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**VALUE ADDED TAX**  
**The Place of Supply Rules**

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# VALUE ADDED TAX

## The Place of Supply Rules

- Legal Framework
- Effect of current rules
- Effect of 2010 rules
- Effect of new 2011 rules
- New rules taking effect after 2011
- Mandatory statistical returns

# Legal Framework

- Principal VAT Directive (EC)
  - Goods: Articles 31-42
  - Services: Articles 43-59
  - Imports: Articles 60-61
- VAT Act 1994 (UK) s7 & Sch 5
- VAT (Place of Supply of Services) Order 1992
- VAT (Place of Supply of Goods) Order 1992
- VAT (Tour Operators) Order ` 1987

# Effect of Current Rules

## Basic Position

- Supply of goods without transport
  - Where they are located when the supply takes place
- Supply of goods with transport
  - Where the transport begins
- Supply of services
  - Where the supplier belongs

# Effect of Current Rules

## Special Rules (1)

- Goods with transport supplied to a person registered for VAT, IVA etc in another member state
  - Where the transport ends
  - Unless the goods are new means of transport; or
  - Supplied together with installation services in a member state other than that of the customer
- Goods supplied together with installation services
  - Where the goods are installed
- Goods supplied on board ships aircraft or trains
  - Point of departure of transport operation

# Effect of Current Rules

## Special Rules (2)

- Services of intermediaries
  - Where the underlying supply is made
- Services of relating to immovable property
  - Where the property is located
- Passenger transport
  - Where the transport takes place, proportionate to distance covered
- Freight transport
  - Where the transport begins
  - Unless the customer is registered in another member state, in which case the member state that issued the VAT ID no

# Effect of Current Rules

## Special Rules (3)

- Cultural, artistic, sporting, education, entertainment & similar activities
  - Where the service is carried out
- Ancillary transport services (e.g. loading)
  - Where the service is carried out
  - Unless the customer is registered in another Member State, in which case that Member State
- Valuation of movable property
  - Where the service is carried out
  - Unless the customer is registered in another member state, in which case that member state

# Effect of Current Rules

## Special Rules (4a)

- Services supplied where received
  - Intellectual property
  - Advertising
  - Professional services data processing & provision of information
  - Obligations to refrain from pursuing or exercising a business activity in this list
  - Banking finance & insurance
  - Hire of staff
  - Hiring out of movable tangible property other than means of transport



# Effect of Current Rules

## Special Rules (4b)

- Services supplied where received
  - Access to, and transport through, natural gas & electricity infrastructure & other services directly linked to these supplies
  - Telecoms services
  - Radio & TV broadcasting
  - Electronically supplied services
  - Services of intermediaries arranging services in this list
  - B2B services where the UK recipient is VAT registered

# Effect of Current Rules

## Special Rules (4c)

- Services can only be supplied where received under certain conditions
  - The customer is using the services for the purpose of a business; and
    - The customer is registered for VAT, IVA, TVA, etc in its own Member State; or
    - The customer is liable to be registered in its own Member State

# Effect of Current Rules

## Special Rules (5)

- Use and Enjoyment
  - Hire of means of transport
  - Telecoms
  - Radio & TV broadcasting
  - Electronically supplied services

# Inconsistencies

- Some rules are at the discretion of each Member State; notably
  - The “catch-all” bullet point from slide 4b, which the UK has enacted by derogation
  - Use and enjoyment, whereby the Directive allows each Member State the choice as to whether or not to apply the principle
- This makes for a situation whereby the supplier must ask customers in other Member States as to how the Directive is applied in that country

# All change

- 1 January 2010
  - Fundamental changes for services
- 1 January 2011
  - Changes to exceptions
- 1 January 2012 to 1 January 2015
  - Peripheral changes phased in

# 1 January 2010

- New basic place of supply for EC cross-border services
  - Business to business
    - Where the customer belongs
  - Business to non-business customer
    - Where the supplier belongs

