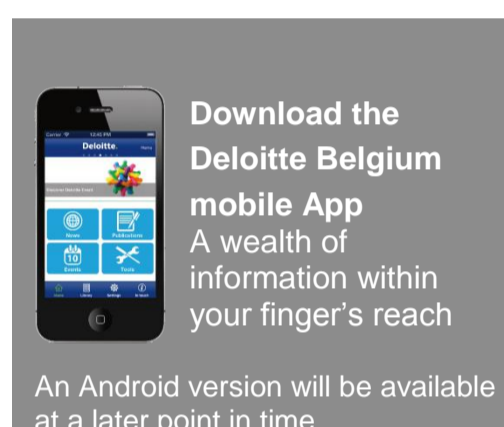




VAT alert Belgium

Localisation of storage services in Belgium adapted to EU rules



The Belgian tax authorities published a decision on the VAT treatment of storage services. The decision modifies the *place of supply rules* which define where the service is taxed for VAT when rendered to a foreign B2B customer. Also, it gives some guidance on the possible *exemptions* that can be applied ([Dutch](#) | [French](#)).

Firstly, the decision modifies the guidance on the place of supply rules to reflect the rules laid down in Regulation n° 1042/2013, CJEU case law and discussions within the VAT Committee.

Since 2010 to date, the Belgian VAT authorities considered that storage services were subject to the B2B main rule, irrespective of the agreement's nature. Hence, no VAT is applied when these services were carried out for a foreign business customer.

The new decision alters this viewpoint and distinguishes three different scenarios:

1. *Exclusive* right of use of a storage facility: this is considered to be an *immovable letting*, hence the service is deemed to take place where the facility is located (new rule).
2. *Non-exclusive* right of use: although the operator provides 'surface' (m² or m³) to the 'tenant', the latter has no free access to the storage facility and the storage is organised by the operator. In this case, the B2B main rule remains applicable as before.

The decision puts forward a number of concrete criteria to distinguish between this first and second case.

3. *Storage combined with other services* (loading, weighing, quality assurance, expertise, etc.): the B2B main rule remains applicable in this case as well.

The second part of the decision comments on the scope of application regarding the exemption of storage services carried out in the framework of international shipment of goods (art. 41 § 1 VAT Code). The rental of a storage facility (first case above) can be exempt under these rules provided the underlying conditions (e.g. destination of the goods) are met.

The new rules apply as of 1 June 2014. The criteria laid down by the VAT authorities allow that most typical cases of storage services will continue to be free of VAT in case they are rendered to foreign business customers, except certain specific cases where the customer has clear exclusivity rights and the storage operator does not have an active logistics and handling role.

In such cases, these new rules will shift the localisation of the 'storage services' carried out, so current agreements and invoice processes are to be reviewed.

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