

Understanding the complex world of global indirect taxes

June 30, 2021

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Your presenters



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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

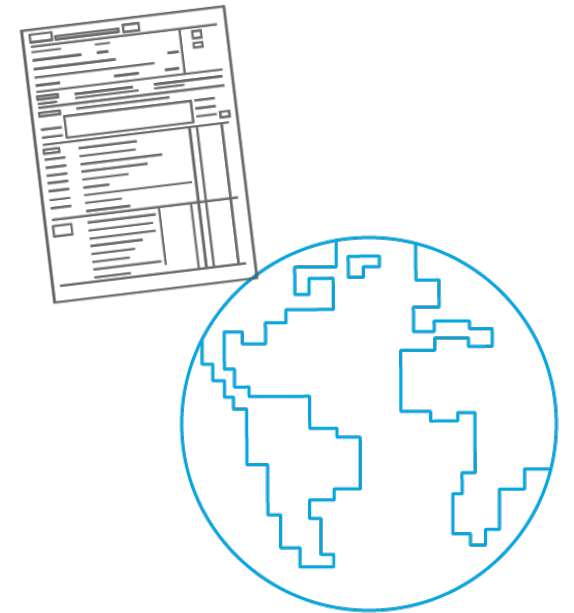
Agenda

Topic	Time
Basic mechanics of VAT	15
Transactions subject to VAT	10
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Supplies of goods	15
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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

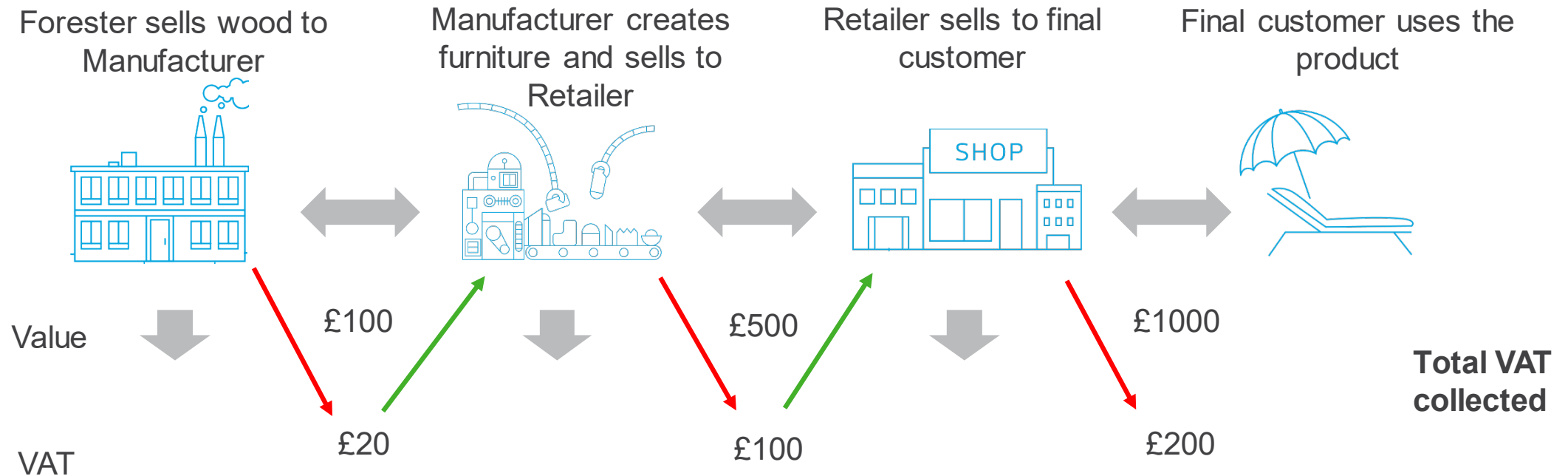
- Where goods are imported into a country, import VAT is typically charged by customs on entry
- Import VAT charged will typically be shown on a customs declaration
- This is in addition to customs duties which are not recoverable

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.



