

WTS Value Added Tax Newsletter



Editorial

Dear Reader,

It is our pleasure to present to you the WTS Global VAT Newsletter edition for Q1 2018.

This issue of the WTS Global VAT Newsletter focusses on changes in compliance duties in 2018 in various EU countries in order to inform, especially non-resident companies, about their VAT compliance duties in the foreign countries in which they do business.

In this issue, several countries report on the new split payment systems which have been or are being introduced in **Italy, Romania** and **Poland**. These systems can be optional or compulsory. Our Polish colleagues will be happy to explain their version of this new mechanism in a special webinar.

In **Hungary**, the live invoice reporting system is expected to become a reality in July 2018. Taxpayers should therefore become acquainted with the new system and arrange for the necessary changes in their IT systems as soon as possible. The recent developments of this new system are described in this issue.

In **Germany**, a new "simplification" rule for supplies of goods via consignment stocks will have to be applied from January 2019. Until then, taxpayers should check whether their supplies via consignment stocks or other warehouses comply with the new rule or whether changes of agreements and procedures are required. The conditions and consequences of the new rule are explained in this issue.

In addition, in various countries, VAT compliance duties have changed or are going to change in the near future. The WTS Global VAT Newsletter reports in this issue on the developments in selected countries (Finland, France, Italy and Portugal).

We hope you find our Newsletter useful and we welcome your feedback and suggestions. If you have any questions regarding any aspects of this Newsletter, please do not hesitate to contact us.

Yours sincerely,

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Contents

Finland: Import VAT reverse charged on periodic VAT returns as of 2018	3
France I: E-invoicing with the Public Administration	3
France II: Simplifications for the storage of invoices	4
Germany: Supplies of goods via consignment stocks as of 2019	4
Hungary: Live invoice reporting as of July 2018	5
Italy: Main 2018 VAT news.....	6
Poland: Optional split payment as of July 2018	8
Portugal: Main 2018 VAT news.....	10
Romania: VAT split payment system – significant changes.....	10

Please find the complete list of all contacts at the end of the newsletter.

Finland



Import VAT reverse charged on periodic VAT returns as of 2018

As of 1 January 2018, businesses registered for VAT in Finland shall apply new rules for handling VAT on imported goods from outside the EU. Since 1 January 2018, the authority in charge of handling import VAT issues for businesses registered for VAT in Finland is no longer Finnish Customs but the Tax Administration. However, the significant change for the companies is that, through the new procedure, VAT on the imports no longer needs to be paid before it may be deducted. Despite the financial benefits, businesses registered for VAT also benefit from a more convenient procedure.

Due to the changes, businesses will report the VAT on imports on their own initiative during the usual self-assessment tax return procedure. The taxpayer shall calculate the tax basis and the amount of the import VAT him/herself and shall report it with all other VAT positions on one single tax return for the period. In order to report and pay the import VAT correctly, attention should be paid to the calculation of the tax basis and sufficient documentation. In general, import VAT is based on the customs value of the goods, customs duties and other costs and fees related to the import of the goods. The customs value is based on a customs decision issued by customs.

Self-assessment tax returns must be filed electronically, for instance, using the Tax Administration's eService, known as MyTax at <https://www.vero.fi/en/e-file/mytax/>. When filing returns for each calendar month, the deadline for filing and paying self-assessed taxes is the 12th of the month. The filing of self-assessed tax returns on paper is allowed only in special circumstances. However, no specific permission is required for paper filing.

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Businesses that are not registered for VAT in Finland and private individuals are not affected by the new rules.

France



E-invoicing with the Public Administration

According to European Directive 2014/55/EU approved by the Council and Parliament, France has been implementing e-invoicing in trade relations between the Public Administration and its suppliers since January 2017 for the 500 largest French companies.

This e-invoicing obligation is extended as of 1 January 2018 to medium-sized companies (250-5000 employees) established in France or non-established in France supplying goods or services to the Public Administration.

The French Tax Authorities put at the disposal of the public suppliers an Internet portal ("Chorus Pro") to issue their electronic invoices to all public administrations of the French State (French State, Central and Regional administrations, public hospitals, public educational institutions, public companies, etc.).

