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Introduction

Welcome to the Fourth Edition of DLA Piper’s Global VAT Guide on Digital Services covering cross-border supplies of digital content, intangible services and, more generally, the various forms of e-commerce.

As business grows more global and the rules constantly change, the challenge for in-house counsels and in-house tax managers is intensifying. This guide is intended to meet that challenge head-on. We hope that it will be an invaluable resource for you.

Focusing on supplies of intangible services, digital content and e-commerce, this guide is a tool to avoid costly pitfalls in international services given that revenue authorities around the world are increasingly focused on taxation issues for the growing e-commerce sector, both in a direct and indirect tax context.

The release of this Guide follows recent developments in this area, including:

- Important VAT changes concerning e-commerce;
- Essential developments in the Mini One Stop Shop procedure; and
- The relevant current tax regulations in different countries

For convenience, we have used the term VAT in this guide to refer to the various international forms of value added taxes. Such taxes may be known by other names, including Goods and Services Tax (GST), Consumption Tax or Sales Tax. We have also adopted the commonly used terms B2B to refer to business-to-business, and B2C to refer to business-to-consumer.

We have used our global experience and local knowledge to bring you this guide. With over 400 world-class lawyers, DLA Piper’s Global Tax Group is one of the largest in the world, with one of the largest geographical footprints of any global law firm. We partner with our clients, wherever they do business, to find solutions and manage risk in relation to their legal challenges and objectives. We won International Tax Review’s award for European Indirect Tax Team of the Year in 2015.

While this guide provides high-level information, it is not a substitute for legal advice in relation to specific matters. This
is particularly important for VAT matters, given that local laws and policy can change quickly and without notice, and the economic and factual circumstances are so critical.

Even though the VAT Directive provides a framework in the EU, in a European context, the details of the rules in different EU jurisdictions can vary significantly. If you wish to speak to any of our advisors, their contact details are set out towards the back of this guide.

We hope that you find this guide valuable. We look forward to working with you and welcome your feedback on any aspect of this guide.
OECD VAT Guidelines

The OECD has already published VAT Guidelines in 2015 which fully address both B2B and B2C supplies in an international context. The completed Guidelines include four chapters which address the following:

**Chapter 1**
Core features of VAT

**Chapter 2**
Neutrality of VAT in the context of cross-border trade

**Chapter 3**
Place of taxation for cross-border supplies of services and intangibles (including both B2B and B2C supplies)

**Chapter 4**
Supporting the Guidelines in Practice: Mutual Co-operation, Dispute Minimisation and Application in Cases of Evasion and Avoidance

**The “Destination Principle”**
The OECD VAT Guidelines support the adoption of the “Destination Principle” for supplies of services and intangibles. Under the Destination Principle, such supplies are subject to VAT in the country in which the recipient of the supplies is located. This principle is intended to ensure that VAT is imposed in the destination country where supplies are consumed.

It is now increasingly accepted that the “Origin Principle” (i.e. imposing VAT based on the country in which the supplier is located) is not preferred, due to a lack of harmony among jurisdictions.

The OECD’s VAT Guidelines support the universal adoption of the Destination Principle as a means of reducing both potential double taxation (i.e. supplies being taxed in both the source and destination country) and potential non-taxation (i.e. supplies not being taxed in either the source or destination country, or in the place of performance).

The OECD’s VAT Guidelines have been endorsed by more than 100 countries and the OECD is encouraging their immediate adoption. The guidelines are not, however, legally binding.

To reduce compliance costs for suppliers, and negate cash flow costs for businesses, it is anticipated that many countries will
allow (or require) business customers to “reverse charge” the VAT applicable on imports of intangible supplies. The OECD’s VAT Guidelines are available from the OECD website at this address: http://www.oecd.org/tax/consumption/international-vat-gst-guidelines.pdf
EU VAT changes

NOTE: The following commentary relates to supplies made to recipients who are located in the EU only.

**B2C E-Commerce Supplies across the EU**

These changes apply to the following services (which we have collectively referred to as e-commerce services), to the extent the services are supplied to non-business customers (i.e. consumers, or business customers receiving the services for private purposes) and certain non-VAT registered institutions:

- telecommunication services;
- television and radio broadcasting services; and
- electronically supplied services (including software subscription services, such as for games, music and other content).

**THE “PLACE OF SUPPLY” RULES**

The general rule is that the place of supply for both EU and non-EU suppliers of these services has become the non-business customer’s place of “belonging.”

A non-business customer will generally belong where the customer is registered, has their permanent address, or usually lives. However, if a particular jurisdiction provides that VAT should be charged where the service is “used and enjoyed,” and not where the customer belongs, VAT will be charged in the place of use and enjoyment, although the “use and enjoyment” rule only applies where the supply is enjoyed in the EU, but the customer belongs outside the EU (or vice versa). This is known as the “effective use and enjoyment rule” and it can be a trap in deciding where supplies (both B2B and B2C) take place, especially as the scope of the rules vary from jurisdiction to jurisdiction.

To reduce the onerous requirement on suppliers to obtain evidence of where customers live at the point of sale, and to ensure that VAT is accounted for where B2C services are consumed, EU Regulation (1042/2013) has been introduced to assist suppliers to determine the place of supply of their e-commerce services more easily. Presumptions are made as to where the consumer’s place of belonging is located, where their physical presence is required for the supply to take place.

For example, and as mentioned in more detail below, if electronic services (B2B or B2C) are provided at a location such as a
Wi-Fi hot spot, internet café, restaurant or hotel lobby where the physical presence of the customer is obvious, there shall be a presumption that the service is supplied there. This would avoid a hotel providing Wi-Fi in its lobby needing to register for VAT in every jurisdiction where its guests are resident. These presumptions can be rebutted with evidence and will need to be built into VAT compliance systems.

For business-to-business cross-border transactions, the general rule remains that a customer is liable to account for any VAT due through a reverse charge mechanism in accordance with current VAT rules (i.e. the business customer itself will account for the VAT in the business customer’s own jurisdiction).

However, for supplies to non-business customers, the reverse charge mechanism is not an option. As a result, liability to account for any VAT due in an EU member state (Member State) will rest entirely with the supplier and not the customer.

The MOSS as extended reduces the obvious administrative burdens that the change in the place of supply rules could have led to, because EU suppliers will not have to register in every Member State where their customers belong.

The implementation of the expanded MOSS has gone smoothly, and there are only a few reported difficulties, although take-up has been lower than expected.

However, there remain a number of issues that businesses need to consider.

It must be remembered that the MOSS is optional. Businesses can instead register in every Member State where they have non-business customers in the usual way.

Issues that will be important to consider include:

• Until now non-EU suppliers can use the MOSS only if they have no EU establishment. This is called the Non-Union Scheme. They can choose in whichever EU jurisdiction they wish to make their electronic registration. That jurisdiction, called the Member State of Identification, will receive all returns and payments and distribute the VAT payments to the Member States where the customers are based. The applicable VAT rules and rates are those which apply in the Member State of the customer. A Non-EU business
cannot use the Non-Union Scheme if it is registered for VAT, or required to register for VAT, in any Member State. If it is so registered or liable to register, then even if it has no establishment in the EU it will now not be able to register under the MOSS, but will need to account for VAT under the usual rules.

- EU businesses must register for MOSS in the jurisdiction where they have their main place of business (The Union Scheme). They cannot use the MOSS for supplies made to non-business customers in jurisdictions where they have either their main place of business or a fixed establishment. Rather, for these supplies, they must account for VAT in the usual way under a VAT registration. Once registered for MOSS, they must generally use it for all electronic and other specified supplies made to customers in locations where they have no establishment, even if the supplies in a jurisdiction are small.

- The MOSS is applicable only for output VAT (i.e. VAT payable on supplies made). Input VAT refunds will still be available via the electronic VAT refund mechanism (EU Directive 2008/9/EC for the Union Scheme), or the so-called 13th VAT Directive for non-EU businesses.

- As noted above, the MOSS is optional. Any EU or non-EU business can decide to account for VAT in each jurisdiction where it has customers under a local VAT registration in the normal way.

Using normal rules may be particularly attractive to those businesses which have substantial input VAT refunds to recover, or whose customers are based in less than three jurisdictions, or who have fixed establishments in the majority of the jurisdictions where their customers are based (and who therefore cannot use the MOSS for those jurisdictions).

- Agents will be able to submit the MOSS VAT returns on behalf of their clients, in accordance with the rules and procedures in the Member State of Identification.

- The Member State of Identification selected for a MOSS registration has retained 30% of the VAT collected from 1 January 2015 to 31 December 2016, 15% for supplies made from 1 January 2017 to 31 December 2018, and nothing thereafter. This has been a retention fee from payments of VAT made between Member States. It does not affect the amount of VAT to be paid by businesses.

- Businesses can only register for the MOSS if they are VAT registered. That has caused a problem for small businesses who are trading below the VAT threshold and have been reluctant to register, with the result that local supplies would become subject to VAT. In the UK, a concession has been introduced to enable non-VAT businesses to register for VAT in the UK, as their Member State of Identification,
so they can use the MOSS, but not have to charge VAT on local supplies until they exceed the VAT registration threshold.

- Penalties and charges for late payments of VAT are outside the applicability of the MOSS and are the responsibility of the Member State where the supply takes place.

- There are strict rules of compliance and time limits for delivery of quarterly returns and payments of VAT, record keeping (ten years) and notification of changes. Non-compliance can lead to exclusion from the MOSS for a period of time (known as quarantine). It may appear that the record-keeping obligations, and the fact that electronic information can so easily be passed on to interested parties, is deterring some taxpayers from joining.

**E-SERVICES: WHERE MUST THE SUPPLIER ACCOUNT FOR EU VAT?**

It is incumbent on the supplier to determine the correct Member State of supply (i.e. where the customer belongs or, where appropriate, where the service is used and enjoyed by the customer).

There are particular rules to be applied for determining where a customer is treated as belonging for VAT purposes and accordingly where the VAT must be accounted for. EU Regulation 1042/2013 provides for particular presumptions and scenarios which a supplier must adhere to in determining where a supply takes place. Obviously, consumers move around and may be receiving the service far from home, for example on a mobile device, and there need to be rules to enable suppliers to know where to account for the VAT, if it is otherwise uncertain.

The main rules are as follows:

- When services are provided at a location such as a telephone box, internet café, Wi-Fi hotspot or similar, where the recipient must “necessarily” be physically present in order for the service to be rendered to the customer, the presumption is that the customer belongs at that location (and so that is where the place of supply is determined). If the location is on board a ship, aircraft or train travelling within the EU, the country of departure is deemed to be the country where the supply takes place.

- Where services are supplied via a residential fixed landline, the place of supply shall be wherever the fixed landline is installed.

- Where services are supplied through a mobile network against subsequent collection of payment, the place of supply shall be wherever is the mobile country code of the SIM card is.

- Where services are supplied needing a fixed viewing card, the place of supply shall be the place to which the viewing card is sent with a view to it being used there.
• To rebut the presumptions, a supplier needs to obtain three pieces of non-contradictory evidence to identify where the customer actually belongs, (i.e. where the customer has their permanent address or usually resides and therefore where the place of supply is).

• If the presumptions do not apply, a supplier requires two pieces of non-contradictory evidence to identify residence. The non-exclusive list comprises:
  - customer details such as billing address;
  - IP address of the device used by the customer or any method of geolocation;
  - bank details such as the location of the bank account used or the customer's billing address;
  - the mobile country code of the customer's SIM card;
  - the location of the residential fixed landline through which the service is supplied; and
  - other commercially relevant information that is obtained by the supplier.

E-services supplied through a platform or portal can give rise to the presumption that the platform or portal as intermediary is liable for the VAT on the supplies made to the customers.

Building verification processes capturing these indicators into a supplier's IT system will need to be considered. The Regulation includes the presumption that customers are non-business if they cannot provide a valid VAT number.

The presumptions are largely sensible and should result in VAT being levied in the Member State of consumption of the e-service, and should remove some of the administrative burdens from suppliers. But where the presumptions do not apply, suppliers will need to obtain additional evidence of residence at the point of sale. Furthermore, given that new EU Regulations in the telecommunications sector have permitted mobile operators to provide international roaming services to EU customers, it is anticipated that mobile operators will need to register in all other Member States, such that the MOSS will prove very important for them.

CONSIDERING RELOCATION

If a non-EU business had relocated to Luxembourg or another low-VAT jurisdiction to take advantage of the previous place of supply rules for EU-based businesses, that business may now wish to contemplate relocating again, either out of the EU or to another jurisdiction that offers efficient direct tax regimes.
**Developments for EU VAT on E-Commerce**

On 5 December 2017 the European Council adopted an amendment of the Directive 2006/112/EC, the Directive 2009/132/EC and two Implementation Regulations (2017/2454 and 2017/2459). The application of the MOSS will be extended to cross-border e-commerce electronic services and supplies of physical goods. A similar portal will be set up for distance sales of goods from non-EU countries under the value of EUR150 (net). So, online suppliers do not need to register in every country for VAT purposes anymore. If the cross-border yearly revenue of a supplier located in the EU is below the threshold of EUR10,000, the VAT rules of its home country will apply.

In addition, online platforms (e.g. Amazon, eBay etc) will be liable for the VAT from supplies through their platform (regulation will be valid as of 2021). Currently, consignments of less than EUR22 are exempt from VAT when imported into the EU. This VAT exemption will also be abolished as of 2021.

**EU VAT CHANGES WITH EFFECT FROM 1 JANUARY 2019**

The supplier of e-commerce services can choose the place of supply, if the following requirements are met:

- the supplier is located in only one Member State;
- the e-commerce services are supplied to non-business customers; and
- the yearly revenue of the e-commerce services is below EUR10,000.

The supplier then has the option to choose whether they want to pay VAT on revenue according to the law where the recipient is located or according to the law of the Member State, where the supplier is located. This choice is binding for at least two years.

Invoicing will be subject to the rules applying in the Member State where the supplier makes use of this special scheme. If the supplier is using the MOSS, the invoice can be subject to the rules applying in the state in which they are resident or seated.

For suppliers with a yearly revenue below the threshold of EUR100,000 there will be a simplification rule regarding the place of supply of electrical services, telecommunication, radio or television services. In this case, the place of supply will be the place where the recipient is resident or seated. If the presumptions do not apply, a supplier requires two pieces of non-contradictory evidence to identify residence. Suppliers below the threshold will only need one piece of evidence.

Each Member State has had to adapt their respective law until 31 December 2018.
**EU VAT CHANGES WITH EFFECT FROM 1 JANUARY 2021**

Online platforms will be liable for the VAT due on imports which have a value of less than EUR150 (net) from non-EU countries. In these cases, the platform will be liable for the VAT of the suppliers if these are not paying the tax. The same applies for online platforms which participate in a distance sale of goods within the EU. Online platforms must keep records of these deliveries and services. Such records must be sufficiently detailed to enable the tax authorities of the Member State in which those supplies and services are taxable to determine if VAT has been paid correctly.

Article 34 of the EU VAT Directive will be deleted. Currently, Article 34 governs the delivery threshold.

The above mentioned threshold of EUR10,000, below which the supplier can choose if the place of supply should be located in his resident country, will be extended to distance sale of goods within the EU (intra-EU supplies) and all electrical services. The supplier also has the option to waive this advantage.

