Deloitte.

Indirect Tax Conference 2015
2015 Pan EU VAT update

Bruno Roelands 11 November 2015

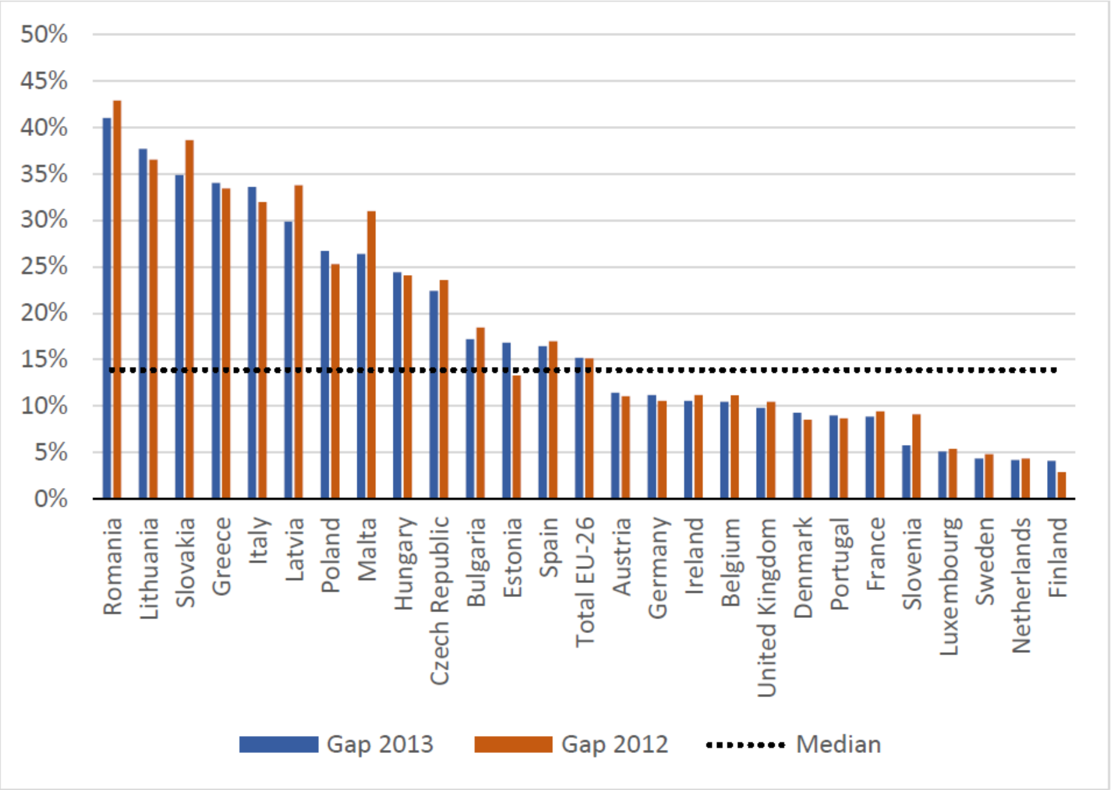
Content

Introduction

VAT Gap

In September 2015, the European Commission published the 2015 Study to quantify and analyze the VAT Gap in the EU Member States

- VAT lost across the EU is estimated at €168 billion
- This corresponds to 15.2% of revenue loss (due to fraud and evasion, tax avoidance, bankruptcies, etc.)
- Discrepancies between EU Member States are huge, ranged between 4 and 40%



Pierre Moscovici, Commissioner:
"*This important study highlights once again the need for further reform in VAT collection systems across the EU. I* ***urge Member States to take the steps needed to fight tax evasion and tax fraud*** *at all levels. This remains a burning issue and is* ***at the top of this Commission's agenda***."

