

# Understanding the complex world of global indirect taxes

June 30, 2021

Steve Butler & Simon Kelly



# Your presenters



**Steve Butler**

Senior Manager – West Region  
Global VAT Services Leader

[Steve.Butler@rsmus.com](mailto:Steve.Butler@rsmus.com)



**Simon Kelly**

Senior Manager – East Region  
Global VAT Services Leader

[Simon.Kelly@rsmus.com](mailto:Simon.Kelly@rsmus.com)

# Learning objectives

Upon completing this course participants will be able to:

- Understand the basics mechanics of a Value Added Tax system
- Understand where VAT may be chargeable
- Understand in what situations VAT can be recovered
- Understand how VAT applies to cross-border supplies of goods and services
- Understand the basics of preparing VAT returns

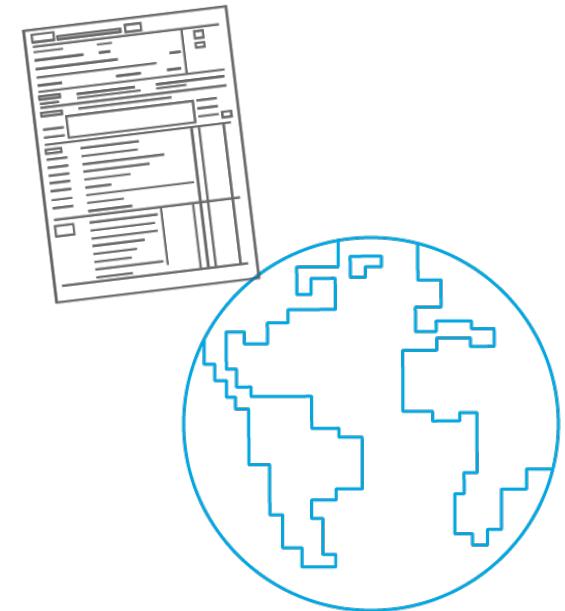
# Agenda

Topic	Time
Basic mechanics of VAT	15
Transactions subject to VAT	10
Supplies of services	15
Supplies of goods	15
VAT recovery	10
VAT invoicing	5
VAT returns	15
Enforcement and penalties	5

# Basics of VAT

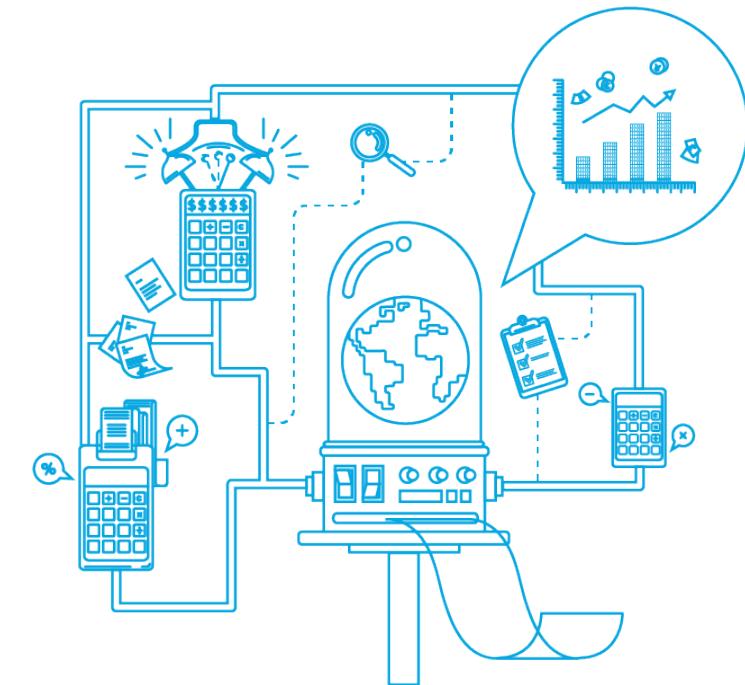
# Basics of VAT

- VAT exists in 160+ countries, the U.S. being the only OECD country without it
- VAT is a multi-stage transactional tax
- VAT is charged on most goods (physical tangible items) and services (everything else) – so is a very broad based tax
- VAT is a consumption tax, the ultimate cost being borne by the end customer
- VAT paid by businesses on purchases (input tax) can be offset against VAT collected on sales (output tax)



## Basics of VAT (cont.)

- VAT requires a significant amount of compliance and reporting (e.g. VAT invoicing, VAT returns, statistical returns etc.)
- VAT should not be a cost for most businesses – provided that it is appropriately managed
- Triggering a VAT obligation is typically much easier than trigger a PE or other taxable presence
- Average VAT rates in the European Union (E.U.) are around 21%



# When can VAT be charged?

## BY SUPPLIERS

- VAT is charged and collected by a supplier on their sales invoice
- VAT is then handed over to the tax authorities

## ON IMPORT

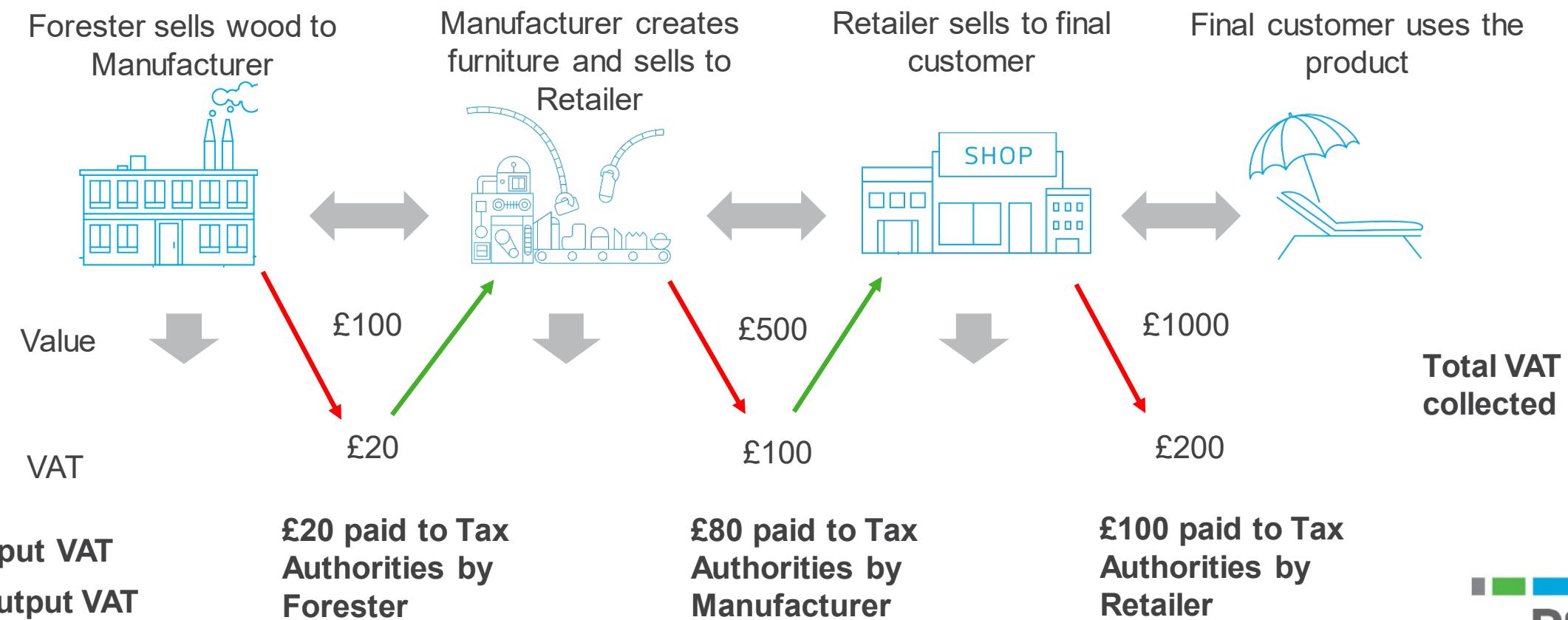
- Where goods are imported into a country, import VAT is typically charged by customs on entry
- Import VAT charged will typically be shown on a customs declaration
- This is in addition to customs duties which are not recoverable

