

# The new rules on the place of supply of services in European VAT

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## 1. Introduction

After a period of almost five years, the European Council has recently reached a political agreement on the so-called 'VAT Package'. The VAT package consists of a directive on the place of supply of services (amending the VAT Directive<sup>1</sup>), and a directive on VAT refunds and a regulation on administrative cooperation. What happened in 1993 in respect of intra-Community transactions of goods is about to happen for cross-border supplies of services. The VAT package will be adopted, without further discussion, at a forthcoming Council meeting, after finalization of the texts.<sup>2</sup> Although the final text of the VAT package is not yet available, we felt that - given the impact the changes will have on Member States (implementation of legislation) and businesses (adjustments of the ERP systems) alike, and the fact that the outcome of the proceedings is final - it would be useful to kick off the discussion on the new rules. To this end we obtained the text<sup>3</sup> of the changes via a request on the basis of Regulation (EC) No. 1049/2001.<sup>4</sup> This article is based on that text. We note that, on details, the final text may be different.

In this article we will focus on the changes on the place of supply rules for services, as these changes will have the largest impact on businesses of all changes that have been adopted. For the same reasons, we will begin by concentrating on the changes on the place of supply rules affecting transactions between taxable persons ('B2B transactions'). Because the supply of services is very common within groups, we will also address the place of supply of services between group-companies ('intra-group transactions'), even though, in some cases, group-companies cannot be regarded as taxable persons. Accordingly we will only address the so-called 'B2C transactions' in intra-group relations. In particular we will discuss services such as management services, advisory services, financial services, educational services, the hiring out of personnel, the rental of immovable property, work on movable tangible property, intermediary services and recharges of bundled costs in intra-group relations.

From the proposals that preceded the semi-final text currently available, it follows that the primary aim of the changes is to - where possible - levy VAT where the actual consumption takes place.<sup>5</sup> In doing so, the effect of the different VAT rates in the Member States is mitigated. This contributes to the realization of the

Internal Market. As a precondition for the changes, it is stated that the changes must not lead to disproportionate administrative burdens on businesses. The broad application of the reverse charge mechanism in B2B relations can be placed in that perspective: it prevents businesses from having to deal with the burdensome VAT reclaims on the basis of the Eight and Thirteenth Directives.<sup>6</sup>

Politically, an agreement on the VAT package had become stalled for quite some time, primarily because Luxembourg could not agree with the changes. Over the past few years, many service providers in the telecommunications, radio- and television broadcasting and electronically supplied services sectors supplying services to non-taxable persons have established companies in this low VAT rate Member State. Consequently, they are liable to charge the (lower) Luxembourg VAT rate (in case of radio and television broadcasting services Luxembourg even applies a super reduced VAT rate),<sup>7</sup> instead of the (higher)

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<sup>1</sup> Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, OJ, 2006, L 347.

<sup>2</sup> See Press release (provisional version), 2836th Council meeting, Economic and Financial Affairs, no. 12698/07, Brussels, 4 December 2007, p. 21.

<sup>3</sup> Document of 5 December 2007, no. 16220/07 (FISC 17.2). This text can also be accessed at: <http://register.consilium.europa.eu/pdf/en/07/st16/st16220.en07.pdf> (consulted on 18 January 2008).

<sup>4</sup> Regulation (EC) no. 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents, OJ, 2001, L 145, pp. 43-48.

<sup>5</sup> See, *inter alia*, original proposal for changing place of supply dated 23 December 2003, COM(2003)822 final, p. 2, and the amended proposal for changing the place of supply dated 20 July 2003, COM(2003)234 final, p. 2.

<sup>6</sup> See original proposal for changing place of supply dated 23 December 2003, COM(2003)822 final, p. 2.

<sup>7</sup> See, 'Value Added Taxation in Europe. Country analysis, Luxembourg', Appendix 1 (IBFD, Amsterdam, 2008). Available online at <http://online2.ibtld.org/giv/> (Consulted on 25 January 2008 - please note that this is a password-restricted website).

