



A GLOBAL GUIDE TO INDIRECT TAXES

An essential overview for
cross-border businesses

TMF
GROUP

Global reach
Local knowledge

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INTRODUCTION

Are indirect taxes putting your finance teams under pressure?

This isn't surprising when you consider how rapidly laws can change in any one country, let alone when your personnel are responsible for the tax management of international operations.

Do you have the required in-house expertise and resources to properly track and implement new rules and requirements, or are you leaving your business open to compliance breaches, penalties and lost cash flow?

The Global Guide to Indirect Taxes spotlights 12 key jurisdictions. TMF Group's in-country tax experts answer eight essential questions to help minimise your risk and highlight the legislative challenges and opportunities that exist when doing business internationally.

We also provide you with a global overview of what indirect tax type (VAT, GST or sales tax) applies where. From knowing whether your business needs to be tax registered in a certain jurisdiction to import taxes and duties – businesses should review and optimise their supply chains for potentially significant cost savings or cash flow benefits.

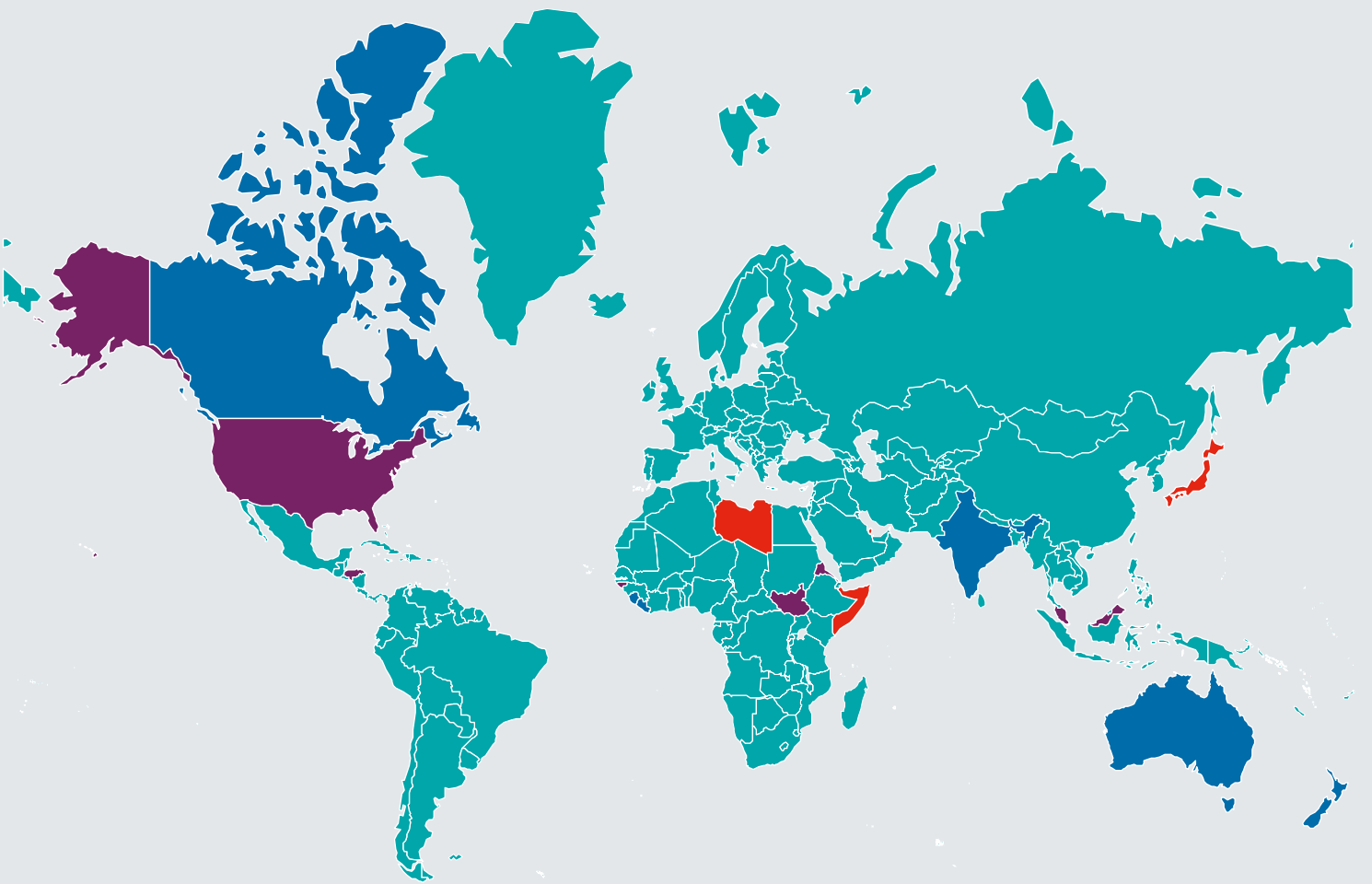
For example, some jurisdictions allow for the deferral of import VAT which is advantageous to mitigate the impact of negative cashflow. Notable purchases made in certain jurisdictions may be subject to VAT which can be claimed back. With VAT rates in the European Union ranging between 17% and 27%, this can lead to considerable savings.

The Covid-19 pandemic triggered numerous short-term indirect tax changes. Notably, extended deadlines, deferrals of liability payments and an emergency reduction of VAT rates – particularly for the hospitality sector. Now, with the pandemic officially behind us, many governments reversed entirely or partially those changes.

Apart from obvious cash flow impact, those changes and subsequent reversal have also required significant and rapid tax technology configurations. And now that the digital platforms have become the dominant channel for communication and commerce in today's world, the attention of the tax offices globally follows the trend. The criteria for digital services provider recognition and the requirements for indirect tax registration vary a lot globally. Some guide's highlights from this area will be of interest both for digital platforms providers and their users (as fiscal impact might affect the ultimate price).

The contents of this guide will help you to address your compliance concerns while at the same time boosting your understanding of cost reduction and cash flow opportunities.

If you need any further clarification or guidance, TMF Group is here to help.



Which tax is used where?

Some countries apply more than one type of indirect tax, and this is reflected accordingly.

Value Added Tax

Argentina	Guatemala	Romania
Austria	Hungary	Russia
Belgium	Indonesia	Serbia
Bolivia	Ireland	Slovakia
Brazil	Israel	Slovenia
Bulgaria	Italy	South Africa
Chile	Jamaica	South Korea
China	Kazakhstan	Spain
Colombia	Luxembourg	Sweden
Costa Rica	Malta	Switzerland
Croatia	Mauritius	Taiwan
Cyprus	Mexico	Thailand
Czech Republic	Netherlands	Turkey
Denmark	Nicaragua	Ukraine
Dominican Republic	Norway	United Arab Emirates
Ecuador	Panama – VAT known as ITB	United Kingdom
El Salvador	Paraguay	Uruguay
Finland	Peru	Venezuela
France	Philippines	Vietnam
Germany	Poland	
Greece	Portugal	

Sales Tax

Canada
Curacao
Honduras
Indonesia – Luxury Sales Tax
Labuan
Malaysia
USA

Goods and Services Tax

Australia
Canada
India
Jersey
Labuan
New Zealand
Singapore

No VAT, Sales Tax or GST

BVI
Cayman Islands
Guernsey
Hong Kong
Qatar - VAT implementation expected by late 2021
Japan – Japanese 'Consumption Tax' is similar to European VAT

VAT IN BRAZIL



Brazil's complex tax system – particularly around VAT – makes it challenging for international businesses which must navigate federal, state and municipal taxes. Companies need to dedicate a large amount of time and technological resources to ensure compliance. A simplified, single VAT system is planned as part of tax reform in Brazil, but implementation timelines are not yet known.



