KÜFFNER MAUNZ LANGER ZUGMAIER

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KMLZ VAT NEWSLETTER

A look across the border

1. France

The regular VAT rate of 19.6% will increase to 20% with effect from 1 January 2014. Furthermore, the reduced rate of 7% will increase to 10%. Only the rate of 5.5 % will decrease to 5%.

2. Italy

In mid September, an official statement was published announcing that the Italian standard VAT rate would not be increased, from 21% to 22%, on schedule with effect from 1 October 2013. The increase was intended to be postponed again until 1 January 2014. However, as it transpired, the respective legal provision was not ultimately signed, due to the political developments which took place during the last weekend in September. Hence, there was no postponement and the increased VAT rate of 22% became effective on 1 October 2013. The Italian tax authorities confirmed this in a press release published in the evening of 30 September 2013. The press release also stated that transitional rules will be applicable. It will be possible, for example, to regularize invoices issued in October showing the old VAT rate, without any sanctions, up until 27 December 2013. The exception to this will, however, be with respect to interest.

Fight against VAT fraud gains priority

Currently, the fight against VAT fraud is on everyone's mind. The EC-Directive on the Quick Reaction Mechanism as well as the EC-Directive on the optional application of the reverse-charge mechanism became effective on 15 September 2013. Furthermore, according to a recent study, 2011 VAT losses amounted to approximately 193 billion euro. Hence, it is not surprising that the EU member states are, in addition to VAT rate changes, focusing their attention on measures to fight tax fraud.

3. Poland

As of 1 October, 2013, a new regulation will become effective which is aimed at combating VAT fraud. Customers of so-called sensitive products will become jointly and severally liable for overdue VAT which should have been paid by the supplier. The products concerned are listed in Attachment No. 13 of the Polish VAT Act, and include petrol, diesel oil, gas, fuel oil, lubricating oil, steel products, unprocessed gold, waste and secondary raw materials.

According to Art. 105a of the Polish VAT Act, the customer becomes liable if he knew or should have known, at the moment the supply is performed, that the supplier does not intend to pay, or at least not fully pay, the appropriate VAT to the tax authorities.

Furthermore, supplier trading in sensitive products will be required to file VAT returns each month rather than each quarter. In addition, a reverse charge scheme will be implemented for supplies of certain waste materials.

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4. Slovakia

Currently, the Slovakian parliament has to decide on a draft law which will amend the Slovak VAT law with effect from 1.January 2014. Following the implementation of new regulations in 2013 concerning joint and several liability, (see our Newsletter 14/2013), the fight against tax fraud has, once again, become an important issue.

In future, businesses will have to file a new declaration, electronically, in the form of an Inland Recapitulative Statement. It will have to contain detailed information on the supplies of goods and services rendered and purchased:

- VAT-ID of supplier / Customer
- Invoice number
- Date of supply or date of payment
- Taxable amount
- VAT amount
- VAT rate
- Input V AT deduction
- In certain cases (local reverse charge for specific goods): nature and quantity as well as CN-Code.

Not filing the new statement could result in a fine of up to 100,000 EUR, rejection of the particular claim for a VAT refund or cancellation of VAT registration.

Furthermore, the scope of the reverse-charge scheme will be extended to supplies of mobile phones and integrated circuits (as in Germany, UK, Italy, Austria and the Netherlands), as well as agricultural crops and metals.

5. Czech Republic

The new liability regulations referred to in Newsletter 14/2013 regarding payments to bank accounts not registered with the tax authorities will not become effective on 1 October 2013. According to an information document issued by the General Financial Directorate, the enforcement will be postponed again, this time until 1 January 2014. Furthermore, the proposed threshold of 700,000 CZK, below which no liability would arise, will not be adopted. The Senate did not agree to the draft law.

6. United Kingdom

With effect from 1 October 2013, Regulation 129 of VAT Regulations 1995 will be amended in order to bring the UK law for zero-rating of goods intended to be exported outside the EU into line with EU law. Currently, where the goods are sold to a customer who is established in a country other than the UK but registered for VAT in the UK, the supply is not eligible for zero-rating if the goods are exported under the control of the customer (indirect export). However, according to Art. 146(1)(b) of Directive 2006/112/EU, the zero-rating can only be denied if the customer is established in the country of departure. The VAT registration would not be relevant. Therefore, the UK will now accept zero-rating for indirect exports if the customer is not established in the UK but registered for VAT there. As an additional note: Due to the favorable EU law, the zero-rating is applicable even before the new law becomes effective.

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