

AUSTRIA

Remedy for safety net acquisition

- An incorrect or missing declaration of a triangular transaction in the Recapitulative Statement by the intermediary causes a safety net acquisition according to Art 3 (8) Austrian VAT Act. To remedy the safety net acquisition, it is **required to get VAT registered** as intermediary **in the Member State of destination** and to declare the performed iC acquisition in this country (BFG 2.6.2016, RV/2100095/2015).

Tax exemption for iC supplies due to good faith

- The tax exemption for iC supplies is in general not applicable if material conditions for an iC supply are not fulfilled.
- However, according to Art 7 (4) Austrian VAT Act the tax exemption is still applicable if the supplier did not know or should not have known about the incorrectness of the information provided by the customer.
- In the given case the Administrative Supreme Court stated that Art 7 (4) Austrian VAT Act (i.e. tax exempt iC supply) is applicable although the supplier did not record the identity of the person who actually picked up the goods as required in the law, as the identity of the purchaser is known without doubt (VwGH 27.4.2016, 2013/13/0051).

Safety net acquisition in the Member State of origin

- The iC supply of goods from Austria to another Member State may never trigger an iC acquisition in Austria as country of departure, even if the purchaser provided his Austrian VAT ID number. Consequently a **safety net acquisition** according to Art 3 (8) Austrian VAT Act is **not possible** (BFG 2.6.2016, RV/2101353/2014).



BULGARIA

Simplified VAT refund without tax check for low-risk taxpayers

- Due to an announcement of the National Revenue Service (NRA) dated 1 September 2016, taxable persons without any outstanding public liabilities who are characterized as **low-risk taxpayers** by the NRA and who indicate a valid bank account in local currency on their VAT returns may qualify for a **simplified VAT refund procedure** without previous tax checks.

Security for transactions with liquid fuel

- Due to an amendment of the Bulgarian VAT Act taxable persons selling or purchasing (local purchase, iC acquisition) liquid fuel for reselling purposes are obliged to provide a security to the National Revenue Service (NRA) in case of exceeding a threshold of BGN 25,000 in a reporting month (State Gazette No. 60/02.08.2016).
- Security can inter alia be provided by government securities, an unconditional and irrevocable bank guarantee or a cash deposit and has to be in an amount not lower than 20 % of the VAT base of the respective supplies of liquid fuels realised during the previous tax period (minimum BGN 50,000.00).

Draft amendments to the Bulgarian VAT Act

- On 16 September 2016 the Ministry of Finance published draft amendments in order to adjust the Bulgarian VAT Act according to the European legislation and jurisdiction.
- Major contents of the draft regard inter alia the VAT treatment of finance lease, the pro-rata input VAT deduction concerning the purchase of real estates, the treatment of supplies carried out by persons acting in their own name but on behalf of somebody else and registration obligations for consortiums and other unpersonified associations.



CROATIA

Administrative instructions

- According to a circular of the Croatian tax authorities the importation of goods with a subsequent iC supply is tax exempt in case the importer indicates his Croatian VAT ID number and the VAT ID number of the recipient in the Member State of destination and provides an evidence for the subsequent iC supply in terms of the importation (www.porezna-uprava.hr).
- According to the Croatian tax authority the supply and assembly of car tires are treated as two separate supplies at the same time. Thus, the place of supply has to be assessed for a supply of goods (car tires)

and a supply of the assembly service of the tires (www.porezna-uprava.hr).

- According to the Croatian tax authorities the reduced VAT rate of 5 % is not applicable for cannabis supplements as these are not stated on the list of medical products of the Croatian Health Insurance Institute (www.porezna-uprava.hr).
- According to the Croatian tax authorities a foreign taxable person who sells goods on a fair in Croatia once a year has to get VAT registered in Croatia and has to fulfil his declaration obligations (www.porezna-uprava.hr).



CZECHIA

Amendments to the Czech VAT Act

- As of 29 July 2016
 - The reverse-charge system is extended in the Czech Republic for local supplies of goods carried out by a taxable person who is neither established nor registered for VAT purposes in the Czech Republic to a customer VAT registered in the Czech Republic.
 - VAT may be corrected for bad debts at the time the insolvency proceeding starts if they are older than 6 months.
 - The VAT exemption on the placement of goods in free zones and on the supply of goods and services carried out in free zones (pursuant to Art 156 and 160 Directive 2006/112/EC) has been cancelled.