— Input VAT
— Output VAT

£20 paid to Tax Authorities by Forester

£80 paid to Tax Authorities by Manufacturer

£100 paid to Tax Authorities by Retailer



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:

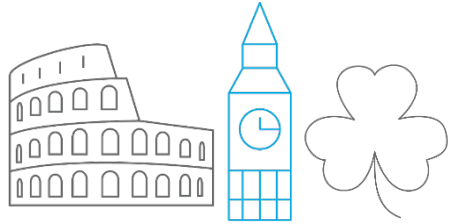
1. Supply of taxable goods or services
2. Takes place in a VAT jurisdiction
3. By a Taxable Person
4. In the course and furtherance of business
5. In exchange for consideration

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



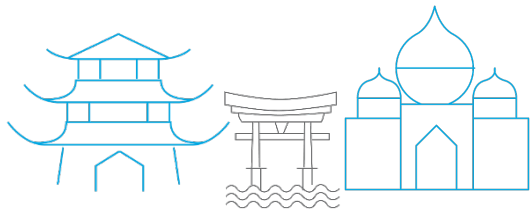
- Vary between 17% (Luxembourg) and 27% (Hungary), with the average of around 21%
- Rates in Scandinavia are high (around 25%)

LATAM



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

APAC



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

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

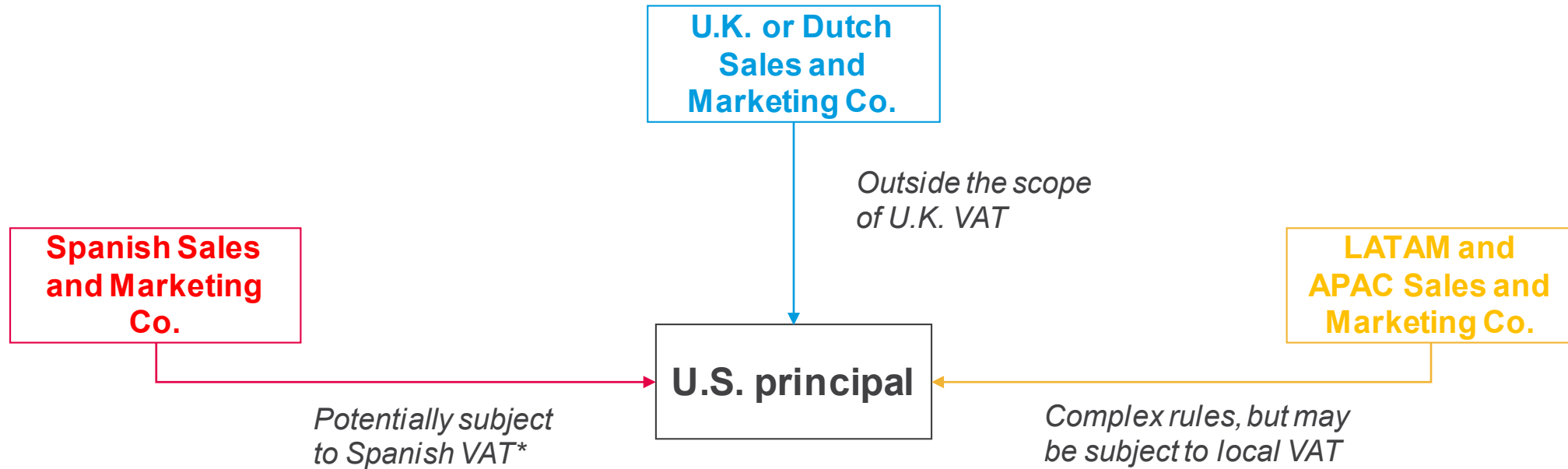
Place of supply: B2B Services

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)



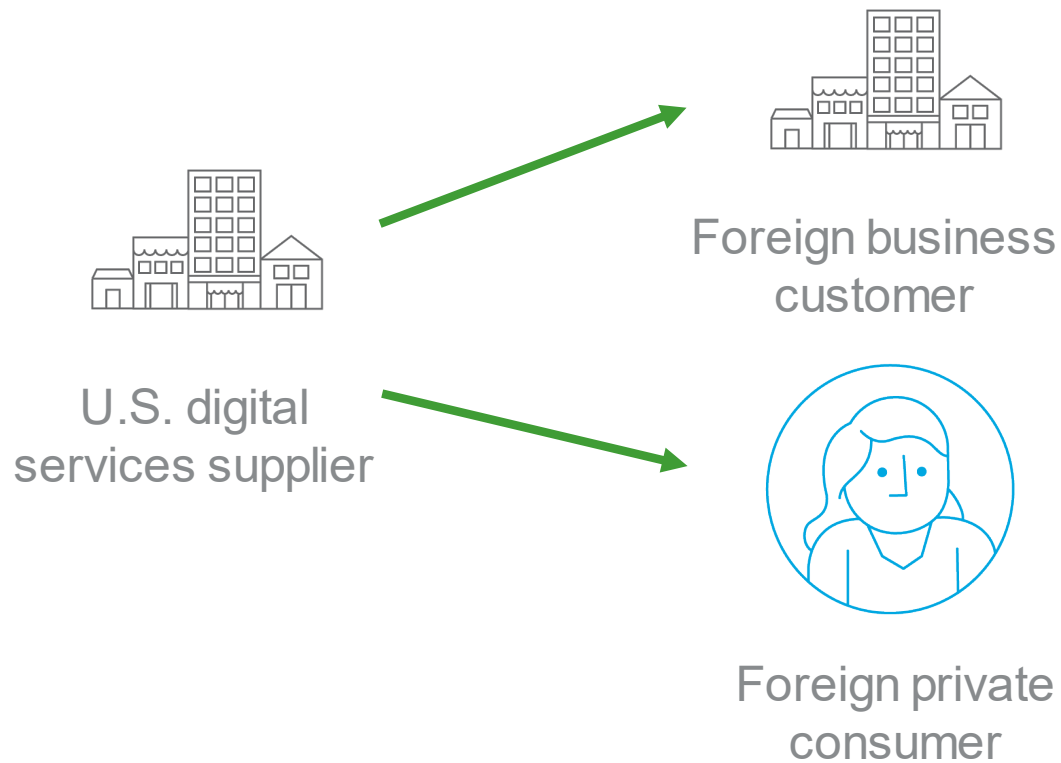
Place of supply: Services (special rules)