There will be several amendments to the MOSS:

- The Non-Union Scheme of the MOSS will also be available for non-EU suppliers which are registered or liable to register in a Member State of the EU and have no establishment in the EU.
- The Non-Union Scheme will be extended to all cross-border services.
- The Union Scheme will be extended to all services and intra-EU supplies.
- The MOSS Scheme will be also available for distance sales of goods with a value of below EUR150 imported from third countries. This feature is mandatory and only the following businesses will be using this special scheme:
  - Businesses established in the EU carrying out distance sales of goods imported from third countries.
  - Businesses carrying out distance sales of goods imported from third countries and who are represented by an intermediary established in the EU.
  - Businesses established in a third country with which the EU has concluded an agreement on mutual assistance and which is carrying out distance sales of goods from that third country.

So for all businesses there will be the opportunity to use the MOSS for the supply of services and EU-businesses also can use the MOSS for intra-EU supplies.

Currently, the VAT return shall be submitted within 20 days following the end of the tax period covered by the return. This period will be extended to 30 days for businesses which make use of
the Non-Union Scheme, the Union Scheme or the special scheme for distance sales of goods with a value of below EUR150 imported from third countries with a value of below EUR150. If there are any amendments to the VAT return required after its submission, such amendments will be included in a subsequent return. Currently, these amendments shall be included in the same return.

Title IV of Directive 2009/132/EC will be deleted, which currently provides a tax exemption for the importation of goods with a value of below EUR22.

Now it is up to each Member State to adapt their law corresponding to the adopted amendments until the 31 December 2020.
Tips for minimizing VAT risks for cross-border supplies

Businesses that make cross-border supplies need to be mindful of potential VAT risks on a global basis, particularly as more countries consider adopting the OECD VAT Guidelines outlined above.

To minimize these risks, we suggest the following:

• **All business-to-business supply contracts should expressly state prices on a VAT exclusive basis.** It is necessary though to confirm if this is permitted under local (regulatory) laws. The contract should also include a separate VAT gross up clause. This may allow the supplier to pass on VAT, or any VAT rate increase, if required. Ideally, any such clause should be drafted to cover VAT in the supplier’s home country, as well as any VAT that may apply in any destination country.

• **Consider whether any VAT can potentially be “reverse charged” and paid by a local business customer.** This may require the written agreement of the local business customer, which could be addressed in any VAT clauses in the contract. A reverse charge is unlikely to be available for supplies to a non-registered consumer.

• **For B2C supply contracts, prices should again be stated on a VAT exclusive basis (if permitted) and it should be made clear that VAT is chargeable on top.** However, many countries do not permit VAT exclusive pricing for supplies to consumers.

• **If VAT exclusive pricing is not permitted (in either a B2B or B2C context), the contract should ideally permit the supplier to adjust prices if required.** The circumstances in which prices can be adjusted under the contract should be broad enough to cover the introduction of new VAT imposts (or changes to VAT rates). Note that it may be necessary to provide a period of notice to consumers before prices can be adjusted.
• Businesses should consider how VAT compliance costs and risks can be best managed. For example, in an EU context, the One Stop Shop is an option. Other options may include the establishment of new local subsidiary entities, the formation of VAT consolidated groups, the use of local resident agents and the reverse charging of VAT to business customers (where permissible).

• Find out the invoicing rules in each jurisdiction. Our global network of leading VAT practitioners can assist you with the above, in addition to any other relevant local VAT considerations.
Country Guides
Australia

<table>
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<th>LOCAL NAME FOR VAT</th>
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<td>Goods and Services Tax or GST</td>
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<th>APPLICABLE RATES FOR DIGITAL SERVICES</th>
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<td><strong>Standard Rate</strong></td>
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<td>10 percent</td>
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<td><strong>Special Rate</strong></td>
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<td><strong>Mandatory</strong></td>
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<td>Entities are required to be GST-registered where they carry on an enterprise and have a GST turnover exceeding AUD75,000 in a rolling 12-month period from supplies that are “connected with the indirect tax zone” (referred to as the “connected with Australia” rules for convenience). From July 1, 2017, non-residents may elect to use a limited registration option, which is a faster and simpler registration process. Limited registration entities are not entitled to claim input tax credits (GST credits) on their acquisitions and importations. In some cases, the operator of electronic distribution platforms (such as online marketplaces and stores) is treated as the supplier of intangible supplies and may need to register for GST and charge GST to Australian consumers (rather than the overseas merchant).</td>
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<tr>
<td><strong>Optional</strong></td>
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<tr>
<td>An entity that carries on an “enterprise,” anywhere in the world, may be GST registered.</td>
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PLACE OF SUPPLY FOR CROSS-BORDER SUPPLIES OF INTANGIBLES TO LOCAL CONSUMERS (B2C)

From July 1, 2017, intangible supplies to Australian consumers are connected with Australia. GST will therefore apply to such supplies where the supplier's turnover from sales to Australian consumers (and any other sales made that are connected with Australia) exceeds the AUD75,000 registration threshold.

As explained below, non-resident suppliers without a GST permanent establishment in Australia only have a GST liability in a B2C context, not a B2B context.

The position for B2C intangible supplies before July 1, 2017 was quite different and is not addressed here. However, it is noted that, under transitional rules, the new rules can apply to certain supplies made before July 1, 2017.

Where a digital produce or service is provided through an electronic distribution platform (EDP) (i.e. a website or app store), the EDP is generally responsible for the GST payable.

PLACE OF SUPPLY FOR CROSS-BORDER SUPPLIES OF INTANGIBLES TO BUSINESS CUSTOMERS (B2B)

GST cross-border rules that apply to B2B intangible supplies were introduced on October 1, 2016.

In general, intangible supplies to “Australian-based business recipients” are not connected with Australia and therefore GST should not apply to such supplies. The exception is where the supplier has a permanent establishment or other substantial presence in Australia, in which case all of the supplier's intangible supplies (both B2C and B2B) are generally subject to GST where the supplier's turnover exceeds the AUD75,000 registration threshold. In broad terms, “Australian-based business recipients” are Australian, GST-registered businesses.

A mandatory reverse charge may apply if a GST-registered entity in Australia (i.e. a business) acquires rights or services through a supply that is not connected with Australia. The reverse charge should only apply if the entity will not use the rights or services acquired for a wholly “creditable purpose.”
The B2B rules recognize that most GST-registered businesses in Australia will be entitled to a full input tax credit (GST credit) for any GST that may be imposed on a B2B supply. GST-registered entities which would not be entitled to a full input tax credit are already subject to a mandatory reverse charge as outlined above.

If a supply from a non-resident is connected with Australia, a GST-registered business may voluntarily agree to reverse charge and pay that GST, provided that the supply by the non-resident is not made through an “enterprise” that it carries on in Australia. The parties must agree to the reverse charge in writing, which can normally be addressed in the VAT/GST clause in the supply contract. While relatively common before October 1, 2016, the voluntary reverse charge mechanism is likely to be rarely used under the new B2B rules.

RETAIL SALES OF LOW VALUE PHYSICAL GOODS

As of July 1, 2018, GST applies to retail sales of physical goods with a value of less than AUD1,000 where the goods are sold to Australian consumers and brought into Australia with the assistance of the supplier of those goods.

DO YOU REQUIRE EVIDENCE OF A CUSTOMER’S VAT NUMBER TO TREAT A SUPPLY AS B2B?

As discussed above, the application of GST to intangible supplies made by non-resident suppliers to Australian customers generally depends on whether the customer is a consumer or a business. This means that non-resident suppliers will generally need to determine whether their customers are Australian and also whether their customers are a consumer or a business. Accordingly, non-resident suppliers will want to collect an Australian Business Number (ABN) and a declaration from business customers confirming they are GST-registered when making supplies in a B2B context.

CAN PRICES BE DISPLAYED ON A TAX EXCLUSIVE BASIS?

**B2B Transactions**
Yes, prices can be displayed on a GST-exclusive basis for B2B transactions, provided that this is clearly indicated and not misleading.

**B2C Transactions**
Australian consumer protection laws require that all prices displayed to consumers must include GST. However, there is some uncertainty as to whether those laws apply to non-resident suppliers who do not have a presence in Australia.
**Austria**

### LOCAL NAME FOR VAT

Umsatzsteuer (USt)

### APPLICABLE RATES FOR DIGITAL SERVICES

**Standard Rate**

20 percent normal tax rate

**Special Rate**

10 percent for certain turnovers (e.g. the lease for residential use, delivery of books and food)

13 percent for turnovers of e.g. artists or the delivery of animals (but both special tax rates likely not applicable to e-commerce services)

19 percent for some supplies and services regarding the regions Jungholz and Mittelberg due to their geographic proximity to Germany

### REGISTRATION REQUIREMENTS

**Mandatory**

Foreign entrepreneurs who do not have their residence, seat or habitual abode in Austria are obliged to register for VAT purposes in Austria, if they carry out revenues subject to VAT in Austria. The competent tax authority for the registration of such entrepreneurs is Graz-City.

If foreign entrepreneurs only carry out revenues subject to the reverse-charge system, no registration (and thus no periodical VAT assessment) is required if the following applies:

(i) the foreign entrepreneur as the recipient of a service is debtor of the VAT (reverse-charge system) and is fully entitled to deduct the respective input-VAT; and

(ii) the foreign entrepreneur has not become debtor of VAT due to invoicing.
Optional

An entrepreneur providing electronically supplied services or telecommunications, broadcast and television services to a consumer resident in a EU member state in which the entrepreneur neither operates his business nor has a permanent establishment, may make use of the Mini One Stop Shop System (MOSS).

MOSS allows the entrepreneur to register only in one member state of the EU and to declare all revenues subject to the special provision in this EU member state. If an entrepreneur makes use of the MOSS system there is no requirement to register in each EU member state for the provision of electronically supplied services or telecommunications, broadcast and television services to consumers.

Refund procedure

Foreign entrepreneurs resident in an EU member state who (i) do not have a residence, seat or habitual abode nor a permanent establishment in Austria and (ii) do not generate any revenues subject to VAT in Austria or only generate revenues exempt from VAT or subject to the reverse charge system may request electronically request refund electronically via FinanzOnline.

Foreign entrepreneurs resident outside the EU who (i) do not have a residence, seat or habitual abode nor a permanent establishment in Austria and (ii) do not generate any revenues subject to VAT in Austria or only generate revenues exempt from VAT or subject to the reverse charge system or only provide certain electronic services to consumers and make use of the provision of Sec 25a Austrian Value Added Tax Act may request refund via the application form U5.

PLACE OF SUPPLY FOR CROSS-BORDER SUPPLIES OF INTANGIBLES TO LOCAL CONSUMERS (B2C)

Pursuant to the general provision, the place of supply for services provided to consumers (B2C) is the place the entrepreneur runs their business from. For services provided from a permanent establishment, the place of supply is considered to be at the location of the permanent establishment.

The Austrian Value Added Tax Act (Umsatzsteuergesetz) holds a number of exemptions from this general rule. Among others these include services in connection with real property, transport services or catering services.
The granting, transfer or exercising of rights resulting from copyrights provisions to consumers not having their domicile, seat, habitual abode in the EU are considered to be performed in the third country the consumer has their domicile, seat or habitual abode in. The provision of such services to consumers resident in the EU follows the general rule as described above.

The place of supply for electronically supplied services as well as telecommunications, broadcast and television services to a consumer (B2C) is considered to be at the location of the consumers residence, seat or habitual abode.

PLACE OF SUPPLY FOR CROSS-BORDER SUPPLIES OF INTANGIBLES AND E-COMMERCE TO BUSINESS CUSTOMERS (B2B)

Pursuant to the general rule, the place of supply for services provided to entrepreneurs (B2B) is the place the service receiving entrepreneur runs his business from. For services provided to a permanent establishment of an entrepreneur, the place of supply is considered to be at the location of the permanent establishment.

The Austrian Value Added Tax Act (Umsatzsteuergesetz) holds a number of exemptions from this general rule. Among others these include services in connection with real property, transport services or catering services.

The general rule also applies to the granting, transfer or exercising of rights resulting from copyrights provisions to entrepreneurs as well as for electronically supplied services and telecommunications, broadcast and television services to entrepreneurs (B2B).

DO YOU REQUIRE EVIDENCE OF A CUSTOMER’S VAT NUMBER TO TREAT A SUPPLY AS B2B?

Yes

CAN PRICES BE DISPLAYED ON A TAX EXCLUSIVE BASIS?

Prices for supplies or services displayed to consumers must in general include VAT. Exemptions may apply.
Bahrain

LOCAL NAME FOR VAT

Value Added Tax

APPLICABLE RATES FOR DIGITAL SERVICES

Standard Rate
5 percent (as of January 1, 2019)

Special Rate
N/A

REGISTRATION REQUIREMENTS

Mandatory
The mandatory threshold for persons established in Bahrain is where the value of their annual supplies exceeds BHD37,500 (the equivalent of SAR375,000). As the Bahraini VAT regime was introduced as of January 1, 2019, for the first calendar year, the following three mandatory registration deadlines apply:

- December 20, 2018 for businesses with turnover over BHD5 million, effective date January 1, 2019;
- June 20, 2019 for businesses with turnover over BHD500,000, effective date July 1, 2019; and
- December 20, 2019 for businesses with turnover above the mandatory revenue threshold of SAR375,000, effective date January 1, 2020.

For persons not established in Bahrain, or any of the other Gulf Cooperation Council States, and which make taxable supplies in Bahrain, no threshold applies.

Optional
A voluntary registration threshold applies where the Bahraini established person’s annual supplies exceeds BHD18,750 (the BHD equivalent of SAR187,500).
PLACE OF SUPPLY FOR CROSS-BORDER SUPPLIES OF INTANGIBLES AND E-COMMERCE TO LOCAL CONSUMERS (B2C)

For telecommunication services, telecommunications and electronic services, the place of supply is Bahrain if the services are used and enjoyed in Bahrain, regardless of the location of the contract and payment of consideration.

PLACE OF SUPPLY FOR CROSS-BORDER SUPPLIES OF INTANGIBLES AND E-COMMERCE TO BUSINESS CUSTOMERS (B2B)

For telecommunication services, telecommunications and electronic services, the place of supply is Bahrain if the services are used and enjoyed in Bahrain, regardless of the location of the contract and payment of consideration.

DO YOU REQUIRE EVIDENCE OF A CUSTOMER’S VAT NUMBER TO TREAT A SUPPLY AS B2B?

Yes, the VAT number of the recipient should be collected (and verified) in order for the supplier to treat the supply as B2B. Alternative evidence may be used to indicate that the recipient of the services is a business.

CAN PRICES BE DISPLAYED ON A TAX EXCLUSIVE BASIS?

In principle, displayed prices must be inclusive of VAT. Exceptions may apply if, for example, the goods or services are displayed for customers outside Bahrain.
## Canada

<table>
<thead>
<tr>
<th>LOCAL NAME FOR VAT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Goods and Services Tax, or GST</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>APPLICABLE RATES FOR DIGITAL SERVICES</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Standard Rate</strong></td>
</tr>
<tr>
<td>5 percent</td>
</tr>
<tr>
<td><strong>Special Rate</strong></td>
</tr>
<tr>
<td>13 percent or 15 percent Harmonized Sales Tax, or HST, applies to taxable supplies made in provinces that have agreed to have the federal taxing authority administer in that province a combined VAT consisting of 5 percent GST and a provincial portion.</td>
</tr>
</tbody>
</table>

The commentary below refers to GST only. However, the same rules and requirements apply to HST, if applicable.