## THROUGH SELF-ACCOUNTING

- Sometimes a business will need to self-account for VAT (similar to Use Tax)
- For example, on intra-E.U. shipments of goods between businesses (under specific “acquisition” rules)
- Where services are bought from a supplier in another country, many tax authorities require a business to self account using the “reverse charge” procedure

# VAT as a multi-stage consumption tax

Businesses charge “**output VAT**” on their sales. Subject to certain conditions, the business can recover this as “**input VAT**” incurred on purchases – so VAT should not represent a cost to them.





# When is a transaction subject to VAT?



# Key questions in the world of VAT

1. Who is making the supply?
2. What is being supplied?
3. To who is it being supplied?
4. Where is it being supplied?
5. When is it being supplied?
6. For how much is it being supplied?

# When does VAT apply?

In order for VAT to apply, the following five conditions must be met:

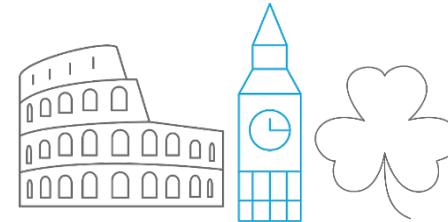
1. Supply of taxable goods or services
2. Takes place in a VAT jurisdiction
3. By a Taxable Person
4. In the course and furtherance of business
5. In exchange for consideration

# VAT rates: An example from the U.K.

- Standard rate: 20%
  - Default category, everything is subject to this rate unless it falls under another category
- Reduced rate: 5%
  - Power, utilities, energy, children's car seats, sanitary products
- Zero-rate: 0%
  - Printed and electronic books, certain travel, basic groceries, children's clothing, certain supplies to charities
- Exempt: 0%
  - Financial and insurance services, education, medical services
  - No recovery of VAT for provider of services (i.e. VAT incurred is a cost)

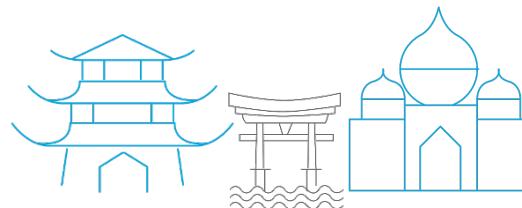
# Standard VAT rates around the world

## European Union



- Vary between 17% (Luxembourg) and 27% (Hungary), with the average of around 21%
- Rates in Scandinavia are high (around 25%)

## APAC



- Typically lower rates in more “modern” GST systems (broader tax base, lower tax rate)
- Australia 10%, Japan 10%, Singapore 7%, New Zealand 15%

## LATAM



- More akin to E.U. rates
- Argentina 21%, Mexico 16%, Colombia 19%
- Brazil – very complex multi-tax system

## Canada



- Multi-tiered Federal and Provincial system
- 5% Federal Rate, Provincial rates between 0 and 10%

# Transactions that are outside the scope of VAT

Not all “transactions” are within the scope of VAT. Certain transactions fall outside the scope of VAT, for example:

Wages and salaries

Compensation payments

Charges levied by the government (e.g. state owned tolls bridges)

Supplies by non-taxable persons (e.g. selling second hand items online)

## Taxable person

“Taxable person” shall mean any person who, independently, carries out in any place any economic activity, whatever the results of that activity

“ ”

Article 9 Principal VAT Directive (2006/112/EC)

# Supplies of goods

## Includes:

- Sale of goods
- Gift of goods
- Provision of samples
- Hire and lease purchase arrangements
- Supply and installation of goods
- Supply of electricity, gas, heat, refrigeration and the like

## Excluded:

- Lease of goods (except for certain hire-purchase agreements)

*“Supply of goods” shall mean the transfer of the right to dispose of tangible property as owner*

# Supplies of services

*“Supply of services” shall mean any transaction which does not constitute a supply of goods*

Included (examples):

- Advisory and consulting services
- Transfer of intangible property
- An obligation to refrain from an act
- The right to use tangible property
- Telecommunications (broad definition)
- Lease of immovable property

Excluded:

- Services provided for no consideration (with exceptions)



# Place of supply

- Fundamental concept for determining the VAT-relevant country
- Different rules for goods and services
- E.U. VAT Directive contains several rules for determining the place of supply (POS) of supplies of goods

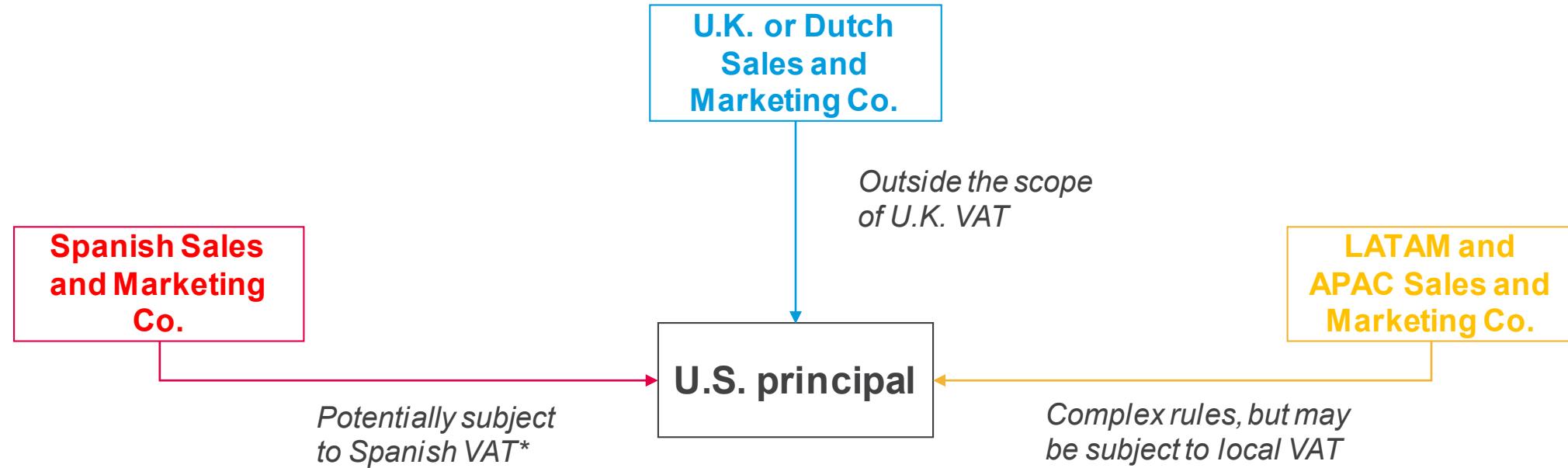
## Place of supply: B2B Services

The place of supply of services to a taxable person acting as such shall be the place where that person has established his business