Commission Work Programme 2016

The European Commission released on October 27, 2015 its Work Programme for 2016 (“No time for business as usual”):

*“The Commission will present an action plan on VAT with further steps towards an **efficient and fraud-proof definitive regime** and initiatives on VAT rates and e-commerce in the context of the **Digital Single Market**. We also intend to withdraw a number of VAT proposals on the table that have made little progress in the Council or where their significant simplification potential has been unacceptably watered down, as is the case for the standard VAT declaration.” (page 8 out of 13)*

European Commission VAT update

EU Commission: Digital Single Market Strategy

- The **Digital Single Market (DSM) Strategy** was published on May 6, 2015.
- The Commission is willing to:
  - ➢ Reduce administrative burden on businesses by:
    - extending the “single electronic registration and payment mechanism” (i.e. MOSS) to all cross-border B2C supplies of goods and services
    - introducing a VAT threshold to help start-ups
    - Implementing a single audit process of cross-border businesses
  - ➢ Remove the small consignment import VAT exemption
  - ➢ Introduce the possibility to apply a reduced VAT rate on the supply of e-publications (as well as other media products provided in a digital format)
- A public consultation has been launched on September 25, 2015
- A connected Digital Single Market is one of the 10 priorities from the 2016 Commission Work Programme, with a VAT proposal on e-commerce expected in 2016

EU Commission: MOSS update

- **MOSS update**
  - About 11.000 registrations so far
  - Expected VAT paid through MOSS in 2015: about EUR 3 billions
  - 5 Member States of Identification (LU, IE, NL, UK and DE) account for 90% of VAT revenues collected through MOSS
  - 5 Member States of Consumption (UK, DE, FR, IT and NL) will receive 65% of VAT collected through the MOSS

EU Commission: LVCR

- The Commission published in May 2015 an assessment of the application and impact of the **VAT exemption for import of small consignments** (Low Value Consignment relief)
  - Review of the provisions and customs procedures regarding the exemption from VAT for B2C import of small consignments below threshold value (between EUR 10 and EUR 22, with some MS excluding mail order sales)
  - With the considerable increase of e-commerce, LVCR distorts competition (as domestic and intra-EU sales are not exempt)
  - Tax authorities loose revenue due to this exemption
- The Commission is considering the **abolition of LVCR for VAT** (also in line with the OECD/G20 BEPS report on Action 1: Addressing the Tax Challenges of the Digital Economy)

EU Commission: Intra-EU B2B supplies of goods

- The Commission published on June 30, 2015 a feasibility and economic evaluation study on "Implementing the 'destination principle' to **intra-EU B2B supplies of goods**"

	Compliance cost	VAT fraud	Administrative cost	Reporting requirement	Economic impact
Option 1 – 'limited improvement of current rules'			✓		
Option 2 – 'taxation following the flow of goods'		✓		✓	✓
Option 3 – 'reverse charge following the flow of goods'					
Option 4 – 'alignment with the place of supply of services'	✓			✓	
Option 5 - 'taxation following the contractual flow'		✓		✓	✓

EU Commission: Cross-border rulings

- Cross-border rulings
  - ➢ Advance rulings on the VAT treatment of complex cross-border transactions
  - ➢ VAT payers may introduce their request in the participating EU member state where they are registered for VAT purposes
  - ➢ On the basis of such a request, the concerned member states will consult each other
  - ➢ Participating EU member states: *Belgium, Cyprus, Estonia, Finland, France, Hungary, Latvia, Lithuania, Malta, Netherlands, Spain, Portugal, Slovenia, Sweden and the UK*
- Timeframe
  - ➢ EU pilot project started in June 2013, initially until end 2014
  - ➢ Now scheduled until 30 September 2018

