

NEWSLETTER I / 2017



NEW OPPORTUNITIES FOR THE MANAGEMENT OF SPORT CENTERS



Italian member of TRA, Studio Cassinis, successfully organized a conference on December 16 about "New opportunities for the management of sport centers in light of the proposed new legislation for sport and solutions". Their official press release included the following passages:

The legislative situation in Italy is almost unchanged since 2002, except for the introduction of the 2017 budget, which raised the ceiling on the revenues of the commercial activities of ASD and SSD to 400,000 euro. Luckily there are people ready to bring innovation and to protect the industry. Taking care of the sports industry aimed at improving the health of the entire population: it is a question of welfare.

Read more on the website of Studio Cassinis www.studiocassinis.com.



New TRA member: Buckley Kiely & Co Chartered Accountants from Ireland

TRA is pleased to inform you that a new member joins the alliance: the Irish company, Buckley Kiely & Co Chartered Accountants.

Buckley Kiely & Co is a Cork based accounting and business consulting practice, focused on providing superior client service, technical expertise and a passion for the services we provide to clients internationally.

They serve a diverse portfolio of clients and industries, ranging in size from start-ups to multi-national organisations. Their services include Accounting, Audit, Tax Planning & Compliance, Business Solutions, and Independent Financial Advice.

The Buckley Kiely Business Support Team is made up of highly experienced, senior personnel with a range of relevant and extensive experience in a diverse range of industry sectors.

Buckley Kiely & Co. understand that knowledge is everything and they help clients benefit from it by applying knowledge and expertise from relevant disciplines within the firm and tailoring it to the specific needs of the client. In this way they provide the value that clients deserve and the knowledge they need to succeed in today's marketplace.

Their motto: "you do the business and we take care of your business" is a core belief of senior partners, Seamus Buckley and John Kiely, which is shared and supported by all members of the team.



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Czech Republic: Sales of goods on consignment - special case

A relatively small amendment to the Czech VAT Act, valid from the 29th of July 2016, brought a significant change in VAT treatment of goods sold from consignment stock by non-residents. From August 2016 a reverse-charge system also applies to goods sold by a non-resident entity from a Czech warehouse to a Czech VAT payer. Consequently, there is no requirement for VAT registration due to sales realized on the Czech territory. It must be stressed, however, that this favorable treatment can be applied only to a limited number of cases when the transfer of goods to the Czech warehouse is declared by their final purchaser (call-off stock) and goods are sold to a Czech VAT payer.



Non-residents registered under previous VAT legislation were allowed to ask for VAT deregistration by the end of January 2017.

NEW VAT RULES FOR LEGAL PERSONS UNDER PUBLIC LAW

As of January 1st 2016 in the German VAT law, the new article 2b VAT legislation was implemented. The scheme, which was adopted under the Taxation Act of 2015, contains innovations in relation to the turnover taxation of legal persons under public law.

Article 2b will determine whether corporate bodies under public law are taxable persons and accordingly, their VAT treatment. The new regulation leads to an expansion of the entrepreneurial status for the persons under public law. Paragraph 1 corresponds essentially to Article 13 of the EU Value Added Tax Directive.

Activities carried out by legal persons under public law within the framework of public authority, so called assistance services, are not within the scope of the VAT Act. If, on the other hand, a legal person provides services on a private legal basis and therefore operates under the same legal conditions as private economic operators, these activities are not covered by Article 2b and are therefore subject to Value Added Tax.

With regard to the article 2b VAT provisions, a transitional arrangement is included. Under this arrangement it is as possible to apply the existing legal situation to all services performed before 1st January 2017.

VAT IDENTIFICATION NUMBER - TRANSFER OF GOODS WITHIN THE EUROPEAN UNION

In its judgement of 20th October, the European Court of Justice makes clear that VAT directives must be interpreted in such a way that exemption from VAT in relation to intra-community movement of goods (EU VAT directive art. 138 (2) c)) cannot be refused on the grounds that the taxpayer has not provided a VAT-ID number of the country of destination.

The condition for the tax exemption to be granted nevertheless is, that there is no concrete evidence of tax evasion. In addition, the goods must have been moved to another member state and the other conditions for tax exemption must also be met. The European Court of Justice stated that the communication of the VAT number is merely a form of requirement. While it is true that the tax identification number is proof that an intra-community transfer is taking place, the proof of the tax liability can in no case depend exclusively on the communication of the VAT ID number. If the financial administration has information that can be used to establish that the requirements for the exemption of the taxpayer are met, the granting of the exemption can not depend solely on the notification of the VAT ID number.

