PrimeTax
Professional Tax Solutions

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Value added Tax for e-services? Why bother when there is no company's presence?

US companies providing electronic services (e.g. cloud computing, software, server facilities, online films, music, books.) to non-taxable private individuals based in the European Union (EU), specific regulations for charging and reporting Value Added Tax (VAT) have to be applied. This impacts all companies – never mind if these companies have a presence in the European Union or not.

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WHAT ARE E-SERVICES?

Any services supplied digitally are considered as electronic services (e-services). This includes the following ones:

- Cloud computing
- Servers for websites and data storage
- Subscriptions to internet games, newspapers
- Downloads of text, pictures, music or videos (e.g. apps)

WHEN DOES IT COME INTO FORCE?

It is already in force for foreign companies. However, new rules with simplifications will apply as per 1 January 2015 for EU companies. With this in mind, the local Tax Authorities may investigate in more detail if foreign companies charge VAT when performing e-services to private individuals.

WHY BOTHER ABOUT EUROPEAN VAT?

- If any company ignores the local VAT requirements, the respective company commits tax evasion
- The local tax authority will unlikely come to the US and knock on your door; however, they will go public – therefore, there is the reputation risk
- The collaboration between the single local European tax authorities is getting better and better; the authorities will be able to track and reach the offenders sooner or later and be motivated to do so

WHAT IS THE CONSEQUENCE?

Companies performing e-services to private individuals have to register for VAT in every single country where their customer is a private individual and is resident. Then, the company has to charge local VAT on the service provided and has to declare it within the local VAT return.

An alternative could be the so called "Mini One Stop Shop" ("MOSS"). This alternative enables businesses to register for VAT in one single country of the European Union, submit quarterly VAT returns in that country and pay their total VAT liability in this country. It is important to add that the companies will still have to report their respective VAT due per country of their customers' residency; however, the authority in charge will then distribute the according payments to other EU countries according to the declaration.

KNOW YOUR CUSTOMER

The new EU VAT rules starting as per 1 January 2015 will introduce some additional compliance requirements that will need to be followed by all e-businesses – European ones as well as foreign. Among other things they will have to:

- Identification of the customers – B2B or B2C in the EU
- Identification of the country of residence for the B2C supplies
- For B2C supplies, charge VAT at the local VAT rate where the customer is resident
- Identification of B2C supplies outside of the EU (e.g. Norway and Switzerland) and comply with the local VAT regulations

WHAT ABOUT COUNTRIES OUTSIDE OF THE EU?

In case, other countries are involved, the local VAT regulations have to be considered. For example, Norway and Switzerland operate similar VAT systems. Similar as the EU, e-businesses performing e-services to private individuals have to register for VAT and charge local VAT at the local VAT rate which has to be declared with the local Tax Authority.

SUMMARY

As per 1 January 2015, new rules on e-services to private individuals (B2C) will become effective in the European Union. This will impact also US companies which do not have any presence in the European Union.

- A local VAT registration is required in every single country with a B2C supply
- Local VAT has to be charged and reported with the local Tax Authority
- Simplification is possible by registering only in one EU country (Mini-One-Stop-Shop)
- Know-your-client is getting more and more important
- VAT regulations of countries outside the EU must be also considered as similar regulations may apply

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For enquiries your contact partner with PrimeTax AG is at your disposal:

Florian Hanslik, Manager PrimeTax AG

Direct: +41 58 252 22 15

florian.hanslik@primetax.ch

Olivia Pfister, Senior Consultant PrimeTax AG

Direct: +41 58 252 22 26

olivia.pfister@primetax.ch