



eGaming services

B2C VAT changes

Irish Revenue have recently provided updated guidance on the VAT rules around where VAT is payable and how it can be paid for “eGaming” services supplied from 1 January 2015. The changes will affect businesses providing eGaming services to persons, other than businesses, i.e. Business to Consumer (B2C).

Such eGaming services were previously subject to the VAT rules where the business was established. However, from 1 January 2015 businesses will need to charge and account for VAT, if applicable, in the EU country where the customer resides/where the service is consumed.

While eGaming services are currently subject to Irish VAT at the standard rate (23%), such services may be VAT exempt supplies in other EU member states. Therefore, the supplier will have to consider whether the service being supplied is subject to VAT in the EU country where the customer resides/where the service is consumed.

The changes will not affect businesses supplying eServices on a Business to Business (B2B) basis.

VAT analysis

As of January 2015, B2C supplies of telecoms, broadcasting and other electronically supplied services (“eServices”) provided on a B2C basis within the EU are treated as supplied in the member state where the customer is resident/where the service is consumed.

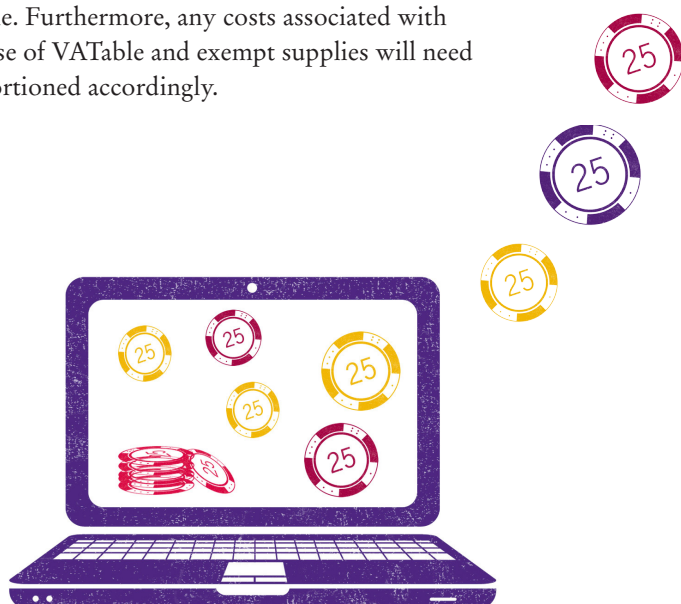
Previously, the supply of such services by an EU business were taxable where the supplier was established and as such a supplier only had to consider the VAT rules in the country in which the supplier was established. Where the eServices were subject to VAT the supplier applied VAT at the rate applicable in the country of establishment.

In this regard, an eService is one which is delivered over the internet or an electronic network and the nature of which renders its supply essentially automated and involving minimal human intervention and impossible to ensure in the absence of information technology.

In this respect the VAT directive and related regulations, which govern VAT rules in the EU, provide that the supply of games including games of chance (“eGaming”) delivered over the internet or electronic networks are regarded as eServices.

Revenue have provided guidance on the VAT treatment of eGaming services when provided B2C which will now be determined by the place where the consumer is resident/where the services are consumed. Therefore, the supplier will have to consider whether the service being supplied is subject to VAT pursuant to VAT legislation in the EU country where the customer resides/where the service is consumed.

On the basis that eGaming services may be VAT exempt supplies in some EU member states, providers of eGaming services may have to consider the businesses entitlement to VAT recovery. If this is the case any VAT incurred on costs directly associated with the supply of VAT exempt services would not be recoverable. Furthermore, any costs associated with the dual use of VATable and exempt supplies will need to be apportioned accordingly.



Revenue have provided guidance to assist suppliers determine where the customer is located which includes a number of presumptions with legal effect in each member state. For example, where a supplier of affected services provides them at a physical location such as an internet cafe, and the physical presence of the customer at that location is necessary for him/her to receive that service from the supplier, then it is presumed that the customers' place of belonging and where VAT should be applied is at that location.

When considering VAT registration obligations businesses can avail of a special scheme known as the Mini One Stop Shop ("MOSS") which will allow suppliers to submit VAT returns and pay the relevant VAT due to all member states through the web portal of one EU member state. While its use is not mandatory, MOSS simplifies a supplier's obligations by removing the requirement to VAT register and submit returns in several EU member states.

Next steps

Contact

If you have any questions on the above please contact a member of our team.

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