Marilia Macedo

Head of Accounting & Tax, TMF Brazil

1. Is it possible to operate (sell goods or services) in Brazil without establishing an entity there?

No, a local entity must be established in Brazil if foreign companies want to do business in the country. There are multiple formation options:

- Limited Liability Company
- Corporation
- EIRELI – Empresa Individual de Responsabilidade Limitada.

2. What are the VAT registration thresholds?

There are no VAT registration thresholds in Brazil. If taxable supplies are made in the country, registration is compulsory.

3. Are providers of digital services required to register?

Providers of digital services in Brazil must register with the federal and municipal tax authorities. Registration with the state tax authority is also required if the company sells goods.

4. If a business incurred tax on purchases made before it registered in Brazil, can it recover this, or is the tax lost?

Tax incurred on purchases made before business registration in Brazil cannot be recovered, because companies must be properly registered in the country to acquire assets, stock or inventory.

5. When importing goods, is it possible to defer VAT at the point of import?

It is possible, but only in the state of Rio de Janeiro. Decree no. 46,781 issued on 1 October 2019 grants a state VAT (ICMS) deferral on imports of raw manufacturing materials and on imports of goods for resale. Customs clearance must be processed in the state.



6. Is electronic invoicing mandatory in Brazil?

Yes, e-invoicing is mandatory for companies and there are a few official formats:

- Nota Fiscal Eletrônica (NF-e) for goods
- Nota Fiscal de Serviços Eletrônica (NFS-e) for services
- Conhecimento de Transporte Eletrônico (CT-e), an e-waybill for freight services.

7. If invoices are not paid, what bad debt relief is available to Brazil taxpayers?

Losses on bad debts are tax deductible in Brazil based on the amounts, time overdue, administrative and/or legal actions taken to recover the losses.

If losses arise from intercompany transactions, they are not tax deductible.

8. Recovery of input tax – what are the resident and non-resident conditions?

An overseas company cannot recover VAT, GST and other indirect taxes in Brazil if they are not registered for these taxes locally. VAT is only recoverable for resident companies.



VAT IN CHINA



China's tax incentive policies (exemptions, additional creditable input VAT, recovery of input VAT, scope expansion etc.) usually come with detailed requirements and time limits. It's essential for companies to fully understand the conditions and keep up to date on local tax authority rules. VAT regulation changes will require companies to assess the impact on revenue, profit, cash flow and optimise their supply chains accordingly.



Aphro Hong

Head of Accounting & Tax, TMF China

1. Is it possible to operate (sell goods or services) in China without establishing an entity there?

It is possible to do some business in China without establishing an entity. However, leasing premises, opening a bank account, buying or selling in local currency and hiring more than a few employees is not possible without entity establishment.

1.1 If the above is possible, can the business operate directly, or do they need to appoint a local fiscal representative/tax agent?

A withholding agent is required and this role can be performed by an agent or the purchaser (party who buys the product or services from the supplier), for now. However, the new VAT law to be implemented (effective date not announced yet) will only require the purchaser as the withholding agent.

2. What are the VAT registration thresholds?

The VAT registration is done once after the local entity is established, without threshold requirement in terms of sales revenue. The threshold is only applied to types of VAT taxpayer in China which are classified to small scale VAT taxpayer and general VAT taxpayer. The first category applies to businesses that report under RMB5 million in turnover in 12 consecutive months. If over RMB 5 million in turnover, businesses

are classed as general VAT taxpayers. However, the company can voluntarily choose to apply as general VAT taxpayer before reaching the revenue threshold.

3. Are providers of digital services required to register?

Foreign companies providing electronic or digital services to Chinese customers are not required to register for local VAT.

4. If a business incurred tax on purchases made before it registered in China, can the business recover this or is the tax lost?

Businesses cannot recover any input VAT incurred prior to registration in China.

5. When importing goods, is it possible to defer VAT at the point of import?

Yes, it is possible – under China's bonded system – to defer VAT at the point of import. Customs allows companies to defer the payment of tariffs and import-related taxes on all materials and parts imported, whether purchased with foreign exchange or supplied by foreign clients. The amount of imported materials and parts used for making finished products for export is exempt from tariffs and import-related taxes.



6. Is electronic invoicing mandatory in China?

E-invoicing is not mandatory in China. Under the country's 'Golden Tax' VAT administration system, companies can choose to use paper invoices. However only specific, tax authority-issued invoice templates (electronic and paper) are accepted.

7. If invoices are not paid, what bad debt reliefs are available?

Currently, no Chinese VAT regulation allows for any bad debt relief, such as claiming the VAT paid.

8. Recovery of input tax – what are the resident and non-resident conditions?

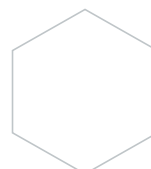
There are no recovery mechanisms for non-resident companies in China. Only businesses registered as general VAT payers are eligible to claim input VAT credits, the scope for which was expanded in 2019.

General VAT taxpayers can recover input VAT on travel costs and expenses provided they have the following documentation:

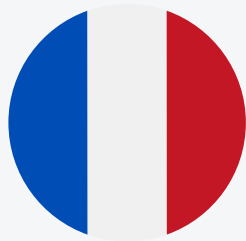
- Special VAT invoice
- Electronic normal VAT invoice
- Air travel e-ticket itinerary
- Train ticket
- Road, water and other transport tickets/voucher.

Locally registered businesses can also claim the full input VAT credit on real estate purchases and construction services. Previously this claim had to be made over two years.

¹ Limited to domestic travel expenses. Employees must have a labour contract with the resident company. Interns, dispatched staff, etc. are excluded.



VAT IN FRANCE



VAT is one of the most important indirect taxes for businesses operating in France. Four different rates apply depending on the nature of the goods or services. The tax requirement and the right of recovery is based on CGI – the French General Code of Taxation. France is currently focused on strengthening its VAT recovery control system and fighting tax irregularities.



Alina Jouot Guralnik

VAT and IPT Manager, TMF France

1. Is it possible to operate (sell goods or services) in France without establishing an entity there?

Yes, it is possible for foreign businesses to carry out taxable sales in France without establishing an entity in the country.

1.1 If the above is possible, can the business operate directly, or do they need to appoint a local fiscal representative/tax agent?

European Union (EU) companies don't need to appoint a VAT fiscal representative, but they may need the help of a tax agent. Non-EU companies are required to appoint a French fiscal representative, unless their jurisdiction has a mutual assistance agreement with France.

2. What are the tax registration thresholds?

Company with taxable sales in France, or those that are importing/exporting/carrying out the intra-community dispatch of goods from France, must register for VAT, without any threshold.

As for distance selling, a new rule was implemented on 1 July 2021.

For distance sellers based in the EU, a unique annual threshold is applied: €10 000 per country (net turnover excluding tax). Crossing this threshold in the sale destination countries, the local VAT rates must apply. As a result, distance sellers are liable for VAT in those countries.

For distance sellers based outside the EU, no threshold is applied. The distance seller (or the "deemed seller", such as an online e-commerce platform) is liable for VAT in each destination country from the first Euro of sale.

