UK Indirect Tax Conference 2014
Compliance in Perspective
2014 Pan EU VAT update

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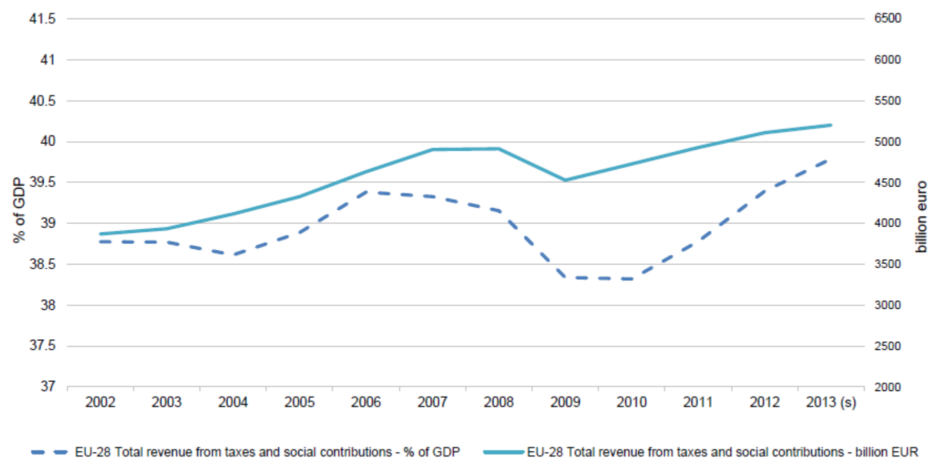
Content

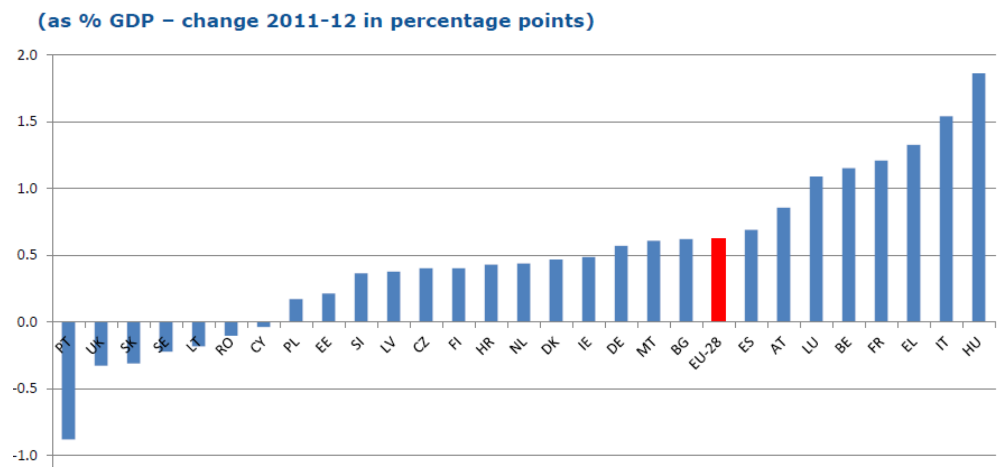
Introduction and EU taxation trends

EU taxation trends

The EU Commission released the 2014 edition of its publication ‘Taxation Trends in the EU’.