“ , , ”

Article 44 Principal VAT Directive (2006/112/EC)

# VAT on inter-company services



*\*In Spain, there is a concept of “use and enjoyment” that can apply when services are provided to a non-E.U. established company*

## Place of supply: B2C services

The place of supply of services to a non-taxable person acting as such shall be the place where the supplier has established his business

“ , ”

Article 45 Principal VAT Directive (2006/112/EC)

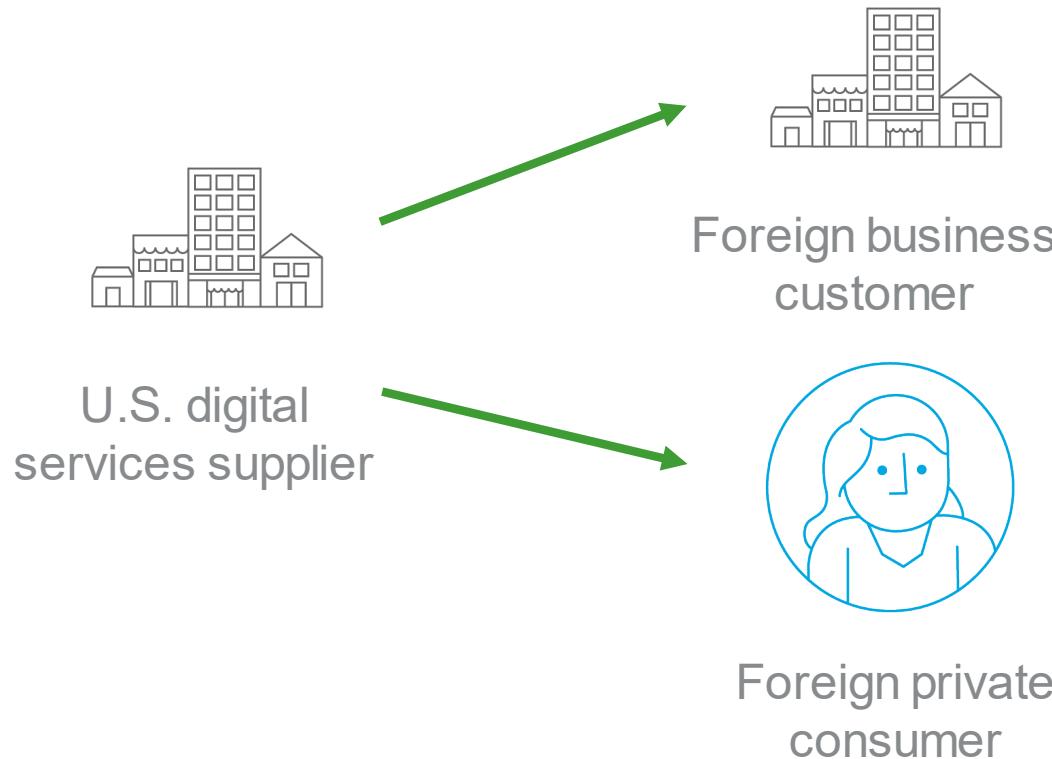
# Place of supply: Services (special rules)

	<b>B2B</b>	<b>B2C</b>
<b>Immovable property</b>	Where the property is located	Where the property is located
<b>Electronically supplied services</b>	Basic rule	Where the non-taxable person is established
<b>Telecoms and broadcasting</b>	Basic rule	Where the non-taxable person is established
<b>Short term hire of transport</b>	Where the means of transport is put at the disposal of the customer	Where the means of transport is put at the disposal of the customer
<b>Restaurant and catering (excluding ships, planes and trains)</b>	Where the services are physically carried out	Where the services are physically carried out

# What are digital services for VAT purposes?

- The definition of digital services generally include:
  - Streaming or downloading films, TV, music etc.
  - Apps
  - Software, downloads or SaaS
  - E-books and subscriptions to online publications
  - Automated e-learning
  - Membership to online societies and associations
  - Online dating services
  - Online advertising services
  - Website hosting
  - Access to databases
  - Data warehousing and disc space

# The OECD's recommendation for VAT on digital services



In a B2B context, VAT is typically self-accounted for by the foreign business customer under the 'reverse charge mechanism', although exceptions exist in South Africa, Russia, and Malaysia.

In a B2C context, private individuals cannot self-account for VAT and no VAT is collected unless the customer's jurisdiction has enacted rules specifically around digital services.

*The definition of B2B is typically a VAT or GST registered customer. The burden of proof is usually on the supplier to have suitable information to support the nature of the sale.*

# The rise of global VAT on digital services

EU  
Switzerland  
Norway  
Iceland  
South Africa  
South Korea

Japan  
Tanzania  
Ghana  
Bahamas  
Albania  
Andorra

Australia  
Russia  
India  
Taiwan  
Morocco  
Serbia  
Azerbaijan

Bahrain  
Angola  
Canada (Quebec & Saskatchewan)  
Bangladesh

United Kingdom (Brexit)  
Canada (British Columbia)  
Oman  
Kenya  
Barbados  
Paraguay

2015

2016

2017

2018

2019

2020

2021

Egypt  
New Zealand

UAE  
Saudi Arabia  
Uruguay  
Colombia  
Argentina  
Armenia  
Turkey  
Belarus

Uganda  
Nigeria  
Cameroon  
Costa Rica  
Chile  
Mexico  
Uzbekistan

Singapore  
Malaysia  
Indonesia  
Moldova  
Vietnam  
Zimbabwe

# Looking ahead

## Countries introducing rules

Thailand  
Philippines  
Kazakhstan  
Bhutan  
Canada

## Current proposals with no definitive date

Tunisia  
Israel  
Algeria  
Ecuador  
Brazil  
Mauritius  
Fiji  
China  
Ukraine  
Kuwait  
Qatar  
Panama  
Tajikistan

## Place of supply: Goods

Where goods are not dispatched or transported the place of supply shall be deemed to be the place where the goods are located at the time when the supply takes place.

