KPMG

Tax Corner

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VAT: invoice is once **again crucial in 2016**

New tax point rules for VAT: administrative simplification

At the end of June, the Cabinet approved a draft bill that would once again change the rules regarding when VAT becomes due. This bill will in principle enter into effect on 1 January 2016. The time when the VAT is due, or the "tax point", determines when a transaction must be reported on a VAT return and the VAT must be paid to the Belgian Treasury.

In principle, the supply of the goods or the provision of the service are the primary cause of the VAT becoming payable to the Treasury. In addition, there are also 'secondary' causes that make VAT due for payment. Until the end of 2012, that was the case if an invoice was issued or the price, or part of it, was paid before the goods were supplied or the service was provided.

Under the Di Rupo government, new rules were introduced in effect from 2013, cancelling the invoice as being a cause of the VAT becoming due for payment. From a strict legal viewpoint, issuing of an invoice for Belgian supplies of goods and services no longer leads to the VAT becoming payable.

These complicated new rules caused quite a lot of fuss and practical problems, since most accounting packages were unable to handle the situation. So transitional arrangements were adopted immediately to allow the old rules to continue to be applied. These arrangements have been renewed a number of times since.

At the beginning of October 2014, the tax authorities published another complicated 'definitive regime' due to enter into force on 1 January 2015, but shortly afterwards renewed the transitional arrangements once more. This led to the bizarre situation that a taxpayer can now choose from no less than four different regimes, which moreover, can be used interchangeably. Confusion all around.

With the rules adopted by the Cabinet, which are due to take effect on 1 January 2016, this lack of clarity should cease, and the aim is to achieve administrative simplification by assigning a key role to invoices again.

The draft bill includes that the VAT will become due on the amount invoiced at the time the invoice is issued, irrespective of whether the invoice is issued before or after the supply of the goods or the provision of the service. The fifteenth of the month following the month in which the goods were supplied, or the service was provided, will however be the ultimate time in which the VAT will become due. This deadline will therefore apply even if the invoice is issued too late.

So, the supply of the goods or the provision of the service remains the primary cause of VAT eligibility, but de facto it will be the invoice that will determine when the VAT will be due for payment. In addition, payment of the price before the supply of the goods or the provision of the service will continue to be a secondary cause of VAT eligibility.

The cash system that was previously introduced for supplies of movable goods and services performed for private individuals, and for which no invoice is to be issued, has been retained. The VAT on these transactions only needs to be paid to the Treasury at the time of payment by the private individual. A new feature is that the cash system will be extended from 2016, to include supplies of movable goods and services to government institutions. In that way, pre-financing of the VAT by suppliers and service providers will be avoided, since they will only have to pay the VAT to the Treasury at the time when they actually receive payment from the government institution.

Please note that for intra-Community supplies of goods and services, everything stays as it was before. For intra-Community supplies of goods, the VAT remains payable on the fifteenth day of the month following the one in which delivery occurred, unless an invoice is issued before delivery. In the case of intra-Community services, it is the time when the service is provided, unless the price (or part of the price) is received earlier.

The new rules appear to be a step in the direction of the administrative simplification promised by the government in its coalition agreement.

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The Cafeteria Plan: **Employee benefits of the future**

With a flexible rewards plan, or cafeteria plan, a company is able to offer a more attractive and flexible salary package to its employees. Even better, these plans can be implemented without incurring any additional wage costs. KPMG has designed an innovative web-based tool that automates much of the administration of this kind of plan, making it simple for companies to transition.

Firms are looking for an attractive and flexible benefits package that is cost-efficient and responds to current remuneration trends. A flexible rewards plan or 'cafeteria plan' can be a good solution for this. A cafeteria plan is a compensation method which enables employees to assemble their own compensation and benefits package, within limits set by the employer.

What are the benefits?

Employees who can put together their own rewards package to fit their changing needs and those of their family, are likely to be more satisfied employees. For some employees, certain benefits are sometimes appreciated more than a higher cash salary. The combination of cash and other benefits could also ultimately result in a higher net salary to the employee, with no extra costs for the company.

