

VAT – Cross Border Changes

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VAT - Overview

- The 'New' General Rule - s7A VATA 1994.
- Exceptions to the general rule - sch 4A VATA 1994.
- Reverse charge procedure - s8 VATA 1994.
- Electronically supplied services (ESS).
- Countries within the European Community (EC).

VAT the 'New' General rules

There are two general rules for the place of supply of services.

One for business to business (B2B) and one for business to consumer (B2C) supplies.

There are also special place of supply rules for certain services.

The B2B general rule for supplies of services is that the supply is made where the customer belongs.

The B2C general rule for supplies of services is that the supply is made where the supplier belongs.

B2B & B2C definition

- B2B - Supplies to businesses whose activities are wholly of a business nature. Inc supplies to entities that have business and non-business activities (E.g. charities and government departments).
- B2C - Supplies to a private individual, charity, government department or other body which has no business activities, or a 'person' who receives a supply of services wholly for private purposes.

General Rule Exceptions

- services relating to land and property;
- services of short term hire of means of transport;
- services involving physical performance;
- B2B supplies of admission to specific types of events, exhibitions, conferences and meetings and services;
- ancillary transport, valuation of/work on goods;
- restaurant and catering services;
- passenger transport B2C freight services;
- certain intermediary services;
- B2C supplies of certain services outside the EC.

B2B Specific

- Supplying services that fall under this section and your customer belongs outside the UK, your supply is outside the scope of UK VAT. If your customer belongs outside the EC there may be local taxes which apply.
- If your supply is taxable at standard or reduced rate (not exempt or zero-rated) and is made to a customer belonging in another EC state who is VAT registered there, you may need to complete an EC Sales list.
- However, if your customer belongs in the UK, you must account for any UK VAT due.

B2C Specific

If you supply services that fall under this section and you belong in the UK, you must account for any UK VAT due, no matter where your customer belongs.

Reverse Charge Procedure

The supplier of a service is the person whom accounts, to HMRC, for any VAT due. However, in certain situations, it is the customer who accounts for any VAT due. Although normally referred to as the reverse charge, it is also called a **tax shift**.

The reverse charge applies to almost all B2B supplies of services except those under Sch 9 of the VAT Act. It does not apply to land where the option to tax has been exercised. The reverse charge procedure is not complicated. Where it applies to services which you receive, you, the customer, must act as if you are both the supplier and the recipient of the services.

How does it work?

Simply credit the VAT account with the output tax, calculated on the full value of the supply that has been received, and at the same time debit the VAT account with the input tax, you are entitled to, in accordance with the normal rules. The partial exemption implications for reverse charge services are explained in VAT Notice 706. You then include in the relevant boxes of the VAT return:

- the amount of output tax in box 1 **VAT due on sales**
- the amount of input tax in box 4 **VAT reclaimed on purchases**
- the full value of the supply in box 6 **total value of sales, and**
- the full value of the supply in box 7 **total value of purchases.**

Electronically Supplied Services

- *Under this section, B2C services that can be supplied in a customer's country.*
- Generally, if you make B2C supplies to a customer who belongs outside the EC, your services are supplied in your customer's country and are outside the scope of VAT.

Electronically Supplied Services

- Delivered over the Internet or an electronic network, and
- where the nature of the particular service means it is heavily dependent on information technology for its supply.
- In general, use of the Internet or electronic networks by parties to communicate with respect to transactions or to facilitate trading does not (any more than the use of a telephone), affect the VAT treatment. E.g. where parties use the Internet to exchange information in the course of a business transaction (email), this does not change the nature of that transaction. This differs from a supply that is completely dependent on the Internet in order to be carried out.

Examples of ESS

- ❏ Website supply or web hosting services.
- ❏ Distance maintenance of programmes and equipment.
- ❏ Supplies of software and updating thereof.
- ❏ Supplies of images, text, information and making available of databases.
- ❏ Supply of music, films and games, including chance and gambling games and of political, cultural, artistic, sporting, scientific, educational or entertainment broadcasts of events.
- ❏ Supply of distance teaching. of events.

Exclusions from ESS

- ❏ Supplies of goods, where the order and processing is done electronically.
- ❏ Supplies of DVDs, CD-Roms, games on DVDs, CD-Roms, floppy disks and similar tangible media.
- ❏ Supplies of printed matter, such as books, newsletters, newspapers or journals.
- ❏ Supplies of CDs, audio cassettes, videos cassettes, DVDs.
- ❏ Services of lawyers, financial consultants etc..., who advise clients through email.
- ❏ Teaching services, where the course is delivered by a teacher over the Internet or network.

Exclusions... Continued

- ❏ Offline physical repair services of computer equipment.
- ❏ Offline data warehousing services.
- ❏ Advertising services in particular, in newspapers, on posters and on TV.
- ❏ Telephone helpdesk services.
- ❏ Teaching services (correspondence courses), such as postal courses.
- ❏ Auctioneers' services reliant on direct human action, irrespective of how bids are made.
- ❏ Telephone and Videophone services.
- ❏ Internet and worldwide web access services.

Downloaded Publications

For VAT and duty purposes, all supplies of downloaded publications are regarded as supplies of services and not goods.

The UK VAT relief of zero-rating of supplies of Printed matter does not apply because the relief is for goods and not services.

In the EC ?

- ❏ Austria (Inc Jungholtz and Mittelberg)
- ❏ Belgium
- ❏ Bulgaria
- ❏ Cyprus (Inc the British Sovereign Base Areas of Akrotiri and Dhekelia), Excluding the UN zone and Northern Cyprus.
- ❏ Czech Republic
- ❏ Denmark. Excluding the Faroe Islands and Greenland.
- ❏ Estonia
- ❏ Hungary
- ❏ Finland. Excluding the Åland Islands.
- ❏ France (Inc Monaco), Excluding Martinique, French Guiana, Guadeloupe, Reunion, and St Pierre and Miquelon.

In the EC ?

- ❑ Germany. Excluding the islands of Heligoland and Büsingen.
- ❑ Greece. Excluding Mount Athos (Agion Oros).
- ❑ Ireland
- ❑ Italy. Excluding Campione d'Italia, the Italian Waters of Lake Lugano and Lvigno.
- ❑ Latvia
- ❑ Lithuania
- ❑ Luxembourg
- ❑ Malta
- ❑ Netherlands. Excluding Antilles.
- ❑ Poland
- ❑ Portugal (Inc the Azores, and Madeira).

In the EC ?

- Romania
- Slovakia
- Slovenia
- Spain (Inc the Balearic Islands), Excluding the Canary Islands, Ceuta, and Melilla.
- Sweden
- United Kingdom (Inc the Isle of Man), Excluding the Channel Islands, and Gibraltar.

What we can offer

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- SEAN WAKEMAN, Crowe Clark Whitehill, Confessions of a Tax Investigations Specialist
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