# Place Of Supply In European Vat

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## **Place Of Supply In European Vat:**

*The Place of Supply in European VAT* Ben Terra, 1998-08-11 This book offers a systematic survey of the rules and practice with regard to the place of taxable transactions in European VAT This detailed reference work provides essential reading for tax practitioners academics and advanced students of tax law

**Platforms in EU VAT Law** Christina Pollak, 2022-10-18 Applying the provisions of the European Union Value Added Tax EU VAT Directive poses challenges when applied to the digital platform economy Recent responses to these challenges revolve around the deemed supplier regime introduced by the so called e commerce package and this regime is thus the focus of this indispensable work the first to provide an in depth analysis of the regime its background and scope its interpretation and its application in practice In its detailed examination of how digital platforms that enable supplies of goods through their interfaces are treated for VAT purposes under EU law the author elucidates such topics and issues as the following The qualification of the sale of goods through platforms supply of the platform service to the underlying supplier supply of the platform service to the customer supply of goods from the underlying supplier to the customer supplies from third countries the Organisation for Economic Co operation and Development OECD proposal s influence on the interpretation of the EU e commerce package chain transactions determination of the place of supply chargeable event and chargeability of VAT taxable amount applicable rates and exemptions platform s recordkeeping obligations accompanying customs measures return of goods and warranty cases and future of effective and efficient VAT collection The author also undertakes a detailed analysis of a potential infringement of the principle of equality neutrality and the right to conduct a business Fully taking into consideration the case law of the CJEU administrative practice and the relevant academic literature the author s research reveals the weaknesses opportunities and limits for Member States implementation of EU VAT law The upshot is an important work that promises to make the EU VAT system more fraud resistant simplify compliance obligations enforce the principle of neutrality and reduce distortion of competition The book will be of immeasurable value to any practitioner and policymaker approaching any case involving the deemed supplier regime for digital platforms with full awareness of the applicable rules

**VAT in an EU and International Perspective**, 2011 *The EU VAT System and the Internal Market* Rita de La Feria, 2009 This thesis focuses upon VAT in the context of the Community s internal market Its central aim is to prove that the current EU VAT system is incompatible with the concept of internal market as set out in the EC Treaty and interpreted by the Court of Justice The study commences with an analysis of the concept of internal market the main objective of which is to establish the basic legal framework for the proposed thesis As part of this examination it is demonstrated that the EC Treaty creates a temporally unlimited obligation for the Community to approve legislation with the aim of establishing and improving the functioning of the internal market By analysis of existing EU VAT jurisprudence it is argued that obstacles cannot be overcome through incremental developments emerging from the Court of Justice but can only be resolved by fundamental and substantive