	B2B	B2C
Immovable property	Where the property is located	Where the property is located
Electronically supplied services	Basic rule	Where the non-taxable person is established
Telecoms and broadcasting	Basic rule	Where the non-taxable person is established
Short term hire of transport	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
Restaurant and catering (excluding ships, planes and trains)	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



Looking ahead

Countries introducing rules

Thailand
Philippines
Kazakhstan
Bhutan
Canada

Current proposals with no definitive date

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

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.



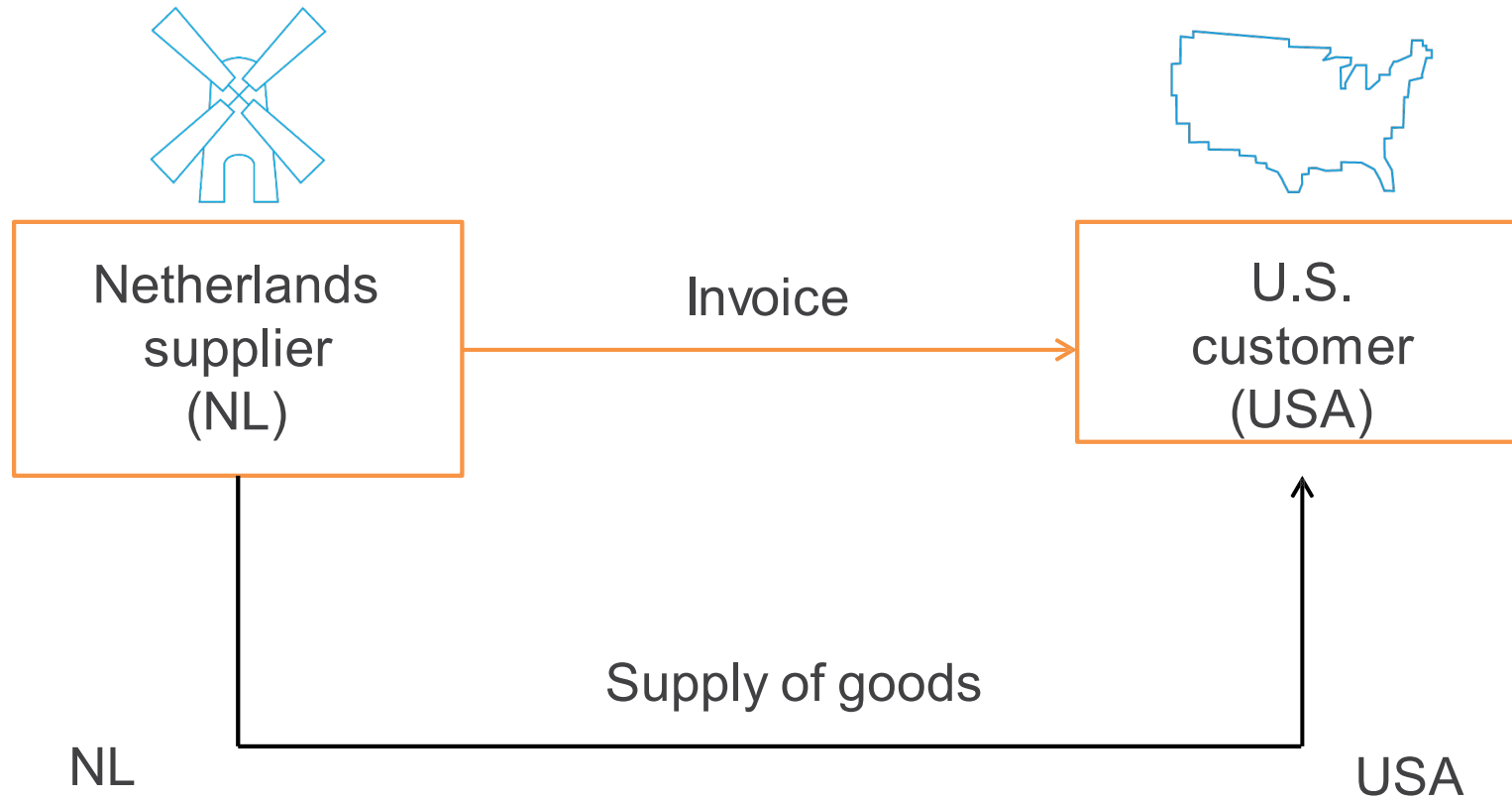
Article 31 Principal VAT Directive (2006/112/EC)

