request by the tax office.
- The tax office will have legal basis to calculate statutory interest and levy penalties for late payment of VAT and/or non-compliance with the Norwegian VAT legislation.

## EU

### 2. Green Paper

Discussion paper forming the basis of a fundamental review of the VAT system in order to:

- reduce complexity of the current system;
- make the single market work better;
- maximize revenue collection;
- tackle the system's susceptibility to fraud;
- cope with changes in technology and the economic environment.

The Green paper sets out 33 questions concerning:

- the principles of taxation of intra-EU transactions; and
- other issues which need attention.

Period of consultation from 1/12/2010 to 31/05/2011.

Based on the consultation, the Commission will present its priorities for the future VAT system in a Communication at the end of 2011.

Legislative initiatives and other actions are to be expected from 2012 onwards.

The Green paper can be found at the following weblink:

[http://ec.europa.eu/taxation\\_customs/resources/documents/common/consultations/tax/future\\_vat/com\(2010\)695\\_en.pdf](http://ec.europa.eu/taxation_customs/resources/documents/common/consultations/tax/future_vat/com(2010)695_en.pdf)

The Green paper is accompanied by:

- a Staff Working Paper, which explores in more detail some of the individual issues raised in the Green paper ([http://ec.europa.eu/taxation\\_customs/resources/documents/common/consultations/tax/future\\_vat/sec\(2010\)1455\\_en.pdf](http://ec.europa.eu/taxation_customs/resources/documents/common/consultations/tax/future_vat/sec(2010)1455_en.pdf)); and
- a study of PwC on the feasibility of alternative methods for improving and simplifying the collection of VAT through the means of modern technologies and/or financial intermediaries ([http://ec.europa.eu/taxation\\_customs/resources/documents/common/consultations/tax/future\\_vat/vat-study\\_en.pdf](http://ec.europa.eu/taxation_customs/resources/documents/common/consultations/tax/future_vat/vat-study_en.pdf)).

### **3. Seven Member States referred to ECJ over VAT grouping**

The European Commission has referred the Netherlands, Ireland, Finland, Sweden, UK, Czech Republic and Denmark to the European Court of Justice (ECJ) with regard to their failure to respect their obligations under EU law as regards VAT grouping rules.

In July 2009, the Commission adopted a Communication on the VAT grouping option, setting out how the provisions on VAT grouping in EU legislation should be applied in practice, in a way that respects the basic principles of the EU VAT system and ensures that it has no adverse impact on the Internal Market.

Having examined national provisions on this issue, the Commission found that the legislation in seven Member States was incompatible with the EU rules on VAT grouping. For The Netherlands, Ireland, Finland, UK, Czech Republic and Denmark, the problem is that they allow non-taxable persons to join a VAT group. This is not in line with the provisions of the VAT Directive. Proceedings against Sweden and Finland are due to the fact that these Member States limit the VAT grouping system to financial and insurance services. EU VAT grouping rules do not allow for such a sectoral limitation. For The Netherlands, the proceedings also cover the failure to notify changes to the application of their VAT grouping scheme to the VAT Committee.

As these problems persist in these Member States, the Commission has now decided to refer them to the ECJ.

### **4. New VAT invoicing Directive adopted effective 1 January 2013**

ECOFIN has adopted the new VAT invoicing Directive, which is intended to increase the use of electronic invoicing, reduce burdens on business, support small and medium sized enterprises, and help Member States tackle fraud.

The principal effects of the new Directive are likely to be as follows:

Paper invoices and e-invoices become equal from 1 January 2013

The strict constraints for compliant electronic invoicing previously imposed have been removed and the new Directive should stimulate the individual Member States to implement additional simplifications in national rules to minimise burdens on businesses before 1 January 2013. The principle of equal treatment for paper and electronic invoices (without increasing the administrative burden on paper invoicing) is enshrined in the Directive.

Businesses will be able to organise their e-invoicing process in accordance with their own needs using processes and systems that meet their needs.

In the adopted text, some other changes have been made to the Principal VAT Directive, such as:

- optional scheme to cash account for VAT;
- chargeable event of continuous supplies of goods and services;
- use of conversion rates;
- when should an invoice be issued;
- which Member State's legislation is applicable in case of invoicing and in case of self-billing;
- option to Member States not to impose an invoicing obligation for exempt financial services and other exempt transactions;
- content of an invoice;
- simplified invoices;
- language requirements; and
- storage requirements.

## **5. Removing cross border tax obstacles for EU citizens**

On 20 December 2010, the European Commission published a Communication which outlines the most serious tax problems that EU citizens face in cross border situations and announced plans for solutions. From an indirect tax perspective, this includes a broader application of the current one stop scheme for traders supplying consumers in the telecoms, broadcasting and e-services fields.

