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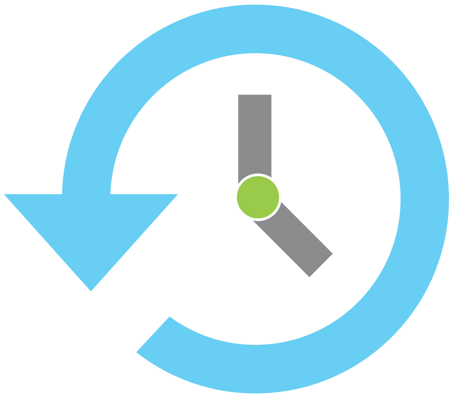
2015 Changes
What to expect?



From 1 January 2015, new VAT rules will impact on telecommunication companies, broadcasting companies and companies supplying electronic services to private customers living in another EU Member State. These sources are known as business to consumer (B 2 C) supplies. The impact on companies in these sectors could be significant, requiring the consideration of pricing, computer system changes, VAT administrative and VAT compliance changes.

What is changing?

From 1 January 2015, the place of supply rules for the above services is to change as a result of amendments to Article 58 of the EU VAT Directive. The place of supply of electronically supplied services, broadcasting services and telecommunication services by a business, to a non-taxable person, will be the place where the non-taxable person is established, or where he has his permanent address or usually resides. It is important to note that the term 'non-taxable person' includes both private individuals and other organisations which are not deemed to be in business for VAT purposes, for example, holding companies. These changes will therefore have a significant impact on providers of telecommunications, broadcasting and electronically supplied services to private individuals or businesses treated in a similar way to them, within the EU.

Impact of the new rules

Businesses involved in the supply of such services will face a greater administrative burden. The new rules will mean that VAT will have to be accounted for on B2C sales at the VAT rate applicable in the customer's country. Consequently, the overall effect on the VAT liability for the supplier will depend on how favourable/unfavourable a tax regime it is currently operating in. For example, a supplier which is located in a high VAT rate jurisdiction such as Ireland or Sweden, may see a reduction in their VAT liabilities as a result of the changes. On the other hand, for companies that are located in low VAT rate jurisdictions, they may see a large increase in their VAT liability, which they may or may not be able to pass on to their customers. Therefore careful consideration of existing pricing structures is required to determine whether the VAT increase/decrease should be reflected in the price charged to customers.

How to account for VAT?

The operation of the new changes is to take place through a one stop shop registration process. This essentially means that the supplier of the relevant services will account for the VAT due in each EU Member State through a single return in its own Member State on a quarterly basis.

The VAT rates and rules applicable in the Member State of consumption will apply to the sales made in those countries. The one stop shop eliminates the administrative burden of having to VAT register and complete a return in respect of each EU country where customers are located.

It is important to note that businesses operating the One Stop Shop will have to retain sufficient records to support the declarations being made in respect of its activities in each country as the business is subject to audit in all the jurisdictions in which its customers are located to ensure compliance with the new framework and fair treatment to all Member States. It will be interesting to see how tax authority audits will be conducted in practice. Difficulties will be encountered in respect of determining the location of the consumer and how to verify their geographical location (and hence where the service should be taxed). For certain services the legislation has prescribed the evidence that will be required to prove the location of the customer, for example for fixed land line services, the fixed land line address will be the indicator of the customer's residence. For other methods, the residence of the customer will have to be proven by way of two non-contradictory pieces of evidence such as the IP address of the consumer's computer and the consumer's billing address.

Are your systems ready?

While it can be expected that most generic accounting systems will receive system updates that take into consideration the new VAT rules, source data pulled from billing platforms and other sources of business intelligence will have to be scrutinised to ensure that the information accurately reflects the geographical location of the customer. In addition it will be important that the identifiers of the customer's residence are acceptable under the new legislation.

We can help to ensure that your systems are ready for the 2015 changes.

Contacts

Conclusion

In summary, businesses affected by the upcoming changes need to now start considering the impact of these rules on their business activities, specifically their customer profiles. Processes will need to be put in place to establish and verify the location of individual customers and businesses will have to be in a position to provide documentary evidence in support of this to verify the accuracy of their VAT returns. Furthermore, there will no longer be an advantage to suppliers of telecommunications, broadcasting or electronic services (to non-taxable persons) of locating in low tax jurisdictions, thereby having a significant impact on their current business models.

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