VAT basics: Exports

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



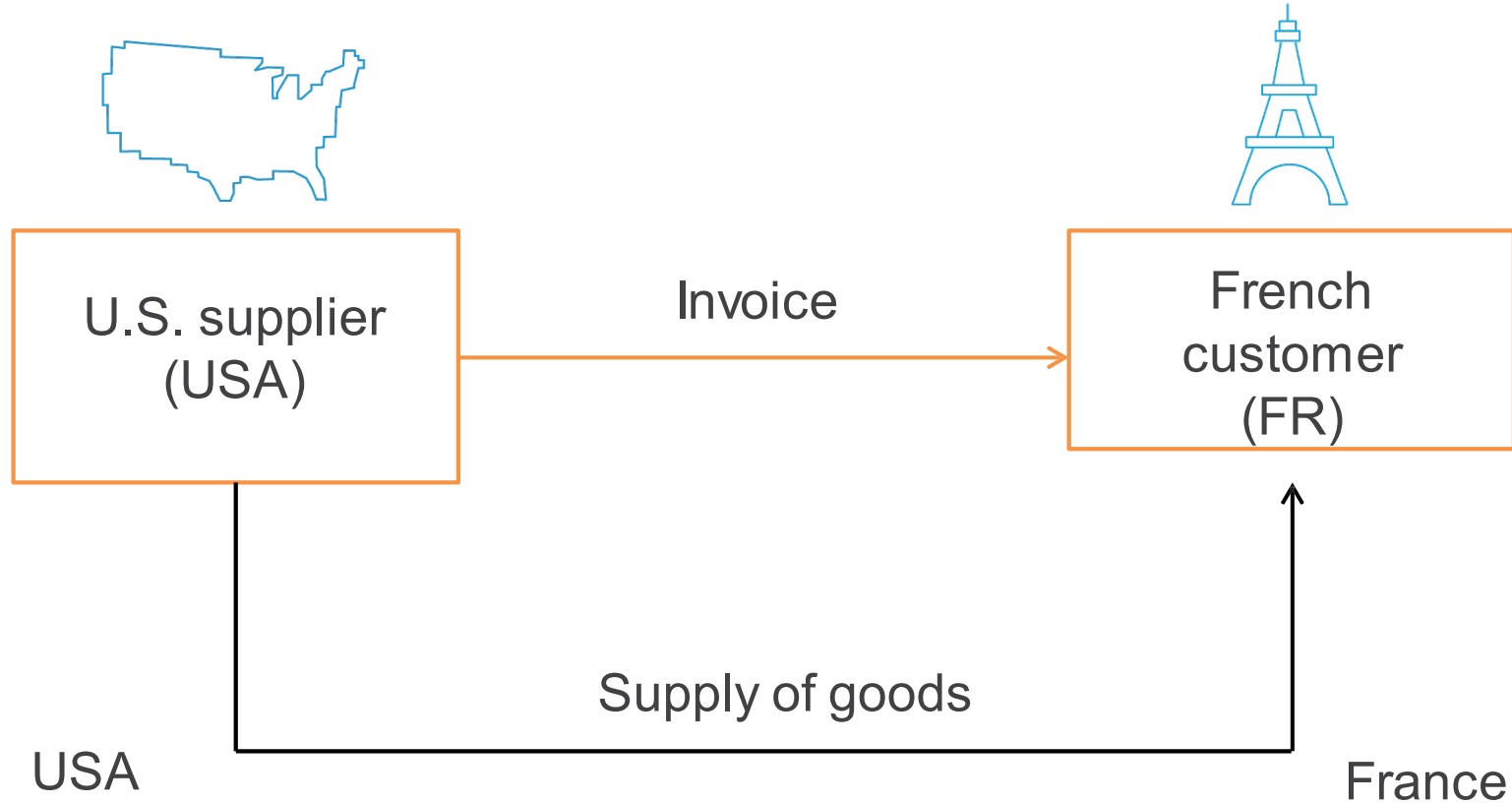
VAT basics: Imports

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)

