KÜFFNER MAUNZ LANGER ZUGMAIER

KMLZ VAT NEWSLETTER

A look across the border

News after the summer break

BELGIUM implements entry certificate +++ FRANCE promotes e-invoicing +++ LATVIA expands reverse-charge-system +++ NORWAY intends to implement SAF-T +++ AUSTRIA boasts interesting court decisions +++ POLAND publishes regulation regarding SAF-T +++ SLOVENIA restricts registration requirement and implements simplification for import VAT +++ CZECH REPUBLIC expands reverse-charge-system and abolishes tax exemption +++ Hungary expands EKAER obligations

1. Belgium

The Belgian tax authorities published a ruling on 1 July 2016, which states that, henceforth, entry certificates are sufficient to serve as documentary evidence for the VAT exemption of intra-Community supplies.

2. France

Like Italy, France has now implemented the obligation to issue invoices to public institutions exclusively by electronic means and to submit these invoices via a common portal. The implementation will take place gradually and according to company size, between 1 January 2017 and 1 January 2020.

3. Latvia

With effect from 1 July 2016, the reverse-charge-system was implemented for domestic supplies of cereals and industrial crops.

4. Norway

Norway is the latest country to require companies to submit SAF-T Files. The intention is to implement this change on 1 January 2017. However, smaller companies with a turnover of less than NOK 5 million p.a. or less than 600 taxable transactions p.a. shall be excluded from this obligation.

5. Austria

The Federal Fiscal Court made some interesting decisions in the first half of 2016:

- 3 February 2016: Following the ECJ judgments *Pannon Gep* and *Petroma Transports*, the correction of invoices for the purposes of VAT deduction has a retro-active effect. This means that VAT deduction is already to be granted in the period in which the corrected (original) invoice is issued.

- 2 June 2016: There is no safety net acquisition VAT in accordance with sec. 3 para. 8 Austrian VAT Act 1994 (analog sec. 3d sentence 2 German VAT Act), if the buyer uses the VAT-ID-no. of the Member State of dispatch for intra-Community supplies (contrary to recital 3777 of the Austrian Administrative VAT Guidelines, analog sec. 3.14 para. 13 of the German VAT Circular).

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- 2 June 2016: If the middle entrepreneur in a triangular operation does not declare its supply in the EC Sales list, safety net acquisition VAT in accordance with sec. 3 para. 8 Austrian VAT Act 1994 (analog sec. 3d sentence 2 German VAT Act) arises. This would also apply even in circumstances where all other formal conditions of a triangular operation have been met. Safety net acquisition VAT cannot be avoided by correcting the EC Sales list.

6. Poland

The Polish tax authorities have published a regulation with details regarding SAF-T Files, which have to be submitted as of 1 July 2016. It regulates, inter alia, the following:

- Foreign entrepreneurs only need to submit two files: VAT register and sales invoices.
- For months in which no taxable transactions have taken place, it is necessary to submit nil-returns.
- As of 1 January 2017, the tax number of the customer will be added to the data that is to be submitted.

7. Slovenia

On 27 June 2016, the amendments made by the Implementing Regulation regarding VAT law were published. Foreign companies that only carry out VAT exempt supplies with the right to deduct VAT in Slovenia are no longer required to register. Input VAT may be claimed in the refund procedure under Directive 2008/9/EC.

Furthermore, more changes regarding VAT law came into force on 1 July 2016. Import VAT may be declared in the monthly VAT return and be deducted as input tax at the same time. This means, it does not have to be paid as import VAT and pre-financed. However, this is only possible for foreign entrepreneurs if a tax representative, who can be held liable for the taxes, is appointed.

8. Czech Republic

On 29 July 2016, several changes regarding the VAT Act came into force:

- The reverse-charge-system was implemented for domestic supplies. Tax liability is transferred to the customer if the supplier is not established in the Czech Republic and is not registered for VAT purposes there, while the customer is registered for VAT purposes in the Czech Republic.
- VAT exemption for supplies into and within the free-trade areas in the Czech Republic, as well as services for goods within the free-trade areas, were abolished.
  As of 1 September 2016, the tax office Ostrava will be responsible for foreign entrepreneurs instead of the tax office Praha.
- Penalties for the delayed submission of Control Statements implemented on 1 January 2016 were increased.

9. Hungary

The electronic system to control the physical supply of goods on Hungary's roads (EKAER – implemented in 2015) has been extended with effect from 1 August 2016. The limitation according to which an EKAER reporting was only required for transports with vehicles of more than 3.5 tons was abolished. Furthermore, the potential penalties were increased and may amount to up to HUF 1 million.