<table>
<thead>
<tr>
<th>REGISTRATION REQUIREMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Mandatory</strong></td>
</tr>
<tr>
<td>Registration is mandatory for Canadian resident persons, and non-resident persons carrying on business in Canada, with GST taxable supplies in excess of CAD30,000.</td>
</tr>
<tr>
<td><strong>Optional</strong></td>
</tr>
<tr>
<td>Registration is optional for Canadian resident persons with GST taxable supplies less than CAD30,000 and non-resident persons that do not carry on business in Canada.</td>
</tr>
<tr>
<td>PLACE OF SUPPLY FOR CROSS-BORDER SUPPLIES OF INTANGIBLES AND E-COMMERCE TO LOCAL CONSUMERS (B2C)</td>
</tr>
<tr>
<td>---</td>
</tr>
<tr>
<td>If supplier is a non-resident person that does not carry on business in Canada, the supply is deemed to be made outside of Canada and the non-resident supplier does not charge GST.</td>
</tr>
<tr>
<td>However, strictly speaking, recipient consumers are required to self-assess (reverse charge) GST on an imported taxable supply of intangible property or services.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>PLACE OF SUPPLY FOR CROSS-BORDER SUPPLIES OF INTANGIBLES AND E-COMMERCE TO BUSINESS CUSTOMERS (B2B)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Only recipient businesses which would not have been entitled to recover GST payable through an input tax credit are required to self-assess (reverse charge) GST on an imported taxable supply of intangible property or services.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>DO YOU REQUIRE EVIDENCE OF A CUSTOMER’S VAT NUMBER TO TREAT A SUPPLY AS B2B?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Suppliers are not specifically required to maintain evidence for distinguishing B2C and B2B supplies.</td>
</tr>
<tr>
<td>For cross-border supplies of intangible property or services, either the non-resident supplier is not required to register for GST (in which case it does not charge GST on B2C and B2B supplies), or it is registered and charges GST or HST, as applicable, on both B2C and B2B supplies.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CAN PRICES BE DISPLAYED ON A TAX EXCLUSIVE BASIS?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Suppliers have the choice of displaying prices on either a GST inclusive or GST exclusive basis.</td>
</tr>
<tr>
<td>If prices are displayed on a GST exclusive basis, the GST payable must be displayed on the invoice issued to the customer.</td>
</tr>
<tr>
<td>Alternatively, if prices are displayed on a GST inclusive basis, this must be noted on the invoice so that customers can determine the GST included in the price.</td>
</tr>
</tbody>
</table>
China

**LOCAL NAME FOR VAT**

VAT

**APPLICABLE RATES FOR DIGITAL SERVICES**

**Standard Rate**

- 6 percent (provision of digital content in hard copies)
- 10 percent (transportation services, postal services, and basic telecommunications services)
- 6 percent (other services, provision of intellectual property rights)
- 0 percent (for qualified service exports)

**Special Rate**

3 percent (for taxpayers recognized as small-scale taxpayers, including individuals and taxpayers whose annual turnover is less than RMB5 million or who do not keep sound accounting records)

**REGISTRATION REQUIREMENTS**

**Mandatory**

VAT taxpayers are classified as either general taxpayers or small-scale taxpayers; each category is subject to different tax treatment. General taxpayers are subject to VAT registration but small-scale taxpayers are not. General taxpayers apply standard tax rates and can claim input VAT credit. Small-scale taxpayers apply special levy rates without being allowed to credit input VAT paid for purchases.

**Optional**

Foreign entities without a business registration within China, but which derive VAT taxable income, are not required to be VAT registered. Their VAT liabilities are settled by appointed agents inside China or through withholding by payers in China.
PLACE OF SUPPLY FOR CROSS-BORDER SUPPLIES OF INTANGIBLES TO LOCAL CONSUMERS (B2C)

China has not fully adopted the “destination principle” from the OECD VAT Guidelines.

Chinese VAT laws do not differentiate the place of taxation for B2B and B2C cross-border supplies of services and intangibles. VAT is charged on supplies of intellectual property rights and certain services if either the supplier or the recipient is inside China, unless the supplies of a non-China supplier are consumed completely outside China. China does not have specific tax rules dealing with cross-border supplies of digital content. Thus, the competent tax authorities normally make reference to the tax treatment in relation to the provision of intellectual property rights or sale of shrink-wrapped software in this regard.

China allows VAT exemptions, or grants VAT refunds, for the exportation of certain intangible supplies if relevant conditions are satisfied. For importation of intangible supplies, the Chinese tax laws require Chinese importers (recipients of the supplies) to withhold VAT from the payments and settle tax payments with local tax authorities. VAT gross-up clauses are allowed to be included in cross-border contracts for supplies of intangibles.

In practice, the above withholding rules are not strictly enforced against individual importers due to the administrative difficulties (i.e., the huge volume of transactions and the small amount typically involved in each transaction).

PLACE OF SUPPLY FOR CROSS-BORDER SUPPLIES OF INTANGIBLES TO BUSINESS CUSTOMERS (B2B)

The place of supply rules in B2B transactions are the same as those set out above in the B2C context. However, the withholding rules as set out in the above section are strictly enforced in the case of importation of intangibles in a B2B context where the importers are corporations rather than individuals.
DO YOU REQUIRE EVIDENCE OF A CUSTOMER’S VAT NUMBER TO TREAT A SUPPLY AS B2B?

Chinese VAT laws do not differentiate between the place of taxation for B2B and B2C cross-border supplies of services and intangibles.

For the exportation of intangibles that are eligible for VAT exemption, tax laws may require customers outside of China to provide documentation evidencing its foreign business or tax registration. This tax treatment will not change regardless of whether the customer is an individual or a business.

For the importation of intangibles, the importer, irrespective of whether it is an individual or a business, is required to withhold the relevant VAT from the gross payment. However, note that in the B2B context, the importer can claim VAT credit for the VAT withheld based on its general taxpayer registration number only if it is a general taxpayer (as opposed to a small-scale payer).

CAN PRICES BE DISPLAYED ON A TAX EXCLUSIVE BASIS?

Yes. Chinese tax laws do not have specific requirements on price display in cross-border supplies of intangibles.
### Czech Republic

#### LOCAL NAME FOR VAT

**Daň z přidané hodnoty (DPH)**

#### APPLICABLE RATES FOR DIGITAL SERVICES

**Standard Rate**
- 21 percent (applied to the vast majority of products and services)

**Special Rate**

The first reduced rate in Czech law in general is 15 percent (applied with products listed in Appendix 3 of Act No. 235/2004 Coll., on VAT, as amended, (VAT Act) e.g. food, non-alcoholic beverages, air conditioning, medical devices and to services listed in Appendix 2, e.g. restaurants, accommodation, fitness centers)

The second reduced rate in Czech law in general is 10 percent (applied to products listed in Appendix 3a of the VAT Act, e.g. pharmaceuticals, vaccination substances, books and other printed matter)

#### REGISTRATION REQUIREMENTS

**Mandatory**

All entities whose turnover in the previous 12 calendar months exceeded CZK1 million (approx. EUR39,000) or entities who provide services internationally throughout the EU.

**Optional**

For all entities whose turnover in the previous 12 months has not exceeded CZK1 million.
### Place of Supply for Cross-Border Supplies of Intangibles and E-commerce to Local Consumers (B2C)

The place of supply for cross-border supplies of intangibles e-commerce in B2C is where the customer (recipient) is established – as to details of its determination, local VAT Act refers to applicable EU regulations (i.e. Regulation 282/2011 as amended by Regulation 2017/2459).

The supplier must register in the place of supply.

### Place of Supply for Cross-Border Supplies of Intangibles and E-commerce to Business Customers (B2B)

The place of supply of cross-border supplies of intangibles and e-commerce is where the customer is established or has its fixed establishment (i.e. the Czech Republic if the customer is established/has their fixed establishment there). Czech Republic-based customers must account for VAT under the reverse charge rules.

### Do You Require Evidence of a Customer’s VAT Number to Treat a Supply as B2B?

Generally, no. The evidence should be sufficient that it is an entity operating business activity subject to VAT.

### Can Prices Be Displayed on a Tax Exclusive Basis?

So far as invoicing is concerned, there are strict rules as to what details the invoice must contain and the rules differ for services supplied B2B and B2C. On websites and advertising material, it is generally possible to show the VAT exclusive amount, provided it is not misleading. This applies especially in B2B context, while prices marketed to consumers should always include VAT, due to consumer protection rules.
Denmark

<table>
<thead>
<tr>
<th>LOCAL NAME FOR VAT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Moms</td>
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</table>

<table>
<thead>
<tr>
<th>APPLICABLE RATES FOR DIGITAL SERVICES</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Standard Rate</strong></td>
</tr>
<tr>
<td>25 percent</td>
</tr>
<tr>
<td><strong>Special Rate</strong></td>
</tr>
<tr>
<td>N/A</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>REGISTRATION REQUIREMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Mandatory</strong></td>
</tr>
<tr>
<td>Registration for VAT purposes is as mandatory for taxable persons (Danish and foreign) performing taxable supplies in Denmark, which exceed the current VAT registration threshold of DKK50,000, unless the customer is appointed for VAT purposes.</td>
</tr>
<tr>
<td><strong>Optional</strong></td>
</tr>
<tr>
<td>VAT registration is optional for businesses with local Danish taxable supplies below the DKK50,000 threshold.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>PLACE OF SUPPLY FOR CROSS-BORDER SUPPLIES OF INTANGIBLES AND E-COMMERCE TO LOCAL CONSUMERS (B2C)</th>
</tr>
</thead>
<tbody>
<tr>
<td>The place of supply for cross-border supplies of e-commerce to local consumers is Denmark if the consumer has his or her permanent address or usual residence here, unless the supplier is located in only one EU Member state, has a yearly revenue of the e-commerce to Denmark below EUR10,000 and choses to pay VAT in the member state where the supplier is located.</td>
</tr>
<tr>
<td>The place of supply of cross-border supply of intangibles to a local consumer in Denmark is Denmark, unless the effective use and enjoyment is outside of Denmark.</td>
</tr>
</tbody>
</table>
### PLACE OF SUPPLY FOR CROSS-BORDER SUPPLIES OF INTANGIBLES AND E-COMMERCE TO BUSINESS CUSTOMERS (B2B)

The place of supply of cross-border supplies of intangibles and e-commerce is where the customer is established or has his or her fixed establishment (i.e. Denmark if the customer is established/has their fixed establishment there). Danish customers must account for VAT under the reverse charge.

The effective use and enjoyment rule applies to B2B supply of intangibles. Hence, if the effective use and enjoyment of the said services supplied to a Danish-based customer is outside of EU, the place of supply is not Denmark.

### DO YOU REQUIRE EVIDENCE OF A CUSTOMER’S VAT NUMBER TO TREAT A SUPPLY AS B2B?

Yes, VAT validation through e.g. VIES must be obtained (EU-based companies).

### CAN PRICES BE DISPLAYED ON A TAX EXCLUSIVE BASIS?

The prices marketed to consumers must include VAT. This is not due to local VAT legislation, but due to consumer protection rules. Prices to businesses customers are, however, usually marketed exclusive of VAT (i.e. stating the exact VAT amount).

According to invoice regulations VAT must be explicit stated (percentage as well as calculated amount) on the invoice regardless of whether the customer is private consumer or a business customer.
# Finland

**LOCAL NAME FOR VAT**

<table>
<thead>
<tr>
<th>Name</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arvonlisävero</td>
<td>ALV</td>
</tr>
</tbody>
</table>

**APPLICABLE RATES FOR DIGITAL SERVICES**

<table>
<thead>
<tr>
<th>Rate Type</th>
<th>Rate Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Standard Rate</td>
<td>24 percent</td>
</tr>
<tr>
<td>Special Rate</td>
<td>0 percent, 10 percent, 14 percent</td>
</tr>
</tbody>
</table>

**REGISTRATION REQUIREMENTS**

**Mandatory**

Entities carrying out sales of intangibles supplies in Finland with turnover exceeding EUR10,000 during its financial year are required to be VAT registered. An entity purchasing intangibles services as a reverse charge must register for VAT.

Sale of e-commerce services (radio and TV broadcasting, electronic and telecom services) to Finnish local customers (B2C) requires that the selling entity must register in Finland for VAT purposes. However, an EU entity can use the special scheme where the local tax authority will collect the Finnish VAT and forward the Finnish VAT to Finnish tax authorities and thus a Finnish VAT registration is not required. A non-EU based entity has to register in Finland or in any other EU country to pay all local VAT via one tax authority the same way as an EU entity.

**Optional**

Optional registration is possible in case the entities not mandatorily subject to VAT registration wishes to be VAT registered for its business activities in Finland.
### Place of Supply for Cross-Border Supplies of Intangibles to Local Consumers (B2C)

In the case of e-commerce services, the place of supply to a consumer who is established or has his or her permanent address or usually resides in Finland, will always be deemed to be provided in Finland.

Other intangible supplies are deemed to be sold in the country where the seller is established or where the seller has a permanent establishment carrying out the supply providing activities.

### Place of Supply for Cross-Border Supplies of Intangibles to Business Customers (B2B)

In a B2B context, the place of supply is where the recipient of the services is located. The reverse charge system applies to the supply of the services.

### Do You Require Evidence of a Customer’s VAT Number to Treat a Supply as B2B?

As the supplier has to charge VAT, it is the supplier’s general responsibility to obtain information about the supplier’s customer. The information to be obtained includes the VAT registration of a business customer.

### Can Prices Be Displayed on a Tax Exclusive Basis?

**B2B Transactions**

Prices can be displayed exclusive of VAT for B2B transactions, provided that the applicable VAT rate is displayed.

**B2C Transactions**

Prices must be displayed on a VAT inclusive basis.
France

LOCAL NAME FOR VAT
Taxe sur la valeur ajoutée (TVA)

APPLICABLE RATES FOR DIGITAL SERVICES

Standard Rate
20 percent

Special Rate
5.5 percent for electronic books
2.1 percent for electronic newspapers

REGISTRATION REQUIREMENTS

Mandatory
Foreign companies with their effective place of management or a permanent establishment in France have to register with the French tax authorities.

Companies established in another EU member State carrying out VAT-able operations in France without an establishment there have to register with the French tax authorities, unless they only carry out operations subject to the reverse charge mechanism (i.e. B2B transactions with French taxpayers). Said companies may appoint an agent in France for carrying out administrative formalities on their behalf.

Companies established in a non-EU member state carrying out VAT-able operations in France, without having an establishment there, are subject to either of these requirements:

• If the foreign state has entered into with France an agreement on mutual assistance for the recovery of tax claims, the company has to register with the French tax authorities.
• If such agreement has not been entered into between France and the foreign state, the company has to appoint a tax representative who is VAT taxable in France and who, unlike the aforementioned agent, is responsible for complying with VAT obligations relating to all transactions carried out in France by the company.

Optional
Foreign companies with no establishment on EU territory, providing broadcasting, telecommunication or electronic services to EU-resident consumers (B2C services), may elect to register in a single EU member state for the purpose of VAT (Mini One Stop Shop) and are therefore exempted from appointing a tax representative in France. This option is also available to B2C providers of broadcasting, telecommunication or electronic services that are established in an EU member state.

PLACE OF SUPPLY FOR CROSS-BORDER SUPPLIES OF INTANGIBLES AND E-COMMERCE TO LOCAL CONSUMERS (B2C)

As a general rule, the place of supply for provision of B2C services is deemed in France where the supplier is based in France.

In addition, the following specific rules apply to certain supply of intangibles (such as sale or licensing of IP rights):

• If the supplier is based in France but the customer is not resident of an EU member State, the place of supply would be deemed out of France.