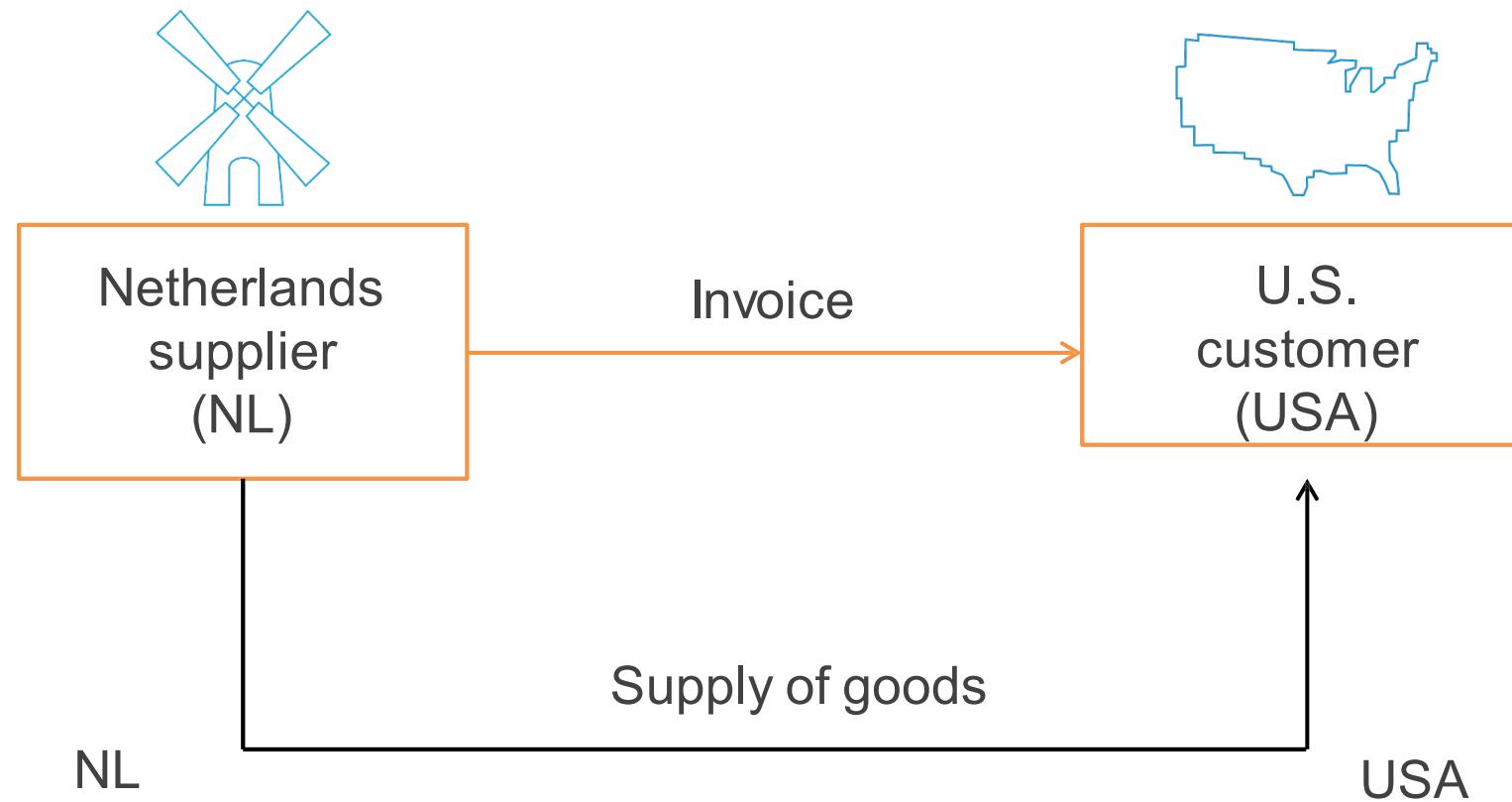
“ ”

Article 31 Principal VAT Directive (2006/112/EC)

## E.U. perspective

- The goods must actually be transported from an E.U. Member State (the POS) to a non-E.U. country. The transport can either be done by the supplier or be the customer.
- The supplier must obtain (and retain) evidence that the goods left E.U. Member State and were destined for / received in a non-E.U. country, e.g. bills of lading, customs export declaration, etc.

# VAT basics: Exports

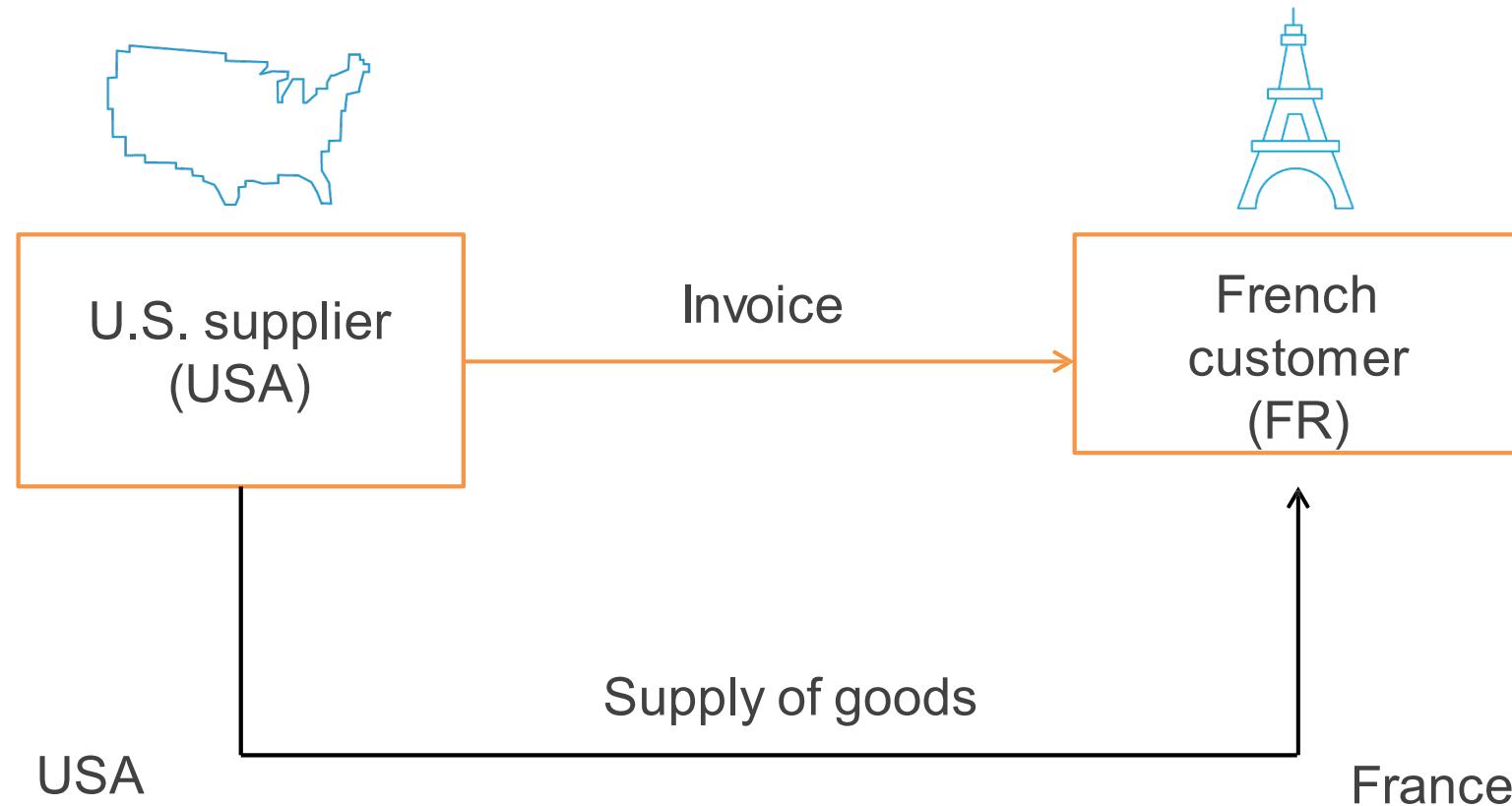


## E.U. perspective

- An import occurs when goods are brought from a non-E.U. country (e.g. the U.S.) into an E.U. country
- It is a separate taxable event in itself, i.e. a sale does NOT need to take place