NEW VAT REVERSE CHARGE SCHEME FOR IMPORTATION IN FRANCE OF GOODS SHIPPED FROM NON-EU COUNTRIES



French tax (Art 87 Finance Act No. 2016-1918) law now permits EU and non-EU businesses to apply for an authorization to reverse charge the French VAT due on importations of goods shipped from non-EU countries which are put into free circulation in France. Such arrangement allows businesses to shift the payment of VAT due directly on their French VAT return and to deduct it on the same VAT return (« reverse charge »), and hence to eliminate cash flow costs incurred from the time the VAT is paid to customs until it is recovered.

For the purpose of this authorization, non-EU businesses must utilise the services of a forwarding agent having the status of Agreed Economic Operator. EU businesses are required either to have the status of Agreed Economic Operator or to simultaneously meet the following conditions:

- have made at least four importations into the European Union during the last 12 months;
- be able to trace importations in their IT systems;
- have no serious or continuous infringements to customs and tax rules;
- have financial solvency allowing them to cover the commitment of tax liabilities for the last 12 months.

The authorization is valid until the end of the third following calendar year and is tacitly renewed (subject to exception).

Our French correspondent office can provide you with any and all assistance in this respect.

Conference on Development Strategies in Europe

A conference on Development Strategies in Europe was organized at the Chamber of Commerce and Industry of Marseille, Friday, November 18, 2016 with Belgian, French, Italian and Swiss partners from the European network of VAT specialists of Tax Representative Alliance (TRA).



This conference was a success due to the number of attendees. Indeed, more than 30 companies took part to this event.

The conference has been followed by several face-to-face meetings arranged by the companies attending the event. The 4 TRA members engaged with them and answered their different questions regarding VAT matters.

Hungary - tax abatement regarding restaurant services

As a significant of a new tax package introduced by the Hungarian Government, from January 1st 2017 there is tax abatement for restaurant services. The rate changes from 27 % to 18 %. The applicable rate depends on which aspect of the 'change' is more significant, i.e. whether the customers buy products or resort services.

In practice for the waiter who has to prepare the receipt, several alternatives come into play that determine the selection of the VAT to be applied, which may be 18% (and 5% in some cases) or the 27% VAT generic Rate for Hungary.

In Order for the 18% Rate to apply:

- the transactions need to be qualified as 'service' under the Hungarian VAT Act.
- the service contains only food, and non-alcoholic drink made on the spot

If selling foods and drinks is only one part of the whole transaction, as part of an overall service (the products are served at the table) the 18% Rate can be applied

Let's see 2 examples:

FOODS:

Well, if you go to a restaurant in Hungary and order a hot dish which you consume at the table, the rate that the waiter will have to apply to the bill will be 18% for that dish. It will be 27% if the plate is for take away, unless it contains cereals, flour or starch.

The following rates apply:

- Take-away sandwich 18%
- Take-away roast chicken 27%
- Take-away roast potatoes 18%

DRINKS:

In the case of drinks the issue becomes a bit more complex, because you have to take into account the alcohol and / or the milk content. It does not end there: was the drink prepared on site or just poured into a glass? The following rates apply:

- Juice consumed in a restaurant 27%
- Coffee prepared and consumed on site 18%
- Take-away coffee without milk added 27%
- Take-away coffee with milk added 18%
- Alcoholic drink 27%

The law also specifies that the differentiated rate, also applies when you decide to take away the leftovers of what was eaten at the table.