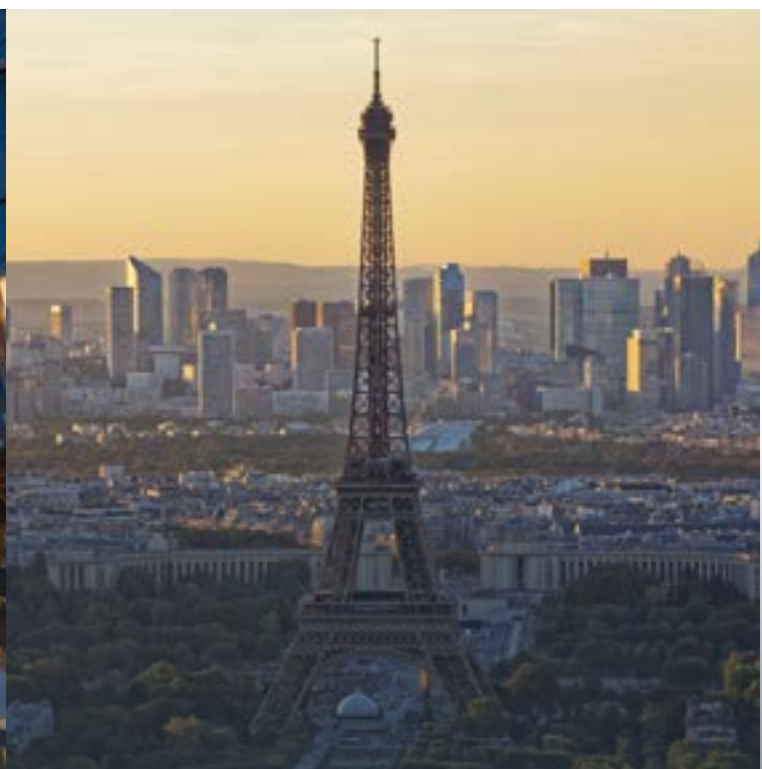
However, instead of registering for VAT in each country, sellers may have an alternative solution - the VAT One Stop Shop (OSS or Guichet Unique) which is a system allowing distance sellers to fulfil their VAT obligation in all EU member states. One single OSS registration in one of the 27 member states suffices.

3. Are providers of digital services required to register and in what cases?

Yes, businesses that provide only digital products to individuals are subject to VAT (from the first Euro of sale). However, sellers can also opt for the OSS for VAT reporting and payment, without needing to register for VAT in each EU country.

4. If a business incurred tax on purchases made before it registered in France, can the business recover this, or is the tax lost?

Input VAT paid on expenses incurred before company registration can be refunded, back to when the first intention to do business in France was expressed. Evidence of market investigation, VAT registration, statement of existence, etc. is needed to support the refund application.



5. When importing goods, is it possible to defer VAT at the point of import?

As of 1 January 2022, all taxable persons importing goods into France must have a French VAT number. Postponed import VAT accounting becomes mandatory. Taxable persons already identified for VAT in France benefit automatically from VAT reverse charge mechanism. Consequently, no more VAT payment is due at the moment of customs clearance.

Taxable persons not identified for VAT in France must apply for a French VAT number if they plan to import goods into France.

6. Is electronic invoicing mandatory in France?

From 1 January 2020, e-invoicing is mandatory for all B2G (business-to-government) transactions.

The 2021 Finance Law introduced obligatory e-invoicing for companies subject to VAT. This project will be implemented progressively between 1 July 2024 and 1 January 2026.

By 1 July 2024, all companies, regardless the company size must be able to accept e-invoices. Regarding the issuance of e-invoicing, the planned calendar is as follows:

- 1 July 2024: for large companies (more than 5 000 employees or more than €1.5 billion in turnover)
- 1 January 2025: for medium sized companies between 250 and 5,000 employees, less than €1.5 billion in turnover)
- 1 January 2026: for all other companies

7. If invoices are not paid, what bad debt relief is available?

Input VAT paid on unpaid invoices can be recovered when the debt is officially declared unrecoverable. This stage is reached only after the supplier has taken all available legal actions against the debtor. VAT may also be recovered following liquidation or a judgment granting a recovery plan.

8. Recovery of input tax – what are the resident and non-resident conditions?

EU-established businesses should refer to the refund terms of EU Directive 2008/9/EC – 8th Directive. Companies established in the EU are entitled to claim back the VAT incurred in another EU country. The yearly claim submission deadline is 30 September of the calendar year following the refund period.

Companies should submit claims to the EU member state of refund through an electronic portal provided by their own tax authority – the member state of establishment.

For non-EU businesses, the 13th Directive 86/560/EEC applies. Companies need to appoint a local French tax representative to submit their refund claims. This tax representative must be a reputable company established in France. The yearly claim submission deadline for non-EU businesses is 30 June of the calendar year following the refund period.

GST IN INDIA



India's biggest tax reform took place in 2017 when the Goods and Services Tax (GST) was introduced with the main objective of "One Nation, One Tax". Improving the ease of doing business, removing the cascading effect on the sale of goods and services, curbing tax evasion and increasing the taxpayer base are the other objectives.

GST in India is a comprehensive, multi-stage, destination-based tax that is levied on every value addition in a dual-model system involving both the central and state governments.

GST has evolved in India with introduction of several new systems like e-waybills and e-invoicing.



Nishant Bahety

Senior Manager - Accounting & Tax, TMF India

1. Is it possible to operate (sell goods or services) in India without establishing an entity there?

Usually, entity establishment is mandatory in India. However, any e-commerce operator who owns, operates, or manages a digital or electronic facility or platform for e-commerce activities can operate in India without establishing an entity here. At the same time, any foreign e-commerce operator (who does not have a physical presence in the taxable territory of India) is required to obtain mandatory registration under Indian GST. Furthermore, they are also required to be registered in each state and union territory where their operations are conducted.

Note: Foreign e-commerce operators would also be liable to collect tax at source (TCS) on supplies done through their marketplace.

1.1 If the above is possible, can the taxpayer operate directly, or do they need to appoint a fiscal representative/tax agent in India?

No, the taxpayer cannot operate directly. They need to appoint a local fiscal representative/tax agent.

2. What are the tax registration thresholds?

- Goods
 - All over India (except specific states*): INR4 million
 - Specific states: INR2 million

- Services
 - All over India (except specific states): INR2 million
 - Specific states: INR1 million

*The specific states are: Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Puducherry, Sikkim, Telangana, Tripura and Uttarakhand.

However, the benefit of threshold exemption is not available to e-commerce operators and they are liable to be registered irrespective of the value of supply made by them.

3. Are providers of digital services required to register and in what cases?

Yes, e-commerce and digital service providers are required to register for GST. Digital services are online information and database access or retrieval services (OIDAR) in India and include the following:

- Cloud services
- Internet advertising
- Provision of e-books, movies, music, software and other intangibles through telecommunications networks or via the internet
- Provision of data or information, retrievable or otherwise, to any person in electronic form through a computer network
- Online supplies of digital content (movies, television shows, music etc).
- Digital data storage

- Online gaming
- Other types of services which are automated and happen through the internet.

4. If a business incurred tax on purchases made before this business registered in India, can the business recover this, or is the tax lost?

Taxes paid by a business before registering in India cannot be recovered.

5. When importing goods, is it possible to defer VAT at the point of import?

No, GST in the case of imported goods must be paid along with customs duties at the customs port itself. GST is exempt when company registered in India availing any exemption benefit under Foreign Trade Policy.

6. Is electronic invoicing mandatory in India?

Every registered taxable person whose aggregate annual turnover exceeds INR100 million in any financial year since 2017-18 is liable to issue e-invoices.

7. If invoices are not paid, what bad debt relief is available?

There is no relief available. Tax paid cannot be recovered from the Indian tax authorities in the case of bad debt.

8. Recovery of input tax – what are the resident and non-resident conditions?

Input tax credit (ITC) is allowed to only registered (taxable) persons under GST in India. Hence, a non-resident (considered to be unregistered) is not eligible to claim an input tax credit or refund. There is a specific list of services on which ITC is not available for claims:

Conditions to claim ITC under GST for Resident taxpayers

Input tax credit is eligible for claims if the goods or services purchased are further used for business purposes and not personal use.

