























CROSS BORDER SUPPLIES OF **INTANGIBLE SERVICES, RIGHTS AND DIGITAL CONTENT**

GLOBAL VAT GUIDE

THIRD EDITION – MAY 2016

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INTRODUCTION

Welcome to the Third Edition of DLA Piper's Global VAT Guide: Cross Border Supplies of Intangible Services, Rights and Digital Content.

As business grows more global, and the rules constantly change, the challenge for in-house counsel and in-house tax managers is intensifying. This Guide is intended to meet that challenge head-on. We hope that it will be an invaluable resource for you.

Focusing on supplies of intangibles, such as services, intellectual property rights and digital content, we consider this guide to be timely, given that revenue authorities throughout the world are increasingly focussed on taxation issues for the growing e-commerce sector, both in a direct and indirect tax context.

The release of this Guide follows recent developments in this area, including:

- Recent Consumption Tax reforms in Japan which have applied to inbound e-commerce supplies from 1 October 2015
- Proposed GST reforms in New Zealand relating to inbound "remote services" (including digital content) supplied in a B2C context which may be subject to GST from 1 October 2016
- GST reforms in Australia which will expand the scope of the GST to capture inbound intangible supplies in a B2C context from 1 July 2017
- Proposed VAT reforms in Russia for E-Commerce Services

For convenience, we have used the term "**VAT**" in this Guide to refer to value added taxes. Such taxes may be known by other names, including "Goods and Services Tax" ("**GST**") or Consumption Tax. We have also adopted the commonly used terms "**B2B**" to refer to "business-to-business" and "**B2C**" to refer to "business-to-consumer".

We have used our global expertise and local knowledge to bring you this Guide. With over 300 world class legal experts, DLA Piper's Global Tax Group is one of the largest in the world, with one of the largest geographical footprints of any global law firm. We partner with our

clients, wherever they do business, to find solutions and manage risk in relation to their legal challenges and objectives. We won International Tax Review's award for European Indirect Tax Team of the Year in 2015.

While this Guide provides high level guidance, it is not a substitute for legal advice in relation to specific matters. This is particularly important for VAT matters, given that local laws and policy can change quickly and without notice and the economic and factual circumstances are so critical. In a European context, the detail of the rules in different EU jurisdictions can vary significantly. If you wish to speak to any of our advisers, their contact details are set out towards the back.

We hope that you find this Guide valuable. We welcome your feedback on any aspect of it.

May 2016

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OECD VAT GUIDELINES

On 6 November 2015, the OECD published updated VAT Guidelines which now fully address both B2B and B2C supplies in an international context. The completed Guidelines include four chapters which address the following:

Chapter 1. Core features of VAT

Chapter 2. Neutrality of VAT in the context of cross-border trade

Chapter 3. Place of taxation for cross-border supplies of services and intangibles (including both B2B and B2C supplies)

Chapter 4. Supporting the Guidelines in Practice: Mutual Co-operation, Dispute Minimisation, and Application in Cases of Evasion and Avoidance

THE “DESTINATION PRINCIPLE”

The OECD VAT Guidelines support the adoption of the “Destination Principle” for supplies of services and intangibles. Under the Destination Principle, such supplies are subject to VAT in the country in which the recipient of the supplies is located. This principle is intended to ensure that VAT is imposed in the destination country where supplies are consumed. It is now increasingly accepted that the “Origin Principle” (i.e. imposing VAT based on the country in which the supplier is located) is not preferred, due to a lack of harmony amongst jurisdictions.

The OECD’s VAT Guidelines support the universal adoption of the Destination Principle as a means of reducing both potential double taxation (that is, supplies being taxed in both the source and destination country) and potential non-taxation (that is, supplies not being taxed in either the source or destination country, or in the place of performance).

The OECD’s VAT Guidelines have been endorsed by more than 100 countries and the OECD is encouraging their immediate adoption. The guidelines are not, however, legally binding.

To reduce compliance costs for suppliers, and negate cash flow costs for businesses, it is anticipated that many countries will allow (or require) business customers to “reverse charge” the VAT applicable on imports of intangible supplies.

The OECD’s VAT Guidelines are available from the OECD website at this address >> <http://www.oecd.org/tax/consumption/international-vat-gst-guidelines.pdf>



EU VAT CHANGES FOR B2C E-COMMERCE SUPPLIES (FROM 1 JANUARY 2015)

NOTE: The following commentary relates to supplies made to recipients who are located in the EU only.

Important VAT changes commenced across the European Union (“EU”) from 1 January 2015.

These changes apply to the following services (which we have collectively referred to as “**e-commerce services**”), to the extent the services are supplied to non-business customers (i.e. consumers, or non-business customers receiving the services for private purposes) and certain non-VAT registered institutions:

- telecommunication services;
- television and radio broadcasting services; and
- electronically supplied services (including software subscription services, such as for games, music and other content).

THE PREVIOUS “PLACE OF SUPPLY” RULES

In a EU VAT context, the “place of supply rules” govern where a particular supply takes place. This is relevant for determining which party must pay the VAT to the tax authority and the jurisdiction in which it must be paid. From 1 January 2015, these rules changed for B2C cross-border supplies the services listed above.

Generally speaking, where the supplier has an establishment in the EU, the previous place of supply for these services was the jurisdiction where the supplier was established. This enabled EU-based suppliers to charge VAT at a uniform rate to all consumers, relevant to the supplier’s location, wherever the consumers were based in the EU. Those previous rules led to perceived distortions as many non-EU businesses set up fixed establishments in Luxembourg to secure a low uniform VAT rate of only 15% (a lower rate applied in the case of e-books).

THE “PLACE OF SUPPLY” RULES FROM 1 JANUARY 2015

Since 1 January 2015, the general rule is that the place of supply for both EU and non-EU suppliers of these services has become the non-business customer’s place of “belonging”.

A non-business customer will generally belong where the customer is registered, has their permanent address, or usually lives. However, if a particular jurisdiction provides that VAT should be charged where the service is “used and enjoyed”, and not where the customer belongs, VAT will be charged in the place of use and enjoyment, although the “use and enjoyment” rule only applies where the supply is enjoyed in the EU, but the customer belongs outside the EU (or vice versa). This is known as the “effective use and enjoyment rule” and it can be a trap in deciding where supplies (both B2B and B2C) take place, especially as the scope of the rules vary from jurisdiction to jurisdiction.

To reduce the onerous requirement on suppliers to obtain evidence of where customers live at the point of sale, and to ensure that VAT is accounted for where B2C services are consumed, EU Regulation (1042/2013) has been introduced to assist suppliers to determine the place of supply of their e-commerce services more easily. Presumptions are made as to where the consumer’s place of belonging is located, where their physical presence is required for the supply to take place.

For example, and as mentioned in more detail below, if electronic services (B2B or B2C) are provided at a location such as a wi-fi hot spot, internet café, restaurant or hotel lobby where the physical presence of the customer is needed, there shall be a presumption that the service is supplied there. This would avoid a hotel providing wi-fi in its lobby needing to register for VAT in every jurisdiction where its guests are resident. These presumptions can be rebutted with evidence and will need to be built into VAT compliance systems.

For business-to-business cross-border transactions, the general rule remains that a customer is liable to account for any VAT due through a reverse charge in accordance with current VAT rules. That is, the business customer itself will account for the VAT in the business customer’s jurisdiction.

However, for supplies to non-business customers, the reverse charge is not an option. As a result, liability to account for any VAT due in a Member State will rest entirely with the supplier and not the customer.

THE NEW EXPANDED ONE STOP SHOP

An important additional change, which is of critical importance to the EU Commission, is the One Stop Shop (“**OSS**”), which allows payments and returns to be made electronically from a single Member State of Identification. This has been extended to EU businesses, and now covers not only electronic services, but telecommunications and broadcasting services.

The OSS as extended reduces the obvious administrative burdens that the change in the place of supply rules could have led to, because EU suppliers will not have to register in every Member State where their customers belong.

The implementation of the expanded OSS has gone smoothly, and there are very few reported difficulties, although take up has been lower than expected.

However, there remain a number of issues that businesses need to consider:

It must be remembered the OSS is optional. Businesses can instead register in every Member State where they have non-business customers in the usual way.

Issues that will be important to consider include:

- Non-EU suppliers can use the OSS only if they have no EU establishment. This is called the “**Non-Union Scheme**”. They can choose whichever jurisdiction they wish to make their electronic registration. That jurisdiction, called the Member State of Identification, will receive all returns and payments and distribute the VAT payments to the Member States where the customers are based. The applicable VAT rules and rates are those which apply in the Member State of the customer. A Non-EU business cannot use the Non-Union Scheme if it is registered for VAT, or required to register for VAT, in any Member State. If it is so registered or liable to register, then even if it has no establishment in the EU, it will not be able to register under the OSS, but will need to account for VAT under the usual rules.
- For EU businesses, they must register for OSS in the jurisdiction where they have their main place of business (“**the Union Scheme**”). They cannot use the OSS for supplies made to non-business customers in jurisdictions where they have either their main place of business or a fixed establishment. Rather, for these supplies, they must account for VAT in the usual way under a VAT registration. Once registered for OSS they must use it for all electronic and other specified supplies made to customers in locations where they have no establishment, even if the supplies in a jurisdiction are small. Thresholds are being considered.
- The OSS is simply for output VAT (i.e. VAT payable on supplies made). Input VAT refunds will still be available via the electronic VAT refund mechanism (EU Directive 2008/9/EC for the Union Scheme), or the 13th VAT Directive for non-EU businesses.
- As noted above, the OSS is optional. Any EU or non-EU business can decide to account for VAT in each jurisdiction where it has customers under a local VAT registration in the normal way. Using normal rules may be particularly attractive to those businesses which have substantial input VAT refunds to recover, or whose customers are based in less than three jurisdictions, or who have fixed establishments in the majority of the jurisdictions where their customers are based (and who therefore cannot use the OSS for those jurisdictions).
- Agents will be able to submit the OSS VAT returns on behalf of their clients, in accordance with the rules and procedures in the Member State of Identification.
- The Member State of Identification selected for an OSS registration retains 30% of the VAT collected from 1 January 2015 to 31 December 2016, 15% for supplies made from 1 January 2017 to 31 December 2018, and nothing thereafter. This is a retention fee from payments of VAT made between Member States. It does not affect the amount of VAT to be paid by businesses.
- Businesses can only register for the OSS if they are VAT registered. That has caused a problem for small businesses who are trading below the VAT threshold and have been reluctant to register, with the result that local supplies would become subject to VAT. In the UK, a concession has been introduced to enable non-VAT businesses to register for VAT in the UK, as their Member State of Identification, so they can use the OSS, but not have to charge VAT on local supplies until they exceed the VAT registration threshold.
- Penalties and charges for late payments of VAT are outside the OSS and are the responsibility of the Member State where the supply takes place.
- There are strict rules of compliance and time limits for delivery of quarterly returns and payments of VAT, record keeping (10 years) and notification of changes. Non-compliance can lead to exclusion from the OSS for a period of time (known as quarantine). It appears that the record keeping obligations, and the fact that electronic information can so easily be passed on to interested parties, is deterring some taxpayers from joining.
- Due to the success of the technology of the OSS, the EU Commission are hoping to extend the OSS to goods as well.