• If the customer is based in another EU member State, but the service is used in France, the place of supply would be deemed in France.

As from January 1, 2015, a specific regime applies to electronic, telecommunication, radio and TV broadcasting services provided to customers. As at January 1, 2019, substantial adjustments have been made to this specific regime with the introduction of a threshold.

• The place of supply of these services would be deemed in France where the supplier is based in France, if the total value of the electronic, telecommunication, radio and VAT broadcasting services does not exceed, during the whole year, the threshold of EUR10,000 excluding VAT, and if the supplier has not elected for the application of the rules of the country of the customer. If this threshold is exceeded, the place of supply will be the country of the customer.
• The place of supply of these services would be deemed in France where the customer is based in France, regardless of the state in which the supplier is established, if the total value of the electronic, telecommunication, radio and TV broadcasting services exceeds the threshold of EUR10,000 during the whole year or if the supplier has elected for the application of the rules of the place of the customer, regardless of the total value of the services provided.

PLACE OF SUPPLY FOR CROSS-BORDER SUPPLIES OF INTANGIBLES TO BUSINESS CUSTOMERS (B2B)

Regarding services provided to business customers, the place of supply is being deemed in France where the customer is established in France and where the services are not provided to a foreign fixed establishment, regardless of the supplier’s state of establishment.

The same principle applies to supply of intangibles and provision of electronic, telecommunication, radio and TV broadcasting services.

DO YOU REQUIRE EVIDENCE OF A CUSTOMER’S VAT NUMBER TO TREAT A SUPPLY AS B2B?

Yes.

CAN PRICES BE DISPLAYED ON A TAX EXCLUSIVE BASIS?

Prices should normally be displayed on a basis including VAT. However, where both parties are professionals, prices are deemed expressed on a tax exclusive basis, unless otherwise stated.
Germany

LOCAL NAME FOR VAT
USt (Umsatzsteuer)

APPLICABLE RATES FOR DIGITAL SERVICES

<table>
<thead>
<tr>
<th>Rate Type</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Standard Rate</td>
<td>19 percent</td>
</tr>
<tr>
<td>Special Rate</td>
<td>7 percent for certain turnovers (but likely not applicable to e-commerce services)</td>
</tr>
</tbody>
</table>

REGISTRATION REQUIREMENTS

Mandatory
Mandatory registration is required for Non-EU enterprises rendering B2C services provided the enterprise is not registered in another Member State for such purposes. For certain suppliers there shall be MOSS available. A taxable person using MOSS is required to register in a Member State of his or her choice. In general, this will be the Member State where the taxable person is seated. However, there is a choice when the taxable person has more than one fixed establishment in the EU. Non-EU suppliers can use the MOSS only if they have no EU establishment and can choose one jurisdiction they wish to make their electronic registration.

Optional
Optional registration is possible for all enterprises if they wish to be subject to the general VAT taxation rules. The Federal Tax Administration has established certain competent tax offices for registration depending on the origin of the respective enterprise.
PLACE OF SUPPLY FOR CROSS-BORDER SUPPLIES OF INTANGIBLES TO LOCAL CONSUMERS (B2C)

Pursuant to the general rule regarding the place of supply this is the place where the supplier is located (which is either the supplier’s main establishment or a permanent establishment if the service is rendered from there) if the supplied item is transported or sent. The place of “use or enjoyment” of the service is of no importance.

In case of the supply of intangibles and e-commerce services where the supplier is located within the EU and the recipient is resident outside the EU, the place of supply is the place where the supplier is located.

In the case of e-commerce services, if the supplier and the recipient are resident within the EU, then the place of supply is the place of the recipient's location.

The German administration has amended the VAT Code in Sec. 3a para.5 together with new rules in Sec. 18 para. 4c to 4e and Sec. 18h regarding taxing procedures to reflect these changes for e-commerce services. Please note also the amendments as of 2019 and 2021 resulting from the European Directive 2017/2455 from December 5, 2017 and the European Regulations 2017/2454 and 2017/2459 discussed above.

PLACE OF SUPPLY FOR CROSS-BORDER SUPPLIES OF INTANGIBLES TO BUSINESS CUSTOMERS (B2B)

In a B2B context, the place of supply is in general the place where the recipient of services is resident or seated (be it the recipient's main establishment or another permanent establishment). Once again, the place of “use or enjoyment” is of no importance.

DO YOU REQUIRE EVIDENCE OF A CUSTOMER’S VAT NUMBER TO TREAT A SUPPLY AS B2B?

As the supplier has to charge VAT and might be interested in the possibility of a deduction, it is the supplier's general responsibility to obtain information about the supplier’s customer. The information to be obtained includes the VAT registration of a business customer.

CAN PRICES BE DISPLAYED ON A TAX EXCLUSIVE BASIS?

Prices have to be displayed on a tax inclusive basis.
Hungary

LOCAL NAME FOR VAT

Általános forgalmi adó or ÁFA

APPLICABLE RATES FOR DIGITAL SERVICES

Standard Rate
27 percent

Special Rate
5 percent, 18 percent

REGISTRATION REQUIREMENTS

Mandatory
In general, VAT registration in Hungary is mandatory if transactions falling under the scope of VAT are made by a taxable person with a place of supply in Hungary.

There is a special personal VAT exemption scheme available if the annual turnover of a taxable person in the previous year and the expected turnover of the current year does not exceed (separately) HUF12 million (approximately EUR37,100). Taxable persons electing for personal exemption are also obliged to register for VAT purposes.

Optional
In the case of “distance selling” to Hungarian non-taxable persons (or to taxable persons entitled for VAT exemption in respect of intra-Community acquisitions), an EU supplier may elect registering for Hungarian VAT purposes even if the annual sales volume of the current and preceding year concerning Hungary does not reach the statutory registration threshold of EUR35,000.

Subject to prior notification of the tax authority, in respect of “intra-Community acquisition of goods,” non-taxable legal persons or taxable persons carrying out VAT exempt activities or activities which do not entitle to VAT deduction may elect registering for Hungarian VAT purposes and treat these transactions as subject to Hungarian VAT even if the volume of acquisitions in the current and preceding year does not reach the statutory VAT registration threshold of EUR10,000.
PLACE OF SUPPLY FOR CROSS-BORDER SUPPLIES OF INTANGIBLES TO LOCAL CONSUMERS (B2C)

The supply of intangibles is to be regarded as a supply of service for VAT purposes. If supplying intangibles to local non-taxable person customers (B2C), the place of supply is deemed to be where the supplier has established its business or in the absence of such, the place where the supplier has its permanent address or usually resides.

Special place of supply rules apply for e-commerce services. The place of supply is deemed to be where a non-taxable customer has its fixed establishment or, in the absence of such, where the customer has its permanent address or usual place of residence.

PLACE OF SUPPLY FOR CROSS-BORDER SUPPLIES OF INTANGIBLES AND E-COMMERCE TO BUSINESS CUSTOMERS (B2B)

In the case of the supply of intangibles and e-commerce to business customers (B2B), the place of supply is deemed to be where the recipient of the service has established its business, or in the absence of such, the place where the taxable person recipient has its permanent address or usually resides. In the case of a local B2B recipient, the reverse charge mechanism may apply.

DO YOU REQUIRE EVIDENCE OF A CUSTOMER’S VAT NUMBER TO TREAT A SUPPLY AS B2B?

Both, from a Hungarian perspective and on the basis of the EU VAT Implementing Regulation No 282/2011, it is necessary to verify the taxable person status of customers.

The method of verification includes the analysis of the recipient’s VAT status based on the VIES VAT number validation system of the European Commission and in the case of local recipients, the review of the publicly available online database of the Hungarian tax authority.
**CAN PRICES BE DISPLAYED ON A TAX EXCLUSIVE BASIS?**

**In case of B2C transaction:**
In accordance with the consumer protection regulations, prices displayed shall include also VAT or any other applicable taxes in connection with the goods or services.

**In case of B2B transaction:**
There is no regulation which prohibits that prices may be displayed excluding VAT. Prices in B2B transactions are in general to be set to exclude VAT unless otherwise agreed by the parties.

**Invoices:**
VAT charged shall be displayed on invoices both in B2B and B2C transactions. As an further requirement, the VAT amount charged on the invoice must be displayed also in HUF regardless of the currency of the invoice.
## Italy

### Local Name for VAT

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<th>Imposta sul Valore Aggiunto or IVA</th>
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</table>

### Applicable Rates for Digital Services

**Standard Rate**
- 22 percent

**Special Rate**
- Reduced 4 percent VAT rate established for books applies also to e-books, starting from January 1, 2015.*

As of January 1, 2016, the reduced VAT rate is extended to online newspapers and magazines. The Italian Revenue Agency has clarified (Resolution no. 120 of September 28, 2017) that also online databases of periodicals and newspaper qualify for the reduced VAT rate.

*It should be noted, however, that the CJEU (judgment of March 5, 2015 in cases C-479/13 and C-502/2013) has declared contrary to EU law the provisions of French and Luxembourg law establishing a reduced VAT rate for e-books. See also CJEU, judgement of March 7, 2017, case C-390/15, RPO. Please note that COUNCIL DIRECTIVE (EU) 2018/1713 of November 6, 2018 amending Directive 2006/112/EC reduced VAT rates applied to books, newspapers and periodicals.

### Registration Requirements

**Mandatory**
- As a general rule, entities performing habitually industrial, commercial and professional activities are obliged to register for VAT purposes in Italy.

For “indirect e-commerce” (i.e. supply of goods performed using online platforms) carried out by a VAT entity directly from abroad to Italy, no VAT registration occurs if the entity’s yearly turnover does not exceed EUR35,000 (in this case e-commerce is a part of the “distance sales” regime).

**Optional**
- N/A
In case of supplies of intangibles (patents, marks, etc.) to Italian customers who are not registered for VAT, no Italian VAT is applied being the transaction subject to VAT in the country of the supplier. The place of “use or enjoyment” of the service is of no importance (in Italy this rules affects limited cases such as telecommunication services).

In case of e-commerce supplies (e.g. online gaming, etc.), as of January 1, 2015 the place of supply is identified in the EU State of the customer. This rule derogates the general rule under which in B2C transactions the place of supply is the EU State of the supplier. The VAT territoriality special regime applicable to e-commerce services applies both when the supplier is extra-EU based and when the supplier is established in a Member State.

In this case the transaction is relevant for VAT purposes in Italy pursuant to the general EU VAT principle that taxation occurs in the country of the recipient (if registered for VAT and duly registered in the VIES system). In such a scenario the reverse charge mechanism must be mandatorily applied by the Italian recipient, even if the foreign entity is registered for VAT purposes in Italy (through a VAT representative or through the so-called direct identification).

If the foreign entity has an Italian fixed place of establishment, the reverse charge mechanism still applies in case the transaction has been performed from abroad without the involvement of the Italian fixed place of establishment. Otherwise, the fixed establishment should invoice for the domestic supply, being the actual supplier of the service.

In this case too, the place of “use or enjoyment” of the service is of no importance. Rather, the service is subject to the general B2B rule according to which service is taxed in the country of the recipient, regardless the place of use or enjoyment.
DO YOU REQUIRE EVIDENCE OF A CUSTOMER’S VAT NUMBER TO TREAT A SUPPLY AS B2B?

Yes. For intra-EU supplies, reference has to be made to the VIES system in order to get information about the VAT status of the customer.

Italian VAT entities, in order to apply for the ordinary B2B rules (usually, taxation in the country of the recipient pursuant to the reverse charge mechanism) must be registered in the VIES system.

If the supplier is Italian and the recipient is established outside the EU, evidence must be gathered to demonstrate that the customer is liable for a consumption tax similar to VAT in its country, or that the acquisition has been performed in the course of business.

CAN PRICES BE WON A TAX EXCLUSIVE BASIS?

In B2B transactions prices can be displayed exclusive of VAT. It should be clear, however, that the price refers only to B2B transactions.

In B2C transactions the price should include any additional charges/taxes applied (including Italian or any applicable VAT).

If the price is displayed for both B2B and B2C transactions, the consumers’ interest shall prevail. Therefore, it is necessary to display the price reserved to the consumer underscoring that such price includes VAT.

ITALIAN NEW TAX ON DIGITAL SERVICES

The 2019 Budget Law introduced a new tax on revenues from the provision of “digital services” (Digital Service Tax, (DST)), inspired by the EU Commission proposal (COM(2018) 148).

The DST will be paid by service providers (Italian and non-Italian) on both B2C and B2B transactions. Non-Italian taxpayers having an Italian PE or identified in Italy for VAT purposes are entitled to pay DST; otherwise they should undertake the identification procedure or appoint a tax-representative in Italy.

The DST will apply to business enterprises exceeding two revenues thresholds in the relevant FY: (i) worldwide revenues (of the entity standalone or at group level) over EUR750 million; and (ii) revenues from qualified digital services linked to Italian users over EUR5.5 million.
Tax-relevant digital services are (i) the placing of advertising on a digital interface targeted at users of that interface; (ii) “intermediation services”, i.e. the making available of multi-sided digital interfaces to users, allowing them to find and interact with other users (including underlying supplies of goods or provision of services directly between users); and (iii) the transmission of users’ data generated from such users’ activities on digital interfaces.

The DST would apply at 3 percent rate and should be paid quarterly. Taxpayers shall file annual DST return and Italian subsidiaries of foreign entities could be jointly liable for the payment of DST.

Given that only digital services which implies a high degree of users’ involvement in the creation of value are relevant for DST, territorial requirement is linked to the location of the user. Territoriality, rules are very complex and varies for each category of tax-relevant digital services. The place where the payment is made would not be in principle relevant.
# Japan

## Local Name for VAT

**Consumption Tax**

## Applicable Rates for Digital Services

### Standard Rate

8 percent at the time of publication. This is scheduled to increase to 10 percent from October 1, 2019. It was originally scheduled for April 1, 2017, but when the tax rose from 5 percent to 8 percent on April 1, 2014 there were ongoing deflation and successive decreases in consumer spending.

### Special Rate

N/A. If the tax rate is increased to 10 percent, a special reduced tax rate (8 percent) will be applicable to foods (excluding alcohol and restaurant meals) and newspaper subscriptions (excluding electronic editions and subscriptions published in a frequency of less than two times a week).

## Registration Requirements

### Mandatory

The following companies have to register as taxable business operators:

1) A company with more than JPY10 million in taxable sales during the base period (generally two years prior to the current business year);

2) A company with more than JPY10 million in taxable sales or salaries during the specific period (being the first six months of a business year prior to the current business year); and

3) A company within two years of incorporation (i.e. not having the base period) with JPY10 million or more in capital at the beginning of the business year;
4) A company that meets all of the conditions below:

(a) less than JPY10 million in capital;

(b) Not having the base period;

(c) Directly or indirectly owned by an entity with more than 50 percent ownership, or otherwise controlled by an entity, where certain conditions are met (Controlling Entity); and

(d) Either a Controlling Entity or persons having a special relationship with the Controlling Entity have taxable sales of more than JPY500 million during the period corresponding to the base period of the company.

Optional

A company that does not fall within the above categories is not subject to the Consumption Tax, but they can register as a taxable business operator in order to get refund of input Consumption Tax.

PLACE OF SUPPLY FOR CROSS-BORDER SUPPLIES OF INTANGIBLES TO LOCAL CONSUMERS (B2C)

The place of supply is where the recipient of the services is located. An offshore service provider has an obligation to collect Consumption Tax from their B2C customers in Japan and to pay such collected Consumption Tax to the National Tax Agency (NTA) (the system is referred to as the Foreign Supplier Registration/Filling System). In order to report and pay collected Consumption Tax, offshore service providers must register. Instructions for an application for the registration are available at the NTA’s website (https://www.nta.go.jp/foreign_language/consumption_tax/201606-9en.pdf).