# 1 January 2010

- Exceptions to the basic rule
  - Services relating to land
    - Where the land is situated
  - Passenger transport
    - No change - where the transport takes place
  - Short-term hire of means of transport
    - Vehicles - max 30 days; vessels 90 days
    - Where the vehicle is put at the customer's disposal
  - Cultural, artistic, sporting, scientific, educational & entertainment
    - Where the performance takes place; unless
    - Organised remotely – where organised

# 1 January 2010

- Exceptions to the basic rule
  - Catering, including restaurants
    - Where the service is carried out; unless
  - Catering on board ships planes & trains
    - Place of departure
  - Use & enjoyment
    - No change in UK
    - Other Member States might introduce
  - Services of intermediaries
    - B2B – where the customer belongs
    - B2C – where the underlying supply takes place



# 1 January 2010

- Exceptions to the basic rule
  - Intra-community freight transport
    - B2B – where the customer belongs
    - B2C – place of departure
  - International freight transport
    - B2B – where the customer belongs
    - B2C – proportional to distance in each country
  - Supplies to business customers outside EU
    - Business includes customers that have non-business as well as business interests (e.g. Governments & charities)
    - O/S if in Article 56(1) of the Directive

# 1 January 2010

- Validation of business status of customer
  - Customer registered for VAT, TVA etc
    - VAT ID number
  - Customer not registered for VAT TVA etc
    - Letter from own tax authority
  - For customer to provide evidence; otherwise
    - Treat as B2C

# 1 January 2010

- New time of supply for EC cross-border services
  - One-off supplies
    - Completion; or
    - Payment if earlier
  - Continuous supplies
    - End of billing period; or
    - Payment if earlier; or
    - 31 December each year unless accounted for above

# 1 January 2010

- New time of supply for EC cross-border services: currently varies between Member States: payment date in UK:
  - One-off supplies
    - Completion; or
    - Payment if earlier
  - Continuous supplies
    - End of billing period; or
    - Payment if earlier; or
    - 31 December each year unless accounted for above

# 1 January 2010

- Widening the impact of the reverse charge
  - Current position
    - Only applies if supply received for business use
    - Customer charges VAT on supply
    - Deducts if so entitled
  - New position
    - If customer has business and non-business activities now applies to both – watch out charities!
    - Treated as B2C if supply put exclusively to private use

# 1 January 2010

- Mandatory statistical returns
  - Current position
    - EC Sales lists (ESL's) only apply to goods
    - Annual threshold: t/o is registration limit + £25,500; **or** EC sales of £11,000 – quarterly returns
    - Monthly returns if EC sales >£70,000 in current quarter or any of previous 4
    - 42 day time limit
  - New position
    - ESL's apply to services as well as goods
    - New time limits
      - Paper returns 14 days; electronic 21

# 1 January 2010

- Revised system for 8<sup>th</sup> Directive Claims
  - Single claim for all community expenditure incurred outside own Member State
  - To be made electronically
  - Made to customer's own Member State

# 1 January 2011

- Changes for cultural, artistic sporting, scientific, educational & entertainment services
  - Supplies made where performance takes place
    - Restricted to admissions & services ancillary to admissions
    - B2B services fall into basic rule
    - Organisers services fall into basic rule



# 1 January 2012

- New threshold for monthly ESL's
  - For £70,000 read £35,000

# 1 January 2013

- Changes for B2C long term hire of means of transport
  - Vehicles
    - Where the customer is established
      - Registration implications!
  - Pleasure boats
    - Where the boat is put at the customer's disposal

# 1 January 2015

- Optional one-stop arrangements to be introduced for B2C supplies subject to use & enjoyment

# Summary

- 2010
  - Change in basic place of B2B supply
  - Smaller list of exceptions
  - ESL's for services
  - Electronic 8<sup>th</sup> Directive claims
- 2011
  - Changes for certain services
- 2012
  - Monthly ESL threshold reduced to £35,000
- 2013
  - Changes to B2C long term hire of means of transport
- 2015
  - One-stop arrangement for B2C telecoms etc

# Thank you for listening

