KÜFFNER MAUNZ LANGER ZUGMAIER

KMLZ VAT NEWSLETTER

New VAT regulations in 2017

AUSTRIA deals with chain transactions, the simplification for intra-Community triangulations and minimum invoice requirements +++ BELGIUM abolishes advance payments if quarterly VAT returns are filed +++ FRANCE plans real-time reporting of sales +++ HUNGARY plans obligation to electronically transmit invoice details +++ LATVIA obliges newly registered companies to submit monthly VAT returns +++ SPAIN implements real-time reporting of sales as of 1 July 2017 +++ SWITZERLAND amends regulations regarding tax liability and plans referendum on reduction of VAT rates

A look across the border

1. Austria

The Austrian Fiscal Court (BFG) has submitted questions to the ECJ regarding the allocation of the intra-Community supply within a two-tier chain transaction (C-628/16, legal case *Kreuzmayr*). In particular, the Fiscal Court would like to know whether the allocation of the intra-Community supply depends on the fact that the second supplier provides information regarding the re-sale to the first supplier.

In a further submission (C-580/16, legal case *Bühler*), the Fiscal Court addressed the ECJ regarding the formal requirements for the application of the simplification of intra-Community triangulation. On the one hand, the question is whether the simplification is applicable if the second supplier is established in the same Member State as the first supplier but the second supplier uses a VAT-ID of another Member State. On the other hand, the question is whether the submission of the recapitulative statement is required in order to apply the simplification rule.

In its judgment of 11 January 2017, the Fiscal Court (case no. RV / 7101049/2010) ruled that the separately stated VAT amount is not a minimum requirement for an invoice. The decision may be of interest in cases involving retroactive invoice corrections where the VAT amount was not stated separately in the original invoice. Furthermore, the Fiscal Court has ruled that, even in the absence of one of the minimum requirements, input VAT may be deducted if the material requirements of the input VAT deduction are met. For this reason, the proof of payment may be an important indicator.

2. Belgium

By Royal Decree of 16 February 2017, advance payments of quarterly VAT returns were abolished as of 1 April 2017. Previously, advance payments had to be made if quarterly VAT returns were filed. The advance payments were due by the 20th day of the second and third month following the respective quarter. Each advance payment was equivalent to 1/3 of the VAT liability of the previous quarter.

3. France

As a result of the 2017 Finance Law, as of 1 January 2018, the obligation to immediately report sales in excess of

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EUR 863.000 is to be implemented. Sales above this threshold are to be reported within 24 hours. Details regarding the formal requirements have not yet been published. A penalty of 1 % of the difference between the invoiced amount and EUR 863.000 will be imposed in the case of late-filing.

4. Hungary

As of 1 July 2017, Hungary plans to implement the obligation to electronically submit invoice details to the tax office. The Minister of Economic Affairs was assigned to the elaboration of the rules in detail. It is not yet known how the implementation will take place and, in particular, whether it will be a real-time reporting obligation or a periodic declaration.

5. Latvia

Newly registered companies are obliged to submit VAT returns on a monthly basis during the first six months of registration.

6. Spain

As of 1 July 2017, Spain will become the first European country to implement real-time reporting of tax data. The following taxable persons are affected by the amendment:

- Taxable persons with a taxable turnover in Spain of more than EUR 6 million p.a.
- Taxable persons who submit monthly VAT returns
- Parent companies of a VAT group

Information on each transaction has to be submitted to the tax office within four days of receipt and issuance of each invoice in XML-format. During 2017 this deadline has been extended to eight days. Late reports are to be punishable by the imposition of a penalty of the equivalent of 0.5 % of the invoice amount or EUR 300, whichever is greater. The maximum penalty is EUR 6.000.

7. Switzerland

Switzerland amends the VAT Act. Among other things, a new VAT threshold will be introduced. Currently, companies are not obligated to register for VAT purposes if the taxable supplies in Switzerland are less than CHF 100.000 p.a. In future, the company's global sales will be decisive. The date on which the amendment enters into force is not yet known and depends on the decision of the Federal Council.

The temporary VAT increase introduced on 1 January 2011 to finance disability insurance i.e. a 0.4 % increase in the standard tax rate, a 0.2 % increase in the accommodation tax rate and a 0.1 % increase in the reduced tax rate, expires at the end of 2017. The standard tax rate would then be reduced to 7.6 %, the tax rate for accommodation would be reduced to 3.6 % and the reduced tax rate would be reduced to 2.4 %. However, due to an increase in each tax rate of 0.1 % for financing the railway infrastructure, as of 1 January 2018 the tax rates would be 7.7 %, 3.7 % and 2.5 %. However, in order to fulfill pension claims, it is proposed that the current VAT rates remain unchanged at 8.0 %, 3.8 % and 2.5 %. Whether this is actually the case, depends on the outcome of a national referendum, which is expected to take place on 24 September 2017.

In addition, the introduction of a distance-sales regime, comparable to Articles 33 and 34 of the VAT Directive 2006/112/EC, is planned.

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