# VAT basics: Imports

Imports



## VAT basics: Imports

- The importer could either be the U.S. supplier or the French customer
- In either case, the place of import will always be France, being the E.U. country of arrival of the goods. However:
  - If U.S. supplier is named as the importer of record, the POS will also be France
  - If the French customer is named as the importer, the POS will remain the U.S. (being the country in which the transportation of the goods began)

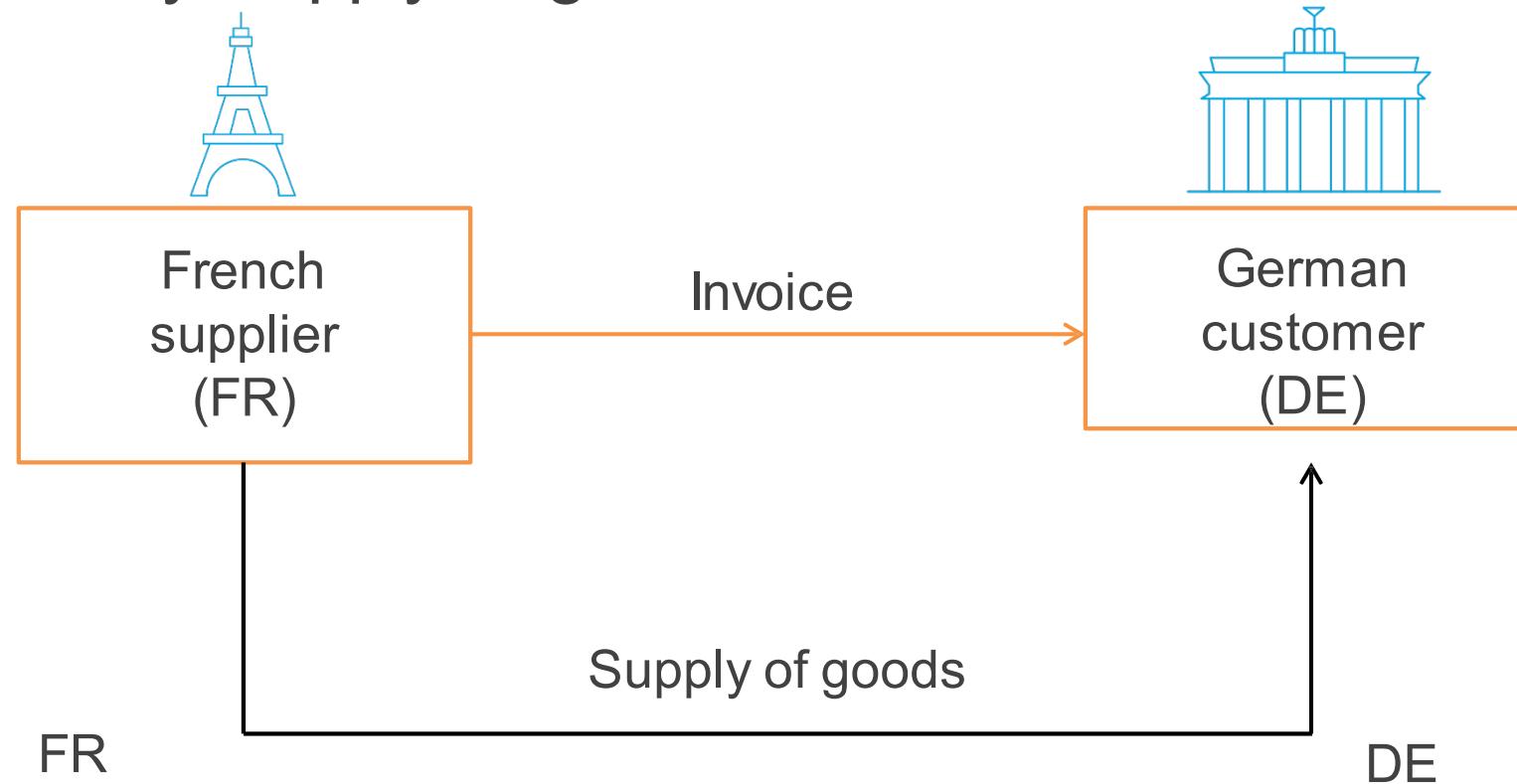
# VAT basics: Intra-E.U. (or intra-community) supply of goods

## Intra-E.U. (or intra-community) supply of goods

- Under the E.U. VAT regime, intra-community dispatches are typically zero-rated
- Conditions must be met in order to zero-rate such supply
  - Evidence that customer is a taxable person in another E.U. country (not necessarily ship-to country) by quoting the customer's VAT registration number on invoice
  - Proof that the goods have left the country should also be obtained and retained (e.g. transport documents, arrival documents etc.)