AMENDMENTS TO VAT ACT IN POLAND - 1 JANUARY 2017

1. Inclusion of the reverse charge mechanism for some transactions concerned with providing constructions services.
2. Inclusion of the reverse charge mechanism where transactions are related to processors.
3. Inclusion of the reverse charge mechanism where transactions are connected with certain products from the category of gold and silver.
4. Modification of the principles of VAT refunds within 25 days.
5. Elimination of the possibility to file quarterly VAT returns for:
 - taxpayers other than small taxpayers;
 - taxpayers starting to perform taxable activities during the first twelve months.
6. Introduction of the obligation to submit VAT returns exclusively by electronic means.
7. The possibility to submit quarterly EC sales lists will be eliminated and replaced by the obligation to submit EC sales lists monthly and (only) by electronic means.
8. Modification of the existing rules concerning joint and several liability and deposit guarantee.
9. Joint and several liability is to be imposed on the purchaser for the tax arrears of the supplier when the transaction subject is stretch film.
10. Joint and several liability is to be imposed on the purchaser for the tax arrears of the supplier when the transaction subject are HDD and SSD discs.
11. Extension of joint and several liability for the representative of the new VAT registered entities.
12. Introduction of the possibility to refuse registration of the entity as a VAT payer.
13. Extension of the possibility to delete the taxpayer from the register of VAT payers.
14. Modification of the rule which allows the possibility of deducting output VAT by the amount of input VAT in the case of reverse charge transactions, as well as in the case of intracommunity acquisition, by including the amount of output VAT in the VAT return where the tax payer is obliged to include this tax.
15. Introduction of the obligation to submit the registration deposit by certain entities which will be the condition of registering them as VAT tax payers.
16. Introduction of tax sanctions for unreliable VAT accounting resulting in the under calculation of VAT due or the over calculation of input VAT either to be refunded or to be included within the next VAT returns (depending on the case the sanctions will be 30% or 100% of the total VAT value).
17. Elimination of sanctions as stated in regulations concerning the relief for bad debts.



VAT IN PORTUGAL - STATE BUDGET 2017

The “innovative” tax is not a “fat tax” or even a “sugar tax” after all, since it shall cover most beverages and not only sodas and besides food products are excluded.”

VAT self-assessment on imports

In 2018, the taxpayer may opt to self-assess VAT due on imports of goods. The taxpayer must be covered by the monthly VAT regime and should not have restrictions on the right to deduct VAT.

This option is anticipated to 1 September 2017 in case of imports of goods foreseen in Annex C of the Portuguese VAT Code, except for mineral oils.

Legislative authorisations



The Government is granted authorisation to apply the intermediate VAT rate to certain beverages currently excluded from no. 3.1, List II of the VAT Code (regarding food and beverage services).

There is increase by 3% of the specific component and a harmonization at 16% of the rate of the ad valorem element in cigarettes, smoking, snuff, chewing and heated tobacco. A levy on multiple projectiles ammunition containing lead is introduced. It is set at € 0.02 per ammunition unit.

Excise duty on oil and energetic products

Increase of the additional charges applicable to excise duty on oil and energy products (“ISP - Imposto sobre os produtos petrolíferos e energéticos”): € 0.007 per litre of gasoline (previously, € 0.005) and € 0.0035 per litre of road diesel and coloured and marked diesel (previously, € 0.0025).

Excise duty on alcohol and alcoholic beverages

The following drinks are now subject to excise duty on alcohol and alcoholic beverages (“IABA - Imposto sobre o álcool e as bebidas alcoólicas”):

- Non-alcoholic drinks added with sugar or other sweeteners (as per combined nomenclature (CN) 2202), such as sodas, energy drinks and flavoured water; and
- Alcoholic beverages as per CN 2204, 2205, 2206 and 2208, with alcohol content above 0.5% vol. and up to 1.2% vol.



Non-alcoholic drinks -

The applicable rates are:

- € 8.22 per hectolitre in case of drinks with sugar content below 80g/litre;
- € 16.46 per hectolitre in case of drinks with sugar content of or above 80g/litre.

Excise duty on alcohol and alcoholic beverages

An exemption from IABA applies to milk derivative-based drinks, soya or rice drinks, fruit, algae or vegetable based juices and nectars, cereal, almond, cashew or hazelnut drinks and beverage that meet dietary needs.

Drinks used in manufacturing processes or in quality control tests are also exempt from taxation.

Imports of non-alcoholic drinks (up to 20 litres per passenger) carried in the personal luggage of passengers coming from third-countries are exempt from taxation.

The production of non-alcoholic drinks is made under suspension of duty in a tax bonded warehouse. The storage, holding and circulation of such goods is also made under suspension of duty. Special rules concerning the suspension of duty will be addressed in a decree.

Producers and wholesalers shall request to the Customs Office for tax status to benefit from the suspension of duty. Non-alcoholic drinks accounted for as inventory at the date of entry into force of the 2017 State Budget Law are considered as produced, imported or acquired on that date.

Retailers that hold non-alcoholic drinks at the date of entry of the 2017 State Budget Law must record and communicate to the tax authorities the respective quantities. They are required to sell the products within 4 months otherwise excise duties shall become chargeable.

Alcoholic drinks:

Fermented, still and sparkling drinks, such as ciders and champagnes, will now be taxed at the rate of € 10.30 per hectolitre. Increase by 3% of the IABA applicable to the remainder of spirit drinks, intermediate products and beer.

Table wine remains the only zero-rated product.