European VAT rates

European VAT rates

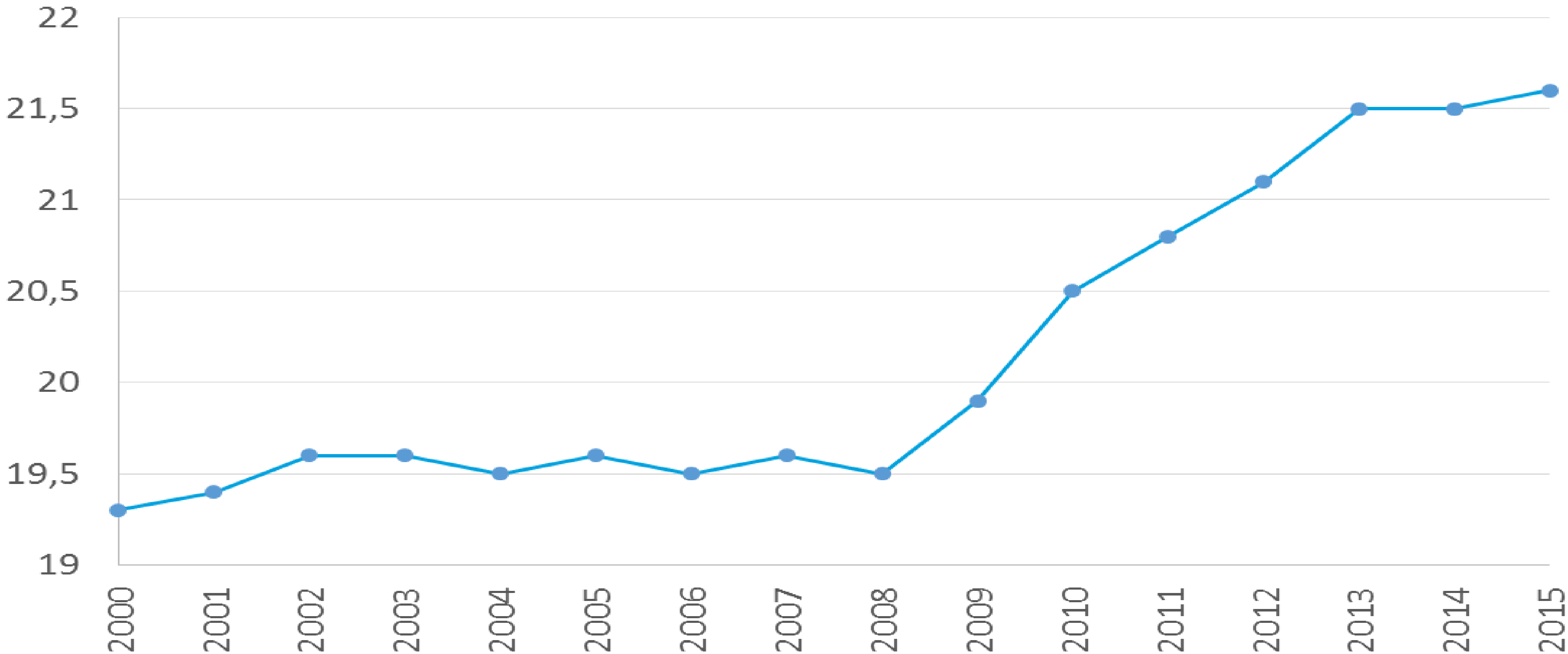
- **As from 2016, the minimum VAT standard rate of 15% will no longer be mandatory**

- **The President (Juncker) Cabinet would like to give more flexibility to the Member States in fixing VAT rates**

  - <u>DG TAXUD</u> supports the idea and is examining options for a reform avoiding distortions of competition between EU Member States
  - <u>EU Member States</u> support greater flexibility but fear domestic pressure to lower the rates on some goods/services
  - <u>Businesses</u> supports lower rates but fear for increased complexity in managing different VAT rates

Trends in European VAT rates

The average standard VAT rate in the EU is still increasing



VAT rate changes in 2015

Luxembourg

- Increase of the standard, intermediate and reduced VAT rates from 15 % to 17%, from 12% to 14%, and from 6% to 8% respectively as of 1 January 2015. Increase of the VAT rate applicable to e-books from the super-reduced rate of 3% to the standard VAT rate of 17% as from 1 May 2015.

Iceland

- Decrease of the standard VAT rate from 25.5% to 24%, and increase of the reduced rate from 7% to 11% as of 1 January 2015.

Portugal (Azores)

- New reduced VAT rates (of 4% and 9%) are applicable in the Autonomous Region of the Azores as of 1 July 2015.

