

International Services (Lecture B1300 – 20.09 minutes)

Basic rule

The majority of services provided to overseas business customers will be supplied where the business customer belongs – the so called B2B supply.

So, if you are billing a French company the place of supply is France and the French company has a mandatory reverse charge obligation.

The UK company must ensure they have proof of their customers business status (e.g. VAT number, contracts, letterhead etc).

B2B services are outside the scope of VAT but the UK company must include the sale in Box 6 of their VAT return. From 1 January 2021, there is no requirement to complete an EC Sales List.

It is also good practice (but not mandatory) for the UK company to put the reverse charge narrative on their invoice to remind their French customer of their reverse charge obligation.

There are limited overrides to the basic B2B rule and these can be found in VATA 1994 Schedule 4A. VAT Notice 741A is also very useful.

Services supplied to non-business overseas customers are generally B2C and UK VAT would be charged. Again Schedule 4A and Notice 741A are useful for any overrides to these rules.

Overrides to the basic rules

Schedule 4A VATA 1994 lists the overrides in three parts:

Part 1 – General Exceptions (Paras 1 to 8)

Part 2 – B2B overrides only (Paras 9 to 9E)

Part 3 – B2C overrides only (Paras 10 to 16)

Whilst the basic rules remain unchanged post Brexit there are some important changes to the overrides within Schedule 4A. I will outline the more common overrides below.

General exceptions

Land related services

Services relating to specific sites are supplied where the land is situated.

Services relating to the sale of a UK property by an overseas individual would be subject to the standard rate of UK VAT e.g. estate agent commission, lawyers' conveyancing fees etc.

Likewise, if a UK individual was selling their Spanish holiday home, they would be charged Spanish VAT on similar costs.

UK providers of land related services would need to be careful of requests to undertake land related services on EU sites as this can create an EU registration obligation for the UK provider.

For example, an interior designer is engaged by a high worth individual to work on his French, Italian and Austrian homes. These are land related services and as such the interior designer would have registration obligations in France, Italy and Austria.

From 1 July 2021 the designer could register for the non-union OSS and account for the relevant VAT through their OSS registration. Prior to 1 July 2021 multiple EU registrations would have been required.

If the land related services were provided to an EU registered business, we would need to check whether the destination state had a reverse charge rule for land related services. If it did then the reverse charge would take precedence and no OSS reporting would be required.

Passenger transport

The transport of passengers (or of any luggage or motor vehicles accompanying passengers) e.g. coach trips, is treated as being made in the country where the transportation takes place and in the case of more than one country, in proportion to the distances covered in each.

So if a coach trip crossed three EU countries the coach company would need to consider their VAT registration obligation in those three EU member states. Whilst passenger transport is zero rated in the UK it would be lower rated (at best) in EU Member States.

From 1 July 2021 the coach company could register for the non-union OSS and account for the relevant VAT through their OSS registration.

Hiring of a means of transport

Short term hire would be supplied at where the customer collects the means of transport e.g. car hire. Short term would be periods up to 30 days for cars (90 days for vessels).

Long term hire of transport would be supplied where the customer belongs (B2B or Schedule 4A Para 13A override if B2C).

Restaurant and catering services

Supplies of restaurant and catering services are made in the place where they are physically carried out.

UK caterers being asked to cater for an EU event would need to be aware of their potential registration obligation in the country in which the event takes place. The reverse charge may deal with that when the customer is a businessperson but when catering for private individuals an EU registration obligation is likely to arise. From 1 July 2021 this could be met via the non-union OSS.

B2B overrides

Admission to cultural, educational and entertainment activities etc

Admission to conferences, fairs, exhibitions etc are treated as made in the country in which the event takes place.

So, if a UK business was running a tax technical conference in the UK they would be charging UK VAT on the admission fee - irrespective of whether the attendee was a UK or non-UK business.

B2C overrides

Valuation or work on goods

Valuing or working on goods will be supplied where the work is physically performed.

This could create an EU registration obligation for UK businesses performing such work in the EU. From 1 July 2021 the non-union OSS can be used to discharge any EU VAT obligations.

Broadcasting, telecommunication and electronically supplied services

The override for broadcasting, telecommunication and electronically supplied services supplied B2C is found within Schedule 4A Para 15 and it shifts the place of supply to where the customer belongs. The most commonly accounted by practitioners would be electronically supplied services e.g. clients who offer downloaded software, apps, games, books, music etc.

This means that supplying electronically supplied services to consumers will create a registration obligation in the EU member state of download. Providers of electronic services will often have multiple EU registration obligations as one download in any member state will create a registration obligation – this would be the case pre and post Brexit.

Non-established traders do not enjoy the registration threshold that applies to established traders. So, a UK supplier providing electronic services to individuals in France, Germany and Netherlands would have a registration obligation in those member states.

Service providers avoided multiple EU registration obligations up to 31 December 2020 by taking advantage of the Union Mini One Stop Shop (MOSS) simplification. Rather than registering in each member state of download they could register for the Union Scheme MOSS via the UK portal. This was separate to their existing UK registration.

The service provider would still charge French VAT to French individuals, German VAT to German individuals etc but they report and account for the VAT via their MOSS return. UK VAT registration were still maintained for their UK sales and UK input VAT recovery.

From 1 January 2019 to 31 December 2020 there was a £8,818 annual de-minimus for your total EU sales. So, if the electronically supplied services into the EU were below this level, the service provider could charge UK VAT. The de-minimus rule is not available to UK service providers from 1 January 2021.

From 1 January 2021 the union MOSS scheme closed to UK service providers. If UK service providers wanted to continue with the MOSS simplification, they had to register for the non-union MOSS scheme in a member state of their choosing. Many chose Ireland or Malta as these portals and returns are in English. The effective date of their non-union MOSS registration would be 1 January 2021. So rather than submitting their MOSS return via the HMRC portal they submitted their MOSS return via the portal where they registered for non-union MOSS. Other than that, the practicalities remained the same.

From 1 July 2021 the non-union MOSS scheme was changed to the non-union OSS.

Schedule 4A Para 16 services

Para 16 services include consultants, accountants, and lawyers.

Up to 31 December 2020 para 16 services provided to non-EU consumers were supplied where the customer belongs. As a result, no UK VAT was chargeable when invoicing non-EU consumers.

Consultancy fees must be for the provision of information and expert advice. Where the services fall short of this then the basic B2C rule will still be in point and UK VAT should be charged.

From 1 January 2021 Para 16 was extended to any consumer outside the UK i.e. EU and non-EU consumers.

So, accountants would not charge VAT to any overseas client from 1 January 2021. B2B services remain basic rule whilst B2C services are covered by Para 16. There would be no EU registration obligation for B2B services as these are covered by the mandatory reverse charge. And unless the member state has a use and enjoyment rule for Para 16 services (unlikely) there will be no EU VAT registration for B2C services either.

The use and enjoyment rule post 1 January 2021

The use and enjoyment rules shift the basic place of supply to where the goods are used and enjoyed. The use and enjoyment rules only apply if we have a UK place of supply but the service is used outside the UK or vice versa.

The use and enjoyment rules only apply to specific services:

- Hiring of a means of transport (short and long term)
- Hiring of goods
- Broadcasting services
- B2B electronically supplied services and telecommunication services

For example, a UK car hire company renting a car to a US tourist for 6 weeks would charge UK VAT under the use and enjoyment rules i.e. USA basic rule re long term hire BUT as used and enjoyed in the UK the place of supply shifts to the UK.

Contributed by Dean Wootten