legislative amendment      Fundamentals of EU VAT Law Frank Nellen, Ad van Doesum, Simon Cornielje, Herman van Kesteren, 2020-08-19 Parties to cross border disputes arising anywhere in the vast Portuguese speaking world a community of more than 230 million in a space that offers a wide array of investment opportunities across four continents increasingly seek Portugal as their preferred seat of arbitration A signatory to all relevant international conventions Portugal has proven to be an arbitration friendly jurisdiction This volume is the first and so far only book in English that provides a thorough in depth analysis of international arbitration law and practice in Portugal Its contributing authors are among the most highly regarded legal names in the country including scholars arbitrators and practitioners The authors describe how international arbitration proceedings are conducted in Portugal what cautions should be taken and what procedural strategies may be suitable in particular cases They provide insightful answers to questions such as the following What matters can be submitted to arbitration under Portuguese law What are the validity requirements for an arbitration agreement How do the State courts interact with arbitration proceedings and what is the attitude of such courts toward international arbitration What are the rules governing evidentiary matters in arbitration How is an arbitration tribunal constituted How are arbitrators appointed How may they be challenged How can an international arbitral award be recognized and enforced How does the Portuguese legal system address the issue of damages and what specific damages are admitted How are the costs of arbitration proceedings estimated and allocated The book includes analyses of arbitration related to specific fields of the law notably sports administrative tax intellectual property rights especially regarding reference and generic medicines and corporate disputes Each chapter provides for the topics it addresses an examination of the applicable laws rules arbitration practice and views taken by arbitral tribunals and state courts as well as those of the most highly considered scholars As a detailed examination of the legal framework and of all procedural steps of an arbitration in Portugal from the drafting of an arbitration agreement to the enforcement of an award this book constitutes an invaluable resource for parties involved in or considering an international arbitration in this country The guidance that it seeks to provide in respect of any problem likely to arise in this context can be useful to arbitrators judges academics and interested lawyers      Fundamentals of EU VAT Law Ad van Doesum, Herman van Kesteren, Simon Cornielje, Frank Nellen, 2025-02-19 Value added tax VAT is responsible for generating almost EUR 1200 billion per year in tax revenues across the European Union revenues that play a huge role in budgetary policymaking in the Member States This extremely useful book provides not only a thorough description of the current state of EU VAT law but also a detailed explanation of the system s rationale and its legislative provisions It puts the elements of the system in perspective and shows how they are linked to each other The focus lies on the rules which can be deduced from the sources of EU VAT law and on their application in practice The systematic presentation covers such issues and topics as the following sources of EU VAT law including principles derived from CJEU case law principles underlying the EU VAT system relations among the layers of VAT law primary and secondary EU law national law how to apply the VAT

legislation and case law allocation of taxing rights place of supply rules invoicing requirements and other administrative obligations exemptions the taxable amount and the new VAT rates structure the right of deduction of input VAT intra Community transactions importation and exportation e commerce distance sales rules platforms and the one stop shop mechanism immovable property holding companies and dealings in shares and how far a national court must and can go in interpreting national provisions in light of the VAT Directive and the principles underlying the VAT system The book follows the structure of the VAT Directive VAT determination scheme with additional topical chapters on immovable property intra Community transactions importation and exportation of goods and shares and other securities With its detailed attention to the meaning and interpretation of the most prominent legislative provisions and court rulings this book serves as an incomparable guide for practitioners Its emphasis on the rationale and systematics of the EU VAT system and abundance of references to case law and literature make it an indispensable reference for all tax law professionals including legislators judges and researchers

*E-commerce and EU VAT* Rosamund Barr et al., 2021-07-12 E commerce and EU VAT Theory and Practice Rosamund Barr Jeroen Bijl Nils Bleckman Gijsbert Bulk Ethan Ding differences between imported goods and goods sold intra EU filing and invoicing obligations under the new one stop shop scheme reclaiming foreign VAT mitigating fears of fraud and hijacking distinction between business to customer and business to business transactions and navigating through appeals mistakes and adjustments Also covered are the particular VAT variations applicable to transactions involving the major European non EU states Norway Switzerland and the United Kingdom The important distinction between the concept of nexus in the United States state and local tax rules and place of supply under EU law is also fully explored Because a very large number of remote sellers of goods and services will need to understand and comply with the changes in the EU VAT e commerce rules it goes without saying that this book is indispensable to in house corporate counsel worldwide Tax administration officials professionals in indirect tax management corporate tax and finance directors and other tax professionals and academics concerned with indirect tax law are sure to welcome this essential resource

*European VAT and the Sharing Economy* Giorgio Beretta, 2019-10-24 A breadth of new digital platforms has dramatically expanded the range of possibilities for exchanging anything required by business or personal needs from accommodation to rides In the virtual marketplaces shaped and ruled by these novel matchmakers rather than by a single centralized entity value is created through the granular interaction of many dispersed individuals By allowing instantaneous and smooth interaction among millions of individuals platforms have indeed pushed the digital frontier farther and farther so as to include within it even services once not capable of direct delivery from a remote location such as accommodation and passenger transport Legal disruption is also underway with foundational dichotomous categories such as those between suppliers and customers business and private spheres employees and self employed no longer viable as organizational legal structures This is the essential background of the first book to relate what is synthetically captured under the umbrella definition of sharing