Chorus Pro has two main functions. On the one hand, it acts as a HUB concentrating invoices from suppliers and distributing them to the corresponding public administration. On the other hand, it also provides a function for issuing, uploading and checking the status of e-invoices.

However, for businesses issuing a medium to high billing volume, the entire process of issuing, submitting and storing documents can be carried out automatically by using a structured XML data format which allows integration with the company's ERP, as well as connectivity with Chorus Pro.

This e-invoicing obligation for public suppliers is expected to be extended to SMEs (10-250 employees) in January 2019 and is expected to be completed in January 2020 by application to microbusinesses.

Simplifications for the storage of invoices

This New Year is an opportunity to highlight an important practical change for businesses operating in France (companies established in France, permanent establishments in France, etc.).

Until recently, paper invoices had to be stored on French territory in their original format. This burdensome obligation has been lifted in 2017.

The digitalisation of paper invoices is now allowed in order to store an electronic format of the original paper invoices received, subject to conditions (colour code identical to the original paper invoice, use of a PDF format and time-stamped invoice).

Furthermore, the storage on French territory is no longer mandatory. The paper or electronic invoices can be stored on French territory, or in a Country linked to France by a convention providing for mutual assistance for the recovery of tax claims, mutual assistance by the competent authorities in the field of direct and indirect taxation and administrative cooperation in the field of indirect taxation and a right to access by electronic means, download and use the data concerned (Council Directive 76/308/EEC 03/1,5/1976; Council Directive 77/799/EEC 12/19/1977; Council Regulation (EEC) No 218/92 01/27/1992).

Finally, paper invoices or electronically transmitted invoices must be stored within the time limits provided by Article L.102B of the Tax Procedure Code, i.e. for a six-year period. However, we highly recommend storing all accounting documents and invoices for a ten-year period as of the end of the fiscal year in consideration, so that the right to recovery of the tax authorities may be expanded to ten years in limited circumstances.

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Germany



Supplies of goods via consignment stocks as of 2019

In October 2017, the German Ministry of Finance implemented into the German VAT Circular the opinion of the German Federal Tax Court with regard to the VAT treatment of supplies of goods via consignment stocks (notification dated 10 October 2017). According to these new rules, under the following circumstances, the foreign supplier no longer needs to be registered for VAT in Germany:

In cases where the customer is already defined prior to the commencement of the transportation of goods, a direct supply of goods is assumed also in cases where the goods are temporarily stored in a consignment stock. According to the German Ministry of Finance, this is the case when the customer has ordered the goods bindingly or paid for them before the commencement of their transportation.

According to recent statements of the German tax authorities, these new rules shall only be relevant for supplies from other EU member states to Germany. In these cases, under the conditions described above, intra-Community supplies and acquisitions have to be assumed instead of local supplies in Germany as in the past. Customers have to be aware that input VAT out of wrongly issued invoices for local supplies (instead of intra-EU supplies of goods) will no longer be deductible.

The German Ministry of Finance granted a transitional period until 01 January 2019 so that amendments can be arranged by the taxpayers concerned until the end of 2018 (notification dated 14 December 2017). Therefore, suppliers as well as customers now have to review whether their supplies via consignment stocks or other warehouses comply with the new rules or whether changes of agreements and procedures are required.

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Hungary



Live invoice reporting as of July 2018

In order to increase the efficiency of tax inspections and to reduce the opportunities for tax evaders in Hungary, the Hungarian tax authority is introducing online data supply, as it can be read on various forums among recent Hungary-related tax news. Online invoice data reporting will start as of 1 July 2018.

The reporting obligation covers all taxpayers registered in Hungary (domestic and foreign). Accordingly, VAT-registered taxpayers also have to provide data on their invoices issued to another taxable person in case the VAT content of the invoice is at least HUF 100,000.

Conditions of online reporting are still not final and official communication on details is still awaited by taxpayers and experts. As per current plans, online data reporting has to be provided directly by way of the invoicing system or via a separate software linked to the invoicing system if operation and data supply is manageable automatically without any direct human assistance. Invoices have to be reported immediately after the invoice content is regarded as final. In the event of a documented system error, the issued invoice should be forwarded to the tax authority within 24 hours as per recent information.