76 offshore service providers are registered as of October 18, 2017.

There is no penalty if a B2C service provider does not register. However, as a tentative measure for a certain period, customers which operate businesses in Japan are unable to credit the amount of the consumption tax included in the price which the purchaser pays to a B2C service provider, unless the B2C service provider is registered.
Under the “tax credit system,” business operators are able to claim credits for certain business-related purchases. The credit effectively provides a deduction for the consumption tax amount that has been paid to a supplier.

Thus, offshore B2C service providers may be at a disadvantage by not registering, as they may be unable to claim a credit.

PLACE OF SUPPLY FOR CROSS-BORDER SUPPLIES OF INTANGIBLES TO BUSINESS CUSTOMERS (B2B)

As for B2B transactions, the place of supply is where the recipient of the services is located. Thus, e-commerce services provided to business enterprises in Japan are subject to Consumption Tax. This rule applies to transactions made after October 1, 2015 by the 2015 amendment to the Consumption Tax Act. A transaction under a contract executed before March 31, 2015 with a period continuing after October 1, 2015 may be subject to the un-amended Act and therefore be exempt from Consumption Tax.

For B2B transactions involving e-commerce services, the Consumption Tax is to be paid through a “Reverse Charge Mechanism.” Under the Reverse Charge Mechanism, fees or purchase price collected for cross-border e-commerce services are subject to Consumption Tax, but the offshore service provider would not be obliged to report and pay the Consumption Tax to the NTA. Instead, Japanese business customers which received the e-commerce services would be required to report and remit the Consumption Tax to the NTA.

DO YOU REQUIRE EVIDENCE OF A CUSTOMER’S VAT NUMBER TO TREAT A SUPPLY AS B2B?

No.

B2B transactions are defined as transactions in which a Japanese customer is obviously recognized as a business operator considering the contents and conditions of the service. According to the NTA, the following are examples of services for which a Japanese customer is obviously recognized as a business operator from the nature of the service:

- distribution of advertisements on the internet; or
- provision of a market-place to sell applications and software, including games, at websites on the internet.
In addition, the NTA notes that certain services can be categorized as B2B transactions based on the terms and conditions of the service. For example, cloud services where (i) the terms and conditions are negotiable between the parties and (ii) it is clear that the customer uses the service for its own business purposes, will be treated as B2B services.

If a Japanese customer is registered for Consumption Tax purposes, this may be one relevant indicator that the supply is B2B.

**CAN PRICES BE DISPLAYED ON A TAX-EXCLUSIVE BASIS?**

As a general rule, prices must be displayed including Consumption Tax if an enterprise offers to sell goods or provide services to the general public other than through B2B transactions (Gross Pricing Display Obligation; Art. 63 of the Consumption Tax Act).

However, since the Consumption Tax Act is currently under a transition period due to changes in the tax rate, the Gross Pricing Display Obligation is currently suspended from October 1, 2013 to March 31, 2021. Therefore, business enterprises are allowed to show prices excluding consumption tax as long as it is clear that such pricing does not include the tax (e.g., displaying tax exclusive prices with a note stating “tax is not included”).
# Luxembourg

## LOCAL NAME FOR VAT

| Taxe sur la valeur ajoutée, or TVA |

## APPLICABLE RATES FOR DIGITAL SERVICES

| Standard Rate | 17 percent as from January 1, 2015 |
| Special Rate  | 3 percent, 8 percent, 14 percent |

## REGISTRATION REQUIREMENTS

**Mandatory**

In principle, any taxable person must register for VAT purposes. There is an exception for taxable persons performing only exempt supplies without a right to deduct input VAT and taxable persons subject to the small enterprises regime (where annual turnover is less than EUR30,000 (EUR 10,000 before 2013)). However, these taxable persons must register for VAT purposes in the following cases:

1. where they are liable to pay Luxembourg VAT on services received from foreign services providers (no threshold) or on their intra-Community acquisitions of goods exceeds EUR10,000 (excluding VAT) during the preceding or current year; or
2. if they are established in Luxembourg and perform services that do not give rise to a right of input VAT deduction and provide taxable services in the other Member States where the recipient of the services liable to pay the tax is established.

Non-taxable persons (e.g. holding companies, pubic bodies) must register for VAT in order to pay the Luxembourg VAT on intra-Community acquisitions of goods when the value of the goods is superior to EUR10,000 (excluding VAT) during the preceding or current year.

Any person registered to VAT in another Member State performing supply of goods, that the dispatching or transporting is made by or on behalf of the supplier, to persons which are established or domiciled in Luxembourg but not VAT registered in Luxembourg and that the annual amount of such sales is superior to EUR100,000.
Optional
A taxable person may register for VAT in order to pay the Luxembourg VAT on intra-Community acquisitions of goods when the value of the goods is lower than EUR10,000 (excluding VAT) during the preceding or current year.

Please note that in relation to the provision of e-commerce services to non-VAT taxable persons located in any Member State, there is a special scheme known as “Mini One Stop Shop” (MOSS) that enables any provider of such e-commerce services to designate any Member State as a point of single contact in view of declaration and payment of VAT.

In case where Luxembourg is chosen as a point of single contact, any such provider will be given access to the VAT MOSS platform enabling him to declare the e-commerce services provided in all the Member States.

PLACE OF SUPPLY FOR CROSS-BORDER SUPPLIES OF INTANGIBLES TO LOCAL CONSUMERS (B2C)

The transfer and licensing of intellectual property should be regarded as a supply of services for VAT purposes. The supply of intangibles when delivered in digital form is also treated as a service.

If the company supplies services to a private consumer, the services are in general taxable in the country of the supplier and therefore subject to Luxembourg VAT where supplied by a Luxembourg established business.

From January 1, 2015, supplies of telecommunications, broadcasting and electronically supplied services made by European Union (EU) suppliers to private individuals and non-business customers will be taxable in the Member State of the customer.

In case of a non-EU-established business to an EU-established consumer, VAT will be levied at the rate applicable in the country where the customer is located.

The application of Article 59 of the VAT Directive (VATD) implies that the place of taxation in the case of a supply of services to consumers/customers located outside the EU is the place where the customer is established.
**PLACE OF SUPPLY FOR CROSS-BORDER SUPPLIES OF INTANGIBLES TO BUSINESS CUSTOMERS (B2B)**

As noted above, the transfer and license of intellectual property falls under the VAT rules on the place of supply of services, as does supplies of intangibles when delivered in digital form.

In the case of a Luxembourg established business supplying services to a foreign EU business customer, in general the supply of services is taxable in the country of the recipient under the reverse charge mechanism.

For a supply from a non EU-established business to an EU-established business, VAT will be payable in the business customer’s State, pursuant to Article 44 VATD.

In the case of a supply of services to customers located outside the EU, the place of supply is where the customer is established.

**DO YOU REQUIRE EVIDENCE OF A CUSTOMER’S VAT NUMBER TO TREAT A SUPPLY AS B2B?**

In order to properly determine the place of a cross-border supply of services, and the person liable to pay the VAT, the supplier needs to ensure its customer has a valid VAT number or is a non-taxable consumer.

**CAN PRICES BE DISPLAYED ON A TAX EXCLUSIVE BASIS?**

Prices must in principal be displayed on a VAT inclusive basis.
Netherlands

**LOCAL NAME FOR VAT**

Omzetbelasting or btw

**APPLICABLE RATES FOR DIGITAL SERVICES**

- **Standard Rate**
  21 percent

- **Special Rate**
  As of January 1, 2020, a low VAT rate of 9% applies to the supply of e-books.

**REGISTRATION REQUIREMENTS**

- **Mandatory**
  Anyone who is liable for VAT in the Netherlands must register for VAT in the Netherlands. No VAT registration threshold applies in the Netherlands.

- **Optional**
  N.A.

**PLACE OF SUPPLY FOR CROSS-BORDER SUPPLIES OF INTANGIBLES TO LOCAL CONSUMERS (B2C)**

If the intangible qualifies an electronic service for VAT purposes, the place of supply rules with respect to telecommunications, broadcasting and electronically supplied services apply. In that case, the place of supply is where the customer belongs.

In case the cross-border supply of an intangible does not qualify as an electronic service and the intangible is supplied to a consumer that is established in the EU, the general B2C rule applies.

If the intangible is supplied to a consumer that is established outside the EU, the effective use and enjoyment rules apply. In that case, the place of supply is the state where the recipient of the service is established.
### PLACE OF SUPPLY FOR CROSS-BORDER SUPPLIES OF INTANGIBLES TO BUSINESS CUSTOMERS (B2B)

The place of supply of cross-border B2B intangible services is where the customer has established its business or has a fixed establishment from which the service is supplied, or, in the absence of such a place of business or fixed establishment, the place where they have their permanent address or usually resides.

The effective use and enjoyment rules do not apply.

### DO YOU REQUIRE EVIDENCE OF A CUSTOMER’S VAT NUMBER TO TREAT A SUPPLY AS B2B?

Yes, when it comes to the assessment of the status of the customer, the supplier is assumed to have acted in good faith when the supplier has:

(a) established whether the customer is a taxable person via the VAT number communicated to him or through any other proof presented to the supplier to show that the customer is a taxable person or a non-taxable legal person identified for VAT purposes; and

(b) obtained confirmation of the validity of the VAT number of the customer and carried out a reasonable level of verification via the Commission website or existing security procedures.

### CAN PRICES BE DISPLAYED ON A TAX EXCLUSIVE BASIS?

In accordance with the Dutch VAT Act 1968, suppliers are prohibited from displaying prices to B2C customers exclusive of VAT.
New Zealand

**LOCAL NAME FOR VAT**

Goods and Services Tax (GST)

**APPLICABLE RATES FOR DIGITAL SERVICES**

**Standard Rate**
15 percent In certain circumstances, supplies may be zero-rated (including: certain exported services; and, some “remote services” supplied from offshore to GST-registered recipients in New Zealand).

**Special Rate**
N/A

**REGISTRATION REQUIREMENTS**

**Mandatory**
Any person who makes or will make “taxable supplies” in New Zealand in excess of the registration threshold (currently, NZD60,000 in a 12-month period). From October 1, 2016, this has included offshore suppliers of “remote services” to New Zealand resident recipients. “Remote services” (those with no necessary connection between the place where the service is physically performed and the location of the recipient) will capture digital services (e.g. internet downloads, on-line services, and, in some circumstances, the operators of electronic marketplaces) and more traditional services when supplied remotely (e.g. legal, accounting, insurance).

**Optional**
Persons making taxable supplies in New Zealand below the registration threshold (note: the Revenue may question whether a “taxable activity” is being conducted in this scenario).

A non-resident who is registered for consumption tax in their country of residence (or, if that country does not have a consumption tax, who has a level of activity in that country that would meet the New Zealand registration threshold if that activity were in New Zealand) and who meets certain other requirements.
PLACE OF SUPPLY FOR CROSS-BORDER SUPPLIES OF INTANGIBLES TO LOCAL CONSUMERS (B2C*)

*Assumes recipient C (in B2C) is not receiving the supply in the course of its taxable activity. Note that a taxable activity does not extend to making exempt supplies (which includes financial services unless certain elections are made).

Fundamentally, GST is a tax on private/domestic consumption in New Zealand. However, as GST is collected as goods and services move through the supply chain, an input tax credit system operates to limit any snow-balling effect. New Zealand’s GST system pre-dates, and differs in some ways from, that described in the OECD VAT Guidelines.

Whether a supply takes place in New Zealand or outside New Zealand will depend on a combination of factors, including whether the supplier is resident in New Zealand for GST purposes and, in relation to services, whether the services are physically performed in New Zealand by a person who is in New Zealand at the time of performance, whether they are “remote services,” and the residence and GST status of the recipient.

If supplied from outside of New Zealand, there is potential for a “reverse charge” to apply. However, since October 1, 2016, “remote services” are deemed to be supplied in New Zealand in the B2C scenario.

Note that special rules apply to “telecommunications services.” This is defined to include the transmission, emission or reception (and the transfer or assignment of the right to use capacity for the transmission, emission or reception) of signals, writing, images, sounds or information of any kind by wire, cable, radio, optical or other electromagnetic system, or by a similar technical system, and includes access to global information networks but does not include the content of the telecommunication.
PLACE OF SUPPLY FOR CROSS-BORDER SUPPLIES OF INTANGIBLES TO BUSINESS CUSTOMERS (B2B*)

*Assumes recipient B (in B2B) is receiving the supply in the course of its taxable activity. Note that a taxable activity does not extend to making exempt supplies (which includes financial services unless certain elections are made).

See above – a further factor in determining whether a supply occurs inside or outside New Zealand will be the contract between the supplier and recipient.

If supplied from outside New Zealand, the reverse charge will not be a concern if the recipient uses the services in making taxable supplies to the requisite extent (the percentage intended use and, thereafter, the percentage actual use, must be 95 percent or more). Since October 1, 2016, “remote services“ are deemed to be supplied in New Zealand, but usually this will not apply in the B2B scenario.

Note that special rules apply to telecommunications services.

RETAIL SALES OF LOW VALUE PHYSICAL GOODS

In New Zealand it has been announced that certain non-resident suppliers of low value physical goods (being goods with a value of NZD1,000 or less) to New Zealand consumers will have an obligation to register for and charge New Zealand Goods and Services Tax (GST). Those rules are proposed to apply from October 1, 2019.

DO YOU REQUIRE EVIDENCE OF A CUSTOMER’S VAT NUMBER TO TREAT A SUPPLY AS B2B?

Generally, no. However, it will be needed in some scenarios, e.g. zero-rating of certain B2B land supplies, and, for determining that “remote services“ are supplied to a registered person (a B2B supply).

CAN PRICES BE DISPLAYED ON A TAX EXCLUSIVE BASIS?

In advertising, prices can be displayed on a GST-exclusive basis but must say “plus GST“ (assuming the supplier wants to recover this from the recipient). However, in advertising to consumers, it is usual practice in New Zealand to display prices on a GST inclusive basis. Overall, the advertising must not be misleading or deceptive.

Tax invoices must be in a prescribed form.
Norway

**LOCAL NAME FOR VAT**

Merverdiavgift

**APPLICABLE RATES FOR DIGITAL SERVICES**

**Standard rate:**

25 percent

**Special rates:**

15 percent – applies to foodstuffs

12 percent – applies to personal transport services, hire out of rooms (hotel etc.), and access to cinema, sport events and amusement/adventure parks.

**REGISTRATION REQUIREMENTS**

**Mandatory**

Businesses are liable to register in the Value Added Tax Register once the total turnover related to supplies and withdrawals within scope of the Norwegian VAT Act exceeds NOK50,000 during a 12-month period.

As a starting point, all supplies of goods or services delivered within the Norwegian VAT area (the Norwegian mainland and territorial area except Svalbard, Jan Mayen and the dependencies) are considered within scope of the VAT Act.

Non-established vendors must charge VAT when supplying e-commerce services to Norwegian private individuals and non-business customers (B2C). These providers must be registered in the Value Added Tax Register. As an alternative to a normal registration in the Norwegian VAT register, foreign suppliers can use a simplified registration and reporting system when selling electronic services B2C (VOES). This simplified registration scheme can only be used by companies that merely supply e-services to private customers in Norway.