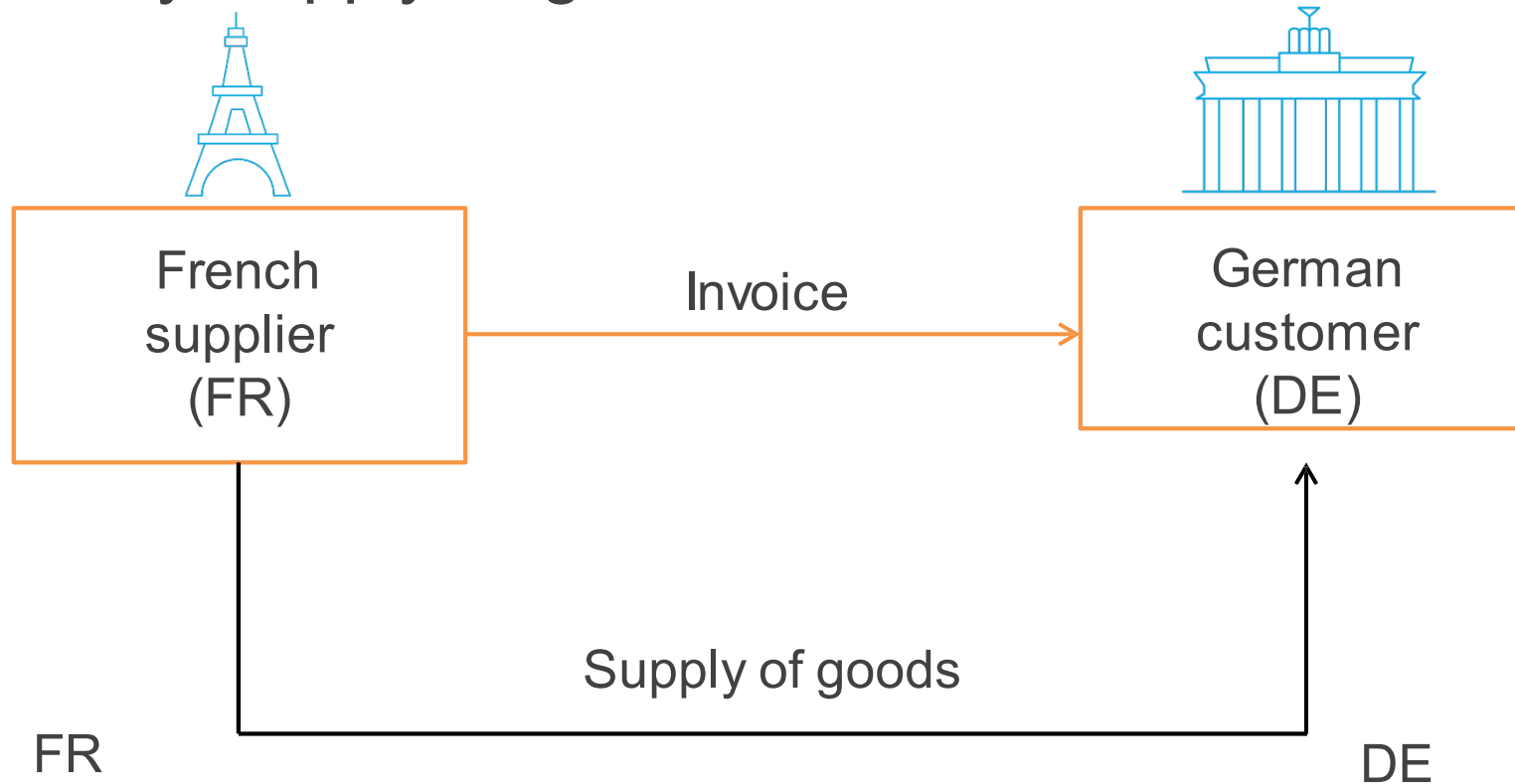
VAT basics: Intra-E.U. (or intra-community) supply of goods

