



KMLZ VAT NEWSLETTER

A look across the border

1. Italy

Italy has decided to implement a reverse charge scheme for taxable supplies of laptops, games console and tablets. The regulation will enter into force 60 days after the government has approved a law decree implementing the reverse charge scheme. This will probably occur in May 2016. The regulation will be valid until the end of 2018.

2. Latvia

Latvia has announced its intention to implement a reverse charge scheme for taxable supplies of laptops, integrated circuits and mobile phones as of 01.04.2016, in order to combat tax fraud.

3. Austria

The Austrian fiscal authorities made some interesting conclusions in the Salzburger Steuerdialog 2015, which are relevant to cross-border chain transactions:

- As regards the questions of how many taxable persons are involved in a supply, if a chain transaction is deemed to be carried out and to which supply the transport has to be allocated, it has to be taken into consideration whether the parties involved form part of a VAT group. As controlled companies are deemed to

VAT developments abroad as regards reverse charge mechanism and chain transactions

At the end of October 2015, the EU Commission rejected an application to generally apply the reverse charge scheme to all supplies valued at more than EUR 10,000. Thus, some member states are still trying to extend the reverse charge scheme's scope to the extent permitted by the EU VAT Directive. Austria has developed its regulations as regards chain transactions and triangular transactions and with respect to travel service supplies.

be part of the parent company and only the parent company is considered to be a taxable person, the controlled companies are not deemed to be involved in the supply. However, this only applies to parties involved which are part of a VAT group in Austria. But it is not relevant if the parties involved are part of a VAT group in the other country where the goods are shipped to or shipped from.

- The legal consequences for a triangular supply may only occur if the intermediate taxable person meets the following formal requirements:
 - A reference on the invoice to the effect that a triangular supply is deemed to have been carried out and that the liability for the payment of the VAT is transferred to the last recipient.
 - Declaration of acquisitions in the EC Sales list with the reference "triangular transaction".

It is not possible to meet these requirements retroactively. If the formal requirements are not met, the legal consequences following a triangular transaction will not automatically occur, merely by virtue of a later correction.



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However, it triggers no consequences if the triangular supply was initially not declared in the VAT return.

Furthermore, the Austrian VAT Guidelines were amended in Rz. 4294, which is relevant for triangular transactions. The simplification for triangulation supplies will now be applicable even if the recipient is registered for VAT in the member state of departure of the goods.

By means of the Abgabenänderungsgesetz, it was decided to adjust the regulation as regards the margin scheme for travel services. In accordance with ECJ case law (KMLZ Newsletter 28/2013), it will now also be applied amongst taxable persons in instances where the travel services are ultimately consumed by a non-taxable person. This amendment will not enter into force until 01.01.2017.

4. Czech Republic

The Government Decree, which provides for the extension of the reverse charge scheme from 01.01.2016, has been retroactively amended with effect from 01.02.2016.

- Supplies of electricity certificates, as well as the supply of electricity and gas to retailers, are now subject to the reverse charge scheme.
- The threshold of CZK 100,000 for the newly implemented reverse charge scheme, which covers supplies of crude metal, semi-finished metal products, precious metal, mobile phones, integrated circuits, games console, laptops and tablets etc., no longer has to be taken into account. There is now the possibility to conclude an agreement in writing pursuant to civil law with a busi-

ness partner, which provides that the reverse charge scheme shall apply to all supplies of the products in question, regardless of the value of the supply.

It is planned to further extend the reverse charge scheme with effect from 01.05.2016. This time it will be extended to cover all taxable supplies within the Czech Republic rendered by a taxable person, who is neither established nor registered for VAT in the Czech Republic, to a taxable person registered in the Czech Republic.

5. Romania

Romania has implemented a reverse charge scheme with respect to supplies of integrated circuits by a law, which was published on the evening of 31.12.2015, after first undergoing a last minute amendment. This amendment took the form of a further requirement being added to the original version. The reverse charge scheme will only apply if the invoiced amount (without VAT) amounts to at least RON 22,500.

Additionally, the Implementing Regulation, as regards the new reverse charge scheme, was amended on 13.01.2016. Unfortunately, it does not provide for a specific differentiation specifying which products are considered to be integrated circuits. Particularly, it does not refer to the combined nomenclature, like in other countries. In case of doubt, business partners are recommended to agree, in writing, in terms of whether the parties involved consider the reverse charge scheme to be applicable to the supplied products or not. Alternatively, business partners could directly ask the Romanian Ministry of Finance to provide a ruling in this respect.