

# How Can I recover European VAT?

One question I am asked frequently is, "how can I recover VAT I have been charged in another European Country?" The response to this question should always be further questions such as "what were you doing in that country? What costs did you incur?"

Sometimes VAT may have been charged in error. Sometime the answer may be that the business needs to make a Thirteenth Directive claim. However, if a business has bought and sold goods in Europe, then there is a strong likelihood that they have a requirement to register for VAT in Europe.

The basic place of supply for goods is the country where the goods are located at the time of supply. Many businesses seem to overlook the basic VAT rules when dealing with Europe.

I have set out some examples below.

## **Sweden**

Client A usually supplies goods from UK stock to customers outside the UK. However, there is one product line which it does not hold in stock. A Swedish customer needed some quickly and so Client A ordered the stock from a Swedish supplier who helpfully delivered directly to Client A's customer in Sweden. The supplier correctly charged Swedish VAT and client A wanted to recover it as it was a significant cost which wiped out any margin on the sale.

However, as the place of supply of the goods was Sweden, Client A was required to register for VAT in Sweden and charge Swedish VAT. Commercially, this did not make sense as supplies were infrequent and of low value, so Client A changed its supply chain for these items.

## **Poland or Czech Republic**

Client B bought goods from a Polish supplier and delivered to a customer in the Czech Republic. The Polish supplier charged Polish VAT because Client B took ownership in Poland. In this instance Client B was making intra community supplies to their customer in the Czech Republic and therefore had to register for VAT either in the country of despatch or the country of acquisition. In this instance the client had an associated business in Poland and so registered for VAT there. It recovers the VAT charged by the Polish Supplier as input VAT and treats the supply to the Czech Republic as an intra-community dispatch.

## **Triangulation**

Client B also has a supplier in Denmark which delivers goods directly to the customer in the Czech Republic. Client B uses its Polish VAT number to take advantage of the Triangulation Simplification. This means that The Danish supplier invoices the Polish VAT number as an intra community supply without VAT. The goods are sent from Denmark to the Czech Republic where the customer accounts for the acquisition. The Polish VAT number invoices the Czech customer which is a zero-rated supply.

## **Republic of Ireland**

Client C has been supplying customers in the ROI on a DDP (delivered duty paid) basis which means it is the importer of the goods and makes a supply to its customer in ROI. Its freight agent has charged Client C the Irish import VAT and Client C has recovered it on its UK VAT returns. To correct the position, Client C is required to back date its VAT registration in ROI and charge Irish VAT to its customers, correct the customs entries so that the Irish VAT registration is the importer, and then charge the customer Irish VAT as Client C is making a supply in ROI. Client C also has to make a significant error disclosure for Irish VAT erroneously recovered on its UK VAT returns and is likely to incur penalties in the UK and the ROI.

## **Conferences**

The place of supply rules impact services as well as goods. Client D asked us to help with Thirteenth Directive claims to recover VAT charged on costs incurred when they ran conferences in the EU. Where an admission fee is charged to enable people to attend a conference, the place of supply is where the conference is held. This usually means that a VAT registration is required to account for VAT on the conference income. In the alternative, if the conference is exempt, there is no right to VAT recovery on costs. A further issue arises if the conference organiser also arranges accommodation and catering as the Tour Operators Margin Scheme ("TOMS") may be involved; and no one wants that! If a Thirteenth Directive claim is submitted to claim back VAT, the Tax authorities are likely to ask a lot more questions and may take retrospective action to correct the VAT position.

## **Summary**

In short, a simple question such as, "How can I claim VAT back?" does not necessarily have a simple answer and it is essential that follow up questions are asked to identify if there are other issues which need to be addressed.