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KMLZ VAT NEWSLETTER

Mid year changes

After the extensive changes which occured at the beginning of 2013, there are not too many new midyear regulations in the EU member states to report. Nevertheless, VAT rates, as usual, remain rather volatile. Furthermore, the fight against VAT fraud is increasingly gaining a higher profile. The EU Council has agreed to two proposals for new directives which allow member states to implement measures against VAT fraud temporarily and on short notice.

A look across the border

The Netherlands, Austria, Italy, the UK and Germany have implemented a reverse charge mechanism for supplies of mobile phones and integrated circuits and were granted derogation from the Directive 2006/112/EC until 31 December 2013. The UK and Germany just recently applied for an extension of the derogation. The EU commission recommended to the EU Council that will have to make the final decision on the applications, to reject it.

In its meeting of 21 June 2013, the EU Council agreed to adopt the directive allowing member states to implement, on an optional and temporary basis, a reverse charge mechanism for supplies of certain goods and services. This is based on a proposal for a directive by the EU commission in 2009 which was only adopted partially. The new directive will potentially apply to supplies of mobile phones, integrated circuits, gas and electricity, telecom services, game consoles, tablet PCs and laptops as well as certain agricultural products and metals. The directive will be limited until 31 December 2018.

It seems unlikely that the EU Council will not extend the derogation after 2013. Nevertheless, the five countries may keep the regulations on the reverse charge scheme based on the new directive. It is even possible that it will be implemented in other countries and for other sectors as well.

Furthermore, the EU Council has agreed to adopt the directive for a quick reaction mechanism. Based on this directive, the EU member states will be permitted to take immediate measures in the case of sudden and massive VAT fraud.

Czech Republic

As of 2013 entrepreneurs are obliged to report to the tax authorities details of the bank accounts they are using for business purposes. The details are published in a publicly available register. If the customer should pay to a bank account not published in the register, he can be held liable for VAT not paid by the supplier to the tax authorities. The application of this regulation was postponed to 1 October 2013. Furthermore, a draft law was published according to which the customer can only be held liable if the net amount for the supply exceeds CZK 700,000. The new effective date as well as the threshold, do not apply to the potential liability for VAT unpaid by unreliable taxpayers. Their names have been being published since mid May 2013. Taxable persons

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receiving supplies subject to Czech VAT should check the content of the registers with regard to their customers.

Italy

As previously mentioned, the VAT rates will be increased with effect from 1 July 2013. According to the most recent plans, the rates shall only be increased by one percent and be limited to the standard VAT rate of 21%. However, the Italian government may yet seek to avoid this increase. Just recently, the Italian government decided to postpone the increase for 3 months until 1 October 2013.

Slovenia

The VAT rates will be increased with effect from 1 July 2013. The standard VAT rate will rise from 20 to 22%. The reduced rate will rise from 8.5 to 9.5%.

Slovakia

In February 2013, the Financial Directorate published a list of non-compliant taxpayers. The list will be updated bi-monthly. One should take care when purchasing supplies from persons on that list. The customers may be held liable for VAT not paid by such persons.

Israel

The standard VAT rate that was just increased to 17% was increased again to 18% with effect from 2 June 2013. This is obviously contrary to the plans to bring it back to 16%. The standard VAT rate in the Palestinian Autonomous Areas was also increased. The new rate of 16% came into effect on 1 June 2013. According to an agreement between the Palestinian Authority and the Israel government the difference between their VAT rates should be no more than 2 percent.

Luxembourg

As far back as 2011 there were discussions about increasing the standard VAT rate as a way of combating the budgetary deficit. Such plans appear to be becoming a reality. The rate may be increased from 15 to 16% or even to 17%. Luxembourg aims to remain the EU member state with the lowest VAT rate. Malta and Cyprus (until the increase to 19% in 2014) are currently in second place with 18%.

Poland

The VAT rates were increased in 2011, e.g. the standard VAT rate went from 22 to 23%. This was intended to be a temporary measure until 31 December 2013. However, currently it appears that the increase will not be reversed.

With effect from 1 April 2013, the regulations for chain transactions in Art. 22 para. 2 and 3 of the Polish VAT Act were amended. To date the parties to a chain transaction have had some kind of choice as to which supply the transport is allocated to in circumstances where the intermediate party ordered the transportation. Now, according to the wording of the law, it appears that the transport can only be allocated to the supply of the intermediate party who ordered the transport under certain conditions. At the moment, there is some uncertainty on the interpretation of the new regulation. In particular, it remains unclear which view will be taken by the Polish tax authorities.

A new regulation regarding the VAT deduction was implemented with effect from 1 January 2013. The VAT deduction will have to be amended if the respective invoice was not paid within 150 days as from the agreed due date. Taxable persons can be punished with a fine of 30% of the VAT amount if they fail to make an amendment.