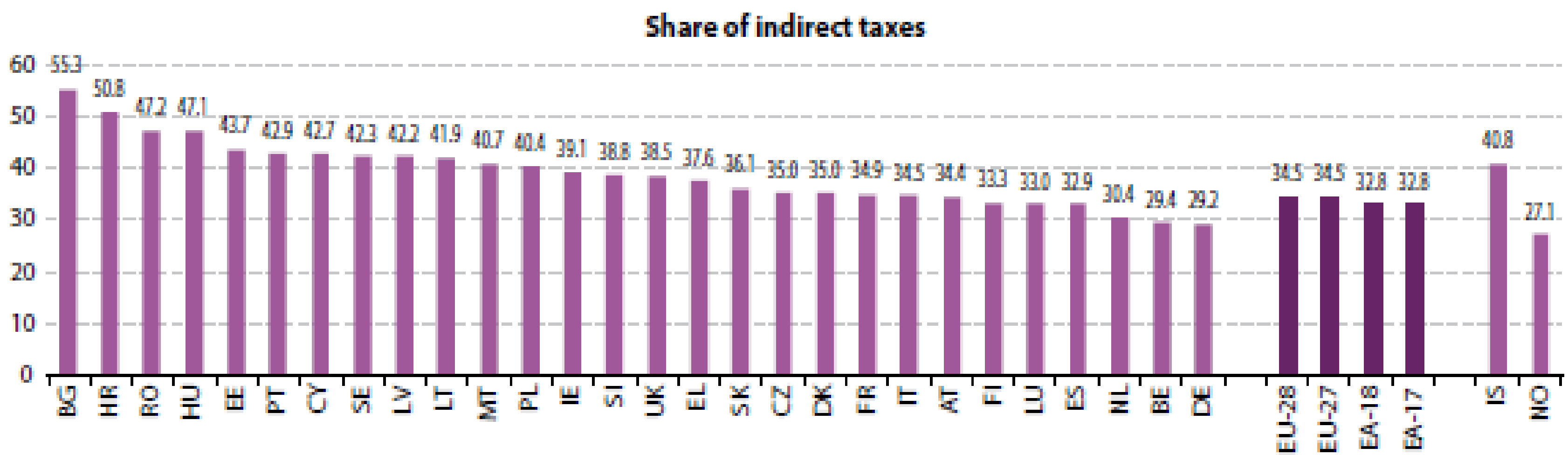
- The ratio revenue/GDP is growing in the EU
- Large differences persist between Member States both in the total collected amounts as in the increase of collected taxes.





EU taxation trends

- Weight of indirect taxes (expressed below in % of total tax burden, data from 2012):
  - ➢ The weight of indirect taxes vary largely within the EU (from 29,2% in Germany to 55,3% in Bulgaria)
  - ➢ Member States which have joined the EU from 2014 onwards have usually a higher dependence on indirect tax revenues



Source: EU Commission services – Taxation trends in the EU (2014 edition)

European Commission VAT update

European Commission
2014: a “transition year”

- Various initiatives were taken in 2014 around the **MOSS and new 2015 place of supply rules** for telecom, broadcasting and electronic services
- The EU VAT Expert Group has urged the EU Commission, the EU Council and the EU Parliament to reach an agreement to implement a **final VAT system** by 2019. The options, objectives and next steps have been outlined in a paper published by the Commission end of October 2014
- The EU Commission launched a **study regarding the VAT treatment of intra-EU B2B supplies of goods**. In this context, EU businesses were invited to participate to a survey, with questions on notably the cost to comply with VAT legislations
- The EU VAT Forum has published an Interim Report setting out its first evaluation of the **VAT cross-border rulings** pilot program started in June 2013
- The **Commissioner** for Taxation Matters in the new Commission (2014-2019) is Pierre Moscovici

European Commission
Report of the Commission Expert Group on Taxation of the Digital Economy (28 may 2014)

- Work on BEPS at OECD level and publication of VAT/GST guidelines by the Global VAT Forum on VAT in April 2014: Challenges and opportunities to international taxation systems
- VAT policies proposed to avoid current distortions of competition and administrative burden
  - Coordinated VAT audits and "EU VAT compliant" certification of website within the Mini-One-Stop-Shop regime (MOSS to be introduced on 1 January 2015)
  - Revision of the distance sales regime, by always taxing the supply in the Member State of consumption. MOSS should then be extended to distance sellers
  - Removing the small consignments exemption and including low valued imported goods within the (M)OSS
  - Supporting the destination principle at a global level and in agreements with third countries (including exchange of information)
  - Convergence of VAT rates between online and physical environment and online database of VAT rates applicable in each Member State

European Commission
Use of VAT Committee guidelines to achieve taxation objectives

Example: Guideline on low value consignment exemption adopted “almost unanimously” / “with a large majority” in February 2014

- Guideline tackling the situation where small consignments are imported in a EU country and dispatched to other EU countries
  - *“goods shall be deemed as having been imported from a VAT perspective by the supplier irrespective of the contractual terms to which the private person may have subscribed”*
  - Import can benefit from low value consignment relief (e.g. 22 EUR threshold)
  - Supply to be treated as “distance sales” within the EU (rather than supply prior to import and therefore without VAT)

