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What you need to know about Europe and VAT

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Note:

S&H Productfulfilment BV is the Dutch benchmark in third party product fulfillment. Our customers outsource their order intake, warehousing, order shipping and after sales activities up to a highly detailed operational level.

As we realize that fulfillment is all about response, we see it as part of our mission to actively share our know-how with (potential) customers. We believe that this leads to better business models, thus creating a win-win situation to everyone's advantage.

If you want to know what S&H can do for you, please feel free to contact us (see above).

ONE-STOP SHOPPING





What you need to know about Europe and VAT

What is VAT?

A sales tax, referred to as Value Added Tax or 'VAT', is in operation throughout the EU. However, there has been no harmonization of VAT in the EU. Different rules and rates apply in all member states.

The import of goods into the EU.

In principle, the import of goods is taxable with import VAT. Customs will levy VAT at the moment the goods are imported into the free circulation of the EU - at the moment an import declaration is filed. In principle, VAT paid by entrepreneurs can be recovered or refunded via the periodical VAT return. A number of EU Member States have legislation in place to allow for a delay in the payment of VAT at import and even to be avoided completely.

The Dutch ruling:

The Netherlands has implemented one of the most beneficial systems. If goods are imported in the Netherlands, the goods are, in principle, subject to VAT. However, the time that the VAT has to be paid can be deferred to the periodical VAT return (deferment scheme). Due to the fact that VAT entrepreneurs can deduct the due VAT in the same VAT return, the entrepreneur does not actually pay VAT. As a result, the import VAT does not have to be pre-financed. This is one of the reasons why companies often choose to import non-EU goods via the Netherlands.

Foreign importers that import and sell goods in the EU market, can also benefit from the deferment regime by appointing a fiscal representative in the Netherlands. A fiscal representative can take care of the VAT compliance with respect to the import and along the supply chain of the goods after import. Appointing a Dutch fiscal representative for VAT does not create a permanent establishment for corporate income tax in the Netherlands.

When does VAT apply?

If you sell goods or services in a member state of the EU, you may have to register for VAT. This will entail submitting tax returns to the relevant authorities in whichever state you are registered. Registration in one state does not preclude registration in another, although limiting the number of registrations to be maintained can reduce the administrative burden of compliance.

How does VAT get paid?

VAT returns are the mechanism whereby tax owed to the authorities is paid by the trader, and VAT that the trader has incurred in the course of business activities can be recovered, subject to certain rules.

When can VAT be recovered?

If VAT is incurred in a member state where the trader is not liable to be registered for VAT, this may still be recoverable under an EU-wide recovery mechanism. This can apply, for example, if employees visit a client in an EU member state, and they incur VAT on hotel bills, taxi fares, conference costs, etc.

Different rules per EU state.

The liability to register for VAT is based on criteria that differ from state to state. If a trader does not have an establishment in the member state in which supplies are made, they will usually have to register, and, in most states, they will be required to appoint a VAT representative who is resident in that state. Most states have a turnover threshold, above which taxable activity must be registered. Some states require some form of registration as soon as any business activity is undertaken, but do not require returns to be submitted until a certain level of activity has been reached.

What do you need to register?

A trader who registers for VAT in a member state is then obliged to comply with the requirements of that state, regarding record-keeping and furnishing returns and other declarations. Penalty regimes exist for non-compliance, so it is important for a trader contemplating trading in the EU to establish their liability for VAT before they undertake activities there.



Distance sales

Throughout the European Union (EU), there are thresholds restricting the amount of 'distance sales' that can be made before local VAT registration becomes a legal obligation. Using a fiscal representative can avoid an online trader having to set up offices in each member state in which the thresholds are exceeded (in many states local law requires the appointment of a fiscal representative anyway).

The VAT rulings concerns sales made to non-business customers who reside in a different EU state to that of the vendor. Such sales will normally arise via the Internet or mail order.

If you make distance sales of taxable goods to individuals in EU member states, and the annual value of those sales breaches these thresholds, you must register for VAT in the EU State concerned:

Austria	€	100.000	Italy	€	35.000
Belgium	€	35.000	Luxembourg	€	100.000
Denmark	€	35.000	Netherlands	€	100.000
Finland	€	35.000	Portugal	€	35.000
France	€	100.000	Spain	€	35.000
Germany	€	100.000	Sweden	€	35.000
Greece	€	35.000	UK	€	100.000
Ireland	€	35.000	New EU states	€	35.000

What do I do if my trade is below these thresholds?

