

## ***European Union***

### **ECJ – Taxpayers must be able to recover in full VAT repayable to customers**

The ECJ has held, that a supplier may claim from the national tax authorities the full refund of VAT that it has paid where the same supplier is required to refund in full its customers for the collected VAT. In the case the Italian tax authority had incorrectly deemed supplies of certain services to be VATable, then later conceded they were exempt. The supplier in question was required by the Italian Civil Courts to refund its customers 10 years worth of incorrectly invoiced VAT, but was initially only able to claim 2 years worth of VAT from the Italian tax authorities because of a 2 year statute of limitations in Italy. This principle should apply to situations where a Member State has made an error of policy or law.

### **EC – Proposition for implementing from 2015 the “One Stop Shop” scheme for VAT compliance**

On 1<sup>st</sup> January 2015, a number of substantial changes to the VAT Directive will come into effect relating to the special schemes for businesses supplying telecommunications, broadcasting or electronic services to non-taxable persons in other Member States (the so-called "mini One Stop Shop"). A similar scheme is already in operation for non-EU businesses supplying electronic services. However Regulation No 282/2011 does not currently provide for any measures to implement these provisions. The Commission has therefore published a Regulation proposal in order to set out the rules on the application of the respective provisions of the VAT Directive.

## ***EU Member States***

### **Bulgaria, Denmark, Norway, Slovakia – Compulsory e-filing from 1<sup>st</sup> January 2012**

There are some new obligations regarding e-filing with effect from 2012. Bulgarian VAT returns should be filed electronically where there are more than five records in the monthly ledger. Intrastat declarations in Denmark have to be filed electronically. VAT returns in Norway have to be filed electronically but a derogation may be granted on exceptional circumstances. Slovakian VAT returns will also have to be filed electronically from April 2012.

### **Bulgaria, Denmark - New Intrastat reporting thresholds in 2012**

The Bulgarian thresholds for reporting the statistical value on Intrastat reports (when applicable), have increased from BGN 3,400,000 to BGN 4,000,000 for arrivals and from BGN 7,500,000 to BGN 9,500,000 for dispatches. The Danish thresholds for submitting the Intrastat reports have been reduced from DKK 3,600,000 to DKK 3,400,000 for arrivals and from DKK 4,800,000 to DKK 4,500,000 for dispatches.

### **Belgium – VAT rate changes effective 1<sup>st</sup> January 2012**

Notary and Bailiff's fees are no longer VAT exempt and are now subject to 21% VAT and the VAT rate on digital TV subscriptions has increased from 12% to 21%. Excise duty on tobacco and liquor has also increased.

### **France - Legislation on the “répondant fiscal” is incompatible with EU VAT Directive**

The ECJ has held that the procedure called “répondant fiscal” under which, instead of applying the VAT reverse charge, the client and supplier decide that the non-established supplier will register for VAT in France and designate a tax representative (“répondant”) to declare and pay VAT on his behalf. The French Tax authorities have announced that the “répondant” procedure is to be withdrawn.



### **Germany - New certificates as evidence of EC supplies effective from 1<sup>st</sup> April 2012**

In order to zero rate their EC deliveries of goods from Germany, taxable persons will be required to obtain a certificate completed by the customer called an Entry Certificate (Gelangensbescheinigung). This certificate will replace the existing documents (CMRs, delivery notes etc.) and will be the only evidence that the goods have effectively arrived in the Member State of destination. The new rule comes into effect from 1<sup>st</sup> April 2012.

### **Germany - VAT group in case of insolvency**

The condition of organisational integration (a key requirement for VAT groups) has been held to no longer exist in event of an insolvency under which the power to sell the company and make administrative decisions is transferred to a temporary liquidator.

### **Germany – Allocation of goods to business assets by 31<sup>st</sup> of May**

The Supreme Tax Court has held that the legal deadline for the submission of the annual VAT return (31<sup>st</sup> May of the following year) is also the deadline for allocating goods to the business's assets by means of such a return.

### **Italy – 2010 high value supplies to be reported by the 31<sup>st</sup> of January 2012**

Businesses that have made or received single supplies equal to or exceeding EUR 25,000 during the 2010 fiscal year have until 31<sup>st</sup> of January 2012 to declare the operations. The deadline for reporting transactions relevant for VAT purposes of transactions equal to or greater than € 3,000, made or received in 2011, is 30<sup>th</sup> April 2012.

### **Luxembourg – Revised VAT treatment: unused telecommunication credits**

From 2008, sales of expired and unused telecommunication credits (for example on pre-paid cards) were taxable at the 15% VAT rate, whereas the sale of such credits was outside of the scope of VAT. Luxembourg has now modified its VAT legislation so that expired and unused telecommunication credits are also non-taxable.

### **Norway – Increase of the intermediate VAT rate to 15% from 1<sup>st</sup> January 2012**

The intermediate VAT rate applicable on nutrients/foodstuffs has increased on 1<sup>st</sup> January from 14% to 15%.

### **Romania - Changes in the 394 declaration (list of local sales & purchases)**

The 394 declaration, which is a list of local sales and purchases, is to be submitted on a monthly rather than semi-annual basis from January 2012. This declaration includes purchases and deliveries in Romania made between companies registered for VAT in Romania and may now be submitted electronically.

### **Romania – Possible cancellation of VAT registration of dormant companies**

The Romanian tax authorities have published a draft ordinance which states that the VAT registrations of companies that do not carry out economic activities or do not submit VAT returns will be cancelled.

### **Sweden – Lower threshold for quarterly EC Sales Lists and changes in VAT reporting**

From 1<sup>st</sup> January 2012 the threshold below which businesses making EC supplies of goods may submit quarterly EC Sales Lists has been reduced from SEK 1,000,000 to SEK 500,000. Above this threshold, EC Sales Lists should be filed monthly. From 1<sup>st</sup> January 2012, Swedish businesses no longer have the possibility to report their VAT in the income tax return but will have to report VAT in their VAT return.

### **United Kingdom – Lower threshold for quarterly EC Sales Lists and Intrastat reporting changes**

From 1<sup>st</sup> January 2012, the threshold below which businesses making EC supplies of goods may submit quarterly instead of monthly EC Sales Lists has been reduced from EUR 100,000 to EUR 50,000 (GBP 35,000). The low value exemption threshold increases from GBP 130 to GBP 180 from 2012. Moreover certain delivery terms codes and nature of transaction for the reporting have changed.

If you require any further information or analysis on the subjects above, please contact us at [news@vatsystems.eu](mailto:news@vatsystems.eu)