A simplified registration for e-services will not provide access to deduct input VAT, and the system for reimbursement of VAT must thus be used.
Optional

Based on certain conditions, it is possible to voluntarily register in the VAT register for the leasing out of real property in Norway (as a starting point this activity is treated as exempt from VAT).

N/A

PLACE OF SUPPLY FOR CROSS-BORDER SUPPLIES OF INTANGIBLES TO LOCAL CONSUMERS (B2C*)

The place of supply for cross-border B2C electronic services is where the customer belongs. Thus foreign suppliers must register for VAT in Norway and charge Norwegian VAT when these services are rendered B2C.

If delivery of electronic communication services is performed via a fixed terminal in Norway, VAT is payable, even if the recipient is not resident in Norway. If delivery is effected via a fixed terminal outside Norway, VAT shall not be payable even if the recipient is resident in Norway.

PLACE OF SUPPLY FOR CROSS-BORDER SUPPLIES OF INTANGIBLES TO BUSINESS CUSTOMERS (B2B)

The place of supply of cross-border B2B e-commerce services and other intangible services is where the customer has its business establishment or other fixed establishment of which the service is delivered to. A business customer established in Norway, which acquire e-services from outside Norway, must account for and report Norwegian VAT under the reverse charge scheme. Reverse charge also applies to purchases of other intangible services from abroad. The reverse charge calculated and reported by the purchaser in these situation can normally be deducted if purchased for use in the company's VAT liable activities in Norway.

If the electronic service is to be used in Norway by an establishment resident in Norway, Norwegian VAT is payable, even if the service is delivered to a recipient resident outside Norway. However this does not apply if it is documented that VAT is charged on the service outside of Norway.
DO YOU REQUIRE EVIDENCE OF A CUSTOMER’S VAT NUMBER TO TREAT A SUPPLY AS B2B?

This is not a formal requirement, but the supplier should still be able to substantiate that the customer is a business customer (e.g. in the event of an audit). There is a mandatory invoicing requirement that either the customers VAT number (organization number + the letters MVA (VAT)) or the customers address is stated on the invoice. However, it is recommended to include both the VAT number and customers address on the invoice.

CAN PRICES BE DISPLAYED ON A TAX EXCLUSIVE BASIS?

In B2C transactions the price must include any additional charges, including VAT and any other applicable taxes. Please note that this follows from the consumer protection legislation and not from tax legislation.

In B2B transactions the price can be displayed on a tax exclusive basis.

However, please note that there are strict rules with regard to the content of the invoice. Among other things, the VAT amount must be included on the invoice (in NOK).
Poland

LOCAL NAME FOR VAT
Podatek od towarów i usług

APPLICABLE RATES FOR E-COMMERCE SERVICES

Standard Rate
23 percent (The temporarily increased VAT rates will continue to apply until the end of end of the year following the year when specific budget criteria are met)

Special Rate
N/A

REGISTRATION REQUIREMENTS

Mandatory
All entities performing taxable activities, except for small entrepreneurs (i.e. taxpayers whose annual value of sales does not exceed PLN200,000 (approx. EUR47,000)). This exception is not applied, among others, to taxpayers who are not established in Poland.

Optional
Small entrepreneurs and entities performing only activities that are tax exempt.

Registration in Poland might be avoided through the use of Mini One Stop Shop (MOSS) in another Member State – this refers only to B2C transactions on the electronic, telecommunications and broadcasting services.
### PLACE OF SUPPLY FOR CROSS-BORDER SUPPLIES OF INTANGIBLES TO LOCAL CONSUMERS (B2C)

The general rule regarding the place of supply is the place where the supplier is located, which is either the supplier's main establishment, a permanent establishment or usual place of his residence.

In relation to supplies of intangibles and e-commerce services the place of supply is the place where the recipient (consumer) is located, which is either the recipient's main establishment, a permanent place of residence or usual place of his residence.

### PLACE OF SUPPLY FOR CROSS-BORDER SUPPLIES OF INTANGIBLES TO BUSINESS CUSTOMERS (B2B)

In B2B, as a general rule, the place of supply is where the recipient of the services is located (the recipient's main establishment, a fixed place of business or usual place of residence).

The reverse charge system applies to the supply of the services.

### DO YOU REQUIRE EVIDENCE OF A CUSTOMER’S VAT NUMBER TO TREAT A SUPPLY AS B2B?

Yes. As the supplier has to charge VAT and is responsible for settle the VAT in a proper manner, it is the supplier's responsibility to obtain information about the supplier's customer, including the VAT registration of a business customer.

### CAN PRICES BE DISPLAYED ON A TAX EXCLUSIVE BASIS?

**B2B transactions**

Yes, prices can be displayed on a tax exclusive basis; however, if there is no clear information it is assumed the price includes VAT.

**B2C transactions**

No, prices must be displayed on a VAT inclusive basis.
## Portugal

### LOCAL NAME FOR VAT

<table>
<thead>
<tr>
<th>Description</th>
<th>VAT Name</th>
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<tbody>
<tr>
<td>IVA (Imposto sobre o Valor Acrescentado)</td>
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### APPLICABLE RATES FOR DIGITAL SERVICES

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<thead>
<tr>
<th>Rate Type</th>
<th>Rate</th>
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<tbody>
<tr>
<td>Standard Rate</td>
<td>23 percent</td>
</tr>
<tr>
<td>Special Rate</td>
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### REGISTRATION REQUIREMENTS

- **Mandatory**
  
  Registration is required if and when the taxable person carries out an activity subject to VAT in Portugal.

- **Optional**
  
  Available special optional regime for electronically supplied services and telecommunication, radio and television broadcasting services: Mini One Stop Shop (MOSS).

### PLACE OF SUPPLY FOR CROSS-BORDER SUPPLIES OF INTANGIBLES AND E-COMMERCE TO LOCAL CONSUMERS (B2C)

The place of supply of B2C e-commerce services shall be deemed Portugal when the recipient is established or domiciled within the Portuguese territory. The use and enjoyment rule applies to all e-commerce services.

In what concerns the place of B2C supplies of intangibles (such as sale or licensing of IP rights) it shall be Portugal where the supplier has its headquarters, permanent establishment or domicile from which the services are provided in Portugal, except if the recipient is established or domiciled outside of the EU.
PLACE OF SUPPLY FOR CROSS-BORDER SUPPLIES OF INTANGIBLES AND E-COMMERCE TO BUSINESS CUSTOMERS (B2B)

The place of supply of intangibles and e-commerce services to a taxable person acting as such (B2B) shall be deemed Portugal when the recipient has its headquarters, permanent establishment or domicile to which the service is supplied, in Portugal, regardless of the supplier’s State of establishment (general B2B rule).

The use and enjoyment rule applies to all e-commerce services.

DO YOU REQUIRE EVIDENCE OF A CUSTOMER’S VAT NUMBER TO TREAT A SUPPLY AS B2B?

Yes.

CAN PRICES BE DISPLAYED ON A TAX EXCLUSIVE BASIS?

Prices for retail/B2C must be displayed on a VAT inclusive basis. However, where both parties are professionals (B2B) it is generally possible to show the VAT exclusive amount, provided it is not misleading.
Romania

LOCAL NAME FOR VAT
Taxa pe valoarea adăugată - TVA (in English, Value Added Tax)

APPLICABLE RATES FOR DIGITAL SERVICES

**Standard Rate**
- 19 percent

**Special Rate**
- *9 percent* for the following supplies of goods and/or services:
  - supplies of prostheses of any type and accessories (except dental prostheses), orthopedic products, medicines for human and veterinary use;
  - supplies of food (excluding alcohol) for both human and animal use, having certain classification codes;
  - supplies of fertilizers, seeds and other agricultural products intended for the sowing or planting, as well as for supplies of services, such as those specifically used in the agricultural sectors;
  - supplies of irrigation and drinking water.

- *5 percent* for the following supplies of goods and/or services:
  - supplies of school manuals, books, newspapers and magazines, except for those intended solely or principally for advertising; access to museums, castles, cinemas, zoological and botanical gardens, and sporting events;
  - supplies of social housing, including related land (i.e. social housing includes, but is not limited to, houses that are a maximum of 120 square meters and that do not exceed RON450,000 in value, net of VAT) provided that specific conditions are fulfilled.
  - hotel accommodation and similar accommodation, including the rental of land for camping;
• supplies of buildings, including related land, to city halls in order to be granted with subsidized rent to persons or families whose economic situation does not allow them to buy or to rent a property;

• restaurant and catering services (excluding alcohol), except for draught beer;

• the right to use some sports facilities of which activities having the NACE code 9311 and 9313.

REGISTRATION REQUIREMENTS

**Mandatory** for the following taxable persons:

• a taxable person that has the place of economic activity in Romania and carries out or intends to carry out an economic activity involving taxable operations, provided that the turnover to be obtained exceeds the threshold of EUR88,500 (the equivalent of RON300,000);

• a taxable person who has the place of economic activity outside Romania, but is established in Romania through a fixed establishment that will be involved in supplies/acquisitions of services or will perform taxable/exempt supplies of goods/services;

• a taxable person not established in Romania, nor registered for VAT purposes in Romania, performing operations in Romania that entitle it to VAT deduction, shall register prior to performing such operations, except for the situations when the person liable to pay the VAT is the beneficiary;

• a taxable persons that is neither established nor registered for VAT purposes intending to perform an intra-community acquisition of goods or an intra-community supply of goods.

**Optional** for the following persons

• a taxable person established in Romania whose annual turnover is lower than the threshold of EUR88,500 but it opts to apply for the registration;

• a taxable person that is neither established nor registered in Romania that will perform in Romania an import of goods, a supply or rent of immovable property if the respective transaction is taxable by option.
PLACE OF SUPPLY FOR CROSS-BORDER SUPPLIES OF INTANGIBLES AND E-COMMERCE TO LOCAL CONSUMERS (B2C)

The general rule in respect of place of supply for services rendered to non-taxable persons is the place where the supplier has established its business or has a fixed establishment from which the services are rendered.

The place of supply of goods, in case of e-commerce to local consumers, is Romania provided that the value of the supplies performed in the previous year exceeds the revenue threshold of EUR35,000 or the supplier has opted, in the state from where the goods are delivered, to consider the respective supplies distance sales.

The place of supply in case of electronic services, telecommunications, radio and television broadcasting to non-taxable persons (B2C) is the place where the beneficiary is established.

PLACE OF SUPPLY FOR CROSS-BORDER SUPPLIES OF INTANGIBLES AND E-COMMERCE TO BUSINESS CUSTOMERS (B2B)

The general rule for B2B supplies is the place where the beneficiary has its place of business. Where services are provided to a fixed establishment of the beneficiary, located in another place than that in which the person is established, the place of supply is the place where the fixed establishment receiving the services is located. The reverse charge mechanism applies in this respect.

The place of supply for B2B supplies of goods via e-commerce is the place where the goods are located at the time when the dispatch or transport begins, in the case of goods dispatched or transported by the supplier, the buyer or by a third person.
## DO YOU REQUIRE EVIDENCE OF A CUSTOMER’S VAT NUMBER TO TREAT A SUPPLY AS B2B?

Yes, when it comes to the assessment of customer’s status, the supplier is assumed to have acted in good faith when they have:

(a) established whether the customer is a taxable person, via the VAT number communicated to them or through any other proof presented to him showing that the customer is a taxable person or a non-taxable legal person registered for VAT purposes, and

(b) obtained confirmation of the validity of the VAT number of the customer and carried out a reasonable level of verification via the Commission website or existing security procedures.

## CAN PRICES BE DISPLAYED ON A TAX EXCLUSIVE BASIS?

**B2B transactions**

Yes, prices can be displayed on a tax exclusive basis.

**B2C transactions**

No, prices must be displayed on a tax inclusive basis.
**Russia**

<table>
<thead>
<tr>
<th>LOCAL NAME FOR VAT</th>
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<tbody>
<tr>
<td>VAT</td>
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<table>
<thead>
<tr>
<th>APPLICABLE RATES FOR DIGITAL SERVICES</th>
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</thead>
<tbody>
<tr>
<td><strong>Standard Rate</strong></td>
</tr>
<tr>
<td>20 percent</td>
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<tr>
<td><strong>Special Rate</strong></td>
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<tr>
<td>N/A</td>
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<tr>
<th>REGISTRATION REQUIREMENTS</th>
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<tbody>
<tr>
<td><strong>Mandatory</strong></td>
</tr>
<tr>
<td>As a general rule, a foreign company carrying out its activity in Russia for a period of time exceeding one month shall be tax registered in Russia. Once tax registered in Russia, the foreign entity becomes registered for all applicable local taxes, including VAT.</td>
</tr>
</tbody>
</table>

Since January 2017, specific rules for VAT registration/de-registration and the VAT payment mechanism apply for foreign suppliers rendering e-commerce services to “individuals located in Russia” (B2C). Such suppliers must file the relevant application to the Russian tax authorities within 30 calendar days of the day since they started providing e-commerce services deemed supplied in Russia. Such foreign organizations are obliged to file a VAT return to the Russian tax authorities which will be subject to an in-house tax audit. VAT registration as well as submitting VAT returns and other documents shall be done using a taxpayer's personal account (personal e-room set for each qualifying taxpayer – which is a foreign organization).

A foreign supplier of e-commerce services to “individuals located in Russia” (B2C) is required to perform VAT registration in Russia and to pay Russian VAT unless another Russian or foreign entity-intermediary is interposed between the foreign supplier and the individual for the purposes of collecting payments. In the latter case, such entity-intermediary will perform the responsibilities of a VAT agent in respect to the e-commerce services rendered.
Starting January 1, 2019 the similar tax registration and VAT payment requirements are applied to the foreign suppliers rendering e-commerce services to “business customers – legal entities and individual entrepreneurs” (B2B) unless there are Russian or foreign intermediaries (agents) in the e-services supply chain that have concluded agency or commission agreements and collect payments from the clients. Such intermediaries (agents) will act as tax agents and withhold and pay Russian VAT instead of foreign vendors.

Foreign companies currently supplying e-commerce services in the B2B context and not falling under the above exemption have to apply for a tax registration no later than February 15, 2019. In other cases, 30 calendar days registration rule shall apply.

Optional
N/A

PLACE OF SUPPLY FOR CROSS-BORDER SUPPLIES OF INTANGIBLES TO LOCAL CONSUMERS (B2C)

The place of supply for transfer (provision) of patents, licenses, trademarks, copyrights and other similar rights shall be determined as the place where the consumer resides. However, there is no VAT payment mechanism established for B2C supplies unless the foreign supplier is tax registered in Russia.

In respect to e-commerce services, Russia implements the widely used “destination principle” which implies charging VAT in the country of the services recipient’s location. The Russian Tax Law establishes certain conditions for individuals in order to have them qualified as recipients of e-commerce services in Russia. In particular, e-commerce services are deemed supplied in Russia if one of the following criteria is met:

- the individual who is a recipient of e-commerce services resides in the Russian Federation;
- the bank where the individual has his/her bank account used for paying for the e-commerce services (or the bank of the operator of electronic money used for payment) is located in Russia;
- the IP address of the individual used when purchasing the e-commerce services is registered in Russia;
- the individual used a Russian international telephone code when purchasing the e-commerce services.
The list (non-exhaustive) of VAT-able services deemed supplied in Russia if provided by foreign organizations includes:

- transferring software and database rights, including access to online games on the internet, including through remote access;
- installing (downloading) games on PCs and cell phones, banner and blocking programs, accounting and antivirus software, web filters;
- enabling the placement of goods (work, services, property rights) offers on the internet;
- furnishing information via the internet, including making available e-books and other e-publications, graphic images, pieces of music both with and without text and audio-visual works through the internet, including by providing remote access for viewing or listening to them through the internet;
- making search engines and other portals available;
- web-hosting services;
- cloud services and cloud-based e-platforms;
- providing websites’ visitor statistics;
- broadcasting TV and radio channels using the internet and other services;
- providing advertising services on the internet, including by using computer software and databases functioning on the internet as well as providing advertising space on the internet;
- providing online calculating capacity for placing information in information systems;
- providing search services and/or providing information regarding potential buyers to service recipients.

