

VAT eLearning module 12

OBLIGATIONS

Course takeaways

This is a handy summary of the most relevant course information.

This eLearning course is based on EU VAT Legislation as it stands on 01.01.2020 (valid for the EU VAT Directive, the EU VAT Refund Directive and the EU VAT Implementing Regulation).

This module is a part of a VAT broader course which is made up of the following units:

- Introduction
- Territory
- Taxable person
- Transactions
- Place of taxable transactions
- Digital Services and Mini One-Stop Shop (MOSS)
- Chargeable Event & Taxable Amount
- Rates
- Exemptions
- Right to deduct
- Refund
- **Obligations**

This course highlights the **legal obligations** set out in the VAT Directive. These are applicable to **taxable and non-taxable persons**. You will also learn about the VAT Information and Exchange System which allows Member States to collaborate and control VAT across the EU.

1. Learning objectives

At the end of the training you will know:

- what you need to do to be legally correct in the area of VAT;
- Understand the importance of the **Value added tax Information Exchange System** in the Single Market (**VIIES**).
- the obligations that taxable persons and certain non-taxable persons need to respect:
 - obligation to pay;
 - appointment of tax representative;
 - payment arrangements;
 - identification;

- invoicing;
- accounting;
- returns;
- recapitulative statements;

2. Taxable person and person liable for payment

Normally the **person liable for payment of the VAT** is the taxable person **who carries out the taxable transaction**.

Sometimes the taxable **person** or other persons, for example a non-taxable legal person identified for VAT purposes, **to whom the supply is made. will be liable** to pay the tax.

For the purpose of determining who is liable to pay the tax, **a taxable person** shall be regarded **as non-established** when he makes a taxable supply of goods, or services, within the territory of a Member State where he has no establishment, or only a fixed establishment that does not intervene in that supply.

Sometimes it is the customer of a transaction who will be liable to pay the tax.

Example: if the supplier is **not established where the supply takes place**, the **customer** may become **liable for payment** instead.

There is a distinction between taxable persons and persons liable to pay for the tax. This must be established, so that if the VAT payment is incorrect, late or not paid at all, the Tax Authorities will know from whom they can request the necessary adjustments.

It is mandatory for the **taxable person** to whom the supply is made **to be liable to pay VAT, when a non-established** taxable person **supplies natural gas or electricity** to him.

In general, the same is the case if the supplier provides services to a taxable person in another Member State.

In any event, **it is optional** for the customer to be held liable for the payment, if the supplier is a non-established taxable person. The same is the case when transactions such as the supply of building works, supply of scrap, etc. are carried out for a taxable customer, or in some cases, a non-taxable body governed by public law (Art.192a-205).

3. Tax Representative

The tax representative will be responsible for handling the obligations instead of the liable person that includes the obligation to pay VAT to the Tax Authorities.

There may be a **need for a Tax Representative** when the person who is liable for payment of VAT is **not established** in the Member State where the VAT is due.

When the **person who is liable for payment of VAT, is established** in the Member State where the tax is due, there is **no need for a tax representative**. This does not, however

apply in the case of **importation of goods** where a tax representative **may be imposed** (unless a mutual assistance agreement exists).

Person liable for payment – established within the EU:

The appointment of a tax representative is **optional** if the person liable for payment of VAT is established somewhere within the EU.

A tax representative is also optional if the liable person is established in a country **outside the EU** with which a **mutual assistance agreement** exists.

Person liable for payment – not established within the EU:

The appointment of a tax representative may be **mandatory** if the person liable for payment of VAT is established in a country outside the EU with which no mutual assistance agreement exists. That also applies in the case of importation of goods.

Person liable for payment – imposed by a Member State:

Each Member State **decides whether or not** they require a tax representative to be appointed. If so, it is mandatory for the person liable for payment of VAT to make such an appointment.

4. Taxable persons obligations

Payment of VAT that has been collected is not the only obligation.

Taxable persons **even when they are not liable for payment**, have to observe **several other obligations**. Discretion is left for Member States to develop specific administrative rules.

Most important obligations listed in the VAT Directive:

Liability: Any taxable person who carries out a taxable supply of goods or services is **liable to pay the VAT** over the Tax Authorities. There are however some instances where the liability is transferred onto the customer.

Payment of VAT: Any taxable person liable for payment **must pay the net amount of VAT** when submitting the VAT return. Payment of import VAT by the person liable may be payable already at the time of importation.

Identification: The taxable person must **notify commencement, change or cessation of the business activity** as a taxable person. Member States shall allocate an individual VAT identification number to any taxable person.

Under certain circumstances, Member States may however decide not to allocate such a number to certain taxable persons.

Invoicing: Every taxable person must ensure that an **invoice is issued** for the supply of goods and services, subject to the conditions listed in the VAT Directive. This invoice can be a

paper or an electronic invoice. Where the obligation to provide an invoice exists, taxable persons **must include details** listed in the VAT Directive in that invoice.

Accounting: Every taxable person shall **keep accounts in sufficient details for VAT to be applied**, and have its application checked by the Tax Authorities. Every taxable person must keep a register of certain goods dispatched or transported to other Member States. Every taxable person must store copy of invoices issued and received.

Returns: Every taxable person shall submit a VAT return setting out **all the information needed** to calculate the tax that has become chargeable and include the deductions to be made, in so far as is necessary for the establishment of the basis of assessment:

- **the total value** of the transactions;
- **deductions;**
- the value of **any exempt transactions.**

A VAT return must be submitted within certain deadlines determined by Member States.

Recapitulative Statements: every taxable person shall, **for each calendar month or quarter**, submit a **recapitulative statement of the acquirers** in other Member States to whom the taxable person has supplied goods, exempt of VAT, or services for which the recipient is, according to Article 196, liable to pay the tax. Also specific information must be included in the recapitulative statement.

Collaboration between Member States: VAT Information Exchange System (**VIIES**). There is an **obligation of collaboration between Member States**. The EU has put in place a system by which Member States **exchange information** that they collect from their taxable persons. Member States' administrations can access information on EU cross-border transactions in relation to goods and services for which the recipient, according to Article 196, is liable for payment.

Every taxable person can also access some functions of the system to verify the VAT identification number of their customers. This system allow Member States to collaborate and control VAT across the EU.

Access to non-restricted eLearning courses is available via EUROPA website: https://ec.europa.eu/taxation_customs/eu-training/general-overview_en.

Remember, this is a quick and handy summary of the most relevant course information. Only the European Union legislation published in the Official Journal of the European Union is deemed authentic. The Commission accepts no responsibility or liability whatsoever with regard to the training.