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Taxation

VAT Package Update: Place & time of supply

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Major changes to VAT rules on cross-border services come into force on 1 January 2010

The introduction of the VAT Package, which takes effect across the EU on 1 January 2010, is now almost upon us. The Package includes wide ranging changes to the 'place of supply' rules that determine the VAT treatment of cross-border services.

All organisations that supply services to overseas customers or receive services from abroad could be affected. Businesses should ensure they understand and are ready to implement the changes for 2010.

What is changing?

Under the old rules, unless an exception applied, a service was deemed to take place in the country where the business supplying it was located.

With effect from 1 January 2010, this default position (the 'general rule') changes so the place of supply of services provided to **business** customers will be where the **customer** is established. (Services provided to non-business customers will continue to be treated as supplied where the supplier belongs.)

Unless an exception applies, the responsibility for dealing with the VAT on a business to business (B2B) service will rest with the customer, who must self-account for VAT as a 'reverse charge' on services they buy from abroad.

This arrangement will already be familiar to those supplying and receiving some cross-border services, such as consultancy or advertising, which have been taxed in this way for some time. However, the new basic rule may change the VAT position for B2B providers of other services, such as freight transport, vehicle hire, valuation or work on goods, agent and

intermediary services, management services and outsourced administration.

Organisations with both business and non-business activities (such as charities) will be treated as a business customer, regardless of the use to which the services will be put. While most businesses will be able to claim back the reverse charged VAT as input tax on their VAT return, those that cannot recover all the VAT they pay on purchases will suffer an additional cost.

The exceptions

There are a number of exceptions to which special place of supply rules apply:

- **Land related services** – are supplied in the country where the land is located.
- **Restaurant and catering services** – are supplied where physically carried out or, when supplied on international transport (e.g. flights or Eurostar trains), supplied at the place of departure.
- **Short term hire of means of transport** – are supplied where the vehicle is made available to the customer.
- **Cultural, artistic, sporting, scientific, educational and entertainment services** – are supplied where the activity takes place.
- **Passenger transport** – is supplied where the transport begins.
- Use and enjoyment rules apply for **telecoms, broadcasting, electronically supplied services and hire of goods**.

Remember, unless the service you buy or sell cross-border falls into one of these exceptions, the general rule applies. Further changes to the place of supply rules are set to be introduced in 2011, 2013 and 2015.

Time of supply

1 January 2010 also sees new rules introduced to harmonise the time of supply of cross-border services throughout the EU. This will affect businesses receiving 'general rule' services. The rules are:

- **Single supply of services** - the reverse charge must be accounted for on completion of the service, or when it is paid for if this is earlier.
- **Continuous supply of services** - the reverse charge is accounted for at the end of each billing or payment period (or on payment if earlier) with a compulsory tax point on 31 December in the absence of such periods or payment.

What should be done now?

Suppliers of cross-border services

Review the VAT position of all the B2B cross-border services you supply to make sure that you understand and apply the correct treatment from 1 January 2010.

Does your service fall into any of the exceptions? Can this be supported by contracts and other business documentation? If not, the supply is likely to fall under the new rules and take place outside the UK, meaning you won't need to charge UK VAT.

You will need to collect evidence of your customer's business status, such as their VAT registration number or alternative evidence that they are in business if they are not VAT registered. You may also have to declare the service on an EC Sales List.

Receiving cross-border services

Review the VAT position of all the B2B cross-border services you receive to check whether or not you need to start to account for reverse charges from 1 January 2010.

Has your supplier understood the new rules and dealt with VAT correctly on their invoice to you?

Charities and other non-business organisations

Do your suppliers know that you should be treated as a B2B customer and, therefore, not charged VAT at the rate applicable in the supplier's country? This is important to avoid the double taxation that would arise from paying local VAT plus the reverse charge in the UK.

For help and advice on VAT on cross-border services please get in touch with your local PKF VAT contact:

www.pkf.co.uk/vatteam

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