# VAT basics: Place of supply – IC supplies

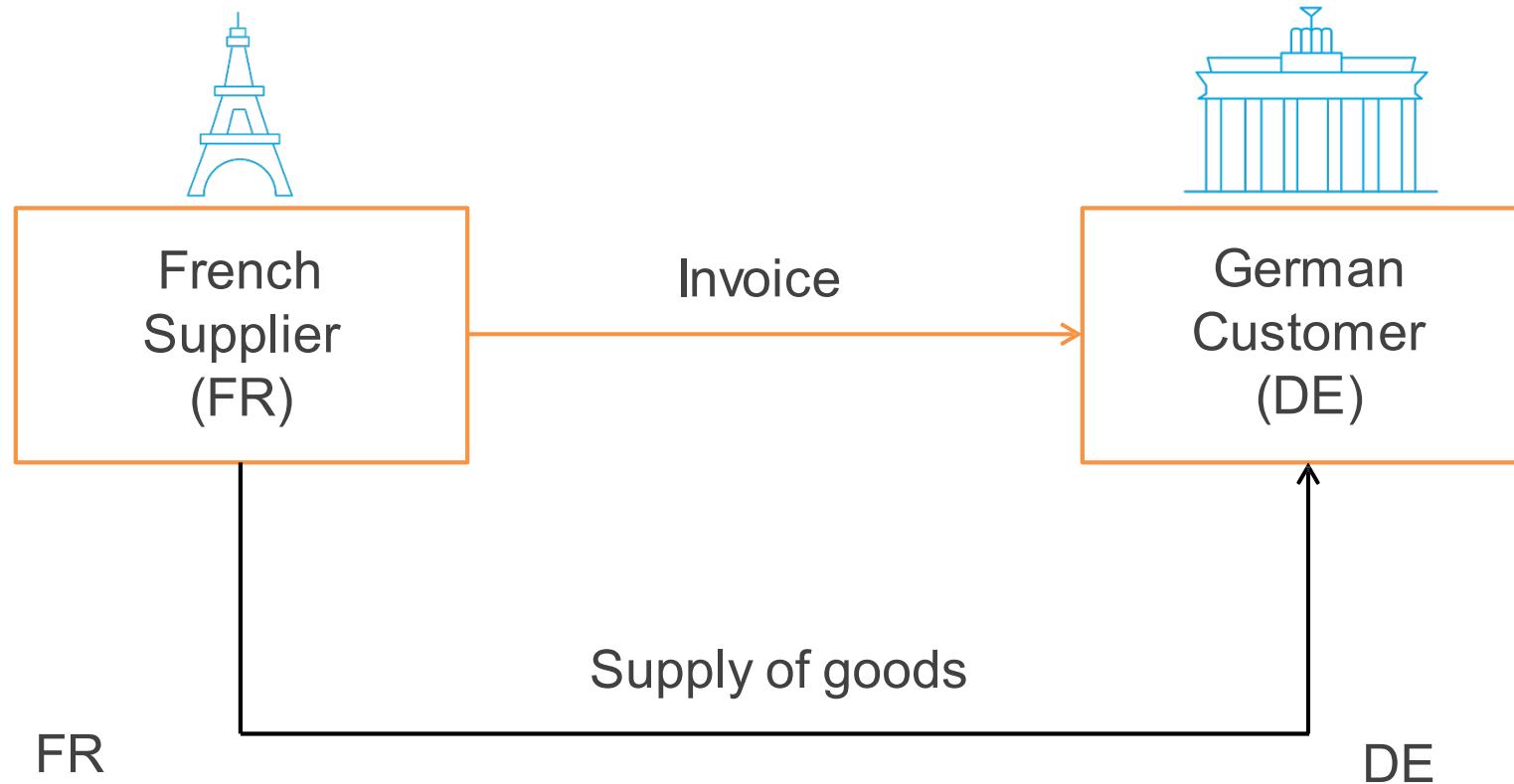
## Intra-community supply of goods



## VAT basics: Intra-community acquisition of goods

- Whenever there is a zero-rated intra-community supply of goods by a supplier, there will generally be a corresponding taxable intra-community acquisition of those same goods by the customer in the E.U. country in which the transportation ends
- An intra-community acquisition is a separate taxable event
- In most cases, it is the supplier who accounts for the intra-community supply in the E.U. country of dispatch and the customer who accounts for the corresponding intra-community acquisition in the E.U. country of arrival

# VAT basics: Intra-community acquisition of goods



# E.U. 2021: European Union VAT reform for e-Commerce

From [July 1, 2021](#) the European Union will introduce sweeping VAT reforms that will transform the [taxation of online sales of physical goods](#).

## 1. ONLINE MARKETPLACES AND PLATFORMS

- Online marketplaces and platforms “facilitating” sales of physical goods by non-E.U. established sellers will, in certain circumstances, be the deemed seller
- This also includes “low value” imports coming into the E.U. below EUR 150 in value



## 2. NON-E.U. SELLERS ON MARKETPLACES

- Sales of goods located in the E.U. by non-E.U. sellers will be deemed to occur to the marketplace and be “zero-rated” for VAT purposes
- Non-E.U. sellers should ensure that they are appropriately registered for VAT to reclaim VAT and report zero-rated sales

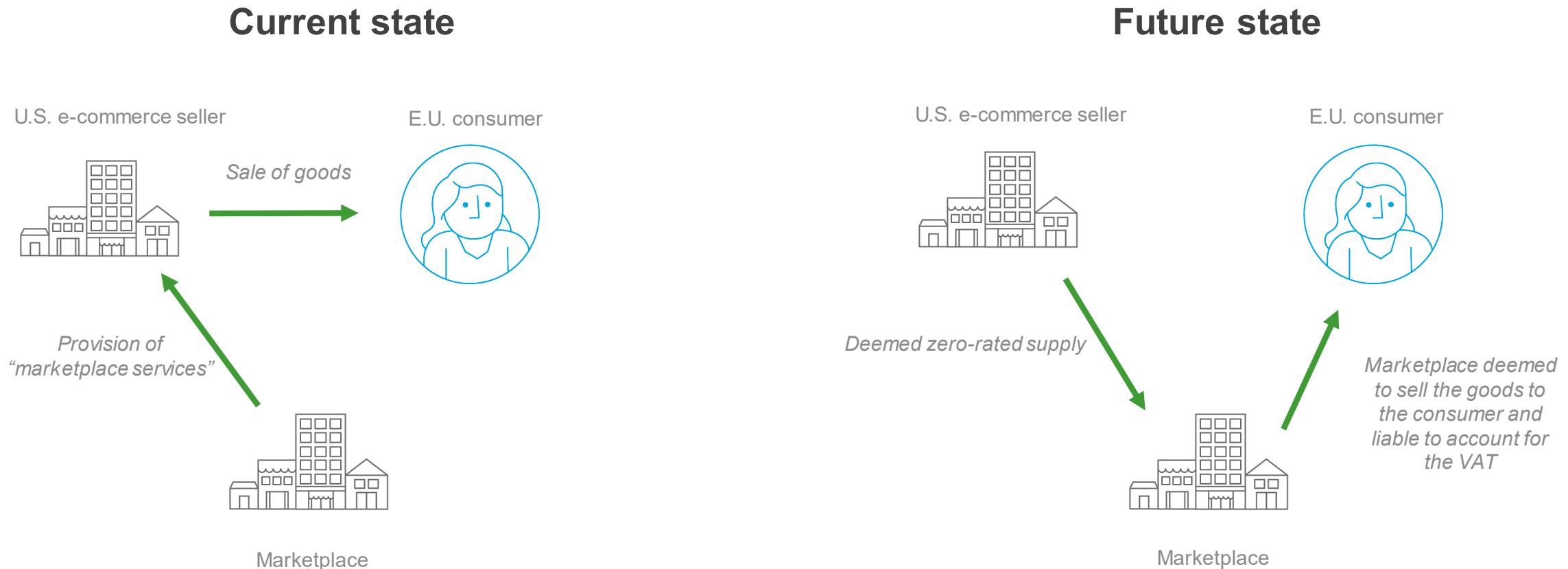
## 3. “DISTANCE SELLERS”

- Direct sellers that are currently selling goods physically located within the E.U. and are registered under the so called “distance sales” regime can simplify their compliance through a single VAT return
- The distance sales regime will end and the VAT treatment will be based upon the destination country

## 4. E-COMMERCE SELLERS SHIPPING INTO THE E.U.

- The E.U.’s low value import relief of EUR 22 will be abolished
- Any import under the value of EUR 150 will no longer be subject to import VAT, but the seller (or marketplace) would be liable to remit VAT under a new “Import One Stop Shop” scheme

# Marketplaces and sellers utilizing marketplaces



U.S. e-commerce seller should be registered for E.U. VAT purposes if the inventory is stored and fulfilled from E.U. warehouses.

Change only occurs for future state. U.S. e-commerce sellers need to consider VAT obligations in the E.U. (e.g. recovery of import VAT).