A cafeteria plan can also help a company to set itself apart from the competition, allowing them to find and retain the best talent on the market. Giving employees a choice in their remuneration is unique, and by offering this personal touch, shows that the company shows it understands that each of its employees are different and have different needs.

In addition, many companies are now considering allocating a mobility budget or package that meets the actual requirements of the employee, and promotes the use of certain forms of sustainable mobility. This is ideally suited for the introduction of a cafeteria plan into an organization.

Although flexible reward plans are usually implemented in a budget-neutral manner, these plans can sometimes lower the employer's total costs. The benefits package can be assembled from components that attract more favorable tax and/or fiscal treatment, which results in lower costs to employers.

Challenges and practical tips

Introducing a cafeteria plan can be done within any company - whether it is an SME or a multinational. Nevertheless, there are a number of points that require attention. First and foremost, you should keep the legal and fiscal practicalities in mind. Any benefit granted to employees, is treated differently from the viewpoint of income tax, corporation tax, VAT, social security, and labor law. So, you have to take each of these aspects into consideration when implementing a cafeteria plan.

It is also vitally important that employees are able to assess the impact of the various components on their net pay when putting together their pay package. KPMG has designed an innovative web-based tool for exactly this purpose. The tool is designed to make the implementation easy for all sides. With this tool, the employer can communicate with employees, and the administrative hassles associated with a cafeteria plan can be limited as much as possible. The employee's choices are recorded in an exportable database that can be linked to other systems to help ensure to maximum automation.

In addition, effective communication before roll-out, and during the roll-out" is essential for a cafeteria plan to succeed. In other words, the introduction of a cafeteria plan requires an integrated, multi-disciplinary approach and must be adapted to the specific needs of the company and its workforce.

Although sizeable investments will need to be made (in organizational structure, organizational culture, and in the processes), this kind of system can deliver all the benefits that are set out above.

How the tool can work?

Peter has a monthly gross salary of 3,000 EUR. Via the cafeteria plan, he opts for an upgrade to a larger company car and an internet subscription paid for by the employer. In exchange, he is prepared to give up 5 contractually-agreed days of holiday and EUR 110 gross salary per month. Since Peter will only be swapping 550 EUR in net pay and 5 days' holiday for a better car and an Internet subscription, Peter's total pay package has been considerably improved, without resulting in additional cost for his employer.

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Fostering the **Belgian R&D climate:**

Announced decrease of employer's social security contribution to 25%.

Different levels of government in Belgium are striving to create an environment that stimulates activities in the field of research and development. Besides granting R&D subsidies to companies and research institutions (some of which are world-renowned), concessions are also made in the field of taxation and labor costs.

Thanks to the patent income deduction (PID) corporate taxpayers are entitled to an 80% deduction of the qualifying patent income from their taxable basis. Also R&D related investments are encouraged via the investment deduction; an additional deduction calculated as a percentage of the acquisition or investment value of certain assets related to R&D. If subsidies are received from the Regions for a R&D project, these are not subject to tax and can be fully utilized. These tax incentives enable companies to structure their R&D activities, as well as the valorization of the resulting intellectual property, in a tax efficient way.

Additionally, Belgium is well known for its highly qualified workforce and engineers. With regard to the latter, Belgium offers an additional tax incentive enabling companies to optimize their labor costs. This is thanks to a partial exemption of withholding tax on the wages of scientific researchers employed. The company must transfer only 20% of the wage withholding tax to the treasury, and therefore keep the remaining 80%. Following the press conference of 23 July 2015 with regard to the "tax shift", the Belgian government declared that the employer's social security contribution will go down from 33% (actual) to 25%. This will further reduce the cost of scientific personnel in Belgium.

Although budgetary constraints remain, it is noteworthy that the Belgian government has also confirmed its intention to improve the incentives even further with a view to boost innovation, research, and development. A broadening of the scope of the PID, as announced in the government agreement, is a measure that would be welcomed by many companies. Also at an international level it is anticipated that R&D tax incentives such as the PID may need to be amended, for instance to reflect the R&D expenditures by the companies benefiting from the regime.