It may be difficult to determine whether any specific cross-border activity or service may fall into the definition of the e-commerce services under the Russian Tax Law; answering that question may require knowledge not only of tax but also IP and IT issues. Resolving such questions may be complex, since the definition of many e-commerce services is extremely broad.
The following transactions shall not be considered to be e-commerce services under the Russian Tax Law:

- sale of goods (works, services) through the internet if the supply of goods (works, services) ordered is performed beyond the Internet platform of supply;
- sale of computer software (including computer games) and databases on physical sources;
- consultancy services rendered via email; and
- internet access services.

In the B2C supply context, a foreign organization-seller of e-commerce services is to register with the Russian tax authority and administer Russian VAT liability itself.

Russian tax law provides for a VAT exemption for provision of exclusive rights for inventions, utility and design models, ECM software, databases, integrated circuit layouts, know-how as well as rights to use such intangibles under a license agreement. Formally, the VAT Exemption can be applied by both Russian and foreign companies, if they qualify for this tax incentive under the generally applicable requirements. This means that certain e-commerce services covered by the incentive, such as the provision of rights to use computer software and databases, will continue to be exempt from VAT. However, even though the qualifying foreign supplier of such e-commerce services may not be obliged to charge and collect VAT from Russian customers, it shall not be released from the obligation to register with the tax authorities in Russia and submit the relevant VAT returns showing no VAT payable.

PLACE OF SUPPLY FOR CROSS-BORDER SUPPLIES OF INTANGIBLES TO BUSINESS CUSTOMERS (B2B)

The place of supply for transfer (provision) of patents, licenses, trademarks, copyrights and other similar rights shall be determined as the place where the service recipient performs its activity. A reverse charge VAT payment mechanism functions in relation to B2B supplies if the foreign supplier is not tax registered in Russia.

As mentioned above, e-commerce services are deemed supplied in Russia if the recipient of these services is “located” in Russia. This rule applies for B2B supplies as well. The Russian location in respect to legal entities and individual entrepreneurs is defined on the basis of the state registration.
Starting from January 1, 2019 in the B2B e-commerce services supply context the reverse charge mechanism is no longer applied (unless there are Russian or foreign intermediaries (agents) in the e-services supply chain that have concluded agency or commission agreements and collect payments from the clients). Instead, the obligation to collect and pay VAT is being transferred to foreign e-commerce suppliers having tax registration in Russia.

Meanwhile the Russian payor will receive a right to recover the VAT so charged as input tax credits, to the extent that such services are used in its taxable operations. This VAT recovery will be available on the condition that the Russian payor has in its files an agreement and/or a payment document showing the VAT amount, the Taxpayer Identification Number (INN) and the Tax Registration Reason Code (KPP) of the foreign company and documents confirming the actual payment (including VAT) to a foreign e-commerce services provider.

As discussed above, there is a VAT exemption available for provision of exclusive rights for inventions, utility and design models, ECM software, databases, integrated circuit layouts, know-how as well as rights to use such intangibles under a license agreement. While certain e-commerce services (e.g. provision of rights to use computer software and databases) may be covered by this exemption, the qualifying foreign supplier of such e-commerce services shall not be released from the obligation to register with the tax authorities in Russia and submit the relevant VAT returns showing no VAT payable.

**DO YOU REQUIRE EVIDENCE OF A CUSTOMER’S VAT NUMBER TO TREAT A SUPPLY AS B2B?**

No

**CAN PRICES BE DISPLAYED ON A TAX EXCLUSIVE BASIS?**

**B2B Transactions**

No, prices should be displayed on a VAT inclusive basis.

**B2C Transactions**

No, prices should be displayed on a VAT inclusive basis.
Saudi Arabia

<table>
<thead>
<tr>
<th>LOCAL NAME FOR VAT</th>
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<tbody>
<tr>
<td>Value Added Tax</td>
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<table>
<thead>
<tr>
<th>APPLICABLE RATES FOR DIGITAL SERVICES</th>
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</thead>
<tbody>
<tr>
<td><strong>Standard Rate</strong></td>
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<tr>
<td>5 percent</td>
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<tr>
<td><strong>Special Rate</strong></td>
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<tr>
<td>N/A</td>
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<tr>
<th>REGISTRATION REQUIREMENTS</th>
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<tbody>
<tr>
<td><strong>Mandatory</strong></td>
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<tr>
<td>The mandatory threshold for persons established in Saudi Arabia is where the value of their annual supplies exceeds SAR375,000. During a transitional period up to January 1, 2019, however, businesses were required to register where annual turnover exceeds SAR1 million and an application for registration had to be submitted no later than December 20, 2018.</td>
</tr>
</tbody>
</table>

For persons not established in Saudi Arabia, or any of the other Gulf Cooperation Council States, and which make taxable supplies in Saudi Arabia, no threshold applies.

<table>
<thead>
<tr>
<th><strong>Optional</strong></th>
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<tbody>
<tr>
<td>A voluntary registration threshold applies where the Saudi Arabia established person’s annual supplies exceeds SAR187,500.</td>
</tr>
</tbody>
</table>
### PLACE OF SUPPLY FOR CROSS-BORDER SUPPLIES OF INTANGIBLES AND E-COMMERCE TO LOCAL CONSUMERS (B2C)

For telecommunications and electronic services, the place of supply shall be Saudi Arabia to the extent this is the customer’s usual place of residence when it consumes and enjoys the service. If services are provided at a particular physical location (such as a telephone box, Wi-Fi hotspot, internet café, etc.), the place of supply should be that location.

### PLACE OF SUPPLY FOR CROSS-BORDER SUPPLIES OF INTANGIBLES AND E-COMMERCE TO BUSINESS CUSTOMERS (B2B)

For telecommunications and electronic services, the place of supply shall be Saudi Arabia to the extent this is the customer's usual place of residence when it consumes and enjoys the service.

### DO YOU REQUIRE EVIDENCE OF A CUSTOMER’S VAT NUMBER TO TREAT A SUPPLY AS B2B?

Yes, the VAT number of the recipient should be collected (and verified) in order for the supplier to treat the supply as B2B. Alternative evidence may be used to indicate that the recipient of the services is a business.

### CAN PRICES BE DISPLAYED ON A TAX EXCLUSIVE BASIS?

Displayed prices must in principle be inclusive of VAT.
Singapore

LOCAL NAME FOR VAT

Goods and Services Tax or GST

APPLICABLE RATES FOR DIGITAL SERVICES

Standard Rate
7 percent

Special Rate
N/A

REGISTRATION REQUIREMENTS

Mandatory
Businesses with taxable turnover of SGD1 million in a 12-month period must register for GST. Note that this threshold is applied both retrospectively (i.e. to supplies made in the past 12 months) and prospectively (anticipated supplies in the next 12 months).

Optional
Business below the mandatory taxable turnover threshold may voluntarily register for GST.

PLACE OF SUPPLY FOR CROSS-BORDER SUPPLIES OF INTANGIBLES TO LOCAL CONSUMERS (B2C)

The place of supply for intangible supplies is based on the country in which the supplier belongs. If the supplier belongs in country other than Singapore, the place of supply is taken to be that other country. Consequently, intangible supplies made outside of Singapore, and supplied to customers in Singapore, may not be subject to GST in Singapore.

While Singaporean GST law does provide for a reverse charge to apply to inbound supplies of services, the reverse charge mechanism is not applied in Singapore at the time of publication.
PLACE OF SUPPLY FOR CROSS-BORDER SUPPLIES OF INTANGIBLES TO BUSINESS CUSTOMERS (B2B)

There is no distinction between intangible supplies made to business customers or local consumers. Therefore, the comments above relating to B2C supplies apply equally to B2B supplies.

DO YOU REQUIRE EVIDENCE OF A CUSTOMER’S VAT NUMBER TO TREAT A SUPPLY AS B2B?

As noted above, there is presently no distinction in the GST treatment of B2B supplies and B2C supplies.

CAN PRICES BE DISPLAYED ON A TAX EXCLUSIVE BASIS?

With few exceptions, GST registered businesses must display prices on a GST inclusive basis.

SINGAPORE GST (AMENDMENT) ACT 2018

The Act has been gazetted on December 27, 2018. The date of its entry into force has not yet been announced. Nevertheless, the following changes are anticipated to take effect from January 1, 2020:

1. Overseas vendor registration (B2C supplies)
   Persons who do not belong in Singapore but who make:
   
   (a) taxable supplies, if these were made in Singapore, in excess of SGD1 million; and
   
   (b) supplies of digital services to customers in Singapore in excess of SGD100,000 in a calendar year are also required to register for GST.

2. Reverse charge (B2B supplies)
   The following persons are required to apply the reverse charge provisions:
   
   (a) GST-registered persons who are not entitled to full input tax credit or who belong to GST groups that are not entitled to full input tax credit;
   
   (b) non-GST registered persons who procure services from overseas suppliers exceeding SGD1 million in a 12-month period and would not be entitled to full input tax credit even if GST-registered.
## Local Name for VAT

Value-Added Tax (VAT)

## Applicable Rates for E-Commerce Services

**Standard Rate**
15 percent is applicable if the supply is subject to SA VAT. The zero rate (0 percent) may apply if the supply is rendered by a SA VAT vendor to a non-resident in certain circumstances.

**Special Rate**
N/A

## Registration Requirements

**Mandatory**
In general, registration is mandatory where (i), the value of taxable supplies has exceeded ZAR1 million in any consecutive 12-month period or (ii), taxable supplies in terms of a contractual obligation in writing to be made in the next 12-month period will exceed ZAR1 million. In respect of electronic services, where the person or businesses outside South Africa supplies electronic services to clients in South Africa, they will need to register and account for VAT to the South African Revenue Services (SARS) should their supplies exceed ZAR50,000.

**Optional**
Where it is anticipated that the value of the taxable supplies has or is reasonably expected to exceed ZAR50,000 within 12 months from the date of registration.
PLACE OF SUPPLY FOR CROSS-BORDER SUPPLIES OF E-SERVICES TO LOCAL CONSUMERS (B2C)

South Africa does not have explicit place of supply rules. Any person or business that supplies “electronic services” as defined from a place outside South Africa to a resident in South Africa, or where any payment made to that person or business in respect of such electronic services originates from a bank in South Africa, is regarded as carrying on an "enterprise" in South Africa. Registration is mandatory if the value of the supplies made through the enterprise exceeds the registration threshold (see above).

Regulations have been published that list the electronic services in respect of which a foreign service provider must account for VAT in South Africa.

Until April 1, 2019, these electronic services will include the following:

• educational services, excluding educational services provided by a supplier that is regulated by an educational authority in the foreign country;
• games and games of chance;
• internet-based auction services;
• the supply of e-books, audio visual content, still images or music; and
• subscription services to any journal, magazine, newspaper, game, publication, web application etc.

From April 1, 2019, the regulations have been expanded significantly to include all electronic services supplied by an electronic agent, electronic communication or the internet for any consideration, other than:

• educational services supplied from a place in an export country;
• telecommunications services; or
• certain services supplied from a place in an export country that is not a resident of South Africa to company part of the same group of companies in South Africa.
Where the foreign person or business is not required to register for VAT in South Africa under the specific electronic services provisions, the recipient of the services may be required to account for VAT on a reverse charge basis to the extent that the supply constitutes an “imported service.” VAT is levied on “imported services” as defined, being services supplied by a supplier who is a non-resident or carries on business outside South Africa to a recipient who is a South African resident, to the extent that services are not used in South Africa for the purposes of making a taxable supply. In respect of an “imported service,” the recipient would need to account for VAT to SARS within 30 days of the import and a VAT 215 form must be completed and submitted to SARS.

### PLACE OF SUPPLY FOR CROSS-BORDER SUPPLIES OF E-SERVICES TO BUSINESS CUSTOMERS (B2B)

As noted above, South Africa does not have explicit place of supply rules. Unfortunately, there is no explicit exclusion of B2B transactions and the same rules apply as B2C transactions.

### DO YOU REQUIRE EVIDENCE OF A CUSTOMER’S VAT NUMBER TO TREAT A SUPPLY AS B2B?

The general VAT rules require the VAT number to be displayed on an invoice if the person or business is a VAT registered vendor.

### CAN PRICES BE DISPLAYED ON A TAX EXCLUSIVE BASIS?

Yes. The usual practice in South Africa is to display the price on a tax exclusive basis, with the applicable VAT and total consideration indicated separately. Unless a vendor specifically states otherwise, the purchase price payable for a supply of goods/services is deemed to be inclusive of VAT.
Spain

LOCAL NAME FOR VAT

Impuesto Sobre el Valor Añadido

APPLICABLE RATES FOR DIGITAL SERVICES

Standard Rate
21 percent

Special Rate
N/A

REGISTRATION REQUIREMENTS

Mandatory
Registration is required when the taxable person needs to pay VAT to the Spanish tax authorities (intra-Community transactions).

Optional
When the EU non-resident supplier has chosen Spain as the country of registration under the special regime for electronically supplied services and telecommunication, radio and television broadcasting services.

PLACE OF SUPPLY FOR CROSS-BORDER SUPPLIES OF INTANGIBLES TO LOCAL CONSUMERS (B2C)

As from January 1, 2019, B2C e-services are deemed to be supplied in the EU Member State where the supplier is established, if the following conditions are met:

• the recipient is not a VATable person;

• the supplier is established in only one Member State; and

• the maximum B2B transactions has not exceeded EUR10,000 during the previous year (VAT excluded).
However, the supplier can choose Spain as the place of supply of the e-service regardless of whether the abovementioned threshold has not been exceeded.

If the abovementioned EUR10,000 threshold is exceeded, the place of supply of services shall be deemed Spain when the recipient is established within the Spanish territory, or has a permanent address or usually resides within such territory.

The use and enjoyment rule applies to all e-commerce and intangible services.

### PLACE OF SUPPLY FOR CROSS-BORDER SUPPLIES OF INTANGIBLES TO BUSINESS CUSTOMERS (B2B)

The place of supply of services to a taxable person acting as such shall be the place where the recipient has established its business or has a fixed establishment to which the service is supplied, or, in the absence of such a place of business or fixed establishment, the place where the recipient has a permanent address or usually resides.

The use and enjoyment rule applies to all e-commerce and intangible services.

### DO YOU REQUIRE EVIDENCE OF A CUSTOMER’S VAT NUMBER TO TREAT A SUPPLY AS B2B?

To treat a supply as B2B, the customer’s VAT number (VIES registered) is required by the supplier.