- You must have a tax invoice (of purchase) or debit note issued by a registered dealer.
- The supplier must have filed GST returns (GSTR) and it appears in the buyer's GSTR 2B.
- The buyer must have received the goods and/or services. Where the goods are received in lots or instalments, ITC will be allowed to be availed when the last lot or instalment is received.
- The buyer must pay towards the supply of goods and/or services within 180 days from the invoice date.
- The tax charged on your purchases has been deposited with or paid to the government by the supplier in cash or via claiming input credit.

- No ITC will be allowed if depreciation has been claimed on the tax component of a capital good purchased.

Time limit

The time limit to claim ITC against an invoice or debit note is by the earlier of one of the two following dates:

- The due date for filing GST returns for November of the next financial year.
- The date of filing the annual returns in form GSTR-9 relating to that financial year.

Refund of excess ITC

In case of 'inverted duty structure', the taxpayer can claim refund of any excess ITC available. Normally, there should always be a liability to pay GST due to value addition made by the taxable person. However, due to multiple tax rates, despite value addition, there might arise a situation that there is accumulation of input tax credit wherein GST rate on inputs is higher than the GST rate on outputs which is termed as inverted duty structure.

Conditions to claim a refund

GST returns for the relevant tax period must have been filed. The refund application must be filed within two years from the end of financial year in which the claim for refund arises.

Exceptions

In following cases no refund of the unutilised input tax credit shall be allowed:

- If the output supplies are nil rated or fully exempt supplies.
- If the supplier claims refund of output tax paid under the IGST Act.
- If the goods are exported out of India are subject to export duty.
- If the supplier of goods or services, or both, avails of drawback of the central tax or claims a refund of IGST on such supplies.



VAT IN ITALY



VAT, known in Italy as Imposta sul Valore Aggiunto (IVA), was introduced in 1972 and integrates the rules and directives set by the European Union (EU). Foreign businesses that need to register for VAT purposes in Italy should provide the relevant documentation to the authorities well in advance – the registration process takes 30 days on average.



Matteo Beghetti

VAT Team Leader, TMF Italy

1. Is it possible to operate (sell goods or services) in Italy without establishing an entity there?

It is possible in Italy, and such a business is called a 'non-established business' which has neither a main nor fixed establishment in the country. A non-established business must register for Italian VAT if it makes certain supplies, such as:

- Supplies of goods located in Italy at the time of supply to non-taxable persons or other non-established businesses.
- Intra-community acquisitions of goods in Italy or intra-community sales of goods from Italy
- Distance sales of goods in excess of the annual threshold, in the case of non-application of OOS regime.
- Supplies of services taxable in Italy to non-taxable persons, in the case of non-application of OOS regime, or other services relevant in Italy to non-established businesses.

1.1 If the above is possible, can the taxpayer operate directly, or do they need to appoint a fiscal representative / tax agent in Italy?

A foreign business established in another EU member state may directly obtain a VAT in Italy through a direct identification procedure or appointing a VAT representative. Foreign businesses established in a non-EU member state must appoint a VAT representative to register for VAT.

The representative must be granted power of attorney to act on behalf of the non-established business and he is responsible jointly with the foreign business for the VAT obligation in Italy.

2. What are the tax registration thresholds?

There is no VAT registration threshold in Italy for non-resident traders except for distance sellers. A VAT number must be in place before the taxable supplies commence. In the case of distance sales, VAT registration is required when the €10,000 EU threshold is exceeded.

3. Are providers of digital services required to register and in what cases?

Yes, providers of digital services are required to register if digital services are provided in B2C (business-to-consumer) transactions. However, EU companies already VAT registered in their own country can opt to register with the OOS (One Stop Shop).

4. If a business incurred tax on purchases made before this business registered in Italy, can the business recover this, or is the tax lost?

Foreign taxable subjects without establishment in Italy can claim tax incurred before registration in Italy within the terms provided by the Italian VAT Law. As such the VAT can be recovered within the deadline for the filing of the Annual VAT Return (e.g., the 30th April of the following FY) Late identification is considered a formal violation subject to penalty.

5. When importing goods, is it possible to defer VAT at the point of import?

Italian customs allow operators who regularly perform transactions with foreign countries to obtain free circulation of the goods without the prior payment of customs duties, noting the duties in a special debit account. This account can hold transactions carried out over a period of 30 days. The accumulated debt must be paid within the following two days. This periodic payment is subject to the release of a suitable deposit by the company, to an extent determined by customs.

It is possible to have VAT deferred for up to 90 days, including the first 30 days. This deferred payment is subject to the release of a suitable deposit: the first 30 days of facilitation are excluded from the interest assessment.

6. Is electronic invoicing mandatory in Italy?

Electronic invoicing has been mandatory for all businesses in Italy since 1 January 2019 for the local B2C and B2B transactions, except for non-established businesses registered for Italian VAT.

Starting from July 2022, also the sales performed towards taxable person established outside Italy (i.e. intra-community supply of goods or provision of services to EU taxable person).

Moreover, reverse charge applicable for the purchase performed from taxable person established outside Italy (e.g. intracommunity purchase of goods) should be communicated with through an .xml file that needs to be sent to the SDI.

7. If invoices are not paid, what bad debt relief is available?

VAT on bad debts can be recovered by issuing a credit note, only in the case of a bankruptcy procedure, or an individual enforcement procedure.

8. Recovery of input tax – what are the resident and non-resident conditions?

Input VAT can be recovered provided if there is a valid invoice or customs document, and it relates to purchases used for business purposes.

EU-established businesses may claim the receivable accrued without having to register in Italy following the terms of EU Directive 2008/09/EC (through their own country's tax office electronic portal) or with the standard procedures through direct registration in Italy. Refunds for businesses established outside the EU, are made under the terms of the EU 13th Directive 86/560/CEE del Consiglio without having to register in Italy – or through the appointment of a fiscal representative. The latter procedure is currently in place for Switzerland, Israel and Norway.

For non-resident businesses VAT directly registered or through a fiscal representative, the request for a refund can be submitted annually or quarterly if specific conditions provided by the Italian VAT Law are met. Resident businesses can also submit their refund request annually or quarterly (for the first three quarter) if any of the conditions stated in art.30, DPR 633/1972, are met.



VAT IN MEXICO



Businesses need to make sure they fulfil all requirements before making a request for a refund of tax credits in Mexico. Some requirements are notoriously difficult, and the local tax authority actively searches for reasons to refuse refund requests.



Alejandro I. Ledesma Ortega

Accounting & Tax Manager, TMF Mexico

1. Is it possible to operate (sell goods or services) in Mexico without establishing an entity there?

Foreign companies can do business in Mexico both on a permanent and non-permanent basis. It is not mandatory to form a Mexican business entity or company, or to establish a Mexican branch or representative office. However, the company can choose to do this.

1.1 If the above is possible, can the taxpayer operate directly, or do they need to appoint a fiscal representative/tax agent in Mexico?

The foreign company must appoint someone with sufficient power and authority to represent the non-resident head office. Foreign digital service providers are required to appoint a local tax representative.

2. What are the VAT registration thresholds?

There is no VAT registration threshold in Mexico. All entities that make taxable supplies need to register for VAT.

3. Are providers of digital services required to register, and in what cases?

Foreign digital services providers are required to register with the Mexican tax authorities and obtain a tax identification number for VAT purposes.

They must also:

- appoint a tax representative in Mexico
- provide a Mexican tax address
- collect the VAT on the price of the digital service
- provide information to the tax authority each quarter regarding transactions performed
- issue electronic invoices to their customers
- submit monthly VAT returns.

4. If a business incurred tax on purchases made before this business registered in Mexico, can the business recover this, or is the tax lost?