- Implementation issues in EU Member States
  - Notion / definition of importer of records (to be adapted?)
  - Import formalities (e.g. different importer for customs and VAT)
  - VAT compliance for non-EU suppliers

European VAT rates

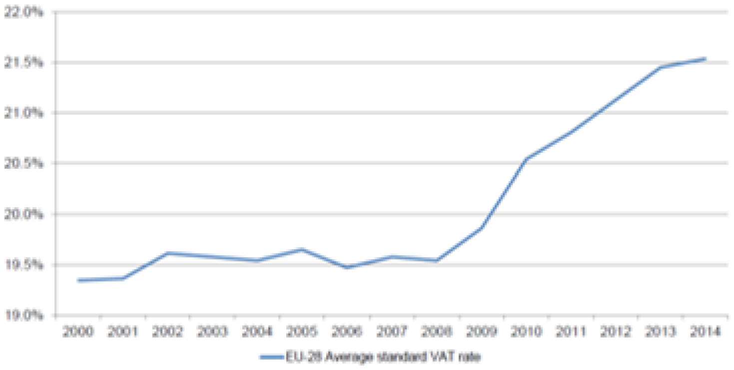
VAT rate changes in 2014

Portugal (Azores)	• The VAT rates in Azores were increased from 16%, 9% and 4% to 18, 10% and 5% on 1 January 2014.
Cyprus	• Since 13 January 2014, the VAT rates have been increased to 19%, 9% and 5%
Croatia	• The reduced 10% rate was increased to 13% on 1 January 2014. The 25% and 5% rates remained unchanged
France	• On 1 January 2014, the standard 19,6% rate was increased to 20% and the 7% rate was increased to 10%. The VAT rates of 5,5% and 2,1% remained unchanged

VAT rates on 1 November 2014

Country	Standard VAT rate	Reduced VAT rate(s)	
		Reduced rate	Super reduced rate
Austria	20%	12% - 10%	
Jungholz and Mittelberg	19%	12% - 10%	
Belgium	21%	12% - 6%	
Bulgaria	20%	9%	
Croatia	25%	13% - 5%	
Cyprus	19%	9% - 5%	
Czech Republic	21%	15%	
Denmark	25%		
Estonia	20%	9%	
Finland	24%	14% - 10%	
France	20%	10% - 5.5%	2.1%
Germany	19%	7%	
Greece	23%	13%	6.5%
Aegean islands	16%	9%	5%
Hungary	27%	18% - 5%	
Ireland	23%	13.5% - 9%	4.8%
Italy	22%	10%	4%
Latvia	21%	12%	
Lithuania	21%	9%	5%
Luxembourg	15%	12% - 6%	3%
Malta	18%	7% - 5%	
Norway	25%	15%	8%
Poland	23%	8%	5%
Portugal	23%	13% - 6%	
Azores	18%	10% - 5%	
Madeira	22%	12% - 5%	
Romania	24%	9% - 5%	
Slovenia	22%	9.5%	
Slovakia	20%	10%	
Spain	21%	10%	4%
Canary islands (i)	7%	3% - 2.75%	
Sweden	25%	12% - 6%	
Switzerland	8%	3.8%	2.5%
The Netherlands	21%	6%	
United Kingdom	20%	5%	

Evolution of standard VAT rate in the EU



Source: EU Commission services

(i) Besides the mentioned rates, there are increased rates of 9.5%, 13.5%

VAT compliance obligations

Mandatory e-filing

- Since January 2014, non-established companies should file their returns electronically in the **Netherlands** (as established companies)
- Since January 2014, VAT (de)registration forms, VAT returns and other VAT reports have to be filed electronically in the **Czech Republic**
- **Slovakia** introduced a mandatory e-filing of VAT returns in January 2014
- **Slovenia** introduced mandatory e-filing of Intrastat returns in February 2014
- As of October 2014, **France** extended the obligation of filing the VAT returns by electronic means also to non-established companies, irrespective of their turnover
- E-filing is mandatory in the **United Kingdom** since 2012 but the UK amended its VAT regulations in July 2014, expressly allowing under strict conditions telephone or paper filing