### CAN PRICES BE DISPLAYED ON A TAX EXCLUSIVE BASIS?

This is not possible, as prices must be displayed on a VAT inclusive basis.
## Sweden

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<thead>
<tr>
<th>LOCAL NAME FOR VAT</th>
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<td>Mervårdesskatt, moms</td>
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<tr>
<th>APPLICABLE RATES FOR DIGITAL SERVICES</th>
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<tbody>
<tr>
<td><strong>Standard Rate</strong>&lt;br&gt;25 percent</td>
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<tr>
<td><strong>Special Rate</strong>&lt;br&gt;N/A</td>
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<th>REGISTRATION REQUIREMENTS</th>
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<tbody>
<tr>
<td><strong>Mandatory</strong>&lt;br&gt;Registration for VAT is normally mandatory if sales of taxable goods or services are made in Sweden by a taxable person. A registration for VAT is required when selling within Sweden to consumers. A taxable person who purchases goods or services where a reverse charge is applicable must register for VAT.</td>
</tr>
<tr>
<td><strong>Optional</strong>&lt;br&gt;Non-EU businesses who sell e-services are free to register at a single national tax agency within the EU, for example with the Swedish Tax Agency. Sweden will then be that business’s one stop shop for registering, declaring and paying such VAT.</td>
</tr>
</tbody>
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<table>
<thead>
<tr>
<th>PLACE OF SUPPLY FOR CROSS-BORDER SUPPLIES OF INTANGIBLES TO LOCAL CONSUMERS (B2C)</th>
</tr>
</thead>
</table>
| The main rule is that the place of supply of cross-border B2C e-commerce services is where the customer has his/her permanent address or usually resides. However, from January 1, 2019, there will be exceptions to the general rule, which means that the place of supply, under certain circumstances, is where the supplier is based. Under certain circumstances, the supplier can choose the place of supply.  

The main rule in case of other supply of intangibles than e-commerce supply to EU based consumers is that the supply takes place where the supplier is based. |
**PLACE OF SUPPLY FOR CROSS-BORDER SUPPLIES OF INTANGIBLES TO BUSINESS CUSTOMERS (B2B)**

When e-commerce services are provided to a taxable person, the main rule is that the services are provided in Sweden if the buyer is established in Sweden and the service is not provided to a fixed establishment abroad. Reversed charge applies if the seller is established outside Sweden.

**DO YOU REQUIRE EVIDENCE OF A CUSTOMER’S VAT NUMBER TO TREAT A SUPPLY AS B2B?**

In most cases the buyer's VAT number is sufficient, but the tax agency may also accept other evidence showing that the buyer is a taxable person. If the buyer is outside of the EU there may not be a VAT number recognizable in Sweden and the Seller must use other means to show that the buyer is a taxable entity established outside of the EU. Any evidence, other than a VAT-number, is on the suppliers risk.

**CAN PRICES BE DISPLAYED ON A TAX EXCLUSIVE BASIS?**

Prices stated to consumers must include VAT as a main rule. If the price is stated exclusive of VAT and it is not clear to the consumer that there will be a VAT charge, the consumer will only have to pay the price exclusive of VAT. Please note that this follows from consumer protection legislation and not from the tax legislation. Prices stated to businesses are usually stated exclusive of VAT.

With respect to invoices, there are strict rules regarding what information the invoice must contain.
United Arab Emirates

**LOCAL NAME FOR VAT**

| Value Added Tax |

**APPLICABLE RATES FOR DIGITAL SERVICES**

<table>
<thead>
<tr>
<th>Standard Rate</th>
<th>Special Rate</th>
</tr>
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<tbody>
<tr>
<td>5 percent</td>
<td>N/A</td>
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</table>

**REGISTRATION REQUIREMENTS**

**Mandatory**

The mandatory threshold for persons established in the UAE is where the value of their annual supplies exceeds AED375,000.

For persons which are not established in the UAE, or any of the other Gulf Cooperation Council States, and which make taxable supplies in the UAE, no threshold applies.

**Optional**

A voluntary registration threshold applies where the UAE established person's annual supplies exceeds AED187,500.

**PLACE OF SUPPLY FOR CROSS-BORDER SUPPLIES OF INTANGIBLES AND E-COMMERCE TO LOCAL CONSUMERS (B2C)**

For telecommunications and electronic services, the place of supply shall be the UAE to the extent the use and enjoyment of the supply is in the UAE.

**PLACE OF SUPPLY FOR CROSS-BORDER SUPPLIES OF INTANGIBLES AND E-COMMERCE TO BUSINESS CUSTOMERS (B2B)**

For telecommunications and electronic services, the place of supply shall be the UAE to the extent the use and enjoyment of the supply is in the UAE.
<table>
<thead>
<tr>
<th><strong>DO YOU REQUIRE EVIDENCE OF A CUSTOMER’S VAT NUMBER TO TREAT A SUPPLY AS B2B?</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes, the VAT number of the recipient should be collected (and verified) in order for the supplier to treat the supply as B2B. Alternative evidence may be used to indicate that the recipient of the services is a business.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>CAN PRICES BE DISPLAYED ON A TAX EXCLUSIVE BASIS?</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>For UAE VAT purposes, displayed prices should in principle be displayed inclusive of VAT.</td>
</tr>
<tr>
<td>Prices may only be declared exclusive of VAT in the case of (zero rated) export or where the customer is a registrant for UAE VAT purposes (further conditions apply as to how the price is displayed).</td>
</tr>
</tbody>
</table>
United Kingdom

Note: Given the UK’s impending exit from the EU, the post-Brexit position may differ depending on the agreement (if any) that is reached between the UK and the EU 27, and how current legislation is transposed into UK law.

<table>
<thead>
<tr>
<th>LOCAL NAME FOR VAT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Value Added Tax or VAT</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>APPLICABLE RATES FOR DIGITAL SERVICES</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Standard Rate</strong></td>
</tr>
<tr>
<td>20 percent</td>
</tr>
<tr>
<td><strong>Special Rate</strong></td>
</tr>
<tr>
<td>N/A</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>REGISTRATION REQUIREMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Mandatory</strong></td>
</tr>
<tr>
<td>VAT registration is mandatory for non-UK established businesses that make any supplies in the UK, and for UK established businesses that exceed the current VAT registration threshold of GBP85,000.</td>
</tr>
<tr>
<td><strong>Optional</strong></td>
</tr>
<tr>
<td>VAT registration is optional for UK established businesses trading below the GBP85,000 threshold.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>PLACE OF SUPPLY FOR CROSS-BORDER SUPPLIES OF INTANGIBLES AND E-COMMERCE TO LOCAL CONSUMERS (B2C)</th>
</tr>
</thead>
<tbody>
<tr>
<td>From January 1, 2019 for cross-border supplies of digital services on a B2C basis, from a supplier who belongs in the UK to private consumers in another EU member state, the place of supply will be the UK if the supplier is not established in any other EU member state and the total value of the cross-border supplies of digital services to consumers in the EU in the current year and previous calendar year is less than £8,818.</td>
</tr>
</tbody>
</table>
PLACE OF SUPPLY FOR CROSS-BORDER SUPPLIES OF INTANGIBLES AND E-COMMERCE TO BUSINESS CUSTOMERS (B2B)

For e-commerce services, the supply takes place where the customer has its business establishment, or if it has establishments in more than one jurisdiction, where its establishment is based which is most directly concerned with the supply. Similarly, a business customer established in the UK, which receives an e-commerce supply from outside the UK, must account for VAT under the reverse charge.

The effective use and enjoyment rule applies to B2B e-commerce services. Where the usual rules would dictate that the place of supply is outside the EU, but the services are effectively used and enjoyed in the UK, the place of supply shifts to the UK, and if the usual rules would dictate that the place of supply is in the UK, but the services are effectively used and enjoyed outside the EU, there is no EU VAT. Great care must therefore be taken if the services are consumed in a different country from the one in which the customer is established.

So far as the B2B supply of services of intangibles is concerned, the supply takes place where the business customer is located. The effective use and enjoyment rules do not apply.

DO YOU REQUIRE EVIDENCE OF A CUSTOMER’S VAT NUMBER TO TREAT A SUPPLY AS B2B?

The VAT registration number is the best evidence, but UK HMRC accept alternative evidence of the customer being in business, for example contracts, business letterheads, publicity material or certificates from fiscal authorities. It is, however, at the supplier’s risk.

CAN PRICES BE DISPLAYED ON A TAX EXCLUSIVE BASIS?

As far as invoicing is concerned, there are strict rules as to what details the invoice must contain and the rules differ for services supplied B2B and B2C. On websites and advertising material, it is generally possible to show the VAT exclusive amount, provided it is not misleading, for example if all those to whom the price is clearly addressed pay no VAT or can recover the VAT in full. If VAT-exclusive prices are shown, they must be accompanied by a prominent statement of the amount or rate of VAT payable.
United States of America

<table>
<thead>
<tr>
<th>LOCAL NAME FOR VAT</th>
</tr>
</thead>
<tbody>
<tr>
<td>State Sales and Use Tax</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>APPLICABLE RATES FOR DIGITAL SERVICES</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Standard Rate</strong></td>
</tr>
<tr>
<td>Varies by US states. There are 50 states plus the District of Columbia. Sales and use tax is imposed by 45 states at varying rates. There is generally a state rate and a local rate based on a particular subdivision of a state, such as a county or special district. The combined state and local rate in some jurisdictions can exceed 10 percent. State and local sales taxes are not imposed in Alaska, Delaware, Montana, New Hampshire or Oregon. The tax is generally collected by the vendor from the customer and then reported and remitted to the state. Failure to collect can result in the vendor being held liable for the tax by the state.</td>
</tr>
</tbody>
</table>

| **Special Rate**               |
| Varies, if any, vary by jurisdiction. For example, the state sales tax rate in Connecticut is 6.35 percent, but the rate on computer and data processing services is 1 percent. |
REGISTRATION REQUIREMENTS

Mandatory
Registration is required for vendors who have “nexus” in a state. Nexus may be triggered by engaging in an activity that under state law, constitutes “doing business,” “engaging in business,” or some other similar designation. Prior United States Constitutional principles established in federal case law imposed a “physical presence” requirement for nexus in the state. In June 2018, however, the US Supreme Court determined in the Wayfair case that physical presence was no longer a nexus prerequisite. Accordingly, in addition to a physical presence, taxpayers may now acquire nexus solely by making sales to customers in the state. The Wayfair Court indicated that USD100,000 of sales or 200 separate transactions with in-state customers might suffice for annual nexus tests. Nexus in some cases might also be established by the presence of licensed software, or a vendor’s software code (a “cookie”) that is placed on a customer’s computer to track the customer’s online purchasing activity. Since each state may have different nexus standards, out-of-state or foreign sellers should carefully examine the nexus requirements in each state in which they have customers.

Optional
Most states permit vendors who are not required to register, to voluntarily register and collect and remit tax.

PLACE OF SUPPLY FOR CROSS-BORDER SUPPLIES OF INTANGIBLES AND E-COMMERCE TO LOCAL CONSUMERS (B2C)
In most jurisdictions, the place of supply is the place of delivery of the goods or products to the customer. Special rules may apply when use occurs in jurisdictions other than the place of delivery.
### PLACE OF SUPPLY FOR CROSS-BORDER SUPPLIES OF INTANGIBLES AND E-COMMERCE TO BUSINESS CUSTOMERS (B2B)

In most jurisdictions, the place of supply is the place of delivery of the goods or products to the business purchase. Special rules may apply when use occurs in jurisdictions other than the place of delivery. Unlike VAT, however, the sales and use tax in the US is intended to be imposed only on the final sale to the end user. As a result, a B2B sale where the business purchaser resells the goods or services to an end user customer (instead of consuming the goods or services itself), may be exempt from tax if the purchaser provides the vendor with a resale certificate, evidencing an intent to resell the goods or services.

### DO YOU REQUIRE EVIDENCE OF A CUSTOMER’S VAT NUMBER TO TREAT A SUPPLY AS B2B?

Yes, see above. For a sale to be exempt as a sale for resale, the business purchaser must generally furnish the vendor with a resale certificate. The specific requirements for the use and form of resale certificates, varies by jurisdiction.

### CAN PRICES BE DISPLAYED ON A TAX EXCLUSIVE BASIS?

This varies by state. Many states permit prices to be displayed on a tax exclusive basis as long as the state’s specific requirements are met.
Key Contacts

Australia
Jock McCormack
Partner
+61 29 286 8253
jock.mccormack@dlapiper.com

Austria
Dimitar Hristov
Partner
+42 1 531 78 1120
dimitar.hristov@dlapiper.com

Bahrain
Ton Van Doremalen
Partner
+971 4438 6127
ton.vandoremalen@dlapiper.com

Canada
Dennis Yee
Associate
+1 604 643 2959
dennis.yee@dlapiper.com

China
Daniel Chan
Partner
+852 2103 0821
daniel.chan@dlapiper.com

Czech Republic
Jan Rataj
Senior Associate
+420 222 817 800
jan.rataj@dlapiper.com

Czech Republic
Dimitar Hristov
Partner
+42 1 531 78 1120
dimitar.hristov@dlapiper.com

Denmark
Artur Bugsgang
Partner
+453 332 0006
artur.bugsgang@dlapiper.com

Finland
Jaakko Klemettilä
Counsel
+358 9 4176 0435
jaakko.klemettila@dlapiper.com

France
Fanny Comboureiu
Partner
+33 1 40 152 523
fanny.comboureiu@dlapiper.com

Germany
Dr. Bjoern Enders
Partner
+49 69 271 33 342
bjoern.enders@dlapiper.com
CROSS-BORDER SUPPLIES OF INTANGIBLE SERVICES, DIGITAL CONTENT AND RIGHTS

Hungary
Akos Becher
Of Counsel
+36 15 101 160
akos.becher
@dlapiper.com

New Zealand
David Johnston
Special Counsel (Tax)
+64 9 300 3812
david.johnston@dlapiper.com

Italy
Giovanni Iaselli
Partner
+39 02 80 618 605
giovanni.iaselli
@dlapiper.com

Norway
Preben Aas
Partner
+47 24 13 15 30
preben.aas
@dlapiper.com

Japan
Makiko Kawamura
Partner
+81 34 550 2815
makiko.kawamura
@dlapiper.com

Poland
Bartosz Matusik
Partner
+48 22 540 74 66
bartosz.matusik
@dlapiper.com

Luxembourg
Jacques Wantz
Partner
+352 262 904 2635
jacques.wantz
@dlapiper.com

Portugal
António Moura
Portugal
Partner
+351 21 358 36 20
antonio.portugal
@dlapiper.com

Netherlands
Daan Arends
Partner
+31 20 5419 315
daan.arends
@dlapiper.com

Romania
Tudor Nedelea
Partner
+40 372 155 815
tudor.nedelea
@dlapiper.com
Russia

Ruslan Vasutin
Partner
+7 812 448 7200
ruslan.vasutin
@dlapiper.com

Igor Venediktov
Partner
+7 (495) 221 4199
igor.venediktov
@dlapiper.com

Saudi Arabia

Ton Van Doremalen
Partner
+971 4438 6127
ton.vandoremalen
@dlapiper.com

Singapore

Tham Suit Fun
Director of
International Tax
Pioneer Associates
+65 (6327) 6239
suitfun@
pioneerassociates.com.sg

South Africa

Andrew Lewis
Partner
+27 11 302 0843
andrew.lewis
@dlapiper.com

Spain

Miguel Baz
Partner
+34 91 788 7307
miguel.baz
@dlapiper.com

Sweden

Erik Björkeson
Partner
+46 8 701 78 89
erik.bjorkeson
@dlapiper.com

United Arab Emirates

Ton Van Doremalen
Partner
+97 14 438 6127
ton.vandoremalen
@dlapiper.com

United Kingdom

Richard Woolich
Partner
+44 20 71 53 7336
richard.woolich
@dlapiper.com

United States of America

Hugh Goodwin
Partner
+1 650 833 2262
hugh.goodwin
@dlapiper.com