Mexico does not refund VAT incurred by businesses that are neither established nor registered in Mexico. However, duly registered businesses may accumulate or claim VAT refunds on expenses prior to begin sales or service rendering, under the 'pre-operational period' method.

5. When importing goods, is it possible to defer VAT at the point of import?

VAT can be deferred at the point of import if the trader can provide a guarantee or letter of credit to the Mexican Treasury to cover the amount of import VAT, in case of default.

6. Is electronic invoicing mandatory in Mexico?

Yes, e-invoicing is mandatory in Mexico and traders need to adhere to the tax authority guidelines covering specific codes for products and services as well as payment processes.

7. If invoices are not paid, what bad debt relief is available?

Bad debts may be deducted once the debt is prescribed, or when the taxpayer establishes that collection is not possible, following a procedure that includes a sentence handed down by a judge stating that it is no longer possible to collect a debt. Bad debt relief will require proof of the collection attempts.

8. Recovery of input tax – what are the resident and non-resident conditions?

Any taxable person may recover input tax (also known as credit VAT), which is VAT charged on goods and services acquired for business purposes. If a foreign business has an establishment in Mexico for tax purposes and makes taxable supplies there, the business may request a refund of any VAT credit balances through the general refund procedure.



VAT IN THE NETHERLANDS



Setting up your flow of goods through the Netherlands – the gateway to Europe – is a very good choice, not only logistically but also from an administration perspective. The Netherlands tax authority is easy to communicate with, and traders can opt to file monthly VAT returns instead of quarterly. Refunds are typically processed within one month after submitting the VAT return. Of course, when it comes to VAT the complexity is in the detail, so working with local experts to ensure you meet all necessary requirements is the best strategy.



Ashley Begina

Head of Accounting, Tax and Transfer Pricing services, TMF Netherlands
Director of TMF Administrative Services B.V.

1. Is it possible to operate (sell goods or services) in the Netherlands without establishing an entity there?

It is possible for a foreign company to do business in the Netherlands without permanent or fixed establishment or actual presence in the country. The foreign company would need to be registered with the Dutch tax authorities as a foreign VAT entrepreneur.

1.1 If the above is possible, can the taxpayer operate directly, or do they need to appoint a fiscal representative/tax agent in the Netherlands?

A local Dutch fiscal representative or agent is not required. However, if the client wants to use a VAT deferment licence to defer VAT on the import of goods, they will need a fiscal representative. Also for specific situations it is beneficial or even necessary to appoint a fiscal representative (e.g. for trading in excise goods).

2. What are the tax registration thresholds?

The VAT registration threshold is zero for foreign businesses trading in the Netherlands. As soon as the foreign business engages into activities subject to VAT in the Netherlands, they should in principle register for VAT.

EU VAT-registered companies selling goods over the internet (e-commerce) to consumers in the Netherlands (distance selling) have to charge Dutch VAT if they exceed the threshold of €10,000 per annum. Under the e-commerce rules which came into force on 1 July 2021, it is possible (under specific conditions) to report this in an EU member state of choice via the also newly introduced OSS (One Stop Shop) scheme. There is therefore no longer a VAT registration obligation in the Netherlands.

3. Are providers of digital services required to register and in what cases?

Under the EU's MOSS (Mini One Stop Shop) scheme, providers of electronic, broadcast or telecoms services to consumers in the Netherlands only have to VAT register in one EU country and file a single return covering all EU member states.

So, it depends if the provider is already registered in an EU member state or not. If they are, there is no need to also register in NL, if they are not, they can choose in which EU country they want to register for the MOSS scheme.



4. If a business incurred tax on purchases made before this business registered in the Netherlands, can the business recover this or is the tax lost?

The Netherlands refunds VAT incurred by EU businesses that are neither established nor registered for VAT in the Netherlands. There is no statute of limitations for Dutch VAT, however, recovery of VAT by the Dutch tax authorities is limited to a period of five calendar years.

5. When importing goods, is it possible to defer VAT at the point of import?

Import VAT needs to be declared, but the Netherlands does allow payment to be deferred to the periodic VAT return which means no VAT is due at import. The deferred VAT amount must subsequently be reported as payable VAT but can at the same time be deducted as input VAT in the same VAT return, effectively meaning no payment of VAT. This is the so-called VAT deferment license, as referred to in section 1.1 above.

6. Is electronic invoicing mandatory in the Netherlands?

Electronic invoicing is possible, but not mandatory.

7. If invoices are not paid, what bad debt relief is available?

Input VAT on bad debt can be recovered one year after the invoice was due. If no due date was agreed upon, a due date of 30 days after the client received the invoice can be administered. There are no additional formalities to be able to reclaim the VAT (no credit notes, corrective returns or letters to the authorities). VAT on bad debt can be claimed directly in the next VAT return once the above conditions have been met.

8. Recovery of input tax – what are the resident and non-resident conditions?

A taxable person may recover input tax. It is generally recovered by submitting a VAT return. A non-established business may claim Dutch VAT to the same extent as a business established in the Netherlands.

VAT IN POLAND



Poland's regulatory environment is characterised by frequent changes. In their endeavour to maintain compliance, taxpayers have to not only keep a close eye on the latest developments, but also regularly seek assistance from tax professionals to ensure their understanding of the regulations is correct.

"Another set of changes is planned to be introduced later in 2023 (the so-called 'SLIM VAT 3') and it is expected there will be more changes to come.



Żaneta Terka

VAT expert, TMF Poland

1. Is it possible to operate (sell goods or services) in Poland without establishing an entity there?

Yes, this is possible in Poland.

1.1 If the above is possible, can the taxpayer operate directly, or do they need to appoint a fiscal representative/tax agent?

A non-EU (European Union) business – except for those established in the UK or Norway – needs to appoint a Polish resident tax representative before registering for VAT in the country. An EU business is not required to appoint a tax representative to register for VAT, but it may choose to do so.

2. What are the tax registration thresholds?

In case of intracommunity distance sale of goods the registration for VAT is required:

- if the goods are sent from another EU country to Poland -> in Poland;
- if the goods are sent from Poland to other EU countries -> in those respective countries if the threshold of 10,000 EUR is exceeded (summed up for all countries the sales were made to), unless the entity registers to VAT OSS system.

Threshold for arrivals: PLN5,000,000

Threshold for dispatches: PLN2,700,000

The thresholds for more detailed Intrastat returns are PLN80,000,000 for arrivals and PLN128,000,000 for dispatches.

3. Are providers of digital services required to register and in what cases?

Yes, providers of electronic, broadcast or telecom services to consumers in Poland have to register for VAT.

However, taxpayers may be eligible for the OSS (One Stop Shop) procedure, which instead allows for settling VAT from services provided or sales performed anywhere in EU in only one EU country of their choice.

4. If a business incurred tax on purchases made before this business registered in Poland, can the business recover this, or is the tax lost?

VAT incurred by businesses not registered in Poland can be claimed back either through the refund procedure or after registration is concluded (exceptions apply).

Generally speaking, the refund procedure requires the taxpayer to hold an active VAT registration in their country of residence, and to not perform sales in Poland. For entities established outside the EU, there is an additional requirement under the reciprocity principle.



5. When importing goods, is it possible to defer VAT at the point of import?

It is possible to apply to the Polish customs and tax authorities for a deferred VAT import procedure. Taxpayers that decide to use this method must apply to the relevant tax office and include a statement affirming they are an active taxpayer with no outstanding tax arrears. Moreover, customs clearances have to be handled by a direct or indirect customs representative (as stipulated by the customs regulations).

The right to use the deferred procedure applies in the same period that the aforementioned documents are submitted.

The application has to be renewed every six months.