# VAT basics: Time of supply

The chargeable event shall occur and VAT shall become chargeable when the goods or the services are supplied

“ , ”

Article 63 Principal VAT Directive (2006/112/EC)

# VAT basics: Time of supply – special cases

- Continuous supplies
- Payment in advance of the supply
- Date of invoice
- Deferred payment (e.g. hire purchase)

# What is consideration?

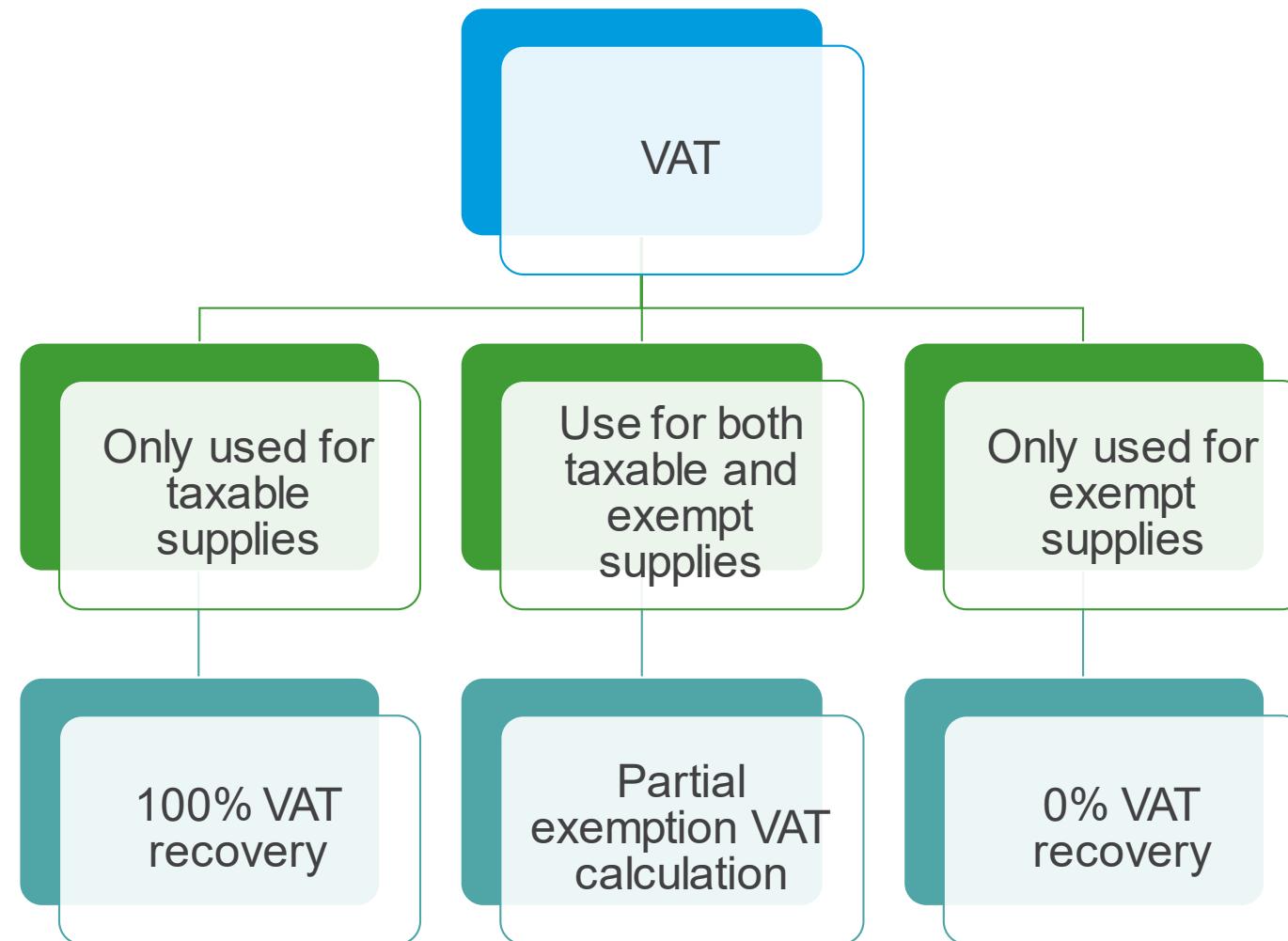
- Anything received in return for the supply of goods or the provision of services:
  - Monetary
  - Non-monetary
  - Incidental expenses
  - Barter transactions

# VAT recovery

Businesses can recover VAT as input tax when certain conditions are met:

- The VAT is correctly charged by another taxable person
- The business must be the recipient of the supply
- The supplies were received for the purpose of the business
- The purchase relates to an onward taxable supply
- The purchaser is a taxable person and appropriately registered for VAT
- The recipient must possess a valid VAT invoice to substantiate the recovery
- The recovery of the VAT is not specifically blocked

# VAT exempt businesses



## Specific VAT recovery blockage

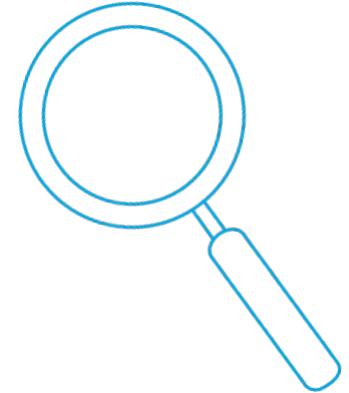
- Business entertainment costs
- Rental cars (50% recovery in the U.K.)
- Fuel for company cars (specific rules exist in most countries)
- Restaurant meals
- Employee and business gifts
- The recovery of employee expenses should be considered on a case-by-case basis. Suitable documentation should also be obtained to support VAT recovery

## Overseas VAT refund claims

- If a business is not registered for VAT and importantly is not required to be registered, it may be possible to reclaim VAT via an overseas VAT refund claim
- Only certain countries have such a scheme – primarily in the European Union and the U.K.
- Some E.U. Member States do not allow U.S. companies to reclaim VAT due to a lack of “reciprocity”
- VAT refund claims have strict time limits and documentation requirements

# Overseas VAT refund claims – Case study

- U.S. pre-revenue life sciences company conducts clinical trials in the U.K.
- U.S. company imports its drug product into the U.K., and purchases a comparative product from a U.K. vendor
- U.S. company pays U.K. import VAT on imports, as well as U.K. VAT on the purchase of goods from the U.K. vendor
- The supply of products for a clinical trial is not a supply for VAT purposes so the U.S. company is not required to be VAT registered
- Therefore, the U.S. company is required to reclaim the VAT via an overseas VAT refund claim
- Claims in the U.K. are valid for a July 1 to June 30 12-month period, and must be received by HMRC by Dec. 31



# Invoicing requirements

# Invoicing requirements

- VAT invoices are a fundamental part of any VAT system
- Invoices outline the VAT that a supplier has charged and is obligated to remit, and how much VAT a customer can reclaim (subject to the usual VAT recovery rules)
- In the absence of a valid VAT invoice, it is not possible to reclaim the VAT as input tax
- There are also penalties for failure to issue tax compliant invoices



# Invoicing requirements

- General VAT invoicing requirements include:
  - The supplier's name and address
  - The supplier's VAT number
  - The customer's name and address
  - A unique and sequential invoice number
  - The date of the invoice
  - The tax point, if different from the date of the invoice
  - A description of the goods and services
  - The total amount excluding VAT
  - The price per item, excluding VAT
  - The quantity of each type of item
  - Any discounts
  - The total amount of VAT
  - The rate of VAT
  - The total price payable, including VAT

*If you receive an invalid invoice, you should request a new invoice from a supplier*

# VAT returns

## VAT returns

- Typically filed on a quarterly or monthly basis, subject to sales volume in some countries
- Due between 10 and 60 days after the end of the month, along with payment (if any)
- Possible that net payable is negative, resulting in a VAT repayment
- In addition to VAT returns, certain statistical returns may be required (e.g. Intrastat and European sales listings).