VAT rate changes in 2015

Romania	• Application of the 9% reduced VAT rate to restaurant and catering services (excluding alcoholic beverages) as of 1 June 2015.
Belgium	• The VAT rate on supplies of electricity for residential consumption has been increased from 6% to 21% as of 1 September 2015.
The Netherlands	• For renovation and maintenance of houses, the reduced VAT rate can no longer be applied since 1 July 2015.
Greece	• As from 20 July 2015, the super-reduced VAT rate is reduced from 6,5% to 6%. Reclassifications to higher VAT rates (from 13% to 23% or 6,5 to 13%) on certain categories of goods and services (mainly as of 20 July 2015).

Current VAT rates

European VAT Rates			
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% - 10%	
Denmark	25%		
Estonia	20%	9%	
Finland	24%	14% - 10%	
France	20%	10% - 5.5%	2.1%
Germany	19%	7%	
Greece	23%	13%	6%
Aegean islands	16%	9%	5%
Hungary	27%	18% - 5%	
Iceland	24%	11%	
Ireland	23%	13.5% - 9%	4.8%
Italy	22%	10%	4%
Latvia	21%	12%	
Lithuania	21%	9%	5%
Luxembourg	17%	14% - 8%	3%
Malta	18%	7% - 5%	
Norway	25%	15%	8%
Poland	23%	8%	5%
Portugal	23%	13% - 6%	
Azores	18%	9% - 4%	
Madeira	22%	12% - 5%	
Romania	24%	9% - 5%	
Slovenia	22%	9,5%	
Slovakia	20%	10%	
Spain	21%	10%	4%
Canary islands	7%	3% - 2.75%	
Sweden	25%	12% - 6%	
Switzerland	8%	3,8%	2,5%
The Netherlands	21%	6%	
United Kingdom	20%	5%	

Upcoming VAT rate changes

Romania

The standard VAT rate will decrease from 24% to 20% as of January 2016. It will further decrease to 19% as from January 2017.

Italy

The standard 22% VAT rate will in principle be increased to 24% as of 1 January 2016, to 25% as of 1 January 2017 and to 25,5% as of 1 January 2018 (with increases of the 10% reduced rate as well). However, the Government is trying to avoid these increases, part of the 2014 Stability package.

Greece

Reduced rates that apply to transactions on/to the islands are gradually waived as from 1 October 2015, 1 June 2016 and 1 January 2017, depending on the type of island.

Austria

A reduced VAT rate of 13% will be introduced in Austria as of January 2016 and will apply to the supply of living animals, seeds, plants, domestic air travel, etc. As of May 2016, more supplies will be subject to the 13% VAT rate (e.g. admission to cultural services).

Main VAT Changes

New import VAT deferment systems

- **France** – in place since January 2015
  - ➢ Customs Single Address authorization required (“Procedure de Domiciliation Unique” - PDU)
  - ➢ Request required

- **Spain** – in place since January 2015
  - ➢ Request to be filed by end January to benefit from 2016
  - ➢ Fines of 10 to 20% of import VAT not self-assessed have been imposed
  - ➢ Amount of import VAT to self-assess can be monitored via tax authorities portal

- **Sweden** – in place since January 2015
  - ➢ No request required
  - ➢ Amount to self-assess on “customs bill”

- **Slovenia** – to be introduced in July 2016

Extension of Local Reverse Charge (1)

In 2015, local reverse charge mechanisms have been introduced or prolonged in:

- **Czech Republic:** A local reverse charge mechanism has been introduced for cereal and technical crops, metals, mobile phones, integrated circuits, notebooks, laptops and videogame consoles
- **Denmark**: Supplies of gas and electricity (and certificates) are now subject to local reverse charge mechanism, under conditions.
- **Finland**: Scrap metal is now subject to local reverse charge
- **Germany**: The transition period for the application of reverse charge has been extended to the supply of base and precious metals. Note that there is a threshold for its application (minimum value of EUR 5.000)
- **Italy:** The reverse charge mechanism has been extended to the cleaning, demolition, equipment, installation and completion services in relation to immovable property.

  It has also been extended for a 4 years period to e.g. transfers of greenhouse emissions allowances gases, and supply of gas and electricity towards a taxable dealer.