Electronic data reporting will probably cover the mandatory data required under the Hungarian VAT Act. The invoice will be issued when the programme closes the necessary data and then it will be forwarded to the authorities online. After the submission, the taxpayer will receive a confirmation code for each invoice which should be assigned to the appropriate invoice. Current rumours say if any information is not correct or missing, there may be an opportunity to modify the reporting.

If the data reporting obligation is not met or late, incomplete or incorrect information is provided, a default penalty may be imposed for each invoice affected (the maximum default penalty for companies is HUF 500,000, approximately EUR 1,600). If the reporting obligation is not fulfilled by the issuer of the invoice, the customer's right to tax deduction should not be affected in theory. However, parties have to prove that they acted with due care.

Since the beginning of July 2017, taxpayers have been able to manually test the development XML files that were created for Online Invoice reporting purposes in the KOBÁK system (External Online Submission and Reporting Framework). During the introduction phase, we highly recommend checking the operating data-export function of the invoicing software, the proper working of which should be considered a prerequisite for the online invoice reporting.

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We will inform our clients of further news as soon as any official information from the tax authorities or draft decree is published.

Italy



Main 2018 VAT news

Relevant VAT changes have been introduced by Budget Law 2018 (Law no. 205/2017, published in the Official Journal on 29 December 2017 and in force since 01 January 2018) and other year-end measures.

Some of the most important Italian VAT news are briefly described here below.

Change in the reporting frequency for 2018 filing of Listing of invoices data

The Listing of the invoices data (formerly "Spesometro"), normally to be filed on a quarterly basis, for 2018 can be filed on a **bi-annual basis** and, more precisely:

- by 30 September 2018, for data referring to the 1st half of 2018) and
- by 28 February 2019, for data referring to the 2nd half of 2018.

As of 2019, this listing should be abolished since – as a matter of fact – it will be replaced by the e-invoicing and the reporting of cross-border transactions (see below).

E-invoicing extension

As of 01 January 2019, e-invoicing will become mandatory for **all B2B and B2C supplies** of goods and services between parties that are resident, established or merely registered for VAT purposes in Italy (in the case of B2C, provided that the customer expressly asks for an invoice).

This will be a relevant extension of e-invoicing, which is currently mandatory only for B2G (Business to Government) transactions.

To implement a similar extension, Italy has asked the EU Commission for a specific derogation, which is still to be granted.

B2B and B2C e-invoices should be issued:

- using the "Exchange system" (so called, "SDI system"), i.e. the platform currently used to transmit B2G e-invoices and which allows the Italian Tax Authorities to automatically collect details of e-invoices;
- according to a specific format, i.e. "FatturaPA format" currently used for B2G e-invoices, although in the future additional formats could be used moving from other European formats or standards.

In the event that B2B or B2C e-invoices do not comply with said requirements, they will be treated as not having been issued and related (heavy) penalties will possibly be charged. As mentioned, the e-invoicing extension will enter into force as of 01 January 2019. However, in certain specific industries (e.g. motor fuel supplies, Public subcontracts) the B2B and B2C e-invoicing will become mandatory as early as 01 July 2018.

Reporting of cross-border transactions

As of 01 January 2019, a new VAT fulfilment shall be handled. All VAT taxable persons that are resident, established or merely registered for VAT purposes in Italy must file a report of all cross-border transactions documented by an invoice. Such report should be filed by the end of the month following that in which invoices (other than e-invoices and customs bills) are issued or received. Data and instructions for the electronic filing will be provided by a Regulation yet to be adopted.

In the event of the omitted or incorrect filing of such report, a penalty of EUR 2,00 per invoice may apply, with a maximum penalty of EUR 1,000.00 per quarter. However, if the filing is carried out or amended within 15 days after the mandatory deadline, the penalties will be reduced to EUR 1,00 per invoice, with a maximum penalty of EUR 500,00 per quarter.

Rescheduling of the VAT rate increase

VAT rate increases announced for 2018 have been postponed. Budget Law 2018 has rescheduled the VAT-rate-increases, as follows.