New VAT compliance obligations

- **Estonia** introduced a new annex to the VAT return for reporting domestic sales/purchases to and from Estonian taxable persons, from a value of 1.000 EUR
- A new return was introduced in **Hungary** to register with the Tax Authorities taxpayers' invoicing software and online invoicing systems (to be filed by November 15, 2014)
- **Greece** extended the due date for filing the periodical VAT return to the last business day of the month following the reporting period.
- **Greece** also changed its rules regarding the payment of VAT liability in instalments (from 3 to 2)
- **Italy** introduced new/stricter rules for tax payments through the so-called F-24 form

VAT returns changes

- **Spain** introduced significant changes in 2014 to the periodical VAT return / form 303 (split between invoices and credit notes and boxes to report intra-community acquisitions of services, amongst others).
- In **Ireland** the specific boxes for the reporting of intra-community supplies and acquisitions of services, which were going to be abolished, finally remained in the return.
- **Croatia and France both** updated their returns due to VAT rate changes.
- In October 2014, **Germany** also updated its VAT return (due to the extension of the domestic reverse charge mechanism).

Other VAT changes

Domestic reverse charge

Several countries have extended the scope of local reverse charge, or changed the rules for its application:

- **Croatia** has changed its approach on the application of domestic reverse charge in case of non-resident suppliers
- **Denmark** is applying a domestic reverse charge for the supply of IT equipment since July 2014
- **Germany** has extended its reverse charge to the supply of tablet pcs and game consoles as from October 1, 2014.
- **France** introduced domestic reverse charge for certain supply of services connected with the construction sector
- **Bulgaria** introduced reverse charge for the supply of grain
- **Slovakia** applies it to the supply of agricultural crops, metals and mobile phones and integrated circuits since January 2014.
- The **UK** has extended it to the supply of wholesale gas and power supplies since July 2014.

Recovery of input/output VAT

- **Ireland** has introduced a new measure by which input VAT that was deducted but remains unpaid to the supplier after a certain period, has to be adjusted by the purchaser.
- **Croatia** now allows the deduction of input VAT in the reporting period when the supply actually took place if the invoice is received by the purchaser by the due date to file the return.
- **Portugal** clarified that purchasers may deduct the input VAT prior to the payment of the invoice.
- **Poland** changed its rules regarding corrections of local sales invoices. To recover the VAT on credit notes issued, confirmation of receipt of the credit note by the customer is no longer required (but the customer should be aware that the correction was performed).
- **Poland** also introduced new VAT deduction rules on company cars, applicable since 1 April 2014.