Amendments to the Czech VAT Act

- As of 1 December 2016
 - The VAT rate for catering services (food and beverages served in the restaurants except for alcoholic beverages) will be reduced from 21 % to 15 %.



GERMANY

Construction services and reverse-charge

- The **installation of machinery or fittings** is deemed to be a construction service in connection with an immovable property falling under reverse-charge if it is installed permanently and cannot be removed without destroying the property. A fixture with nails and/or screws that can be removed is not permanently in this sense (BMF 10.8.2016, III C 3 - S 7279/16/10001).

Sale-and-lease-back transactions

- The Federal Tax Court decided that under special circumstances a sale-and-lease-back transaction may be treated as a **taxable supply of service by the lessor**, in case the transaction has been concluded for tax respectively accounting purposes (BFH 6.4.2016, V R 12/15).



HUNGARY

Final regulation concerning domestic itemized report liability

- As of 1 July 2017
 - Outgoing invoices (with a VAT amount exceeding HUF 100,000) issued with an invoicing program have to be submitted automatically and electronically by the invoicing program to the Hungarian tax office. For the technical details a separate statutory regulation will be published. In return no domestic itemized report is required for these outgoing invoices.
 - Incoming invoices with a VAT amount exceeding HUF 1,000,000.00 (as of 1 July 2017 HUF 100,000.00) still have to be reported in the domestic itemized report.

New EKÁER-regulations

- As of 1 August 2016
 - Due to amendments to the EKÁER regulation the Hungarian tax authorities are obliged to impose a default penalty of HUF 200,000.00 – 500,000.00 for private individuals and HUF 500.000 – 1,000,000.00 for taxable persons in case freight carriers violated their obligation to preserve the integrity of the official seal affixed by the tax authorities until removal.
 - Furthermore, the Hungarian tax authorities are obliged to detain the respective vehicle without a degree until the penalty is paid.

Taxation of Airbnb rented flats

- According to a statement the Hungarian tax authorities will have a stronger focus on tax liabilities (VAT and income tax) arising for individuals letting flats through Airbnb.
- From a VAT perspective a tax liability of 18 % or 27 % could arise in certain circumstances.



POLAND

Restricted right to deduct input VAT for passenger cars

- Currently, Poland is limiting the right to deduct input VAT to 50 % for costs related to certain vehicles other than passenger cars not used exclusively for business purposes. A **continuation** of this restriction of the input VAT deduction was **proposed** by the European Commission.

Standard Audit File for Tax (SAF-T)

- As of 1 July 2016
 - Non-resident foreign taxable persons only have to submit a VAT register and their outgoing invoices in terms of the SAF-T system (in case of no taxable transactions in one month a nil declaration has to be filed). As of 1 January 2017 in addition the client's tax number has to be declared.



SLOVAKIA

Interests on the excess VAT

- As of 1 January 2017
 - Due to a draft amendment of the Slovak VAT Act, taxpayers may be entitled to receive interests (1.5 % p.a.) as compensation if a VAT credit was not refunded by the tax authorities within a period of 6 months (after the refunding right arose).



SLOVENIA

VAT registration of non-established taxable persons

- As of 27 June 2016
 - Due to an amendment to the Regulation on the Implementation of the VAT Act, non-established taxable persons supplying only VAT exempted goods or services and who are entitled to deduct input VAT via the EU refund procedure, do not have to get VAT registered in Slovenia.

Amendments regarding import VAT

- As of 1 July 2016
 - Due to an amendment to the VAT Act, import VAT does not have to be paid at the time of importation but

can be declared (together with the respective input VAT) in the VAT return. Thus, no cash flow disadvantage arises from the immediate payment of the import VAT.

Proposal to extend application of higher VAT registration threshold for small businesses

→ Currently, **small businesses** whose annual turnover is not higher than **EUR 50,000.00** are exempt from VAT. The European Commission **proposed** a Council Implementation Decision to the Council of the European Union to authorize Slovenia **to continue** derogating from Art. 287 (15) Directive 2006/112/EC, until 31 December 2018.



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