- The ability to quickly and accurately obtain information on the tax compliance rules and rates in each jurisdiction is key to the expansion and success of the OSS.

E-SERVICES: WHERE MUST THE SUPPLIER ACCOUNT FOR EU VAT?

It is incumbent on the supplier to determine the correct Member State of supply (that is, where the customer “belongs” or, where appropriate, where the service is used and enjoyed by the customer).

There are particular rules to be applied for determining where a customer is treated as belonging for VAT purposes and accordingly where the VAT must be accounted for. EU Regulation 1042/2013 provides for particular presumptions and scenarios which a supplier must adhere to in determining where a supply takes place. Obviously consumers move around and may be receiving the service far from home, for example on a mobile device, and there need to be rules to enable suppliers to know where to account for the VAT, if it is otherwise uncertain.

The main rules are as follows:

- When services are provided at a location such as a telephone box, internet café, wi-fi hotspot or similar, where the recipient must be physically present in order for the service to be rendered to the customer, the presumption is that the customer belongs at that location (and so that is where the place of supply takes place.) If the location is on board a ship, aircraft or train travelling within the EU, the country of departure is deemed to be the country where the supply takes place.
- Where services are supplied via a residential fixed land line, the place of supply shall be wherever the fixed land line is installed.
- Where services are supplied through a mobile network against subsequent collection of payment, the place of supply shall be wherever is the mobile country code of the SIM card.
- Where services are supplied needing a fixed viewing card, the place of supply shall be the place to which the viewing card is sent with a view to it being used there.
- To rebut the presumptions, a supplier needs to obtain three pieces of non-contradictory evidence to identify where the customer actually belongs, i.e. where the customer has his or her permanent address or usually resides (and therefore where is the place of supply).

- If the presumptions do not apply, the supplier requires two pieces of non-contradictory evidence to identify residence. The non-exclusive list comprises:
 - customer details such as billing address;
 - IP address of the device used by the customer or any method of geolocation;
 - bank details such as the location of the bank account used or the customer’s billing address;
 - the mobile country code of the customer’s SIM card;
 - the location of the residential fixed land line through which the service is supplied; and
 - other commercially relevant information that is obtained by the supplier.
- E-services supplied through a platform or portal can give rise to the presumption that the platform or portal as intermediary is liable for the VAT on the supplies made to the customers.

Building verification processes capturing these indicators into a supplier’s IT system will need to be considered.

The Regulation includes the presumption that customers are non-business if they cannot provide a valid VAT number.

The presumptions are largely sensible and should result in VAT being levied in the Member State of consumption of the e-service, and should remove some of the administrative burdens from suppliers. But where the presumptions do not apply, suppliers will need to obtain additional evidence of residence at the point of sale. Furthermore, given that new EU Regulations in the telecommunications sector will permit mobile operators to provide international roaming services to EU customers, it is anticipated that mobile operators will need to register in all other Member States, such that the OSS will prove very important for them.

CONSIDERING RELOCATION

If a non-EU business had relocated to Luxembourg or another low VAT jurisdiction to take advantage of the previous place of supply rules for EU-based businesses, that business may now wish to contemplate relocating again, either out of the EU or to another jurisdiction that offers efficient direct tax regimes such as the UK or the Netherlands.

TIPS FOR MINIMISING VAT RISKS FOR CROSS BORDER SUPPLIES

Businesses that make cross-border supplies of intangibles services, rights and digital content need to be mindful of potential VAT risks on a global basis, particularly as more countries consider adopting the OECD VAT Guidelines outlined above.

To minimise these risks, we suggest the following:

- **All business-to-business supply contracts should state prices on a VAT exclusive basis.** It is necessary to confirm if this is permitted under local laws. The contract should also include a separate VAT gross up clause. This may allow the supplier to pass on VAT, or any VAT rate increase, if required. Ideally any such clause should be drafted to cover VAT in the supplier's home country, as well as any VAT that may apply in any destination country.
- **Consider whether any VAT can potentially be “reverse charged” and paid by a local business customer.** This may require the written agreement of the local business customer, which could be addressed in any VAT clauses in the contract. A reverse charge is unlikely to be available for supplies to a non-registered consumer.
- **For business-to-consumer supply contracts, prices should again be stated on a VAT exclusive basis (if permitted) and it should be made clear that VAT is chargeable on top.** However, many countries do not permit VAT exclusive pricing for supplies to consumers.
- **If VAT exclusive pricing is not permitted (in either a B2B or B2C context), the contract should ideally permit the supplier to adjust prices if required.** The circumstances in which prices can be adjusted under the contract should be broad enough to cover the introduction of new VAT imposts (or changes to VAT rates). Note that it may be necessary to provide a period of notice to consumers before prices can be adjusted.
- **Businesses should consider how VAT compliance costs and risks can be best managed.** For example, in an EU context, the “One-Stop-Shop” is an option. Other options may include the establishment of new local subsidiary entities, the formation of VAT consolidated groups, the use of local resident agents and the reverse charging of VAT to business customers (where permissible).
- **Find out the invoicing rules in each jurisdiction.** Our global network of leading VAT experts can assist you with the above, in addition to any other relevant local VAT considerations.



AUSTRALIA



Australia | Brazil | Canada | China | Finland | France | Germany | Italy | Japan | Luxembourg | Malaysia | Netherlands
New Zealand | Norway | Poland | Russia | Singapore | Spain | Sweden | United Kingdom

LOCAL NAME FOR VAT

Goods and Services Tax, or GST

APPLICABLE RATES FOR E-COMMERCE SERVICES

Standard Rate

10%

Special Rate

N/A

REGISTRATION REQUIREMENTS

Mandatory

Entities with a GST turnover exceeding AUD\$75,000 in a 12 month period, from supplies that are “connected with Australia”, are required to be GST registered.

Optional

An entity that carries on an “enterprise”, anywhere in the world, may be GST registered.

PLACE OF SUPPLY FOR CROSS BORDER SUPPLIES OF INTANGIBLES TO LOCAL CONSUMERS (B2C)

As at the date of publication, it is necessary to determine whether intangible supplies are “connected with the indirect tax zone” (i.e. are connected with Australia) before GST will apply. Such supplies may not be “connected with the indirect tax zone” if the supplies are made from outside of Australia and the supplier does not have a permanent establishment or other substantial presence in Australia.

As a part of the 2015 Budget, the Australian Government announced that it will amend the GST law with effect from 1 July 2017. If enacted, the proposed amendments will extend the “connected with the indirect tax zone” tests to capture intangible supplies that are made to consumers located in Australia. While draft legislation has been introduced into Parliament, it had not been passed and enacted as at the time of writing. The amendments will only apply in a B2C context, not a B2B context, as explained below.

PLACE OF SUPPLY FOR CROSS BORDER SUPPLIES OF INTANGIBLES TO BUSINESS CUSTOMERS (B2B)

With the exception of the “reverse charge” rules discussed below, and certain supplies made by non-resident suppliers, the place of supply rules in a B2B context are the same as set out above in a B2C context.



Australia | Brazil | Canada | China | Finland | France | Germany | Italy | Japan | Luxembourg | Malaysia | Netherlands
New Zealand | Norway | Poland | Russia | Singapore | Spain | Sweden | United Kingdom

A mandatory reverse charge may apply if a GST registered entity in Australia acquires intangible rights or services through a supply that is not “connected with Australia”. The reverse charge should only apply if the entity will not use the rights or services acquired for a wholly “creditable purpose”.

If a supply from a non-resident is “connected with the indirect tax zone”, a GST registered business may voluntarily agree to reverse charge and pay that GST, provided that the supply by the non-resident is not made through an “enterprise” that it carries on in Australia. The parties must agree to the reverse charge in writing, which can normally be addressed in the VAT/GST clause in the supply contract.

The proposed amendments for cross-border intangible supplies made to consumers in Australia will **not** apply in a B2B context. This recognises that most GST registered businesses in Australia will be entitled to a full input tax credit (GST credit) for any GST that may be imposed on a B2B supply. GST registered entities which would not be entitled to a full input tax credit are already subject to a mandatory reverse charge as outlined above.

Further, if the amending legislation is passed, certain supplies intangible supplies made by non-resident suppliers to “Australian-based businesses” (as that term is defined in the amending legislation) will not be “connected with the indirect tax zone”, and hence won’t attract GST.

DO YOU REQUIRE EVIDENCE OF A CUSTOMER’S VAT NUMBER TO TREAT A SUPPLY AS B2B?

As explained above, the proposed application of GST to intangible supplies made by non-resident suppliers to Australian consumers should not apply where the recipient is a GST registered business (except in some limited circumstances). Non-resident suppliers who have a declaration from business customers confirming they are GST registered will be afforded certain protections. Consequently, non-resident suppliers will generally want to collect an Australian Business Number (“**ABN**”) and customer declaration when making supplies in a B2B context.

CAN PRICES BE DISPLAYED ON A TAX EXCLUSIVE BASIS?

B2B Transactions

Yes, prices can be displayed on a GST exclusive basis for B2B transactions, provided that this is clearly indicated and not misleading.

B2C Transactions

Australian consumer protection laws require that all prices displayed to consumers must include GST. However, those laws may not apply to non-resident suppliers who do not have a presence in Australia.