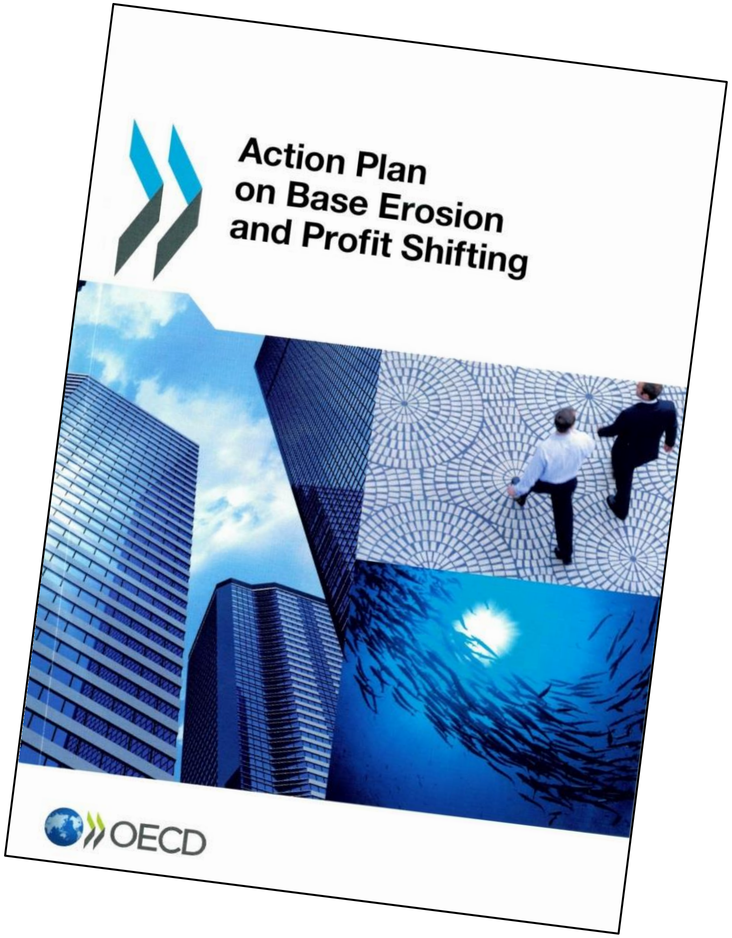
Tax point and cash accounting

- Tax point rules changed early 2014 in **Poland**
- In **Belgium,** final guidance was finally published in October 2014 regarding the 2013 changes to the tax point rules under Belgian VAT, abolishing the issuance of an (advance) invoice as tax point.
- **Bulgaria** introduced cash accounting in January 2014 for taxpayers with annual turnover below EUR 500,000. The purchaser may deduct the input VAT only after paying the invoice to its supplier
- **Ireland** increased the threshold for application of cash accounting as of 1 May 2014 from EUR 1.25 million to EUR 2 million
- **Greece** has introduced this scheme as from 1 October 2014 for companies with an annual turnover below EUR 500.000
- **Spain** introduced it on 1 January 2014 for taxpayers with annual turnover below EUR 2 million. Deduction of the input VAT is conditioned to the payment of the invoice to the supplier

Looking ahead to 2015

Works on BEPS
Expected impact on VAT

- **Taxation of digital economy**
- **Changes to definition of ‘permanent establishment’**
  - ➢ Overseas companies will have PE locally
  - ➢ Digital businesses become localised
- **‘Transfer pricing aligned to value creation’**
  - ➢ Changes to how and where products are valued



- **Major changes to existing operating models and supply chains**
  - ➢ The end of some ‘traditional’ supply chain models
  - ➢ Major rewiring of intercompany supply chains, legal agreements, etc.

European Commission

- **EC 2015 Work programme** is expected to focus on fight against fraud as far as VAT is concerned
  - A report published by the Commission end of October 2014 estimates the "VAT gap" at EUR 177 billion or 16% of the total expected VAT revenues (due to non compliance or non-collection). According to the report, VAT gaps ranged from 5% in The Netherlands to 44% in Bulgaria (10% in the UK)
- Proposal of 2012 for a **Directive regarding vouchers** should be adopted in 2015
- Proposal of 2013 for a **Directive regarding the Standardized VAT return** is unlikely to be adopted
- The **study** regarding the VAT treatment of intra-EU B2B supplies of goods and the cost of VAT compliance for businesses is expected to be completed in spring 2015.

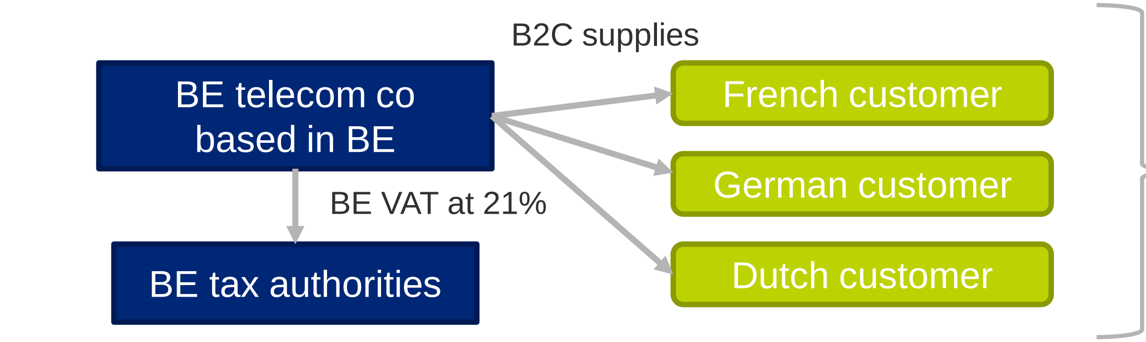
2015 new B2C Place of supply of Services & Mini One Stop Shop