economy to key features at the core of European Value Added Tax EU VAT and to look at the feasibility of a reformed EU VAT system capable of addressing the main challenges posed by these new models of production distribution and consumption of goods and services Specifically the study analyses five legal propositions underpinning the current EU VAT system as the following taxable persons taxable transactions composite supplies place of supply rules and liability regimes for collection and remittance of VAT Exploration of these five legal propositions is meant to assess the practical feasibility of shoehorning the main sharing economy business models notably those available in the accommodation and passenger transport sectors into the framework of existing EU VAT provisions The author further draws on the normative standards of equality neutrality simplicity flexibility and proportionality to test the reflexes of the current EU VAT system in the sharing economy domain Opportunities for reform of the current EU VAT system are in turn evaluated with each chapter including cogent proposals in the form of incremental and targeted amendments to the current EU VAT provisions As the first comprehensive analysis of the treatment of the sharing economy for VAT purposes the book provides not only a theoretical framework for future studies in the tax field but also indispensable practical guidance for VAT specialists confronting daily with the many challenges ushered in by the sharing economy Moreover the various solutions and recommendations advanced in the book offer valuable insights to international and national policymakers dealing with similar issues under other VAT systems **VAT Neutrality**

Charlène Adline Herbain,2015-05-04 Most major economies use a value added tax VAT which is a derivation of the French 1954 *taxe sur la valeur ajoutée* The initial imposition of VAT in France and its spread around the world have been driven by economic reasons This book focuses on one of these economic triggers the neutrality of VAT as regards the functioning of the economy It demonstrates that the reason VAT was chosen in France and why thereafter it spread around the world was because it offered the possibility to collect governmental revenue while allowing the economic forces of the market to interplay without being adversely affected The prerequisite conditions for the existence of VAT neutrality are therefore identified herein along with an overview of the VAT mechanism demonstrating that the concept of neutrality is built into the VAT system in a manner that allows for the preservation of the natural functioning of the market After the definition of VAT neutrality is set forth the elements that comprise VAT neutrality are tested against the realities on the ground and the issues that infringe the neutrality of VAT are identified and analysed In conclusion remedies for these issues are being sought by a review of the causes of infringement of VAT neutrality in the perspective of selected proposals for modified VAT systems These proposals include redesignating the place where VAT is levied and improving VAT collection Ultimately the proposed solution has recourse to the roots of VAT together with the most advanced technological tools available to give back to VAT the power to levy revenue while letting the economic forces of the market interplay without instigating any adverse influence

**A Guide to the European VAT Directives** Ben Terra,Julie Kajus,2012 **Information Asymmetries in EU VAT** Frank J.G. Nellen,2016-04-24 Unlike conventional direct taxes the application and administration of value added tax VAT

depends to a considerable extent on the exchange of information between the taxable person and his transaction counterparts. In practice the taxable person often fails to obtain necessary information from his transaction counterparts giving rise to information asymmetries that can induce VAT assessments, sanctions and audits. In its up to date overview of European Union EU VAT law this book assesses legislation, case law and practice at EU and national levels in the process of examining how to minimize the risks and negative consequences associated with information asymmetries. As a result of his in depth treatment of the subject the author establishes the following to what extent information asymmetries in EU VAT have legal implications, e.g. VAT assessments, fines for the taxable person to what extent information asymmetries should have legal implications for the taxable person taking into account the legal principles applicable in EU VAT to what extent positive EU VAT law indeed implies the risk of information asymmetries and any associated unjustified legal implications and to what extent legal remedies should be employed to avoid or to reduce information asymmetries for the taxable person. This is the first book to conduct thorough research into the causes and legal implications of information asymmetries as well as the instruments which can be employed to counter their materialization. As such it will be of inestimable value to practitioners, legislators, policymakers, entrepreneurs, judicial professionals and academics concerned with EU VAT law.