The reduced 10% VAT rate will increase:

- from 10.00% to 11.50% as of 01 January 2019;
- from 11.50% to 13.00% as of 01 January 2020.

The standard 22% VAT rate will increase:

- from 22.00% to 24.20% as of 01 January 2019;
- from 24.20% to 24.90% as of 01 January 2020;
- from 24.90% to 25.00% as of 01 January 2021.

However, these VAT rate increases will not automatically apply, since they could be replaced (in full or in part) by provisions (of another kind, i.e. not related to the VAT rates) that (fully or partially) guarantee the same positive effects on public finance balance (through the achievement of higher public revenues or cost savings).

The extra-reduced 4% and 5% VAT rates will remain unchanged.

Split payment extension

As of 2018, the application of the split payment has been furtherly extended, including entities with a State shareholding of no less than 70%. The list of entities that are obliged to apply this peculiar mechanism is available via this link:

http://www1.finanze.gov.it/finanze2/split_payment/public/#/#testata.

As known, the split payment is a peculiar mechanism, according to which VAT is charged by the supplier according to standard rules, but the customer pays the supplier only the net amount and the customer pays the related VAT amount (if due) directly to the Tax Authorities.

Shorter term for input VAT deduction

New rules apply to invoices and customs bills issued as of 01 January 2017. The related input VAT can be deducted (at the latest) by the deadline for filing the annual VAT return referring to the year when the right of deduction arises (see Article 19, paragraph 1, Presidential Decree 633/72, as modified by Law Decree 50/2017 implemented by Law 96/2017). Therefore, operatively, input VAT referring to invoices issued in 2017 can be deducted, at the latest, by **30 April 2018**.

This is a relevant reduction, since, formerly, said term was extended until the deadline for filing the annual VAT return referring to the second year following the year when the right of deduction has arisen. For instance, input VAT referred to invoices issued in 2016 (still) can be deducted at the latest by 30 April 2019.

New rules will have a relevant impact mostly on year-end transactions. In case of supplies of goods performed in December 2017, for instance, it would be important to agree with the supplier to immediately receive the related invoice, so that the acquiring company can proceed with the related booking shortly and, in any case, by 30 April 2018. Also, some IT support would be necessary, in order (for instance):

- to book a purchase invoice in February 2018 and (at the same time)
- to include it the VAT return referred to the former year (i.e. FY 2017) and
- to be sure not to consider it (also) in the current financial year (i.e. FY 2018, the year of the related booking).

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Poland



Optional split payment as of July 2018

In December 2017, the President of Poland signed legislation amending the Goods and Services Tax (VAT) Act ("VAT Act") to introduce what is known as a split payment mechanism. The provisions introducing split payment for VAT transactions will become effective on 1 July 2018.

How it works

The split payment mechanism is based on the assumption that an invoice is paid by the customer into two separate bank accounts:

- the net amount is paid to the supplier's business account;
- the VAT amount is paid directly to a dedicated account of the supplier, known as a VAT account.

Taxable persons will not be obliged to open separate bank accounts for the purpose of collecting and paying VAT. **The bank will automatically open a VAT account for each taxable person in Poland as a subaccount under the person's existing account(s). This applies also to foreign entities registered for VAT purposes in Poland and with Polish bank accounts.**

Split payment will be applicable only to payments made in PLN via PLN accounts operated by Polish banks.

New split payment mechanism model

The Polish split payment mechanism differs from those which have been implemented in Italy and Romania. Firstly, the scope of the Polish split payment mechanism is much broader than in Italy: it will be applicable to all VAT registered businesses in Poland. However, unlike the Romanian split payment mechanism, the Polish one will be optional. The choice as to whether or not to apply it will generally be at the discretion of the customer. Thus, if so instructed by the recipient of an invoice, the bank will split the payment amount so that VAT will be transferred by the bank directly to supplier's VAT account, while the net amount will be transferred to its business account.

Consequences for businesses

Under this new mechanism, although funds in the VAT account will belong to the supplier, **the supplier will not be able to use them freely.** Such funds may be spent only in specific ways mentioned in Polish regulations, including:

- to pay invoiced VAT to the VAT account of the invoice issuer;
- to pay VAT to the tax authorities.