- The new place of supplies rules for **telecom, broadcasting and electronic services** are implemented or in the process of being implemented in the different EU countries
- The new rules are to come into force on **1 January 2015**
- Many authorities already announced in October 2014 that the **registration** system for the MOSS is available in their Member State
- **Issues faced by business** in the preparation for the changes include:
  - ➢ Identification where the customer belongs (and evidence)
  - ➢ Bundled supplies
  - ➢ Suppliers with multiple establishments and/or other activities requiring local VAT registrations
  - ➢ Obtaining necessary information on specific rules in Member State of destination
  - ➢ Impact on IT system/infrastructure, pricing and billing

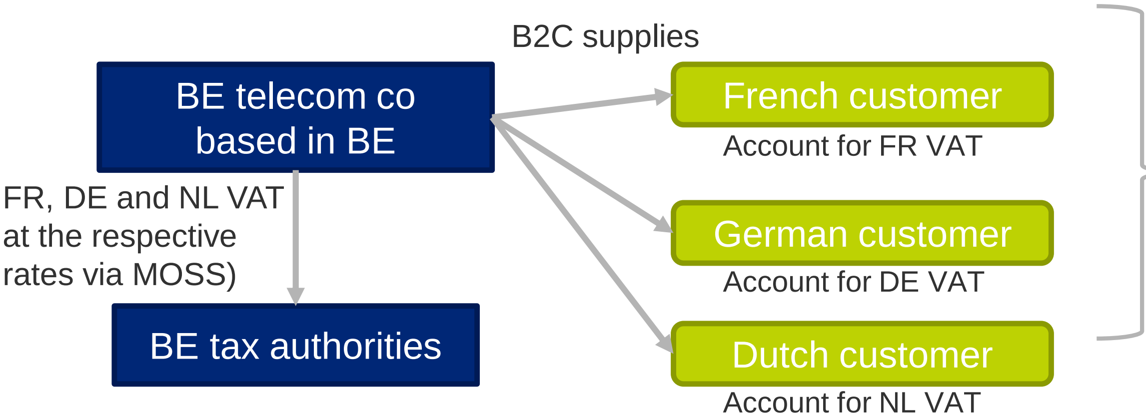
New B2C POSS rules: What are the changes?

EU suppliers

EU Business supplying to	NOW – The place of supply	After 2015 – The place of supply
Consumer in another EU country	**B2C** - Must charge VAT in the EU country where the supplier belongs	Must charge VAT in the EU country where the customer belongs



Current practice
Supplier accounts for BE VAT on all sales to individuals within the EU, irrespective of where the customer resides.



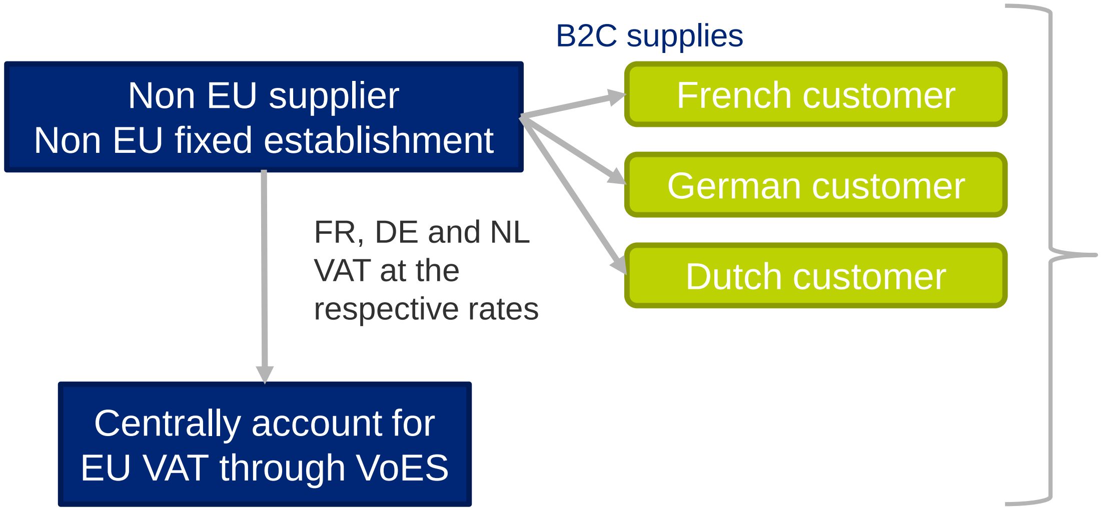
As of January 2015
Supplier accounts for VAT based on where the individual is established, has his permanent residence or usually resides

New B2C POSS rules: What are the changes?