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

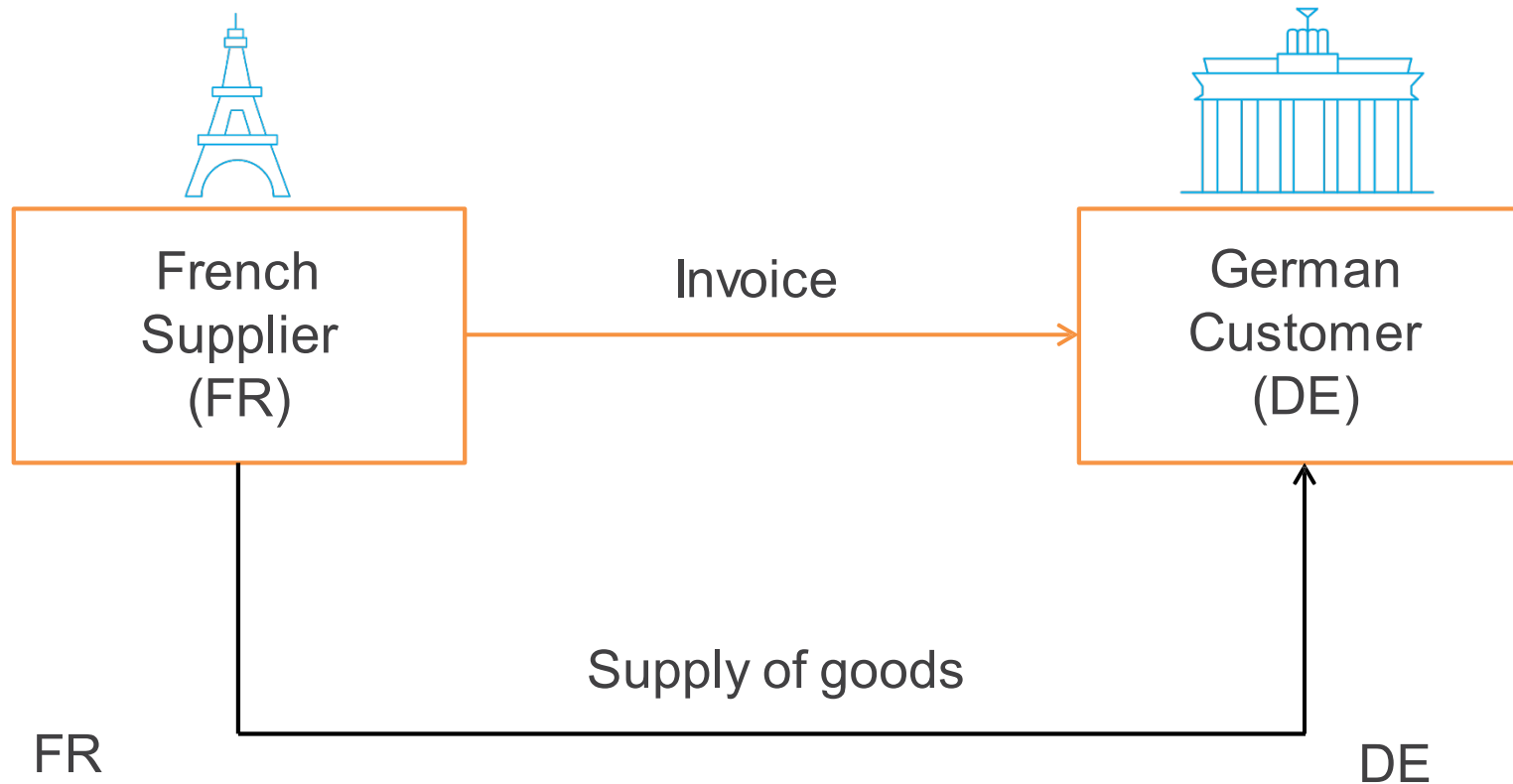
Intra-community supply of goods



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

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

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

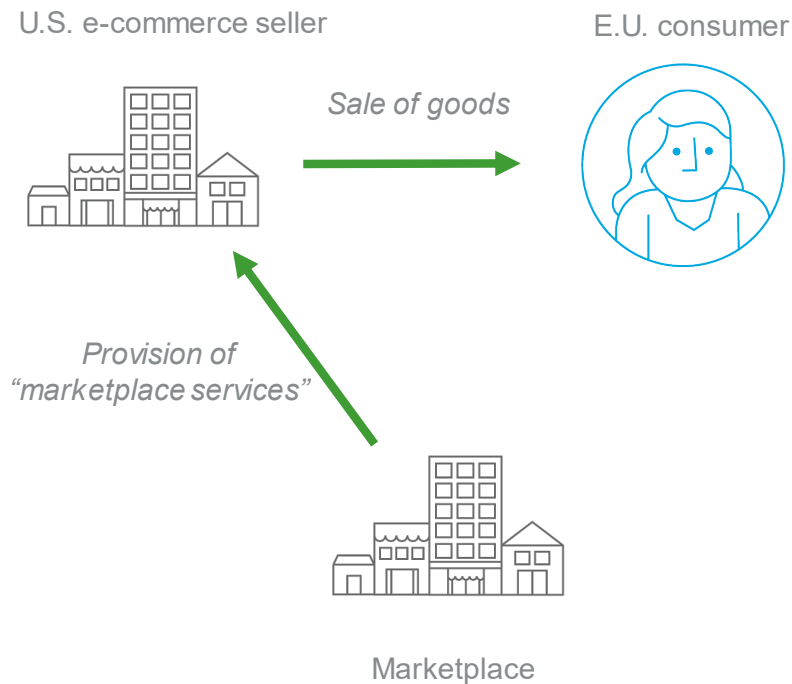