6. Is electronic invoicing mandatory in Poland?

At the time of publishing, e-invoicing is:

- mandatory in Poland for B2G (business-to-government) transactions. Government purchasers must receive structured e-invoices (XML files) for all transactions, regardless of the amount
- optional for B2B (business-to-business) and B2C (business-to-consumer) sales, depending on the agreement between the parties. The introduction of obligatory e-invoicing for Poland-established taxpayers is planned for 1 April 2024. However the business may issue e-invoices by choice since 01.01.2022.

7. If invoices are not paid, what bad debt relief is available?

Bad debt relief in Poland follows the EU VAT Directive.

Suppliers – subject to certain conditions – can claim VAT relief on domestic supplies of goods and services in situations where they received no payment for the relevant supply. Currently below premises have to be met for the supplier to be able to use bad debt relief procedure:

1. the delay in payment has to exceed 90 days;
2. the debt cannot be disposed to another entity, or paid as at the day the bad debt relief is used;
3. the issuance date of the invoice which is the subject of bad debt relief has to be not older than three years (counting from the end of the year in which it was issued);
4. as at the day when the bad debt relief is used the supplier has to be an active VAT taxpayer.

8. Recovery of input tax – what are the resident and non-resident conditions?

Having residence in Poland is not a decisive factor for input VAT recovery. In general, the prerequisites are:

1. Both the buyer and the seller to be registered as 'active' VAT taxpayers
2. The purchased goods and services need to be used for the purposes of the taxpayer's business. And the purchased goods and services must not be excluded explicitly by the law, for example meals or accommodation services bought for personal use
3. The place of taxation determined after VAT rules is in Poland.

GST IN SINGAPORE



Singapore has implemented new GST regimes covering the provision of certain imported services by foreign companies where the recipient of the services is resident in Singapore. Foreign suppliers may be liable to register for GST in Singapore and a business that is located in Singapore may be liable to apply GST, via a reverse charge mechanism on imported services.

“From 1 January 2023, GST will be extended to imported low-value goods and non-digital services, to further level the playing field for local businesses, and to allow them to compete effectively, as overseas suppliers will be subject to the same GST treatment as local suppliers.



Jasmine Kwan

Head of Accounting & Tax, TMF Singapore

1. Is it possible to operate (sell goods or services) in Singapore without establishing an entity there?

Yes, it is possible for foreign companies to sell goods and services in Singapore without setting up a separate legal entity.

1.1 If the above is possible, can the taxpayer operate directly, or do they need to appoint a fiscal representative/tax agent?

Foreign entities can operate directly in Singapore. However, please note that foreign entities which make taxable supplies in Singapore are required to register for GST if their taxable turnover exceeds the SGD 1 million threshold.

To register for GST in Singapore, a foreign entity is required to appoint a local agent, known as a Section 33(1) agent to act on its behalf for all GST responsibilities, including the accounting and payment of GST.

2. What are the tax registration thresholds?

Businesses must register for GST in Singapore if their taxable turnover exceeds the threshold of SGD 1million. If the businesses are not liable for GST registration, they may choose to register for GST on a voluntary basis.

3. Are providers of digital services required to register and in what cases?

Foreign digital services providers are required to register for GST in Singapore under the Overseas Vendor Registration (OVR) regime, effective 1 January 2020, if:

- they have a yearly global turnover of more than SGD 1million
- they make B2C supplies of digital services to customers (ie non-GST registered customers) in Singapore exceeding SGD 100,000.

4. If a business incurred tax on purchases made before this business registered for GST in Singapore, can the business recover this, or is the tax lost?

The business must satisfy the conditions of claiming pre-registration GST incurred on goods and expenses such as property rental, utilities, and services. A pre-registration ‘GST: checklist for self-review of eligibility of claim’ must be completed. The completed checklist does not need to be submitted to the tax authority but must be kept in the business records.

For ease of compliance, the overseas vendors will be registered for GST under a simplified pay-only regime. While input tax claims incurred on taxable purchases made in Singapore are not allowed, the regime

features simplified GST reporting and documentation requirements.

In addition, the overseas vendors registered under the OVR are not required to appoint a local agent to handle tax matters in Singapore, however they may be required to provide a security deposit if voluntarily registering for GST.

5. When importing goods, is it possible to defer GST at the point of import?

Singapore’s Import GST Deferment Scheme (IGDS) makes this possible for eligible GST-registered importers. In order to qualify for IGDS, the GST-registered businesses must satisfy the qualifying conditions and have good compliance records with the tax authority and Singapore customs.

Under the IGDS, the GST-registered business accounts for the deferred import GST and claims it as input tax in the same GST return. Businesses under IGDS must file their GST returns on a monthly basis. Importers benefit from a credit period of one to two months.

6. Is electronic invoicing mandatory in Singapore?

Since 20 January 2020, e-invoicing has been mandatory for suppliers to the Singapore government via the Pan-European Procurement Online (PEPPOL) network. E-invoicing is otherwise optional.

7. If invoices are not paid, what bad debt relief is available?

A GST-registered business can apply for bad debt relief from the tax authority to recover output tax.

Businesses must perform a self-evaluation by completing a ‘Bad debt relief: checklist for self-review of eligibility’ claim and ensure they’ve met the qualifying conditions. The checklist must be kept in business records and made available in the event of an audit.

The claim must be made within five years of the date of the business supply. If a business happens to recover the bad debt after claiming bad debt relief, it must repay the amount recovered to the tax authority, calculated using the following formula:

8. Recovery of input tax – what are the resident and non-resident conditions?

There are no separate conditions on input tax claims for residents and non-residents in Singapore. Generally, the business must meet the following requirements:

- The business must be GST-registered.
- The goods or services must have been supplied to – or the goods imported by – the business.
- The goods or services are used, or will be used, for the purpose of the claimant’s business.
- Local purchases must be supported by valid tax invoices addressed to the business, or simplified tax invoices at the time of claiming the input tax.
- Imports must be supported by import permits which show the business as the importer of the goods.
- The input tax is directly attributable to taxable supplies (ie standard-rated supplies and zero-rated supplies), or out-of-scope supplies (eg third country sale of goods), which would be taxable supplies if made in Singapore.
- The input tax claims are not disallowed under Regulations 26 and 27 of the GST (General) Regulations.
- The business has taken reasonable steps to ascertain and conclude that the goods or services were not part of a ‘missing trader fraud’ arrangement, and the conclusion is one that a reasonable person would have made.

$$\text{Amount to be repaid to IRAS} = \text{Amount of bad debt relief claimed} \times \frac{\text{Amount of payment received}}{\text{Amount of outstanding consideration}}$$



VAT IN SPAIN



VAT is often an underestimated tax obligation. Although intended to be aligned with EU directives, VAT law in Spain is complex, extensive and specific, as it depends on each transaction, the company's activity, location, etc. and the wording of the law is relatively open to interpretation.

To be on the safe side, businesses need to make sure all invoices and transactions comply with VAT rules, especially during VAT claims, which often trigger tax audits. Tax payment methods in Spain are also very restrictive, requiring entities to hold a local bank account.



Susana Garcia

VAT & IPT Team Leader, TMF Spain

1. Is it possible to operate (sell goods or services) in Spain without establishing an entity there?

Yes, it is possible to sell goods or services in Spain without a local entity. Businesses can choose to enter into an agency relationship with a Spanish company or third party established in Spain.

1.1 If the above is possible, can the taxpayer operate directly, or do they need to appoint a fiscal representative/tax agent?

Depending on the type of transactions, a taxpayer can operate in Spain either with a tax agent or a third party established in the country.

A fiscal representative is not required in Spain for all businesses. It depends on factors such as the business type, if it has import transactions and so on. A recognised tax advisor can provide the necessary guidance. A fiscal representative is required for non-EU companies.