Extension of Local reverse charge (2)

- **Poland:** New types of supplies are subject to the local reverse charge (laptops, notebooks, tablets, mobile phones, game consoles, gold, raw, nickel, etc.). The local reverse charge only applies when the customer is a Polish “active” VAT taxpayer.
- **Spain:** The local reverse charge mechanism has been extended to silver, platinum, palladium, mobile phones, game consoles, laptop computers and tablets.

  - ➢ Goods/services in scope differ from country to country (without systematic direct link to CN codes)
  - ➢ Conditions also differs (with specific practical difficulties in case threshold in value)

New VAT / Intrastat reporting obligations

- **New forms:** Various forms have been amended/updated in order to capture changes that took place in 2015:
  - VAT return form: Austria, Canary Islands, Czech Republic, Croatia, Estonia, France, Greece, Spain, Luxembourg, Poland, Sweden, Hungary, Iceland and Slovakia
  - ESL/EPL: Hungary
  - Intrastat: Luxembourg, the Netherlands, Belgium, Romania, Sweden and Italy
  - LSPL: Hungary
  - Other Local Listings: Croatia (form INO PPO)
  - Annual Obligations: ASPL in Greece (for EL established entities), AVAT in Spain
- **France:** Mandatory e-payment of VAT as of December 2015
- **Italy**: New forms related to VAT refunds
  - New official draft of the guarantee form which is required for VAT credit refund purposes
  - Issuance of a new specific form required for quarterly VAT refunds.
- **Switzerland:** New import declaration form ('Engagement Declaration For The Swiss Territory').

Focus on some EU countries

Greece

- Limitation of scope of the use and enjoyment rules as from January 2015 to:
  - The short term hiring of transportation means and long-term hiring of transportation means and pleasure boats to non EU non-taxable persons when the hired means are used in Greece;
  - The lease of movable tangible goods to non EU non-taxable persons, when the leased goods are used in Greece;
  - The supply of telecommunication, radio, television and electronically supplied services, when the recipient is a non-taxable person who resides outside the EU, but is in Greece when the service is provided to him.
- Changes to the rules regarding VAT adjustments
- Instant VAT remittance for bank payments
- VAT rate changes

Italy

- Simplified VAT refund procedure:
  - The possibility of avoiding the setup of bank guarantees for the repayment of VAT credits above EUR 15.000 has now been extended to non-established taxpayers (both EU and non EU).
  - A "conformity visa" (visto di conformità) has to be obtained from a recognized Italian tax advisor.
- Introduction of split payment system: VAT payment can be shifted to the public bodies/customers
- Mandatory e-invoicing towards public bodies
- Invoicing guidelines for foreign companies, performing domestic RC supplies: Issuance of invoices under the VAT number granted in the MS of establishment (no reference to the IT VAT number)
- New Intrastat instructions for reporting of services
- New provisions on spontaneous regularizations
- Amended procedure for sending of data in the letters of intent
- New VAT rules regarding e-invoicing

Spain

- Imports under reverse charge mechanism
  - Since 1 February 2015, when the import VAT deferment regime was put in place, the reporting of imports under the reverse charge is very closely monitored by the Spanish authorities and fines have been imposed (with unsuccessful appeal).
  - The Spanish e-portal can be consulted to retrieve an overview of the import VAT amounts per period.
- New customs authorization procedure
  - In place since April 2015.
  - In order to grant authorizations to customs agents, new proxies are to be registered at the customs authorities.
  - This is often a burdensome process for foreign companies not having their own electronic certificate.
- Canary Islands: Payments of the IGIC liability can now be performed via direct debit.

Poland

- 50% VAT deduction of fuel purchases for company cars
  - ➢ As from 1 July 2015, the right to deduct 50% of input VAT is granted on fuel purchases for both passenger and non-passenger company cars that are used for business and other purposes.

- Changes to bad debt relief (correction of output VAT)
  - ➢ Suppliers will now be allowed to benefit from bad debt relief for supplies with related entities.

