

VAT

Cross Border VAT changes from 1 January 2010



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Who should read this?

Any business that makes intra EU supplies of services or has incurred VAT in other EU countries.

Changes taking place

From 1 January 2010 the following changes, which are outlined below, will take place:

- The place of supply rules for working out when to charge VAT on services supplied to business customers (B2B) in other EU countries will be simplified.
- A new reporting requirement in respect of intra EU B2B supplies of services.
- A new electronic system for claiming back VAT incurred in other EU countries.

Place of Supply Rules

The place of supply rules consist of a basic rule and a series of exceptions. The exceptions take priority but if none of those are relevant the basic rule applies. With effect from 1 January 2010 the basic rule will change from "the supplier should charge VAT" to "the customer should self account for the VAT via the reverse charge".

Evidence of business status

Evidence that the customer is VAT registered elsewhere in the EU will normally be sufficient. If the customer is not VAT registered other evidence will be required such as letters from tax authorities.

Exceptions

- Cultural, scientific, sporting, educational and entertainment services will be subject to VAT in the country where the service is performed.
- Property related services will be subject to VAT according to the location of the real estate.
- Restaurant and catering services will be subject to VAT where the activity takes place.

If you are involved in any of these activities you may need to register for VAT in the relevant country in order to account for local VAT.

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Are other supplies affected?

No, the changes only affect intra EU B2B supplies of services.

Reporting requirement

From 1 January 2010 it will be necessary to submit quarterly returns (EC Sales Lists or ESLs) to report to HMRC the VAT numbers and value of services supplied VAT free to customer VAT registered in other EU countries.

Services supplied to non VAT registered customers are not reportable even if VAT was not charged.

The reporting periods will be calendar quarters (quarters ending 31 March, 30 June, 30 September and 31 December) but it will be possible to volunteer to file monthly instead of quarterly.

The filing deadlines will, for both goods and services ESLs, be:

- 14 days from period end for paper returns
- 21 days from period end for electronic returns.

Foreign VAT recovery

From 1 January 2010 the current paper based system for making claims for recovery of VAT incurred in other EU countries will be replaced with an electronic system. This new system will be accessible via a portal hosted on the HM Revenue & Customs website. From there claims will be submitted by HMRC to the relevant foreign VAT Authority.

Certificates of Status

Certificates of Status will no longer be required.

Submission of invoices

It will not be necessary to send in hardcopy invoices. Instead the higher value items should be scanned and attached to the electronic claim.

How often can claims be made?

Claims can be made annually, quarterly or every 6 months subject to a maximum of 5 claims per annum per EU country. The minimum claim period is three months unless there is less than three months to go before the end of the calendar year.

Minimum claim amount

Claims covering the entire calendar year or the last three months of the year (or less) must be for an amount of €50 or more. Claims for other periods must be for €400 or more.

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Deadlines

Claims must be submitted within 9 months of the end of the calendar year.

Processing and payment

In theory claims must be processed within four months (this can be extended to eight months if the claim is queried). In practice it is likely that some countries will ignore the statutory deadline.

Claims should be paid within 10 working days of being processed. Interest will apply if this deadline is breached.

Further information

Please speak to your usual Shipleys contact or the VAT Team on 020 7312 6526 or email vat@shipleys.com

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