2. What are the tax registration thresholds?

Non-resident companies providing taxable supplies in Spain are not subject to a VAT registration threshold. Foreign companies selling goods to Spanish consumers via the internet are subject to a threshold of €10,000 per annum.

3. Are providers of digital services required to register and in what cases?

Under the MOSS (Mini One Stop Shop) scheme, providers of electronic, broadcast or telecoms services to Spanish consumers must VAT register in one EU country. They can then file a single return covering all member states.

4. If a business incurred tax on purchases made before this business registered in Spain, can the business recover this or is the tax lost?

Spain refunds VAT incurred by businesses that are not established in the country. Non-established businesses may claim Spanish VAT to the same extent as VAT-registered businesses. Claims are submitted quarterly, and it is possible to file an additional fifth and final claim the following year.

5. When importing goods, is it possible to defer VAT at the point of import?

Spain has an import VAT deferment regime which applies to the VAT levied on goods cleared in the country. The import VAT amount is postponed to the next VAT return. This is essentially a 'reverse charge' mechanism which enables the deduction of the import VAT due. To defer VAT, entities must first register with the regime.



6. Is electronic invoicing mandatory in Spain?

Electronic invoicing (e-invoicing) will be mandatory for all companies in Spain from 2024 onwards. All companies will have to submit all electronic invoices via a specific interface (confirmation of the relevant way to submit electronic invoices is currently pending). In the same way, all vendor electronic invoices will have to be received via this same interface. For those entities with an annual invoicing volume higher than €8,000,000, this becomes mandatory one year after raising the relevant regulatory development. This regulation will enter into force in about six months. For all other companies, it will enter into force two years later.

7. If invoices are not paid, what bad debt relief is available?

Deductibility is possible under the following circumstances:

- A period of six months has elapsed since the invoice payment was due.
- The debtor is declared bankrupt.
- The debtor is prosecuted for the crime of raising assets.
- Obligations have been judicially claimed or are the subject of a legal dispute or arbitration procedure on whose resolution their collection depends.

8. Recovery of input tax – what are the resident and non-resident conditions?

There are two options for resident businesses:

- They can deduct the input tax against the output tax, where the latter figure is greater.
- They can recover the input tax through their periodical VAT returns, where greater than the output tax received.

Input tax can be deducted in the accounting period in which the output VAT was charged, or in any successive period, for up to four years from the time of supply. A valid tax invoice or customs document is required and an audit/review by the Spanish tax authority is to be expected.

The EU VAT Directive conditions apply for non-resident VAT recovery:

- The EU VAT Directive requirements (electronic) apply for EU jurisdictions.
- The 13th EU VAT Directive requirements (paper based) apply for non-EU jurisdictions that have a reciprocity agreement with Spain. This currently applies to Japan and Monaco. Also, to a limited extent, Canada, Israel, Norway and Switzerland.

As the UK will continue to allow VAT recovery claims by non-resident businesses post-Brexit, it is to be expected that a full reciprocity agreement will be signed, thus allowing UK businesses to submit 13th Directive VAT refund applications.

VAT IN THE UAE



VAT is a rather recent tax regime in the UAE, having only been implemented in 2018. It is constantly evolving to adapt to the needs of companies conducting business in the country as well as to align with global tax best practices.

As the accounting and tax landscape continues to advance and develop, working with local experts on the ground is the best strategy to remain up to date and compliant.



Clarence Danielle Dominguez

Accounting and Tax Manager, TMF UAE

1. Is it possible to operate (sell goods or services) in the UAE without establishing an entity there?

Yes, it is possible to operate in the UAE without a permanent establishment. Transactions can either be business-to-business (B2B) or business-to-consumer (B2C), with each transaction type having different tax implications.

1.1 If the above is possible, can the taxpayer operate directly or do they need to appoint a fiscal representative/tax agent in the UAE?

While having a tax agent for non-residents is recommended, the taxpayer can operate directly without the need for a fiscal representative as a tax agent is not mandatory in the UAE.

2. What are the VAT registration thresholds?

Registration thresholds are as follows:

- A. USD\$50,000 – voluntary registration threshold for resident entities.
- B. US\$100,000 – mandatory registration threshold for resident entities.
- C. First supply – mandatory registration threshold for non-resident B2C transactions.

In the case of a non-resident B2B transaction, the local purchaser can account for it under RCM without the need for the foreign seller to register.

3. Are providers of digital services required to register?

Foreign digital service providers are required to register if they sell directly to consumers (B2C); this is not required for B2B business.

Local digital service providers reaching the threshold of US\$50,000 can opt to register. Registration becomes mandatory if the threshold of US\$100,000 is reached.

4. If a business incurred tax on purchases made before it registered in the UAE, can the business recover this, or is the tax lost?

The tax is not lost – the registrant may recover input tax incurred before registration on the first tax return up to five years prior to registration, except for purchases relating to entertainment services and personal consumption. In addition, input tax may not be recovered if the goods have been moved to another GCC Implementing State prior to registration.

5. When importing goods, is it possible to defer VAT at the point of import?

Unfortunately, deferment of VAT at point of import is not allowed. Companies with a linked Customs Registration Number and Tax Registration Number would not need to pay, as the transaction will automatically be reflected in the VAT return. Otherwise, payment in full is required at point of import.

6. Is electronic invoicing mandatory in the UAE?

E-invoicing is not yet mandatory in the UAE.

7. If invoices are not paid, what bad debt relief is available?

Output VAT on invoices unpaid for more than six months can be a downward adjustment in the current tax period, after notifying the defaulting buyer that the amount of consideration for the supply has been written off.

8. Recovery of input tax – what are the resident and non-resident conditions?

Article 53 of the Tax Regulations specify that input tax shall be non-recoverable if:

- There is provision of entertainment services.
- Provision of catering and accommodation services shall not be treated as entertainment services, where it is provided by a transportation service operator, such as an airline, to passengers who have been delayed.
- Where a motor vehicle was purchased or leased for business use and is available for personal use. "Motor vehicle" shall mean a road vehicle which is designed or adapted for the conveyance of no more than 10 people including the driver. A motor vehicle shall exclude a truck, forklift, hoist or other similar vehicle.
- A motor vehicle shall not be treated as being available for private use if it is a taxi, police vehicle, for fire, ambulance or similar emergency service and vehicles in rental businesses where it is rented to a customer (nature of business).
- Gas, insurance and repairs may be recoverable up to the extent of business use if the taxable person has a proper mechanism of measuring business and personal use.
- Medical insurance for dependents and mobile phone allowances for employees are non-recoverable.

The Authority may return tax paid for any supply received by or import carried out by any of the following:

1. A citizen of the state, in respect of goods and services related to the construction of a new residence that is not part of the person's business, provided it is claimed within six months from date of completion.
2. A non-resident, for goods supplied to him in the state and that will be exported.
3. Foreign governments, international or diplomatic bodies and missions that the state is a party to, according to treaties.

4. The official of a foreign government, international or diplomatic bodies who benefit from the refund should not hold UAE nationality or have a residence visa under the sponsorship of an entity other than the foreign government, international organisation, diplomatic body or mission itself, and should not carry out any business in the state (Regulations 69 d).
5. Certain UAE charities may recover input VAT.



VAT IN THE UNITED KINGDOM



With the easing of travel restrictions in the post-Covid environment we are seeing the resumption of face-to-face meetings and in-person attendance of conferences, events and business fairs. It should be remembered that cross-border VAT incurred on employee expenses and supplier invoices in the UK is broadly recoverable and this provides a prime opportunity to reduce costs. While, following Brexit, this can be a somewhat laborious and manual process, we conversely see automation and digitisation flourishing in the VAT compliance world. Indeed, Making Tax Digital (MTD) for VAT reporting has been mandatory for all UK VAT-registered businesses since 1st April 2022. Meanwhile, despite 3 years having passed since the UK left the EU, businesses are still having to grapple with the evolving way they trade and distribute their products across the EU. Often this means a need to deal with, and manage, additional cross-border indirect tax obligations, inevitably leading to an increased administrative burden.