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BRAZIL



Australia | **Brazil** | Canada | China | Finland | France | Germany | Italy | Japan | Luxembourg | Malaysia | Netherlands
New Zealand | Norway | Poland | Russia | Singapore | Spain | Sweden | United Kingdom

LOCAL NAME FOR VAT

Social contributions on gross receipts on imports (PIS/PASEP & COFINS on Imports) – Federal level

APPLICABLE RATES FOR E-COMMERCE SERVICES

Standard Rates

PIS/PASEP – Import: 1.65%

COFINS – Import: 7.6%

Note that these taxes are not typical VAT because the offset/recoverability of these taxes will depend on the type of activity and essentiality of the IP imported for the business activity of the Brazilian entity.

Depending on the type of transaction, other taxes may apply, such as:

- Withholding Income Tax: 15% or 25% (if located in a tax haven jurisdiction);
- Contribution for Intervention on Economic Domain (CIDE), which is a charge on remittances for importation of IP: 10%; and
- Service Tax (ISSQN): 2% to 5%.

In addition, tax on financial transactions (IOF), including exchanges and currency conversions, apply at 0.38% or 6.38%, depending on the type of transaction involved.

REGISTRATION REQUIREMENTS

Mandatory

As a general rule, legal entities domiciled in Brazil and permanent establishments performing ongoing industrial, commercial and professional activities are required to be registered before the tax authorities for the legal entity national registry and obtain a tax ID number (CNPJ), which is necessary to collect PIS/PASEP and COFINS. Registration for municipal tax (ISSQN) is also required.

PLACE OF SUPPLY FOR CROSS BORDER SUPPLIES OF INTANGIBLES TO LOCAL CONSUMERS (B2C)

The Brazilian government holds studies to charge taxes over these transactions. At the moment, only IOF is charged currently at 6.38% over a payment abroad with international credit cards.



Australia | **Brazil** | Canada | China | Finland | France | Germany | Italy | Japan | Luxembourg | Malaysia | Netherlands
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PLACE OF SUPPLY FOR CROSS BORDER SUPPLIES OF INTANGIBLES TO BUSINESS CUSTOMERS (B2B)

If it is an importation of services or any type of transactional payment abroad, it will be necessary to pay all applicable Brazilian taxes. The type of transaction is necessary to define which taxes apply. The importer is responsible for the collection of all these taxes upon importation.

DO YOU REQUIRE EVIDENCE OF A CUSTOMER'S VAT NUMBER TO TREAT A SUPPLY AS B2B?

Yes, it is necessary to hold a CNPJ and a municipal tax registration to be able to make payment in a B2B context.

CAN PRICES BE DISPLAYED ON A TAX EXCLUSIVE BASIS?

If the transaction is between entities in Brazil, PIS/PASEP and COFINS are inclusive in the price. In the case of ISS, the amount of tax included in the price is reported in a tax invoice, but only for control purposes since it cannot be recovered by the purchaser. If the transaction is an importation into Brazil, the price is exclusive of any taxes and the local importer will be responsible to collect the taxes.

* The information herein was prepared by Campos Mello Advogados, an independent law firm



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CANADA



Australia | Brazil | **Canada** | China | Finland | France | Germany | Italy | Japan | Luxembourg | Malaysia | Netherlands
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LOCAL NAME FOR VAT

Goods and Services Tax, or GST

APPLICABLE RATES FOR E-COMMERCE SERVICES

Standard Rate

5%

Special Rate

13-15% Harmonized Sales Tax, or HST, applies to taxable supplies made in provinces that have agreed to have the federal taxing authority administer in that province a combined VAT consisting of 5% GST and a provincial portion.

The commentary below refers to "GST" only. However, the same rules and requirements apply to HST if applicable.

REGISTRATION REQUIREMENTS

Mandatory

Registration is mandatory for Canadian resident persons, and non-resident persons carrying on business in Canada, with GST taxable supplies in excess of CAD\$30,000.

Optional

Registration is optional for Canadian resident persons with GST taxable supplies less than CAD\$30,000 and non-resident persons that do not carry on business in Canada.

PLACE OF SUPPLY FOR CROSS BORDER SUPPLIES OF INTANGIBLES TO LOCAL CONSUMERS (B2C)

If supplier is a non-resident person that does not carry on business in Canada, the supply is deemed to be made outside of Canada and the non-resident supplier does not charge GST.

However, strictly speaking, recipient consumers are required to self-assess (reverse charge) GST on an imported taxable supply of intangible property or services.



Australia | Brazil | **Canada** | China | Finland | France | Germany | Italy | Japan | Luxembourg | Malaysia | Netherlands
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PLACE OF SUPPLY FOR CROSS BORDER SUPPLIES OF INTANGIBLES TO BUSINESS CUSTOMERS (B2B)

The rules are the same as set out above in a B2C context, except that recipient businesses which are registered for GST, and which would have been permitted to recover GST payable by claiming an input tax credit, are not required to self-assess (reverse charge) GST on an imported taxable supply of intangible property or services.

In a practical senses, this means that only business which would not have been entitled to recover GST payable through an input tax credit are required to reverse charge GST on an imported taxable supply of intangible property or services.

DO YOU REQUIRE EVIDENCE OF A CUSTOMER'S VAT NUMBER TO TREAT A SUPPLY AS B2B?

Suppliers are not specifically required to maintain evidence for distinguishing B2C and B2B supplies.

For cross border supplies of intangible property or services, either the non-resident supplier is not required to register for GST (in which case it does not charge GST on B2C and B2B supplies), or it is registered and charges GST or HST, as applicable, on both B2C and B2B supplies.

CAN PRICES BE DISPLAYED ON A TAX EXCLUSIVE BASIS?

Suppliers have the choice of displaying prices on either a GST inclusive or GST exclusive basis.

If prices are displayed on a GST exclusive basis, the GST payable must be displayed on the invoice issued to the customer.

Alternatively, if prices are displayed on a GST inclusive basis, this must be noted on the invoice so that customers can determine the GST included in the price.



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CHINA



Australia | Brazil | Canada | **China** | Finland | France | Germany | Italy | Japan | Luxembourg | Malaysia | Netherlands
New Zealand | Norway | Poland | Russia | Singapore | Spain | Sweden | United Kingdom

LOCAL NAME FOR VAT

VAT

APPLICABLE RATES FOR E-COMMERCE SERVICES

Standard Rate

- 17% (provision of digital content)
- 11% (transportation services, postal services, and basic telecommunications services)
- 6% (other services, provision of intellectual property rights)
- 0% (for qualified service exports)

Special Rate

3% (for taxpayers recognized as small-scale taxpayers, including individuals and taxpayers whose annual turnover is less than RMB 5 million or who do not keep sound accounting records)

REGISTRATION REQUIREMENTS

Mandatory

All entities registered in China and individuals conducting VAT taxable activities are subject to VAT registration. VAT taxpayers are registered as either general taxpayers or small-scale taxpayers; each category is subject to different tax treatment. General taxpayers apply standard tax rates and can claim input VAT credit. Small-scale taxpayers apply special levy rates without being allowed to deduct input VAT paid for purchases. Individuals can only be registered as small-scale taxpayers.

Optional

Foreign entities without a business registration within China, but which derive VAT taxable income, are not required to be VAT registered. Their VAT liabilities are settled by appointed agents inside China or through withholding by payers in China.

PLACE OF SUPPLY FOR CROSS BORDER SUPPLIES OF INTANGIBLES TO LOCAL CONSUMERS (B2C)

China has not adopted the “destination principle” from the OECD VAT Guidelines.

Chinese VAT laws do not differentiate the place of taxation for B2B and B2C cross-border supplies of services and intangibles. VAT is charged on supplies of intellectual property rights and certain services if either the supplier or the recipient is inside China, unless the supplies of a non-China supplier are consumed completely outside China. China does not have specific tax rules dealing with cross-border supplies of digital content. Thus the competent tax authorities normally make reference to the tax treatment in relation to the provision of intellectual property rights or sale of shrink wrapped software in this regard.



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China allows VAT exemptions, or grants VAT refunds, for the exportation of certain intangible supplies if relevant conditions are satisfied. For importation of intangible supplies, the Chinese tax laws require Chinese importers (recipients of the supplies) to withhold VAT from the payments and settle tax payments with local tax authorities. VAT gross up clauses are allowed to be included in cross-border contracts for supplies of intangibles.

In practice, the above withholding rules are not strictly enforced against individual importers due to the administrative difficulties, i.e., the huge volume of transactions and the small amount involved in each transaction.

PLACE OF SUPPLY FOR CROSS BORDER SUPPLIES OF INTANGIBLES TO BUSINESS CUSTOMERS (B2B)

The place of supply rules in B2B transactions are the same as those set out above in the B2C context. However, the withholding rules as set out in the above section are strictly enforced in the case of importation of intangibles in a B2B context where the importers are corporations rather than individuals.

DO YOU REQUIRE EVIDENCE OF A CUSTOMER'S VAT NUMBER TO TREAT A SUPPLY AS B2B?

Chinese VAT laws do not differentiate between the place of taxation for B2B and B2C cross-border supplies of services and intangibles.

For the exportation of intangibles that are eligible for VAT exemption, tax laws may require customers outside of China to provide documentation evidencing its foreign business or tax registration. This tax treatment will not change regardless of whether the customer is an individual or a business.

For the importation of intangibles, the importer, irrespective of whether it is an individual or a business, is required to withhold the relevant VAT from the gross payment. However, note that in the B2B context, the importer can claim VAT credit for the VAT withheld based on its general taxpayer registration number only if it is a general taxpayer (as opposed to small-scale payer).

CAN PRICES BE DISPLAYED ON A TAX EXCLUSIVE BASIS?

Yes. Chinese tax laws do not have specific requirements on price display in cross-border supplies of intangibles.



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FINLAND



Australia | Brazil | Canada | China | **Finland** | France | Germany | Italy | Japan | Luxembourg | Malaysia | Netherlands
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LOCAL NAME FOR VAT

Arvonlisävero, ALV

APPLICABLE RATES FOR E-COMMERCE SERVICES

Standard Rate

24 %

Special Rate

N/A

REGISTRATION REQUIREMENTS

Mandatory

Entities carrying out sales of intangibles supplies in Finland with turnover exceeding EUR 10,000 during its financial year are required to be VAT registered. An entity purchasing intangibles services as a reverse charge must register for VAT.