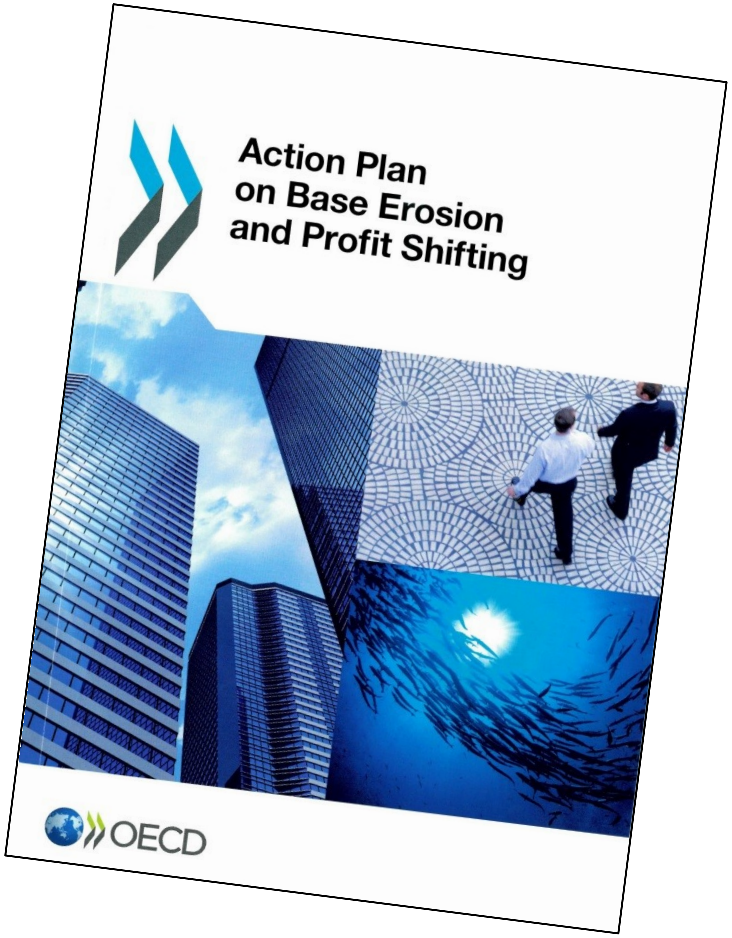
- Joint VAT liability is extended to the supply of printer toners, digital cameras, silver and platinum.

- Reverse charge sales listing
  - ➢ As from reporting period July/Q3 2015, companies performing supplies of the specific listed goods or services subject to the domestic RC rules, should file a Reverse Charge Sales Listing.

Looking ahead to 2016

Action Plan on BEPS: Expected impact on VAT

- **Final Reports published in October 2015**
- **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.



Action Plan on BEPS: Impacted areas

Supply chains with overseas commissionaire entities

Supply chains with limited risk distributors

Toll manufacturing operations

BEPS

Centralized warehousing and/or packing activities

Structures with overseas principals which supply digitised content

BEPS impact to VAT (1)

Challenges of the Digital Economy	• Creation of 'digital' PEs; • Re-evaluation of where 'consumption' occurs • Abolition of LVCR
Re-definition of PE for CIT	• Possible wider definition of PE for VAT • Some countries treat PE for CIT also as FE for VAT
Major Changes in Business Models and Supply Chains	• Business may have changes in taxable presence for CIT or transaction flows • Related changes in VAT treatment • Related compliance costs
Transfer Pricing aligned to value creation	• Changes in the value of inter-co transactions • Greater substance in some locations may change the VAT treatment of transactions • Goods revalued for customs purposes & therefore also for VAT • VAT treatment of TP adjustments

BEPS impact to VAT (2)

Changes in TP for intangibles	• Changes in valuation VAT and customs • Changes for VAT deduction • Partial exemption
Country-by Country Reporting for TP	• Increased transparency also for indirect tax; • Easier to check for tax authorities the transactions for indirect tax purposes
Data exchange and disclosure of tax planning	• More onerous rules • Information sharing • Cross-border tax authority challenges
Changes to intercompany financing arrangements	• Complex step plans • Partial exemption • VAT grouping

Further digitalization of VAT obligations (1)