The Commission recognises that e-shopping is severely hampered by tax obstacles such as complicated VAT rules and reporting requirements, with the result that only 7% of goods traded within the EU are bought online from another Member State. Extension of a "one stop shop" scheme for e-commerce, in order to make reporting obligations for businesses much simpler and easier for them to offer goods and services online to foreign consumers, is a possible solution.

The Commission will give feedback on the progress made in tackling cross border tax problems within the Citizenship Report in 2013 (see IP/10/1390).

The Communication COM(2010) 769 is available on the Europa website. A citizens' summary has also been published.

## **6. EU - VAT rules for travel agents**

The European Commission has decided to refer the Czech Republic, Finland, France, Greece, Italy, Poland, Portugal and Spain to the ECJ for failing to properly implement the tour operators' margin scheme (TOMS), by allowing it to apply to sales between tour operators and travel agents acting as principal rather than limiting it to sales directly to the traveller.

The special margin scheme for travel agents is included in the Principal VAT Directive in order to simplify the application of VAT for travel agents who act in their own name, given the fact that elements of the packages they sell may be located in different countries and therefore may be subject to different VAT rules.

Travel companies can benefit from the special margin scheme when they sell travel packages directly to travellers. In the view of the Commission, the scheme does not apply to travel agents who sell holiday packages to other companies (in particular to other travel agents) for re-sale, and this creates distortions of competition between travel agencies, as it leads to some businesses carrying a heavier tax burden than others.

## **7. Italy – Intra Community trade – additional notification**

New intra-community registration required by 28 February

Under a new anti-fraud provision, any business intending to make intra-community supplies or acquisitions of goods must register with the Tax Authority as an intra-community operator. Registrations must be submitted by 28 February 2011.

Under these new rules, businesses intending to make intra-community supplies and acquisitions of goods must communicate such intention to the Tax Authority in order to be entitled to do so.

The Tax Authority will check the reliability of the applicant and, within thirty days, decide whether or not to register the business and include it within the 'VIES' system. During this period, the business is not allowed to make any intra-community supplies or acquisitions.

The new requirements also apply to existing VAT registrations and unless appropriate notification is made to the Tax Authorities, the following will not be authorised to carry out intra-community transactions after 28 February; businesses which:

- Registered for VAT before 31 May 2010; and
- Did not file Intrastat sales/purchase declarations in 2009 or 2010; or
- Have outstanding VAT compliance issues for 2009.

Also affected are businesses which:

- Registered for VAT purposes after 31 May 2010 and before 28 February 2011; and
- Did not expressly notify the Tax Authority of an intention to carry out intra-community transaction; and
- Did not carry out any intra-community transactions in the final six months of 2010 (or did not file Intrastat declarations during this period).

## **8. Finland – Reverse charge on construction services from 1 April 2011**

Under the new rules, the purchaser will account for the output VAT on behalf of the seller under the following conditions:

The service is considered to be a construction service, or labour leasing to be used in performing construction services;

The purchaser is a taxable person selling construction services on an ongoing basis.

The new rules apply also to intermediaries and are obligatory if the above conditions are fulfilled.

Foreign companies that provide or purchase such services are also affected by the new rules.

Proper definition of the services in question and identification of the purchaser are of great importance. Adequate documentation in the contracts is also crucial in order to avoid any unforeseen consequences.

## **9. Germany - VAT package update – Extension of the use & enjoyment**

Under a new amendment to the German VAT Act, with effect from 1 January 2011, a number of additional services will be treated as outside the scope of German VAT if used and enjoyed outside the EU.

Under the new rules, 'use and enjoyment' provisions will be extended to the following supplies when used and enjoyed outside the EU:

transport services of goods (including similar services connected thereto), if supplied to a taxable subject;

work on (or valuation of) moveable tangible property, if supplied to a taxable subject;

Supplies procured by a taxable person applying the Tour Operators Margin Scheme (TOMS) ;

Telecoms services (B2C);

The current use and enjoyment rules will also be applicable to inbound supplies of services within Art. 59 (a) - (g) Directive 2008/8/EC, if such services are provided to non-taxable public bodies, regardless of whether they are businesses or in possession of a VAT ID number;

The amendments are due to take effect from 1 January 2011.

## 10. New VAT rates applicable

	Came into force	Amendments in standard VAT rates	Amendments in reduced VAT rates	New VAT rates
<b>Cyprus</b>	10 January			5 % on foodarticles and medicines
<b>Latvia</b>	1 January	21 -> 22%	10 -> 12%	
<b>Slovakia</b>	1 January	19 -> 20%		
<b>Barbados</b>	1 December	15 -> 17,5%		
<b>UK</b>	4 January	17,5 -> 20%		
<b>Greece</b>	1 January		11 -> 13 %, 5,5 -> 6,5 %	
<b>Portugal</b>	1 January	21 -> 23%		

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For more detailed information, please do not hesitate to contact your local PwC contact or

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