4. E-COMMERCE SELLERS SHIPPING INTO THE E.U.

- 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

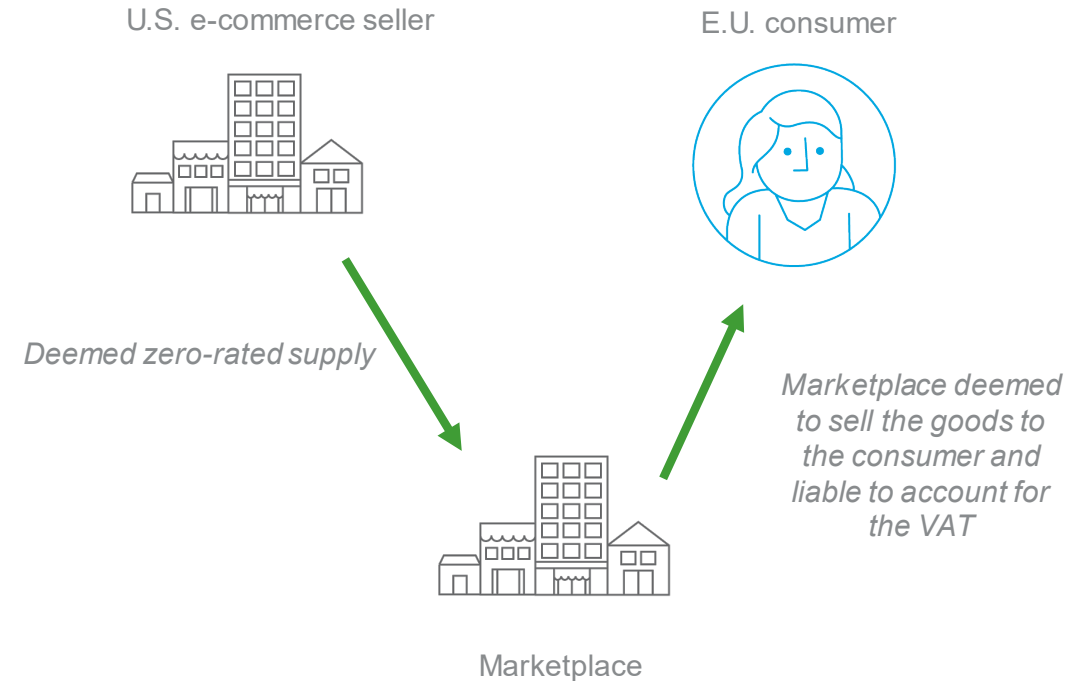
Marketplaces and sellers utilizing marketplaces

Current state



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

Future state



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?