- **Czech Republic**: Introduction of local sales/purchase listing as of January 2016
  - ➢ Applicable to all taxpayers performing/receiving local taxable supplies or intracommunity transactions
  - ➢ Obligatory reporting of sales/purchases with many details (eg. invoice number, tax base, tax rate, tax point, VAT number of seller/purchaser, VAT regime such as local reverse charge, IC supplies/acquisitions etc.)
  - ➢ Should include detailed information on the taxable supplies in an <u>xml format</u>
- **Hungary**
  - ➢ Taxpayers will have to ensure that the Hungarian Tax Authority can access data of issued invoices (as well as modifications and cancellations) at any time in a standardized manner.
  - ➢ For this purpose, each invoicing software must be extended with a new functionality referred to as “data export for tax audits” as from January 1st 2016
- **Italy**
  - ➢ A new free service for the generation, transmission and storage of the e-invoices will be made available by the Italian Tax Authorities, starting as of 1 July 2016

Further digitalization of VAT obligations (2)

- **Lithuania**
  - ➢ The tax authorities develop a system whereby detailed data has to be systematically submitted in SAF-T format to the authorities
  - ➢ Taxpayers will have opportunities to submit invoices by integration of their accounting data to the tax authority portal, upload a file in this portal, enter data manually in this portal or issue invoices directly in this portal
- **Spain**
  - ➢ Large companies currently have to upload all the information contained in the VAT ledgers to the Spanish tax authorities website
  - ➢ A Draft of Order has been published whereby more taxpayers will have the obligation to file the data contained in both issued and received invoices electronically by means of the STA´s website. This Draft is planned to be in force as from next January 2017.

➔ Are we moving towards “real time” VAT checks / audits?

➔ Increase administrative burden, notably for companies having foreign registrations

Other changes planned for 2016 (1)

- **Belgium**: New tax point rules as of 2016
  - Invoices are fully restored as tax point, regardless of whether an invoice is issued before or after the taxable supply
  - Cash based regime will be introduced for supplies to public bodies (B2G): the tax point will be the moment when the payment is received from the public body
- **Norway:** VAT rate changes in 2016
  - The lowest (super-reduced) VAT rate will be increased from 8% to 10%
  - The zero VAT rate will be extended to the supply of electronic newspapers
- **Romania:** Various changes in the Fiscal Code as of January 2016, including
  - Introduction of local reverse charge until December 31st 2018 for mobile phones, tablets, laptops, game consoles and devices of integrated circuits
  - VAT rates changes, including a decrease of the standard VAT rate from 24% to 20% (19% in 2017) and application of the 5% reduced VAT rate for the supply of services related to notably the access to sport events, books and newspapers

Other changes planned for 2016 (2)

- **Slovakia:** As of January 1st 2016 the following changes will take place:
  - The introduction of reverse-charge on local supplies of goods by a foreign person
  - The extension of local reverse charge mechanism to building sector.
  - The application of the 10% reduced VAT rate for the basic foodstuffs.
  - VAT cash accounting scheme for SMEs.
  - New rules for application of simplified triangulation.
  - Simplified rules for VAT refund.
  - New rules for reporting simplified invoices.

Conclusion / Q&A

Conclusion

- Fight against tax evasion and fraud are at the top of the agenda of the OECD, EU Commission and Member States

- For businesses, the administrative burden related to pan-EU VAT formalities is expected to increase

- Digitalization of VAT obligations continue and steps towards “real time VAT” are taken in some Member States

Presenter

Bruno Roelands is Senior Director in the Deloitte's Global Tax Centre (Europe) based in Brussels.

Bruno specializes in pan-European VAT both from a consulting and compliance perspective. He has been involved in projects for the European Commission and is now managing large accounts of the Compliance Center.

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 wrote various articles on VAT matters.

Email: broelands@deloitte.com

Deloitte.

Deloitte LLP is a limited liability partnership registered in England and Wales with registered number OC303675 and its registered office at 2 New Street Square, London EC4A 3BZ, United Kingdom. Tel: +44 (0) 20 7936 3000 Fax: +44 (0) 20 7583 1198.