Sale of E-Commerce Services (Radio and TV broadcasting, electronic and telecom services) to Finnish local customers (B2C) requires that the selling entity must register in Finland for VAT purposes. However, an EU entity can use the special system where the local tax authority will collect the Finnish VAT and forward the Finnish VAT to Finnish tax authorities and thus a Finnish VAT registration is not required. A non-EU based entity has to register in Finland or in any other EU country to pay all local VAT via one tax authority the same way as an EU entity.

Optional

Optional registration is possible in case the entities not mandatorily subject to VAT registration wishes to be VAT registered for its business activities in Finland.

PLACE OF SUPPLY FOR CROSS BORDER SUPPLIES OF INTANGIBLES TO LOCAL CONSUMERS (B2C)

In the case of E-Commerce Services, the place of supply to a consumer who is established or has his or her permanent address or usually resides in Finland, will always be deemed to be provided in Finland.

Other intangible supplies are deemed to be sold in the country where the seller is established or where the seller has a permanent establishment carrying out the supply providing activities.



Australia | Brazil | Canada | China | **Finland** | France | Germany | Italy | Japan | Luxembourg | Malaysia | Netherlands
New Zealand | Norway | Poland | Russia | Singapore | Spain | Sweden | United Kingdom

PLACE OF SUPPLY FOR CROSS BORDER SUPPLIES OF INTANGIBLES TO BUSINESS CUSTOMERS (B2B)

In a B2B context, the place of supply is where the recipient of the services is located. The reverse charge system applies to the supply of the services.

DO YOU REQUIRE EVIDENCE OF A CUSTOMER'S VAT NUMBER TO TREAT A SUPPLY AS B2B?

As the supplier has to charge VAT, it is the supplier's general responsibility to obtain information about the supplier's customer. The information to be obtained includes the VAT registration of a business customer.

CAN PRICES BE DISPLAYED ON A TAX EXCLUSIVE BASIS?

B2B Transactions

Prices can be displayed exclusive of VAT for B2B transactions, provided that the applicable VAT rate is displayed.

B2C Transactions

Prices must be displayed on a VAT inclusive basis.



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FRANCE



Australia | Brazil | Canada | China | Finland | **France** | Germany | Italy | Japan | Luxembourg | Malaysia | Netherlands
New Zealand | Norway | Poland | Russia | Singapore | Spain | Sweden | United Kingdom

LOCAL NAME FOR VAT

Taxe sur la valeur ajoutée (TVA)

APPLICABLE RATES FOR E-COMMERCE SERVICES

Standard Rate

20 %

Special Rate

N/A

REGISTRATION REQUIREMENTS

Mandatory

Foreign companies having their effective place of management or a permanent establishment in France have to register with the French tax authorities.

Companies established in another EU member State carrying out VAT-able operations in France without having an establishment there have to register with the French tax authorities, unless they only carry out operation subject to the reverse charge mechanism (i.e. B2B transactions with French taxpayers). Said companies may appoint an agent in France for carrying out administrative formalities on their behalf.

Companies established in a non-EU member State carrying out VAT-able operations in France, without having an establishment there, are subject to either of these requirements:

- If the foreign State has entered into with France an agreement on mutual assistance for the recovery of tax claims, the company has to register with the French tax authorities.
- If such agreement has not been entered into between France and the foreign State, the company has to appoint a tax representative.

Optional

Foreign companies with no establishment on the EU territory, providing broadcasting, telecommunication or electronic services to EU-resident consumers (B2C services), may elect to register in a single EU member State for the purpose of VAT (so called “Mini One Stop Shop”). This option is also available to B2C providers of broadcasting, telecommunication or electronic services that are established in an EU member State.



Australia | Brazil | Canada | China | Finland | **France** | Germany | Italy | Japan | Luxembourg | Malaysia | Netherlands
New Zealand | Norway | Poland | Russia | Singapore | Spain | Sweden | United Kingdom

PLACE OF SUPPLY FOR CROSS BORDER SUPPLIES OF INTANGIBLES TO LOCAL CONSUMERS (B2C)

As a general rule, the place of supply for provision of B2C services is deemed in France where the supplier is based in France. In addition, the following specific rules apply to certain supply of intangibles (such as sale or licensing of IP rights):

- If the supplier is based in France but the customer is not resident of an EU member State, the place of supply would be deemed out of France.
- If the customer is based in another EU member State, but the service is used in France, the place of supply would be deemed in France.

As from January 1st 2015, a specific regime applies to electronic, telecommunication, radio and TV broadcasting services provided to customers. The place of supply of such services would be deemed in France where the customer is based in France, regardless of the State in which the provider is established.

PLACE OF SUPPLY FOR CROSS BORDER SUPPLIES OF INTANGIBLES TO BUSINESS CUSTOMERS (B2B)

Regarding services provided to business customers, the place of supply is deemed in France where the customer is established in France and where the services are not provided to a foreign fixed establishment, regardless of the supplier's State of establishment.

The same principle applies to supply of intangibles and provision of electronic, telecommunication, radio and TV broadcasting services.

DO YOU REQUIRE EVIDENCE OF A CUSTOMER'S VAT NUMBER TO TREAT A SUPPLY AS B2B?

Yes

CAN PRICES BE DISPLAYED ON A TAX EXCLUSIVE BASIS?

Prices should normally be displayed on a basis including VAT. However, where both parties are professionals, prices are deemed expressed on a tax exclusive basis, unless otherwise stated.



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GERMANY



Australia | Brazil | Canada | China | Finland | France | **Germany** | Italy | Japan | Luxembourg | Malaysia | Netherlands
New Zealand | Norway | Poland | Russia | Singapore | Spain | Sweden | United Kingdom

LOCAL NAME FOR VAT

VAT (Umsatzsteuer)

APPLICABLE RATES FOR E-COMMERCE SERVICES

Standard Rate

19 %

Special Rate

7 % for certain turnovers (but likely not applicable to e-commerce services)

REGISTRATION REQUIREMENTS

Mandatory

Mandatory registration is required for Non-EU enterprises rendering B2C services provided the enterprise is not registered in another EU member state for such purposes.

Optional

Optional registration is possible for all enterprises if they wish to be subject to the general VAT taxation rules. The Federal Tax Administration has established certain competent tax offices for registration depending on the origin of the respective enterprise.

PLACE OF SUPPLY FOR CROSS BORDER SUPPLIES OF INTANGIBLES TO LOCAL CONSUMERS (B2C)

The general rule regarding the place of supply is the place where the supplier is located (which is either the supplier's main establishment or a permanent establishment if the service is rendered from there. The place of "use or enjoyment" of the service is of no importance.

In case of the supply of intangibles and e-commerce services a distinction has to be made. If the supplier is located within the EU, and the recipient is resident outside the EU, then the supply is carried out at the recipient's location.

In the case of e-commerce services, if the supplier is located outside the EU and the recipient is resident within the EU, then the services are rendered at the recipient's location. As of 1 January 2015, this will become the general rule for all suppliers in respect of e-commerce services.

The German administration has now amended the VAT Code in § 3a sec.5 together with new rules in § 18 sec. 4c and 4e and § 18h regarding taxing procedures to reflect these changes for e-commerce services.



Australia | Brazil | Canada | China | Finland | France | **Germany** | Italy | Japan | Luxembourg | Malaysia | Netherlands
New Zealand | Norway | Poland | Russia | Singapore | Spain | Sweden | United Kingdom

PLACE OF SUPPLY FOR CROSS BORDER SUPPLIES OF INTANGIBLES TO BUSINESS CUSTOMERS (B2B)

In a B2B context, the place of supply is where the recipient of the services is located (be it the recipient's main establishment or another permanent establishment). Once again, the place of "use or enjoyment" is of no importance.

There is no distinction made between the supply of intangibles and the supply of e-commerce services in a B2B context.

The reverse charge system applies to the supply of the services.

DO YOU REQUIRE EVIDENCE OF A CUSTOMER'S VAT NUMBER TO TREAT A SUPPLY AS B2B?

As the supplier has to charge VAT, it is the supplier's general responsibility to obtain information about the supplier's customer. The information to be obtained includes the VAT registration of a business customer.

CAN PRICES BE DISPLAYED ON A TAX EXCLUSIVE BASIS?

Prices have to be displayed on a tax inclusive basis.

Only where the recipient of services is located outside the EU can tax be excluded in case of B2C supplies.



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ITALY



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LOCAL NAME FOR VAT

Imposta sul Valore Aggiunto or IVA

APPLICABLE RATES FOR E-COMMERCE SERVICES

Standard Rate

22%

Special Rate

Reduced 4% VAT rate established for books applies also to e-books, starting from 1 January 2015*.

As of 1 January 2016, the reduced VAT rate is extended to online newspapers and magazines.

**It should be noted, however, that the ECJ (judgement of 5 March 2015 in cases C-479/13 and C-502/2013) has declared contrary to EU law the provisions of French and Luxembourg law establishing a reduced VAT rate for e-books.*

REGISTRATION REQUIREMENTS

Mandatory

As a general rule, entities performing habitually industrial, commercial and professional activities are obliged to register for VAT purposes in Italy.

For the so-called "indirect e-commerce" (i.e. supply of goods performed using online platforms) carried out by a VAT entity directly from abroad to Italy, no VAT registration occurs if the entity's yearly turnover does not exceed EUR 35,000 (in this case e-commerce is a part of the "distance sales" regime).

Optional

N/A

PLACE OF SUPPLY FOR CROSS BORDER SUPPLIES OF INTANGIBLES TO LOCAL CONSUMERS (B2C)

In case of supplies of intangibles (patents, marks, etc.) to Italian customers who are not registered for VAT, no Italian VAT is applied being the transaction subject to VAT in the country of the supplier. The place of "use or enjoyment" of the service is of no importance (in Italy this rule affects limited cases such as telecommunication services).

In case of e-commerce supplies (e.g. on-line gaming, etc.), as of January 1st 2015 the place of supply is identified in the EU State of the customer. This rule derogates the general rule under which in B2C transactions the place of supply is the EU State of the supplier. The VAT territoriality special regime applicable to e-commerce services applies both when the supplier is extra-EU based and when the supplier is established in a EU Member State.



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PLACE OF SUPPLY FOR CROSS BORDER SUPPLIES OF INTANGIBLES TO BUSINESS CUSTOMERS (B2B)

In this case the transaction is relevant for VAT purposes in Italy pursuant to the general EU VAT principle that taxation occurs in the country of the recipient (if registered for VAT and duly registered in the VIES system). In such a scenario the reverse charge mechanism must be mandatorily applied by the Italian recipient, even if the foreign entity is registered for VAT purposes in Italy (through a VAT representative or through the so-called direct identification).