Transfers from a supplier's VAT account to its business account will require specific approval from the Polish tax authorities.

In this situation, businesses are advised to consider if and how the split payment mechanism may affect their cash flow, procurement and payment procedures, as well as the operation of their accounting system. Also, suppliers who do not wish their customers to make split payments would have to consider how to achieve their goal.

Incentives for businesses to opt for

Split payment will not be mandatory. However, certain incentives will be offered to encourage taxable persons to choose the split payment mechanism, e.g. a 25-day VAT refund deadline.

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WTS&SAJA will hold an online webinar on 7 March 2018 (from 11 a.m. to 1 p.m.) to give you more information on this topic. For further details and the dial-in please see the following link: <https://wtssaja.clickmeeting.com/split-payment-in-poland>

Portugal



Main 2018 VAT news

It is now possible, according to Decree 293/2017, dated October 2017, to request from the Portuguese Tax Authorities the SVAT, a validation stamp attributed to electronic accounting software, in relation to the issuance and sending of SAF-T files. This will give the taxable persons the legal certainty needed to ensure that the software used is legitimate.

Binding ruling 12578, of November 2017, states that the waiver of the obligation to issue invoices, which applies to exempt transactions, is not available to mixed taxable persons. Only fully exempt taxable persons (i.e. those who exclusively carry out transactions that do not grant the right to input VAT deduction) may waive this obligation to issue invoices.

Binding ruling 12676, of December 2017, states that the copies of invoices, such as the reproduction of the original invoice or the printing of a PDF file, do not guarantee that the requirements for the right to deduct VAT are met, since they do not ensure that the input VAT has not been deducted more than once. This does not apply to situations of loss or damage of the original invoice.

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Romania



VAT split payment system – significant changes

The VAT split payment system was introduced in Romania in August 2017 through Governmental Ordinance 23 and the text was applicable to all taxpayers registered for VAT in Romania as of January 2018/optional as of 1 October 2017, with few exceptions.

The VAT split payment mechanism requires companies applying this system to pay or cash-in invoice amounts split in two parts: the taxable base – in/from the normal bank account, the VAT amount – in/from a newly created VAT bank account, dedicated exclusively to VAT payments.

The Law approving Governmental Ordinance 23 was published on 28.12.2017 and brought significant changes to the initial form of the norms.

Thus, the category of entities that have to apply the VAT split mechanism was significantly reduced, the taxpayers required to apply the VAT split payment system now being the following:

- taxpayers who, as of 31 December 2017, have outstanding VAT liabilities exceeding RON 15,000 (equivalent to approximately EUR 3,200) for large taxpayers, RON 10,000 (equivalent to approximately EUR 2,100) for medium taxpayers and RON 5,000 (equivalent to approximately EUR 1,000) for other taxpayers and these outstanding amounts will not be paid until 31 January 2018;
- taxpayers who, as of 2018, will register outstanding VAT exceeding the above limits, if such amounts are not paid within 60 working days after the payment deadline;
- taxpayers in insolvency prevention or insolvency procedure;
- taxpayers who voluntarily opt to apply the VAT split system (for at least 1 year).

The VAT split payment system applies to all taxable supplies of goods/services for which the place of supply is considered to be in Romania from a VAT perspective. Transactions subject to special regimes, or transactions for which the beneficiary is liable to pay the tax (reverse charge), are exempted.

The facilities for the optional application of the VAT split system are maintained, i.e. 5% decrease in corporate income tax/microenterprise income tax.

We set out below important aspects that should be considered by taxpayers in terms of the VAT split system:

- The VAT split payment system also affects entities that do not have to apply such system, as the beneficiaries are required to check their suppliers and split the payments made to suppliers that apply such system (with a few exceptions).

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Considering that a taxpayer may opt voluntarily at any time to apply the VAT split payment system, for each payment to be made, a special ledger on the website of the tax authority ANAF (<https://www.anaf.ro/RegPlataDefalcataTVA/>) should be checked. This electronic ledger discloses the companies applying the VAT split payment mechanism.

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