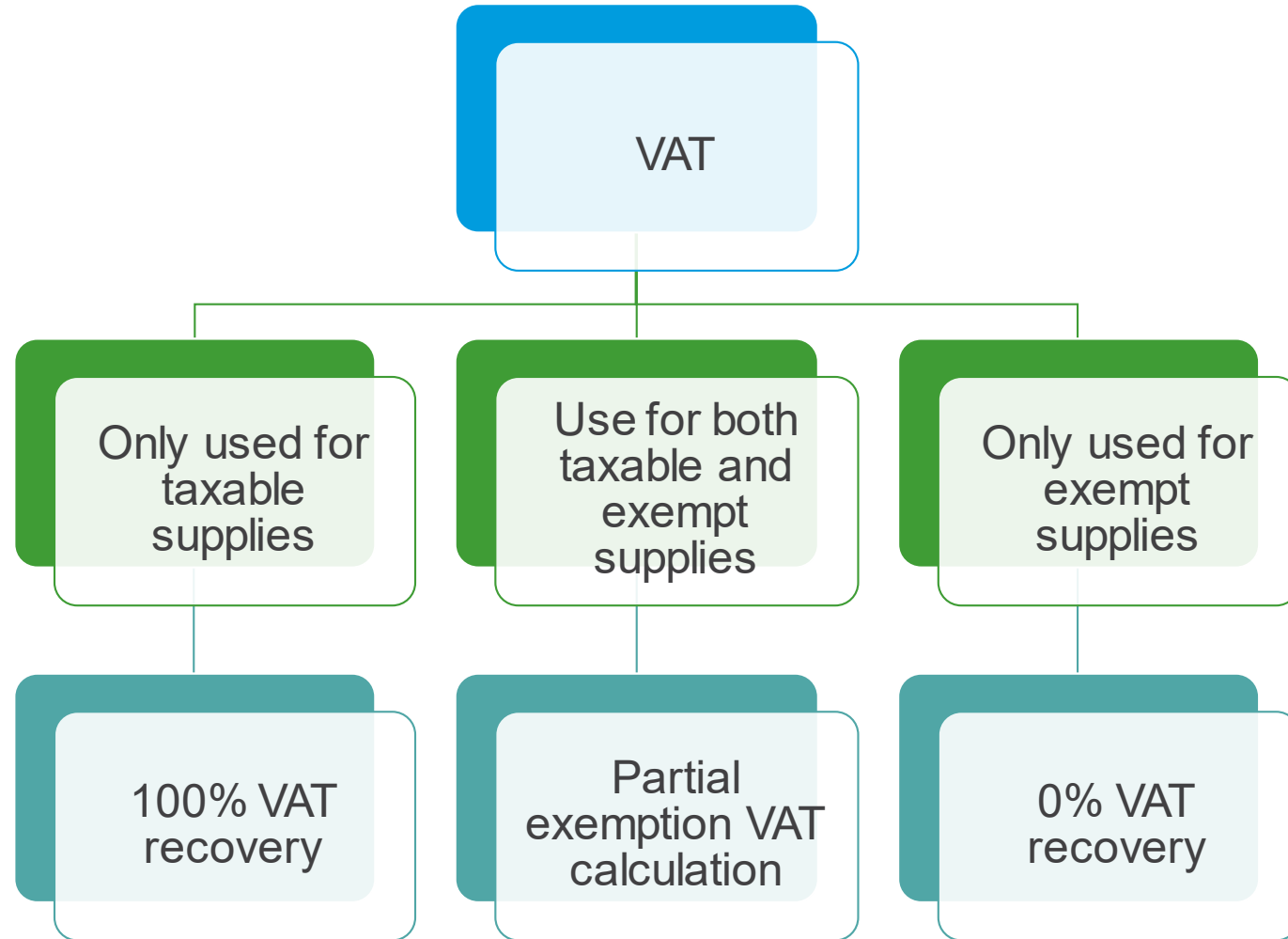
- Anything received in return for the supply of goods or the provision of services:
 - Monetary
 - Non-monetary
 - Incidental expenses
 - Barter transactions

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
3	Total VAT due (the sum of boxes 1 and 2)	0.00
4	VAT reclaimed in this period on purchases and other inputs (including acquisitions from the EC)	0.00
5	Net VAT to be paid to HM Revenue & Customs (Difference between boxes 3 and 4)	0.00
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.)

Please note! Round all amounts to whole euros.

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

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	Total VAT due (the sum of boxes 1 and 2)	5,400
4	VAT reclaimed in this period on purchases and other inputs (including acquisitions from the EC)	2,940
5	Net VAT to be paid to HM Revenue & Customs (Difference between boxes 3 and 4)	2,460
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	-

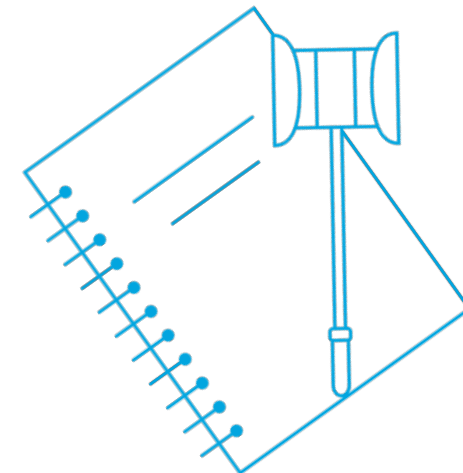
European Sales Lists and Intrastat Returns

- 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

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