If the foreign entity has an Italian fixed place of establishment, the reverse charge mechanism still applies in case the transaction has been performed from abroad without the involvement of the Italian fixed place of establishment. Otherwise, the fixed establishment should invoice for the domestic supply, being the actual supplier of the service.

In this case too, the place of "use or enjoyment" of the service is of no importance. Rather, the service is subject to the general B2B rule according to which service is taxed in the country of the recipient, regardless the place of use or enjoyment.

DO YOU REQUIRE EVIDENCE OF A CUSTOMER'S VAT NUMBER TO TREAT A SUPPLY AS B2B?

Yes. For intra-EU supplies, reference has to be made to the VIES system in order to get information about the VAT status of the customer.

Italian VAT entities, in order to apply for the ordinary B2B rules (usually, taxation in the country of the recipient pursuant to the reverse charge mechanism) must be registered in the VIES system.

If the supplier is Italian and the recipient is established outside the EU, evidence must be gathered to demonstrate that the customer is liable for a consumption tax similar to VAT in its country, or that the acquisition has been performed in the course of business.

CAN PRICES BE DISPLAYED ON A TAX EXCLUSIVE BASIS?

In B2B transactions prices can be displayed exclusive of VAT. It should be clear, however, that the price refers only to B2B transactions.

In B2C transactions the price should include any additional charges/taxes applied (including Italian or any applicable VAT).

If the price is displayed for both B2B and B2C transactions, the consumers' interest shall prevail. Therefore, it is necessary to display the price reserved to the consumer underscoring that such price includes VAT.



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Australia | Brazil | Canada | China | Finland | France | Germany | Italy | **Japan** | Luxembourg | Malaysia | Netherlands
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LOCAL NAME FOR VAT

Consumption Tax

APPLICABLE RATES FOR E-COMMERCE SERVICES

Standard Rate

8% at the time of publication.

This is scheduled to be increased to 10% from 1 April 2017, although there have been active discussions as to whether the increase should be postponed.

Special Rate

N/A. If the tax rate is increased to 10%, a special reduced tax rate (8%) will probably be applicable to foods (excluding alcohol and restaurant meals) and newspaper subscriptions.

Registration Requirements

Mandatory

The following companies have to register as taxable business operators:

1. A company with JPY 10 million or more of capital;
2. A company with more than JPY 10 million of taxable sales during the base period (generally, two (2) years prior to the current business year);
3. A company with more than JPY 10 million of taxable sales or salaries during the specific period (being the first six (6) months of a business year prior to the current business year); and
4. A company that meets all of the conditions below:
 - (a) Capital amount is less than JPY 10 million;
 - (b) Not having the base period;
 - (c) Directly or indirectly owned by an entity with more than 50%, or otherwise controlled by an entity, where certain conditions are met ("Controlling Entity"); and
 - (d) Either a Controlling Entity or persons having a special relationship with the Controlling Entity have taxable sales of more than JPY 500 million during the base period.

Optional

A company who does not fall within the above categories is not subject to the Consumption Tax, but they can register as a taxable business operator in order to get refund of input Consumption Tax.



Australia | Brazil | Canada | China | Finland | France | Germany | Italy | **Japan** | Luxembourg | Malaysia | Netherlands
New Zealand | Norway | Poland | Russia | Singapore | Spain | Sweden | United Kingdom

PLACE OF SUPPLY FOR CROSS BORDER SUPPLIES OF INTANGIBLES TO LOCAL CONSUMERS (B2C)

The place of supply is where the recipient of the services is located. An offshore service provider has an obligation to collect Consumption Tax from their B2C customers in Japan and to pay such collected Consumption Tax to the National Tax Agency (“**NTA**”) (the system is referred to as the “**Foreign Supplier Registration/Filing System**”). In order to report and pay collected Consumption Tax, offshore service providers is required to register. Instructions for an application for the registration are available at the NTA’s website (https://www.nta.go.jp/foreign_language/consumption_tax/201606-9en.pdf).

54 offshore service providers are registered as of 30 March 2016.

There is no penalty if a B2C service provider does not register. However, as a tentative measure for a certain period, customers which operate businesses in Japan are unable to credit the amount of the consumption tax included in the price which the purchaser pays to a B2C service provider, unless the B2C service provider is registered.

Under the “tax credit system”, business operators are able to claim credits for certain business related purchases. The credit effectively provides a deduction for the consumption tax amount that has been paid to a supplier.

Thus, it may in some instances be disadvantageous for offshore B2C service providers to not register, as this may result in business operators being unable to claim a credit.

PLACE OF SUPPLY FOR CROSS BORDER SUPPLIES OF INTANGIBLES TO BUSINESS CUSTOMERS (B2B)

As for B2B transactions, the place of supply is where the recipient of the services is located. Thus, e-commerce services provided to business enterprises in Japan are subject to Consumption Tax. This rule applies to transactions made after 1 October 2015 by amendment in the Consumption Tax Act in 2015, and a transaction under a contract executed before 31 March 2015 with a period continuing after 1 October 2015 could be subject to the Consumption Tax Act before the amendment and be exempted from Consumption Tax.

For B2B transactions involving e-commerce services, the Consumption Tax is to be paid through “**Reverse Charge Mechanism**”. Under the Reverse Charge Mechanism, fees or purchase price collected for the cross border e-commerce services are subject to Consumption Tax, but the offshore service provider would not be subject to the obligation to report and pay the Consumption Tax to the NTA. Instead, Japanese business customers which received the e-commerce services would be required to report and remit the Consumption Tax to the NTA.



Australia | Brazil | Canada | China | Finland | France | Germany | Italy | **Japan** | Luxembourg | Malaysia | Netherlands
New Zealand | Norway | Poland | Russia | Singapore | Spain | Sweden | United Kingdom

DO YOU REQUIRE EVIDENCE OF A CUSTOMER'S VAT NUMBER TO TREAT A SUPPLY AS B2B?

No such requirement.

B2B transactions are defined as transactions in which a Japanese customer is obviously recognized as a business operator considering the contents and conditions of the service. According to the NTA, the following are examples of services for which a Japanese customer is obviously recognized as a business operator from the nature of the service:

- distribution of advertisements on the internet
- provision of a market-place to sell applications and software, including games, at websites on the internet

In addition, the NTA notes that certain services can be categorized as B2B transactions based on the terms and conditions of the service. For example, cloud services where (i) the terms and conditions are negotiable between the parties and (ii) it is clear that the customer uses the service for its own business purposes, will be treated as B2B services.

If a Japanese customer is registered for Consumption Tax purposes, this may be one relevant indicator that the supply is B2B.

CAN PRICES BE DISPLAYED ON A TAX-EXCLUSIVE BASIS?

As a general rule, prices must be displayed including Consumption Tax if an enterprise offers to sell goods or provide services to the general public other than through B2B transactions (Gross Pricing Display Obligation; Art. 63 of the Consumption Tax Act).

However, since the Consumption Tax Act is currently under a transition period due to changes in the tax rate, the Gross Pricing Display Obligation is now being suspended from 1 October 2013 to 31 March 2017. Therefore, business enterprises are allowed to show prices excluding consumption tax as long as it is clear that such pricing does not include the tax (e.g., displaying tax exclusive prices with a note stating "tax is not included").



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LUXEMBOURG



Australia | Brazil | Canada | China | Finland | France | Germany | Italy | Japan | **Luxembourg** | Malaysia | Netherlands
New Zealand | Norway | Poland | Russia | Singapore | Spain | Sweden | United Kingdom

LOCAL NAME FOR VAT

Taxe sur la valeur ajoutée, or TVA

APPLICABLE RATES FOR E-COMMERCE SERVICES

Standard Rate

17% as from 1 January 2015

Special Rates

3%, 8%, 14%

The 3% rate applies to e-books.

REGISTRATION REQUIREMENTS

Mandatory

In principle, any taxable person must register for VAT purposes. There is an exception for taxable persons performing only exempt supplies without a right to deduct input VAT and taxable persons subject to the small enterprises regime (where annual turnover is less than EUR 25,000 (EUR 10,000 before 2013)). However, these taxable persons must register for VAT purposes in the following cases:

- (1) where they are liable to pay Luxembourg VAT on services received from foreign services providers (no threshold) or on their intra-Community acquisitions of goods exceeds EUR 10,000 (excluding VAT) during the preceding or current year; or
- (2) if they perform services that are exempt in Luxembourg but taxable in the EU Member State where the recipient of the services liable to pay the tax is established.

Non-taxable persons (e.g. holding companies, public bodies) must register for VAT in order to pay the Luxembourg VAT on intra-Community acquisitions of goods when the value of the goods is lower than EUR 10,000 (excluding VAT) during the preceding or current year.

Optional

A taxable person may register for VAT in order to pay the Luxembourg VAT on intra-Community acquisitions of goods when the value of the goods is lower than EUR 10,000 (excluding VAT) during the preceding or current year.

PLACE OF SUPPLY FOR CROSS BORDER SUPPLIES OF INTANGIBLES TO LOCAL CONSUMERS (B2C)

The transfer and licensing of intellectual property should be regarded as a supply of services for VAT purposes. The supply of intangibles when delivered in digital form is also treated as a service



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New Zealand | Norway | Poland | Russia | Singapore | Spain | Sweden | United Kingdom

If the company supplies services to a private consumer, the services are in general taxable in the country of the supplier and therefore subject to Luxembourg VAT where supplied by a Luxembourg established business.

From 1 January 2015, supplies of telecommunications, broadcasting and electronically supplied services made by European Union (EU)- suppliers to private individuals and non-business customers will be taxable in the Member State of the customer.

In case of a non-EU-established business to an EU-established consumer, VAT will be levied at the rate applicable in the country where the customer is located.

The application of Article 56 of the VAT Directive (VATD) implies that the place of taxation in the case of a supply of services to consumers/customers located outside the EU is the place where the customer is established.

PLACE OF SUPPLY FOR CROSS BORDER SUPPLIES OF INTANGIBLES TO BUSINESS CUSTOMERS (B2B)

As noted above, the transfer and license of intellectual property falls under the VAT rules on the place of supply of services, as does supplies of intangibles when delivered in digital form.