Non-EU suppliers

NON-EU Business supplying to	**NOW - The place of supply**	**After 2015 - The place of supply**
Consumer in the EU	Must charge VAT in the EU country where: 1. the service is effectively used and enjoyed, for telecom and broadcasting services 2. The consumer belongs, for electronic services	Must charge VAT in the EU country where the customer belongs

New B2C POSS rules: What are the changes?
Non-EU suppliers



Current practice (for electronically supplied services only)
Non-EU suppliers can account for VAT through VAT on E-Services (VoES) Scheme
OR
Set up a fixed establishment in one Member State (MS) and account for VAT at the rate applicable in that MS (to all customers).

As of 1 January 2015:
– MOSS scheme in place for non-EU suppliers as well (replacing VoES)
– Suppliers with an establishment in an EU Member State will be subject to the same rules as EU suppliers

Expected VAT rate changes in 2015

Portugal	Potential VAT rate increase from 23% to 23,25% as of January 2015.
Czech Republic	Expected introduction of a new 10% reduced rate to limited list of goods.
Luxembourg	As of January 2015: • Increase of standard VAT rate from 15% to 17% • Increase of intermediate VAT rate from 12% to 14% • Increase of reduced VAT rate from 6% to 8%
Spain	Further to the ECJ case C-360/11, a proposal would subject certain medical products to the 10% reduced rate as from 2015.
The Netherlands	Extension to 30 June 2015 of the period during which the reduced VAT rate may be applied to renovation of houses.
Germany	Introduction of the reduced VAT rate (7%) for audio books, as from 1 January 2015.

Changes in VAT compliance obligations

- **Lithuania** will join the Eurozone in 2015 (Fixed conversion rate : €1 = 3.45280 Lithuanian litas). The VAT return and other VAT-related listings will consequently be adapted
- **Spain** and **France** are considering the introduction of an import VAT deferment license (i.e. payment of import VAT via the VAT return). **Sweden** will introduce it as from January 2015.
- **Greece** will update the periodical VAT return as from 2015 and abolish the Annual VAT return for fiscal years ending after 1 January 2014
- **Czech Republic** is considering the introduction of a Local Sales and Purchases Listing as from 2016
- The way to file Intrastat returns will change in several countries (e.g. Belgium and Sweden)

Changes in domestic reverse charge rules

- **Poland** intends to expand the list of goods subject to reverse charge and introduce a new listing to report the supply of these goods
- **Spain** is considering expanding reverse charge to the supply of mobile phones and IT equipment as from 2015
- **Finland** is considering the extension of the reverse charge to the supply of waste metal and scrap as of January 2015
- Subject to approval, the **Czech Republic** will introduce reverse charge for the transfer of real estate and various goods as from 2015

Voluntary disclosure

The rules governing voluntary disclosure have changed in **Austria** on October 1, 2014 and are expected to change soon in **Germany**

- Current requirements:
  - ➢ No audit or other measures of the tax authorities are announced
  - ➢ Tax authorities are not yet aware to the facts
  - ➢ Voluntary disclosure must be complete for one kind of tax and must cover all periods concerned (i.e. can only made once!)
- Expected changes:
  - ➢ Changes in requirements are expected
  - ➢ Extension of the period up to ten years
  - ➢ Increase of the agio/additionals to be paid

The way to proceed to VAT corrections, regularizations and disclosures still totally vary from one country to another but there is a tendency for stricter rules across the EU

Questions?

Presenter

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Bruno started his career in 1999 as tax consultant, specializing in customs, VAT and excise. He did an internship at the DG TAXUD of the European Commission and was also seconded for one-year in the indirect tax team of Deloitte Czech Republic.

Bruno has a law degree from the Université Libre de Bruxelles and an LLM in International Commercial Law at the University of Sussex, as well as a Master in Tax at the Ecole Supérieure des Sciences Fiscales de l'Ichec in Brussels.

In addition to being a lecturer at the CBC in Brussels, Bruno has written various articles on VAT matters.

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