

Tax & Legal Alert

Ernst & Young Bulgaria

This edition of the Tax & Legal Alert focuses on recent EU developments in the tax field. We also highlight domestic tax news and legislative changes.

Contents

- ▶ New EU VAT rules
- ▶ Improved administrative cooperation in the tax field
- ▶ Common Consolidated Corporate Tax Base
- ▶ EU Commission allows Bulgarian state aid for farmers
- ▶ Domestic tax changes affecting individual farmers
- ▶ New Double Taxation Treaty with Austria
- ▶ Intrastat and VIES compliance under scrutiny
- ▶ Working experience to be ascertained in court

New EU VAT rules

The European Council has adopted a regulation for the implementation of EU VAT Directive 2006/112/EC. As of 1 July 2011, new rules for determining taxable persons, supplies of goods and services, as well as the place of taxable transactions will apply directly in all EU Member States.

Supplies of services to customers, established in more than one Member State, will be taxed at the place of the fixed establishment, receiving the services. Suppliers should determine this place based on economic criteria, as well as contractual relations. The concept of a fixed establishment is now explicitly defined. The place where a taxable person has established his business, permanent address and the place where a person usually resides are also clarified.

EU recipients, providing valid VAT identification numbers, will be deemed taxable persons with respect to reverse-charge services. Non-EU business customers will have to prove their tax status providing certificates, VAT or a similar number. Otherwise, suppliers will have to charge local VAT.

The regulation defines certain services for which specific place of supply rules apply, such as admission to events, restaurant and catering services, electronically supplied services.

Improved administrative cooperation in the tax field

The European Council has adopted a new directive, laying down the rules and procedures for exchange of information between EU Member States in tax matters. It extends cooperation to direct taxes of any kind and establishes deadlines for providing information.

Exchange of information will be done through standardized forms, formats and channels for communication, as well as by electronic means. Tax officials will be able to participate in administrative enquiries on the territory of another Member State. Situations, in which Member States may refuse to provide information, are now clearly defined.

This directive should be implemented into the Bulgarian law by 1 January 2013.

Common Consolidated Corporate Tax Base (CCCTB)

The European Commission has announced a CCCTB proposal for companies (including non-EU), operating across the EU. If adopted, the draft directive will provide an optional regime for consolidating the taxable profits of groups of companies, so long as they meet certain criteria.

Companies, opting for a CCCTB, would be able to consolidate profits and losses across the EU and would file a single tax return with one administration for their entire activity within the EU. The tax base would then be allocated to the Member States, in which the companies are active, and levied at their domestic rates. However, under this scheme, companies may lose individual Member States' incentives.

EU Commission allows Bulgarian state aid for farmers

The European Commission has authorized a Bulgarian scheme, aimed at supporting farmers, in the form of a corporate income tax relief of up to 60%. The scheme will apply until 31 December 2013 and is open to farmers registered as agricultural producers and subject to corporate income tax, investing in primary agricultural production. Investments eligible for the aid include:

- ▶ Construction and acquisition of new buildings
- ▶ Purchase of new agricultural machinery and equipment

Domestic tax changes affecting individual farmers

Individuals, registered as agricultural and tobacco producers, will be taxed on their profits after deducting expenses, recognized for tax purposes. The new regime will apply from 2011 to VAT-registered farmers and will be optional for the others.

New Double Taxation Treaty with Austria (DTT)

The DTT is based on the OECD Model Tax Convention and introduces the following major changes:

- ▶ New criteria for determining tax residency
- ▶ A shorter six-month presence under construction projects to determine the existence of permanent establishments
- ▶ Withholding taxes in the country of source of up to 5% on dividends, royalties and certain types of interest
- ▶ Gains from the alienation of shares to be taxed in the state where the alienator is resident, unless the alienator possessed 20% or more of the shares, or the shares are traded on a recognized stock exchange
- ▶ New provisions, affecting secondment contracts and supervisory board members' fees
- ▶ The exemption method for prevention of double taxation, which currently applies, is limited to certain types of income. The tax credit method will apply to the rest.

The DTT applies to individuals' income received from 2011 onwards. The other provisions will take effect from 2012.

Intrastat and VIES compliance under scrutiny

An increasing number of Bulgarian companies, trading goods within the EU, are now audited for compliance with Intrastat and VIES obligations. Incompliance with these rules may trigger penalties and VAT audits. Therefore, internal reviews of existing reporting practices are recommendable.

Working experience to be ascertained in court

The Bulgarian Parliament has adopted a new law, allowing for verification of working experience through court. This possibility is open to individuals, who cannot evidence their working experience for retirement purposes in cases of lost or missing documents.

Ernst & Young

Assurance | Tax | Transactions | Advisory

About Ernst & Young

Ernst & Young is a global leader in assurance, tax, transaction and advisory services. Worldwide, our 141,000 people are united by our shared values and an unwavering commitment to quality. We make a difference by helping our people, our clients and our wider communities achieve their potential.

Ernst & Young refers to the global organization of member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. For more information about our organization, please visit www.ey.com

If you would like to include anyone from your organization to our newsletter mailing list, or would like your name to be removed from the list of recipients, please reply to our e-mail address (EYTaxNewsletter@bg.ey.com), or fax: +359 2 817 7111.

For more information, please contact:

Laszlo Szakal
Tel: +359 2 817 7141
laszlo.szakal@bg.ey.com

Trevor Link
Tel: +359 2 817 7301
trevor.link@bg.ey.com

Evguenia Tzenova
Tel: +359 2 817 7143
evguenia.tzenova@bg.ey.com

Julian Mihov
Tel: +359 2 817 7142
julian.mihov@bg.ey.com

Milen Raikov
Tel: +359 2 817 7155
milen.raikov@bg.ey.com

Nevena Kovacheva
Tel: +359 2 817 7146
nevena.kovacheva@bg.ey.com

© 2011 Ernst & Young Bulgaria EOOD
All Rights Reserved.

This publication contains information in summary form and is therefore intended for general guidance only. It is not intended to be a substitute for detailed research or the exercise of professional judgment. Neither Ernst & Young Bulgaria nor any other member of the global Ernst & Young organization can accept any responsibility for loss occasioned to any person acting or refraining from action as a result of any material in this publication. On any specific matter, reference should be made to the appropriate advisor.