One of the vital considerations for VAT when entering into e-commerce or other distance sales is where the place of supply of those sales is deemed to be. Up to the thresholds stated above, the place of supply is deemed to be in the state or country in which you, the seller, are established. If this is in an EU member state, or a non-EU country with a VAT regime, your domestic rate of VAT should be charged on the sales.

What do I do if my trade is above these thresholds?

Once the thresholds are broken, the sales will be deemed to be made in each state where the thresholds have been exceeded - you will have to register for VAT in each of these states, and charge the rate of VAT in force in each of them.

What about sales to the trade?

If goods are supplied to customers within the same EU Member State, the supplier should in principle charge local VAT to its customers. Your customer can reclaim the VAT in the periodical VAT return that has to be filed.

Where distance or e-commerce sales are being made to businesses that are registered for VAT within the EU, you need not charge VAT provided that the VAT identification numbers of both the supplier and the recipient are mentioned on the invoice and the goods are actually transported from one Member State to another. Your customer will then account for VAT under a reverse charge mechanism.

If you are established outside the EU, your customer will pay and recover import VAT as appropriate.

If goods from outside the EU are supplied to customers outside the EU, the goods do not have to be declared for import in the EU. This avoids the payment of EU customs duties. For example, the goods can be stored in a customs bonded warehouse. The supply of the goods from the customs bonded warehouse to the customer outside the EU is taxable with 0% VAT.

How about electronic media?

If you make supplies that do not require physical delivery, for example the download of software through a website, the same rules apply; if you know that your customer is a VAT-registered business, and you can quote their EU VAT number on the invoice, VAT is not chargeable. If they cannot supply a VAT number, or if you are supplying to an individual, the VAT liability of the supply is subject to the value of such supplies you make in that member state.



Fiscal representation in The Netherlands

In The Netherlands two types of representatives for VAT are known:

1. The representative with a general license.
2. The representative with a limited license.

Whether a general or limited fiscal representative should be appointed depends on the activities of the foreign entrepreneur in The Netherlands. Both types of representatives take care of all Dutch VAT formalities that are related to the activities of the principal for which the representative is formally appointed as fiscal representative for VAT. This means that the fiscal representative will file the VAT returns.

The limited fiscal representative:

A non-resident entrepreneur can appoint a fiscal representative with a limited license. The limited representative can take care of the VAT formalities with respect to the import and onward supply of goods after the import. Under certain conditions, the limited representative can also be involved in obtaining the best possible VAT system (applying the zero-rate) in relation to the trade in certain bulk goods and excise duty goods of his non-resident principal.

If a limited fiscal representative is appointed, the deferment system for VAT at import can be applied. Another advantage is that by appointing a limited fiscal representative, the foreign company does not have to register for VAT purposes in The Netherlands (if besides the import and onward supply other activities are performed such as receiving goods from other EU Member States or performing services, a VAT registration may be required by the foreign entrepreneur).

In daily practice we see that especially forwarding companies (customs brokers) act as limited fiscal representatives. If necessary, a foreign entrepreneur can appoint more than one limited fiscal representative in The Netherlands.

The general fiscal representative:

A fiscal representative with a general license acts on behalf of the foreign entrepreneur regarding all supplies of goods and services in The Netherlands, the intra community transactions (the supplies to and acquisitions from other EU Member States) and imports, except in case the entrepreneur has appointed a fiscal representative with a limited license for that specific flow of goods.

The representative with the general license is especially of interest if the foreign entrepreneur is not only involved in the import and supply of goods, but for example also acquires goods from other EU Member States (not being bulk goods or excise duty goods) or performs services in The Netherlands. Foreign entrepreneurs, who did appoint a fiscal representative with a general license, can apply the deferment system for VAT at import.

In case a fiscal representative with a general license represents a foreign entrepreneur, the entrepreneur should be registered for VAT in the Netherlands. The fiscal representative or the tax consultant of the foreign entrepreneur can assist the foreign entrepreneur with the registration with the Tax authorities. In most cases the VAT registration number can be obtained within two weeks.

Appointing a fiscal representative with a general license is compulsory in case so-called 'distance sales' (certain sales to consumers in other EU Member States) are being performed.

For more information, also see www.hidc.nl