# An example VAT return: The UK

## Box UK VAT Return

1	VAT due in this period on sales and other outputs	0.00
2	VAT due in this period on acquisitions from other EC Member States	0.00
<b>3</b>	<b>Total VAT due (the sum of boxes 1 and 2)</b>	<b>0.00</b>
4	VAT reclaimed in this period on purchases and other inputs (including acquisitions from the EC)	0.00
<b>5</b>	<b>Net VAT to be paid to HM Revenue &amp; Customs (Difference between boxes 3 and 4)</b>	<b>0.00</b>
6	Total value of sales and all other outputs excluding any VAT Include your box 8 figure	0
7	Total value of purchases and all other inputs excluding any VAT Include your box 9 figure	0
8	Total value of all supplies of goods from Northern Ireland excluding VAT to other EU Member States	0
9	Total value of all supplies of goods to Northern Ireland excluding VAT from other EU Member States	0

- *The U.K. VAT return consists of 9 boxes, two of which are the sum of other boxes*
- *The U.K. VAT return does not differentiate between types of supplies, except for Boxes 8 and 9 of the return for specific activity in Northern Ireland*

# An example VAT return: The Netherlands

*The Dutch VAT return, like many others across the E.U., is more complex and has various boxes for different types of supplies (e.g. domestic, intra-E.U., goods vs. services etc.)*

1 Domestic activities		Please note! Round all amounts to whole euros	
	Amount on which VAT is calculated	Amount VAT	
1a Supplies/services taxed at the standard rate		1	1
1b Supplies/services taxed at the reduced rate		1	1
1c Supplies/services taxed at other rates except 0%		1	1
1d Private use		1	1
1e Supplies/services taxed at 0% or not taxed by you		1	1
<b>2 Domestic reverse charge</b>			
2a Supplies/services for which VAT imposition is reverse-charged to you. Please note! Fill in input VAT in question 5b		1	1
<b>3 Activities to/in another country</b>			
3a Supplies to countries outside the EU (export)		1	1
3b Supplies to / services in countries in the EU		1	1
3c Installation / distance sales in the EU		1	1
<b>4 Activities from abroad done for you</b>			
4a Supplies/ services from countries outside the EU		1	1
4b Supplies/ services from countries in the EU		1	1
<b>5 Input VAT, special scheme for small businesses, estimation and grand total</b>			
5a VAT owed: add up the VAT in categories 1a up to and including 4b		1	0
5b Input VAT		1	-
5c Subtotal: calculate 5a minus 5b		1	1
5d Reduction according to the special scheme for small businesses		1	1
5e Estimate of previous return(s). Only if the Tax Authority has given you permission to do so		1	1
5f Estimate of this return(s). Only if the Tax Authority has given you permission to do so		1	1
5g <b>Totaal</b> <input checked="" type="checkbox"/> to pay		1	0
	<input type="checkbox"/> to request as		1

## U.K. VAT return example

- ABC Limited is a U.K. company that manufactures and sells widgets
- It is in the process of finalizing the submission of its Q2 2021 VAT return covering the period from April 1, 2021 through to June 30, 2021
- During the period, the activities are as follows:
  - Sales to U.K. customers of \$22,000 on which \$4,400 of VAT was collected
  - Sales to non-U.K. customers of \$15,000
  - Domestic costs of \$9,700 on which \$1,940 of VAT was charged
  - An inter-company invoice paid to ABC Limited's U.S. parent company, XYZ Corp, of \$5,000 for management services.

# U.K. VAT return example

Box	VAT return to date	6/30/2021
1	VAT due in this period on sales and other outputs	5,400
2	VAT due in this period on acquisitions from other EC Member States	-
3	<b>Total VAT due (the sum of boxes 1 and 2)</b>	<b>5,400</b>
4	VAT reclaimed in this period on purchases and other inputs (including acquisitions from the EC)	2,940
5	<b>Net VAT to be paid to HM Revenue &amp; Customs (Difference between boxes 3 and 4)</b>	<b>2,460</b>
6	Total value of sales and all other outputs excluding any VAT Include your box 8 figure	42,000
7	Total value of purchases and all other inputs excluding any VAT Include your box 9 figure	14,700
8	Total value of all supplies of goods from Northern Ireland, excluding any VAT, to other EU Member States	-
9	Total value of all supplies of goods to Northern Ireland excluding VAT from other EU Member States	-

# European Sales Lists and Intrastat Returns

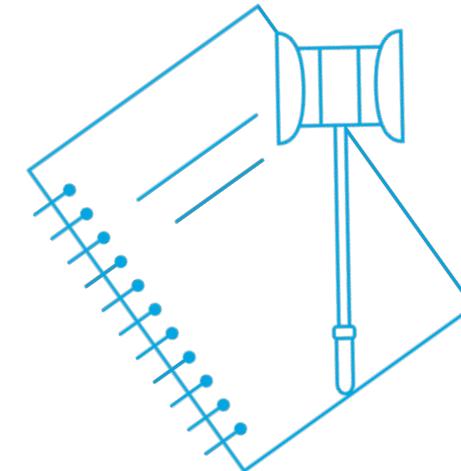
- Informative reporting obligations for businesses within the EU engaged in cross-border trade
- ESLs are required for cross-border B2B supplies of goods and services, subject to certain reporting thresholds
- Intrastat returns are for cross-border movements of goods
- Intrastat arrivals returns for goods entering a country, and Intrastat dispatches for goods leaving a country
- Intrastat returns have reporting thresholds and often require detailed transactional information (e.g. product tariff code, weight etc.)



# Penalties and enforcement

# Penalties and enforcement

- Stresses to the economy often lead to increased enforcement activities
- Shift to 'remote audits' and verification checks over full tax audits
- Many tax regimes operate a penalty regime that is behaviorally based – so where 'reasonable care' is shown with respect to an error, this can be mitigated
- For late registrations and unpaid VAT, following a careful voluntary disclosure process can help mitigate penalties and interest



# Key takeaways

## Key takeaways

- VAT is a complex and ever changing tax
- It has a real-time and “enterprise wide” impact
- Necessary to manage VAT on costs as well as sales
- As a self-administered tax, businesses are obligated to get things right
- Compliance can be significant
- VAT should not be a cost for most businesses, provided it is effectively managed
- While the basic mechanics of VAT is consistently globally, local country nuances should always be considered

THANK YOU FOR  
YOUR TIME AND  
ATTENTION



**RSM US LLP**

One South Wacker Drive, Suite 800  
Chicago, IL 60606  
312.634.3400

+00 (1) 800 274 3978  
[www.rsmus.com](http://www.rsmus.com)

This document contains general information, may be based on authorities that are subject to change, and is not a substitute for professional advice or services. This document does not constitute audit, tax, consulting, business, financial, investment, legal or other professional advice, and you should consult a qualified professional advisor before taking any action based on the information herein. RSM US LLP, its affiliates and related entities are not responsible for any loss resulting from or relating to reliance on this document by any person.

RSM US LLP is a limited liability partnership and the U.S. member firm of RSM International, a global network of independent audit, tax and consulting firms. The member firms of RSM International collaborate to provide services to global clients, but are separate and distinct legal entities that cannot obligate each other. Each member firm is responsible only for its own acts and omissions, and not those of any other party. Visit [rsmus.com/aboutus](http://rsmus.com/aboutus) for more information regarding RSM US LLP and RSM International.

RSM® and the RSM logo are registered trademarks of RSM International Association. The power of being understood® is a registered trademark of RSM US LLP.

© 2021 RSM US LLP. All Rights Reserved.