In the case of a Luxembourg established business supplying services to a foreign EU- business customer, in general the supply of services is taxable in the country of the recipient under the reverse charge mechanism.

For a supply from a non EU-established business to an EU-established business, VAT will be payable in the business-customer's State, pursuant to Article 56 VATD.

In the case of a supply of services to customers located outside the EU, the place of supply is where the customer is established.

DO YOU REQUIRE EVIDENCE OF A CUSTOMER'S VAT NUMBER TO TREAT A SUPPLY AS B2B?

In order to properly determine the place of a cross border supply of services, and the person liable to pay the VAT, the supplier needs to ensure its customer has a valid VAT number or is a non-taxable consumer.

CAN PRICES BE DISPLAYED ON A TAX EXCLUSIVE BASIS?

Prices must in principal be displayed on a VAT inclusive basis



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MALAYSIA



Australia | Brazil | Canada | China | Finland | France | Germany | Italy | Japan | Luxembourg | **Malaysia** | Netherlands
New Zealand | Norway | Poland | Russia | Singapore | Spain | Sweden | United Kingdom

LOCAL NAME FOR VAT

Goods and Services Tax or GST

APPLICABLE RATES FOR E-COMMERCE SERVICES

Standard Rate

6%

Special Rate

N/A

REGISTRATION REQUIREMENTS

Mandatory

An entity which makes taxable supplies, and has an annual taxable turnover exceeding RM500,000, is required to register for GST purposes.

Optional

An entity which makes taxable supplies, and has an annual taxable turnover below RM500,000, may voluntarily register for GST.

PLACE OF SUPPLY FOR CROSS BORDER SUPPLIES OF INTANGIBLES TO LOCAL CONSUMERS (B2C)

The place of supply for "services" (which is defined to include services and other intangibles) is based on the country to which the supplier belongs. If the supplier belongs in Malaysia, the place of supply will be Malaysia. Conversely, if the supplier belongs to a country other than Malaysia, the place of supply will be that other country.

PLACE OF SUPPLY FOR CROSS BORDER SUPPLIES OF INTANGIBLES TO BUSINESS CUSTOMERS (B2B)

The place of supply rules for intangible B2B supplies is the same as outlined above in respect of intangible B2C supplies.

However, where an entity makes an acquisition of "imported services" for business purposes, that entity is required to reverse charge GST on the imported services. It should be noted that this reverse charge rule applies regardless of whether the recipient entity is GST registered or not.



Australia | Brazil | Canada | China | Finland | France | Germany | Italy | Japan | Luxembourg | **Malaysia** | Netherlands
New Zealand | Norway | Poland | Russia | Singapore | Spain | Sweden | United Kingdom

DO YOU REQUIRE EVIDENCE OF A CUSTOMER'S VAT NUMBER TO TREAT A SUPPLY AS B2B?

Suppliers should not require GST registration numbers. It is the responsibility of entities in Malaysia that import services for business purposes to reverse charge any applicable GST.

CAN PRICES BE DISPLAYED ON A TAX EXCLUSIVE BASIS?

Unless otherwise approved by the Director General in writing, all prices must be displayed on a GST inclusive basis.



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NETHERLANDS



Australia | Brazil | Canada | China | Finland | France | Germany | Italy | Japan | Luxembourg | Malaysia | **Netherlands**
New Zealand | Norway | Poland | Russia | Singapore | Spain | Sweden | United Kingdom

LOCAL NAME FOR VAT

Omzetbelasting or btw

APPLICABLE RATES FOR E-COMMERCE SERVICES

Standard Rate

21%

Special Rate

N/A

REGISTRATION REQUIREMENTS

Mandatory

Anyone who is liable for VAT in the Netherlands must register for VAT in the Netherlands. No VAT registration threshold applies in the Netherlands.

Optional

N.A.

PLACE OF SUPPLY FOR CROSS BORDER SUPPLIES OF INTANGIBLES TO LOCAL CONSUMERS (B2C)

The place of supply of cross-border B2C e-commerce services from 1 January 2015 is where the customer belongs or is presumed to belong. The effective use and enjoyment rules do not apply.

PLACE OF SUPPLY FOR CROSS BORDER SUPPLIES OF INTANGIBLES TO BUSINESS CUSTOMERS (B2B)

The place of supply of cross-border B2B e-commerce services is where the customer has its business establishment, or if it has establishments in more than one jurisdiction, where its establishment is based which is most directly concerned with the supply. The place of supply of cross-border B2B intangible services is where the customer has established its business or fixed establishment. The effective use and enjoyment rules do not apply.



Australia | Brazil | Canada | China | Finland | France | Germany | Italy | Japan | Luxembourg | Malaysia | **Netherlands**
New Zealand | Norway | Poland | Russia | Singapore | Spain | Sweden | United Kingdom

DO YOU REQUIRE EVIDENCE OF A CUSTOMER'S VAT NUMBER TO TREAT A SUPPLY AS B2B?

Yes, when it comes to the assessment of the status of the customer, the supplier is assumed to have acted in good faith when the supplier has:

- (a) established whether the customer is a taxable person via the VAT number communicated to him or through any other proof presented to the supplier to show that the customer is a taxable person or a non-taxable legal person identified for VAT purposes, and
- (b) obtained confirmation of the validity of the VAT number of the customer and carried out a reasonable level of verification via the Commission website or existing security procedures.

CAN PRICES BE DISPLAYED ON A TAX EXCLUSIVE BASIS?

In accordance with the Dutch VAT Act 1968, suppliers are prohibited from displaying prices to B2C customers exclusive of VAT.



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NEW ZEALAND



Australia | Brazil | Canada | China | Finland | France | Germany | Italy | Japan | Luxembourg | Malaysia | Netherlands
New Zealand | Norway | Poland | Russia | Singapore | Spain | Sweden | United Kingdom

LOCAL NAME FOR VAT

Goods and Services Tax (GST)

APPLICABLE RATES FOR E-COMMERCE SERVICES

Standard Rate

15% In certain circumstances, supplies may be zero-rated (including: certain exported services; and, from 1 October 2016, some 'remote services' supplied from offshore to GST-registered recipients).

Special Rate

N/A

REGISTRATION REQUIREMENTS

Mandatory

Any person who makes or will make 'taxable supplies' in New Zealand in excess of the registration threshold (currently, NZ\$60,000 in a 12 month period). From 1 October 2016, this will include offshore suppliers of 'remote services' to New Zealand resident recipients. 'Remote services' (those with no necessary connection between the place where the service is physically performed and the location of the recipient) will capture digital services (e.g. internet downloads, on-line services, and, in some circumstances, the operators of electronic marketplaces) and more traditional services when supplied remotely (e.g. legal, accounting, insurance).

Optional

Persons making taxable supplies in New Zealand below the registration threshold (note: the Revenue may question whether a 'taxable activity' is being conducted in this scenario).

A non-resident who is registered for consumption tax in their country of residence (or, if that country does not have a consumption tax, who has a level of activity in that country that would meet the New Zealand registration threshold if that activity were in New Zealand) and who meets certain other requirements.



Australia | Brazil | Canada | China | Finland | France | Germany | Italy | Japan | Luxembourg | Malaysia | Netherlands
New Zealand | Norway | Poland | Russia | Singapore | Spain | Sweden | United Kingdom

PLACE OF SUPPLY FOR CROSS BORDER SUPPLIES OF INTANGIBLES TO LOCAL CONSUMERS (B2C*)

*Assumes recipient C (in B2C) is not receiving the supply in the course of its taxable activity. Note that a taxable activity does not extend to making exempt supplies (which includes 'financial services' unless certain elections are made).

Fundamentally, GST is a tax on private/domestic consumption in New Zealand. However, as GST is collected as goods and services move through the supply chain, an input tax credit system operates to limit any snow-balling effect. New Zealand's GST system pre-dates, and differs from, that described in the OECD VAT Guidelines.

Whether a supply takes place in New Zealand or outside New Zealand will depend on a combination of factors, including whether the supplier is resident in New Zealand for GST purposes and, in relation to services, whether the services are physically performed in New Zealand by a person who is in New Zealand at the time of performance, whether they are 'remote services', and the residence and GST status of the recipient.

If supplied from outside of New Zealand, there is potential for a 'reverse charge' to apply. However, from 1 October 2016, 'remote services' will be deemed to be supplied in New Zealand in the B2C scenario.

Note that special rules apply to 'telecommunications services'. This is defined to include the transmission, emission or reception (and the transfer or assignment of the right to use capacity for the transmission, emission or reception) of signals, writing, images, sounds or information of any kind by wire, cable, radio, optical or other electromagnetic system, or by a similar technical system, and includes access to global information networks but does not include the content of the telecommunication.

PLACE OF SUPPLY FOR CROSS BORDER SUPPLIES OF INTANGIBLES TO BUSINESS CUSTOMERS (B2B*)

*Assumes recipient B (in B2B) is receiving the supply in the course of its taxable activity. Note that a taxable activity does not extend to making exempt supplies (which includes 'financial services' unless certain elections are made).

See above – a further factor in determining whether a supply occurs inside or outside New Zealand will be the contract between the supplier and recipient.

If supplied from outside New Zealand, the reverse charge will not be a concern if the recipient uses the services in making taxable supplies to the requisite extent (the percentage intended use and, thereafter, the percentage actual use, must be 95% or more). From 1 October 2016, 'remote services' will be deemed to be supplied in New Zealand, but usually this will not apply in the B2B scenario.

Note that special rules apply to telecommunications services.



Australia | Brazil | Canada | China | Finland | France | Germany | Italy | Japan | Luxembourg | Malaysia | Netherlands
New Zealand | Norway | Poland | Russia | Singapore | Spain | Sweden | United Kingdom

DO YOU REQUIRE EVIDENCE OF A CUSTOMER'S VAT NUMBER TO TREAT A SUPPLY AS B2B?

Generally, no. However, it will be needed in some scenarios, e.g. zero-rating of certain B2B land supplies, and, for determining that 'remote services' are supplied to a registered person (a B2B supply).

CAN PRICES BE DISPLAYED ON A TAX EXCLUSIVE BASIS?

In advertising, prices can be displayed on a GST exclusive basis but must say 'plus GST' (assuming the supplier wants to recover this from the recipient). However, in advertising to consumers, it is usual practice in New Zealand to display prices on a GST inclusive basis. Overall, the advertising must not be misleading or deceptive.

Tax invoices must be in a prescribed form.