Tax and Technology Annika Streicher, Svitlana Buriak, 2023-10-13

The challenges and opportunities of new technologies in the tax field. Technological developments induced major reforms in the regulatory international and domestic tax landscapes as well as in the developments in the use of technology by tax administrations and taxpayers. New technology, especially the innovations in virtual asset light cross border business organizations, data analytics, service and process automation on one hand disrupted the well established legal tax principles and rules and on the other stimulated informed data driven and structured solutions in tax compliance. Technological advances affected nearly every area and each aspect of taxation: Direct tax regulations, indirect tax law and tax procedures including tax compliance and tax control functions. International organizations such as the Organization for Economic Co-operation and Development (OECD), the United Nations (UN) and the European Commission as a supranational organization fostered critical legislative reforms and proposals among which are the OECD Two Pillar Solution to Address the Tax Challenges Arising from Digitalisation of the Economy, Article 12B of the UN Model Tax Convention to tax automated digital services, new rules for tracing transfers of crypto assets in the EU as well as the EU's VAT e-commerce package and VAT in the Digital Age package. While these proposals aim to address a wide range of the benefits and challenges of Economy 4.0, certain questions arise concerning the consistency of the legislative developments with their initial objectives, the appropriateness of the legal form for the economic substance of the regulated relations for the effectiveness of the regulations as well as their coherence. This volume contains a collection of scientific chapters on the general topic Tax and Technology that were successfully completed by the 2022/2023 LL.M. graduates of the Institute for Austrian and International Tax Law (WU). The volume is divided into three parts that contain the contributions

dealing with the impact of the technology on international tax law indirect tax law and procedural law Each chapter provides an in depth analysis of a unique research question aiming to innovatively contribute to the current debate and develop a practical approach for implementing the findings

**Quick Reference Guide to European VAT Compliance** Deloitte Global Tax Center (Europe),2018-05-22 Quick Reference to European VAT Compliance provides the information necessary to deal with common compliance challenges via a format that allows readers to readily locate pertinent guidance when needed This highly practical reference distills the problem solving process by anticipating the relevant challenges and providing reliable help Quick Reference to European VAT Compliance consists of two distinct sections An overview of how the various VAT systems in Europe work with particular attention paid to compliance issues and Detailed country specific VAT compliance profiles for each EU Member State plus Iceland Norway and Switzerland Authored by the experts at Deloitte s Global Tax Center Europe Quick Reference to European VAT Compliance is an indispensable tool for professionals seeking to proactively manage VAT compliance

Global Perspectives on E-commerce Taxation Law Subhajit Basu,2007-01-01 This book considers the implications for the domestic and international tax systems of the growth of e commerce It covers a wide variety of activities from discussion of the principles governing direct and indirect taxation to explanation of the implementation and use of e commerce on the part of businesses as well as the application of existing tax principles in this field

Value Added Tax Alan Schenk,Victor Thuronyi,Wei Cui,2015-02-09 This book integrates legal economic and administrative materials about the value added tax VAT to present the only comparative approach to the study of VAT law The comparative presentation of this volume offers an analysis of policy issues relating to tax structure and tax base as well as insights into how cases arising out of VAT disputes have been resolved Its principal purpose is to provide comprehensive teaching tools laws cases analytical exercises and questions drawn from the experience of countries and organizations around the world This second edition includes new VAT related developments in Europe Asia Africa and Australia and adds new chapters on VAT avoidance and evasion and on China s VAT Designed to illustrate analyze and explain the principal theoretical and operating features of value added taxes including their adoption and implementation this book will be an invaluable resource for tax practitioners and government officials

*Electronic Commerce* David E. Hardesty,1999

**The Taxation of Companies in Europe** International Bureau of Fiscal Documentation,1998

**The CPA Journal** ,2001

**VAT in the Digital Era** Yan Xu,2024-01-14 VAT in the Digital Era brings together leading scholars and practitioners in the fields of VAT and international taxation to explore possible unilateral and multilateral approaches for the creation of an internationally coordinated framework on VAT on cross border digital supplies

**Finance Week** ,1999



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