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NORWAY



Australia | Brazil | Canada | China | Finland | France | Germany | Italy | Japan | Luxembourg | Malaysia | Netherlands
New Zealand | **Norway** | Poland | Russia | Singapore | Spain | Sweden | United Kingdom

LOCAL NAME FOR VAT

Merverdiavgift

APPLICABLE RATES FOR E-COMMERCE SERVICES

Standard Rate

25 %

Special Rate

N/A

REGISTRATION REQUIREMENTS

Mandatory

Businesses are liable to register in the Value Added Tax Register once the sum of supplies and withdrawals covered by the Norwegian VAT Act exceeds NOK 50 000 during a twelve-month period.

Non-established vendors must charge VAT when supplying e-commerce services to Norwegian

private individuals and non-business customers (B2C). These providers must be registered in the Value Added Tax Register. As an alternative to normal registration in the Norwegian VAT register, foreign suppliers can use a simplified registration and reporting system when selling electronic services B2C.

The simplified system will not provide access to deduct input VAT, thus the system for reimbursement of VAT must be used.

Optional

N/A

PLACE OF SUPPLY FOR CROSS BORDER SUPPLIES OF INTANGIBLES TO LOCAL CONSUMERS (B2C)

The place of supply for cross border B2C electronic services is where the customer belongs. Thus foreign suppliers must register for VAT in Norway and charge Norwegian VAT when these services are rendered B2C.

If delivery of electronic communication services is performed via a fixed terminal in Norway, VAT is payable, even if the recipient is not resident in Norway. If delivery is effected via a fixed terminal outside Norway, VAT shall not be payable even if the recipient is resident in Norway.



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New Zealand | **Norway** | Poland | Russia | Singapore | Spain | Sweden | United Kingdom

PLACE OF SUPPLY FOR CROSS BORDER SUPPLIES OF INTANGIBLES TO BUSINESS CUSTOMERS (B2B)

The place of supply of cross border B2B e-commerce services and other intangible services is where the customer has its business establishment or other permanent establishments. A business customer established in Norway, which receives an e-commerce supply from outside Norway must account for VAT under the reverse charge.

If the e-commerce service is to be used in Norway by an establishment resident in Norway, Norwegian VAT is payable, even if the service is delivered to a recipient resident outside Norway. However this does not apply if it is documented that VAT is charged on the service outside of Norway.

DO YOU REQUIRE EVIDENCE OF A CUSTOMER'S VAT NUMBER TO TREAT A SUPPLY AS B2B?

No.

CAN PRICES BE DISPLAYED ON A TAX EXCLUSIVE BASIS?

In B2C transactions the price must include any additional charges, including VAT and any other applicable taxes. Please note that this follows from consumer protection legislation and not from tax legislation.

In B2B transactions the price can be displayed on a tax exclusive basis.

Please note that there are strict rules with regard to the content of the invoice.



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POLAND



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New Zealand | Norway | **Poland** | Russia | Singapore | Spain | Sweden | United Kingdom

LOCAL NAME FOR VAT

Podatek od towarów i usług

APPLICABLE RATES FOR E-COMMERCE SERVICES

Standard Rate

23% (The temporarily increased VAT rates will continue to apply until the end of 2016)

Special Rate

N/A

REGISTRATION REQUIREMENTS

Mandatory

All entities performing taxable activities, except for small entrepreneurs (i.e. taxpayers whose annual value of taxable sales does not exceed 150,000 PLN – approx. 35,000 EUR). This exception is not applied, among others, to taxpayers who are not established in Poland.

Optional

Small entrepreneurs and entities performing only activities that are tax exempt.

PLACE OF SUPPLY FOR CROSS BORDER SUPPLIES OF INTANGIBLES TO LOCAL CONSUMERS (B2C)

The general rule regarding the place of supply is the place where the supplier is located, which is either the supplier's main establishment, a permanent establishment or usual place of his residence.

In relation to supplies of intangibles and e-commerce services the place of supply is the place where the recipient is located, which is either the recipient's main establishment, a permanent establishment or usual place of his residence.

PLACE OF SUPPLY FOR CROSS BORDER SUPPLIES OF INTANGIBLES TO BUSINESS CUSTOMERS (B2B)

In B2B, the place of supply is where the recipient of the services is located (the recipient's main establishment, a permanent establishment or usual place of his residence).

The reverse charge system applies to the supply of the services.



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DO YOU REQUIRE EVIDENCE OF A CUSTOMER'S VAT NUMBER TO TREAT A SUPPLY AS B2B?

Yes – as the supplier has to charge VAT, it is the supplier's responsibility to obtain information about the supplier's customer, including the VAT registration of a business customer.

CAN PRICES BE DISPLAYED ON A TAX EXCLUSIVE BASIS?

B2B transactions

Yes, prices can be displayed on a tax exclusive basis, however if there is no clear information it is assumed the price includes VAT.

B2C transactions

No, prices must be displayed on a VAT inclusive basis.



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RUSSIA



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New Zealand | Norway | Poland | **Russia** | Singapore | Spain | Sweden | United Kingdom

LOCAL NAME FOR VAT

VAT

APPLICABLE RATES FOR E-COMMERCE SERVICES

Standard Rate

18%

Special Rate

N/A

REGISTRATION REQUIREMENTS

Mandatory

There is no separate VAT registration available in Russia. A foreign company carrying out its activity in Russia for a period of time exceeding one month shall be tax registered in Russia. Once tax registered in Russia, the foreign entity becomes registered for all applicable local taxes, including VAT.

On 26 February 2016 a draft law passed the 1st reading which, if enacted, will significantly change the VAT framework for E-Commerce Services ("**Draft VAT Law**"). It is expected that that the Draft VAT Law will be enacted from 1 January 2017. The Draft VAT Law provides that a qualifying foreign organisation should register with the Russian tax authorities for "VAT and tax control" purposes. Such a foreign organisation is obliged to file a VAT return to the Russian tax authorities which will be subject to an in-house tax audit. Furthermore, the Draft VAT Law provides for using a taxpayer's personal account (personal e-room set for each qualifying taxpayer – which is a foreign organisation) to submit a tax registration application, VAT returns and other documents in an electronic format.

Optional

N/A

PLACE OF SUPPLY FOR CROSS BORDER SUPPLIES OF INTANGIBLES TO LOCAL CONSUMERS (B2C)

At the time of publication, there are no specific VAT place of supply rules established for E-Commerce Services. The place of supply for transfer (provision) of patents, licenses, trademarks, copyrights and other similar rights shall be determined as the place where the consumer resides. However, there is no VAT payment mechanism established for B2C supplies unless the foreign supplier is tax registered in Russia.



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New Zealand | Norway | Poland | **Russia** | Singapore | Spain | Sweden | United Kingdom

The Draft VAT Law suggests implementing in Russia the widely used 'destination principle' for the VAT taxation of E-Commerce Services which implies charging VAT in the country of the services recipient's location.

The list (non-exhaustive) of VAT-able services deemed supplied in Russia if provided by foreign organisations includes:

- transferring software and database rights, including access to on-line games;
- installing (downloading) games on PCs and cell phones, banner ad blocking programs, accounting and antivirus software, web filters;
- enabling the placement of goods (work, services) offers and information related to the sale of property on websites or in programs;
- furnishing information via the Internet, including making available e-books and other e-publications, graphic images, pieces of music both with and without text and audio-visual works;
- making search engines and other portals available;
- web-hosting services;
- cloud services and cloud-based e-platforms;
- providing websites visitor statistics;
- broadcasting TV and radio channels using the Internet and other services.

In the B2C supply context, the new rules assume that a foreign organisation-seller of E-Commerce Services will have to register with the Russian tax authority and administer Russian VAT liability itself.

There is currently a VAT exemption available for provision of exclusive rights for inventions, utility and design models, ECM software, databases, integrated circuit layouts, know-how as well as rights to use such intangibles under a license agreement. The Draft VAT Law, if enacted, will revoke the exemption from the Russian VAT for the supply of software rights (programs for PCs and databases).

PLACE OF SUPPLY FOR CROSS BORDER SUPPLIES OF INTANGIBLES TO BUSINESS CUSTOMERS (B2B)

As for B2C supplies, presently there are no specific VAT place of supply rules established for e-commerce services. The place of supply for transfer (provision) of patents, licenses, trademarks, copyrights and other similar rights shall be determined as the place where the service recipient performs its activity. A reverse charge VAT payment mechanism functions in relation to B2B supplies if the foreign supplier is not tax registered in Russia.



Australia | Brazil | Canada | China | Finland | France | Germany | Italy | Japan | Luxembourg | Malaysia | Netherlands
New Zealand | Norway | Poland | **Russia** | Singapore | Spain | Sweden | United Kingdom

As noted above in the B2C section, the Draft VAT Law brings certain E-Commerce Services into the scope of the Russian VAT. Please see the section above for the list of such services.

In the B2B supply mode, the Russian reverse charge mechanism will continue to apply. The Draft VAT Law also addresses agency type structures whereby Russia-tax registered entities who transact, under different forms of agreements involving monetary settlements, with foreign sellers of E-Commerce Services are required to administer the VAT liability of foreign sellers as tax agents.

There is currently a VAT exemption available for provision of exclusive rights for inventions, utility and design models, ECM software, databases, integrated circuit layouts, know-how as well as rights to use such intangibles under a license agreement. The Draft VAT Law, if enacted, will revoke the exemption from the Russian VAT for the supply of software rights (programs for PCs and databases).

DO YOU REQUIRE EVIDENCE OF A CUSTOMER'S VAT NUMBER TO TREAT A SUPPLY AS B2B?

No

CAN PRICES BE DISPLAYED ON A TAX EXCLUSIVE BASIS?

B2B Transactions

Yes, prices can be displayed on a VAT exclusive basis for B2B transactions. However, in practice a VAT gross up clause would normally be introduced into the contract in such case.

B2C Transactions

No, prices should be displayed on a VAT inclusive basis.



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SINGAPORE



Australia | Brazil | Canada | China | Finland | France | Germany | Italy | Japan | Luxembourg | Malaysia | Netherlands
New Zealand | Norway | Poland | Russia | **Singapore** | Spain | Sweden | United Kingdom

LOCAL NAME FOR VAT

Goods and Services Tax or GST

APPLICABLE RATES FOR E-COMMERCE SERVICES

Standard Rate

7%

Special Rate

N/A

REGISTRATION REQUIREMENTS

Mandatory

Businesses with taxable turnover of SGD \$1 million in a 12 month period must register for GST. Note that this threshold is applied both retrospectively (i.e. to supplies made in the past 12 months) and prospectively (anticipated supplies in the next 12 months).

Optional

Business below the mandatory taxable turnover threshold may voluntarily register for GST.

PLACE OF SUPPLY FOR CROSS BORDER SUPPLIES OF INTANGIBLES TO LOCAL CONSUMERS (B2C)

The place of supply for intangible supplies is based on the country in which the supplier belongs. If the supplier is belongs in country other than Singapore, the place of supply is taken to be that other country. Consequently intangible supplies made outside of Singapore, and supplied to customers in Singapore, may not be subject to GST in Singapore.

While Singaporean GST law does provide for a reverse charge to apply to inbound supplies of services, the reverse charge mechanism is not applied in Singapore at the time of publication.



Australia | Brazil | Canada | China | Finland | France | Germany | Italy | Japan | Luxembourg | Malaysia | Netherlands
New Zealand | Norway | Poland | Russia | **Singapore** | Spain | Sweden | United Kingdom

PLACE OF SUPPLY FOR CROSS BORDER SUPPLIES OF INTANGIBLES TO BUSINESS CUSTOMERS (B2B)

There is no distinction between intangible supplies made to business customers or local consumers. Therefore, the comments above relating to B2C supplies apply equally to B2B supplies.

DO YOU REQUIRE EVIDENCE OF A CUSTOMER'S VAT NUMBER TO TREAT A SUPPLY AS B2B?

As noted above, there is presently no distinction in the GST treatment of B2B supplies and B2C supplies.

CAN PRICES BE DISPLAYED ON A TAX EXCLUSIVE BASIS?

With few exceptions, GST registered businesses must display prices on a GST inclusive basis.



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SPAIN



Australia | Brazil | Canada | China | Finland | France | Germany | Italy | Japan | Luxembourg | Malaysia | Netherlands
New Zealand | Norway | Poland | Russia | Singapore | **Spain** | Sweden | United Kingdom

LOCAL NAME FOR VAT

Impuesto Sobre el Valor Añadido

APPLICABLE RATES FOR E-COMMERCE SERVICES

Standard Rate

21%

Special Rate

N/A

REGISTRATION REQUIREMENTS

Mandatory

Registration is required when the taxable person needs to pay VAT to the Spanish tax authorities (intra-Community transactions).

Optional

Special regime for electronically supplied services and telecommunication, radio and television broadcasting services

PLACE OF SUPPLY FOR CROSS BORDER SUPPLIES OF INTANGIBLES TO LOCAL CONSUMERS (B2C)

For the application of Directive 2008/08/CE and the Spanish VAT Law, the place of supply of services shall be deemed Spain when the recipient is established within the Spanish territory, or, has a permanent address or usually resides within such territory.

The use and enjoyment rule applies to all e-commerce and intangible services.

PLACE OF SUPPLY FOR CROSS BORDER SUPPLIES OF INTANGIBLES TO BUSINESS CUSTOMERS (B2B)

The place of supply of services to a taxable person acting as such shall be the place where the recipient has established its business or has a fixed establishment to which the service is supplied, or, in the absence of such a place of business or fixed establishment, the place where the recipient has a permanent address or usually resides.

The use and enjoyment rule applies to all e-commerce and intangible services.



Australia | Brazil | Canada | China | Finland | France | Germany | Italy | Japan | Luxembourg | Malaysia | Netherlands
New Zealand | Norway | Poland | Russia | Singapore | **Spain** | Sweden | United Kingdom

DO YOU REQUIRE EVIDENCE OF A CUSTOMER'S VAT NUMBER TO TREAT A SUPPLY AS B2B?

To treat a supply as B2B, the customer's VAT number (VIES registered) is required by the supplier.

CAN PRICES BE DISPLAYED ON A TAX EXCLUSIVE BASIS?

This is not possible, as prices must be displayed on a VAT inclusive basis.



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SWEDEN



Australia | Brazil | Canada | China | Finland | France | Germany | Italy | Japan | Luxembourg | Malaysia | Netherlands
New Zealand | Norway | Poland | Russia | Singapore | Spain | **Sweden** | United Kingdom

LOCAL NAME FOR VAT

Mervärdesskatt, moms

APPLICABLE RATES FOR E-COMMERCE SERVICES

Standard Rate

25 %

Special Rate

N/A

REGISTRATION REQUIREMENTS

Mandatory

Registration for VAT is normally mandatory if sales of taxable goods or services are made in Sweden by a taxable person. A registration for VAT is always required when selling within Sweden to consumers. A taxable person who purchases goods or services where a reverse charge is applicable must register for VAT.

Optional

In certain circumstances, a foreign entrepreneur can voluntarily register for VAT and thereby become taxable for sales for which the buyer would otherwise be taxable. This is mainly applied in regards to the sale of goods but may also apply in some cases to the sale of services with a connection to real property situated in Sweden.

PLACE OF SUPPLY FOR CROSS BORDER SUPPLIES OF INTANGIBLES TO LOCAL CONSUMERS (B2C)

The main rule is that services provided to a non-taxable person are provided in Sweden if the seller is established in Sweden.

Telecommunications services, the transmission of radio and television, and electronic services sold to a buyer who is not a taxable person, and who is established or has his or her permanent address or usually resides in Sweden, will always be deemed to be provided in Sweden, regardless of where the seller is established and regardless of effective use and enjoyment.



Australia | Brazil | Canada | China | Finland | France | Germany | Italy | Japan | Luxembourg | Malaysia | Netherlands
New Zealand | Norway | Poland | Russia | Singapore | Spain | **Sweden** | United Kingdom

PLACE OF SUPPLY FOR CROSS BORDER SUPPLIES OF INTANGIBLES TO BUSINESS CUSTOMERS (B2B)

When services are provided to a taxable person, the main rule is that the services are provided in Sweden if the buyer is established in Sweden and the service is not provided to a fixed establishment abroad.

The provision of intangible services such as telecommunications services, radio and television broadcasting services and electronically supplied services to a taxable person follows the main rule. This is regardless of the place of the seller's establishment.

DO YOU REQUIRE EVIDENCE OF A CUSTOMER'S VAT NUMBER TO TREAT A SUPPLY AS B2B?

No. In most cases the buyer's VAT number is sufficient, but the tax agency may also accept other evidence showing that the buyer is a taxable person (this may be necessary e.g. if the buyer has applied for a VAT number but not yet received it despite being a taxable person or the buyer is a taxable entity but has a turn-over lower than what is locally required for registration).

If the buyer is outside of the EU there may not be a VAT number recognizable in Sweden and the Seller must use other means to show that the buyer is a taxable entity established outside of the EU.

CAN PRICES BE DISPLAYED ON A TAX EXCLUSIVE BASIS?

Prices stated to consumers must include VAT as a main rule. If the price is stated exclusive of VAT and it is not clear to the consumer that there will be a VAT-charge, the consumer will only have to pay the price exclusive of VAT. Please note that this follows from consumer protection legislation and not from the tax legislation. Prices stated to businesses are usually stated exclusive of VAT.

With respect to invoices there are strict rules regarding what information the invoice must contain.



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UNITED KINGDOM



Australia | Brazil | Canada | China | Finland | France | Germany | Italy | Japan | Luxembourg | Malaysia | Netherlands
New Zealand | Norway | Poland | Russia | Singapore | Spain | Sweden | **United Kingdom**

LOCAL NAME FOR VAT

Value Added Tax or VAT

APPLICABLE RATES FOR E-COMMERCE SERVICES

Standard Rate

20%

Special Rate

N/A

REGISTRATION REQUIREMENTS

Mandatory

VAT registration is mandatory for non-UK established businesses making any supplies in the UK, and for UK established businesses, which exceed the current VAT registration threshold of £83,000.

Optional

VAT registration is optional for UK established businesses trading below the £83,000 threshold.

PLACE OF SUPPLY FOR CROSS BORDER SUPPLIES OF INTANGIBLES AND E-COMMERCE TO LOCAL CONSUMERS (B2C)

In the case of e-commerce services, the place of supply from 1 January 2015 is where the customer belongs or is presumed to belong.

In the case of the supply of intangibles (*not* e-commerce supplies) to EU based consumers, the supply takes place where the supplier is based, and therefore if the supplier is based in the UK, it must charge UK VAT. If, however, the customer is based outside the EU (other than the Isle of Man) the supply is treated as taking place there and there is no UK VAT.



Australia | Brazil | Canada | China | Finland | France | Germany | Italy | Japan | Luxembourg | Malaysia | Netherlands
New Zealand | Norway | Poland | Russia | Singapore | Spain | Sweden | **United Kingdom**

PLACE OF SUPPLY FOR CROSS BORDER SUPPLIES OF INTANGIBLES AND E-COMMERCE TO BUSINESS CUSTOMERS (B2B)

For e-commerce services, the supply takes place where the customer has its business establishment, or if it has establishments in more than one jurisdiction, where its establishment is based which is most directly concerned with the supply. Similarly, a business customer established in the UK, which receives an e-commerce supply from outside the UK, must account for VAT under the reverse charge.

The effective use and enjoyment rule applies to B2B e-commerce services. Where the usual rules would dictate that the place of supply is outside the EU, but the services are effectively used and enjoyed in the UK, the place of supply shifts to the UK, and if the usual rules would dictate that the place of supply is in the UK, but the services are effectively used and enjoyed outside the EU, there is no EU VAT. Great care must therefore be taken if the services are consumed in a different country from the one in which the customer is established.

So far as the B2B supply of services of intangibles is concerned, the supply takes place where the business customer is located. The effective use and enjoyment rules do not apply.

DO YOU REQUIRE EVIDENCE OF A CUSTOMER'S VAT NUMBER TO TREAT A SUPPLY AS B2B?

The VAT registration number is the best evidence, but UK HMRC accept alternative evidence of the customer being in business. It is however at the supplier's risk.

CAN PRICES BE DISPLAYED ON A TAX EXCLUSIVE BASIS?

So far as invoicing is concerned, there are strict rules as to what details the invoice must contain and the rules differ for services supplied B2B and B2C. On websites and advertising material, it is generally possible to show the VAT exclusive amount, provided it is not misleading.



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