Rob Hutchinson

Senior VAT Recovery & Research Associate, TMF UK

1. Is it possible to operate (sell goods or services) in the UK without establishing an entity there?

Yes, foreign companies can sell goods or provide services in the UK without establishing an entity. However, a non-established business (with no fixed or permanent establishment in the UK) is required to register for VAT prior to its first taxable transaction – subject to certain conditions. No fiscal representation is required in the UK for VAT registration, but foreign businesses can appoint a tax agent or VAT representative. The latter is jointly liable with the represented taxpayer.

2. What are the VAT registration thresholds?

Businesses established in the UK with taxable supplies exceeding £85,000 for the last 12 months must register for VAT. Depending on the nature of the goods or services sold, the business may need to register before exceeding the threshold. Voluntary registration is also possible.

The VAT registration threshold does not apply to businesses not established in the UK. Those businesses must register for VAT once they begin supplying taxable goods or services. Completing this registration before the first taxable supply is highly recommended.

3. Are providers of digital services required to register?

Since 1 January 2021, EU businesses have not been able to use the VAT MOSS (Mini One Stop Shop) to report and pay VAT on sales to UK customers. EU-established providers of electronic/digital services must register and pay VAT in the UK, and the current threshold of €10,000 will not apply. Most UK businesses will be required to use the non-Union scheme to account for VAT on supplies covered by MOSS to EU consumers.

Non-EU electronic/digital service providers selling to UK consumers must register for VAT.

4. If a business incurred tax on purchases made before it registered in the UK, can the business recover this, or is the tax lost?

VAT incurred on the purchase of goods and services prior to UK registration can be recovered. However, there is a time limit for claiming back the VAT paid.

Pre-registration VAT can be claimed up to:

- four years for goods still held by the business or that were used to make other goods still held by the business. VAT incurred on goods which were completely used up before registration cannot be claimed
- six months for services

Along with the above conditions, the expenses must have a clear business purpose and must relate to the goods or services subject to VAT supplied by the business. Records should be kept: invoices and receipts, description and purchase dates, information about how the purchases related to the taxable activity of the business, and so on.

5. When importing goods, is it possible to defer VAT at the point of import?

This is possible for UK VAT-registered businesses. Since 1 January 2021, they have been able to account for import VAT on their VAT returns, with no pre-approval by HMRC (Her Majesty's Revenue and Customs) required. However, customs declarations and payment of any applicable duties are still required. Such payments can be deferred by opening a duty deferment account following registration with HMRC.

For consignments valued at under £135 and sold directly to consumers in the UK, where the goods are outside the UK at the point of sale, the seller must charge and account for VAT at the point of sale. The exception to this is business-to-business (B2B) sales where the customer has provided the seller with their UK VAT registration number.

Where consignments valued under £135 are sold through an online marketplace, the online marketplace is liable for the VAT, unless the goods are sold from Northern Ireland to a Northern Ireland final customer. These rules do not apply to goods subject to excise duty.

6. Is electronic invoicing mandatory in the UK?

Businesses can choose to issue electronic or paper invoices in standard B2B and B2C transactions. E-invoicing requirements have applied to businesses trading with authorities at central government level since April 2019. Sub-central contracting authorities (local government) and contracting entities have been required to comply since 18 April 2020.

7. If invoices are not paid, what bad debt relief is available?

Businesses can claim VAT relief on bad debts if a number of conditions are met:

- The business must have accounted for the VAT on its supplies and paid it to the UK VAT authorities.
- The business must have written off the debt in its VAT accounts.

The debt must have remained unpaid for a period of six months after the date of supply and the date payment was due, whichever is later.

Bad debt relief can be claimed after six months from the later of the following dates:

- When the payment was due and payable.
- The date of supply.

The claimant should keep a copy of the VAT invoices (or relevant documents) for the supplies on which they are claiming a refund and keep a separate, bad debt account.

8. Recovery of input tax – what are the resident and non-resident conditions?

Input tax can be reclaimed if the business made supplies:

- liable at the standard rate, reduced rate or the zero rate
- outside the scope of UK VAT, but which would be taxable supplies if they were made in the UK
- of services to a person who belongs outside the EU or supplies of services which are directly linked to the export of goods to a place outside the EU.

VAT cannot be reclaimed if the business has been charged:

- for goods and services not used for business purposes
- on a car, including fitted accessories and delivery charges
- on business entertainment expenses
- on the development of certain articles that are installed in buildings and sold by the same business at the zero rate
- on purchases that fall within the tour operators margin scheme (TOMS)
- on goods sold under the VAT second-hand scheme
- on business assets acquired as a going concern
- on purchases relating to exempt supplies
- incorrectly.

Input tax is normally claimed on the VAT return for the period during which the supplier's tax point occurred. The claimant must also hold associated evidence to support the deduction of input VAT. If the input tax is not claimed on the VAT return for the period in which the business was first entitled to deduct it, this is an error, and the VAT return needs a correction. The time limit for claiming the deduction of input tax is four years from the due date for the VAT return on which the business was first entitled to claim a deduction of the input tax.

SALES TAX IN THE USA



The most frustrating aspect of doing business in the USA relates to state and local taxation, for which there are over 80,000 different tax jurisdictions nationwide. The laws surrounding state and local taxes are not standardised and are constantly evolving.



Amon Kablan

Client Tax Supervisor, TMF USA

1. Is it possible to operate (sell goods or services) in the USA without establishing an entity there?

Yes, a foreign corporation can do business in the USA without forming a separate legal entity. A branch of the foreign entity can be created instead.

1.1 If the above is possible, can the taxpayer operate directly or do they need to appoint a fiscal representative/tax agent in the USA?

A local sales agent is needed for a foreign corporation to create a branch office. In most US tax jurisdictions, businesses typically do not need to appoint a third-party fiscal representative to register for sales and use tax.

2. What are the tax registration thresholds?

Each state in the US has different rules governing the tax registration threshold. Generally, the tax registration threshold is 200 separate transactions or between US\$100,000 and US\$500,000 in sales in the previous or current calendar year, depending on the state.

3. Are providers of digital services required to register?

All companies are required to register public-facing digital services (such as social media, mobile apps and mobile websites) with the US Digital Registry. It is important to note that there is no standardised sales tax in the USA. Some states charge sales tax on SaaS (software as a service) and digital products, and some don't.

4. If a business incurred tax on purchases made before this business registered in the USA, can the business recover this, or is the tax lost?

No, there is no system to recover sales tax in the USA. And a non-resident generally cannot reclaim sales tax that was properly levied.

5. When importing goods, is it possible to defer sales tax at the point of import?

Yes, this is possible under the North American Free Trade Agreement (NAFTA) provisions on drawback and duty deferral.



6. Is electronic invoicing mandatory in the USA?

E-invoicing is not mandatory for the vast majority of companies in the USA, only for those working with the federal government.

7. If invoices are not paid, what bad debt relief is available?

The Internal Revenue Service (IRS) allows any business bad debts (debts closely related to the business activity of the company) to be deducted as ordinary losses. When the company is a cash method taxpayer, it cannot take bad debt deduction for unpaid dividends, fees, rents and similar items. The government specific to each state such as California, West Virginia and so on also makes provisions for sales tax deductions/reliefs.

8. Recovery of input tax – what are the resident and non-resident conditions?

The USA does not offer a system through which to recover sales and use taxes. However, US states provide various tax exemptions based on certain buyer activities:

- Non-profit organisation
- Government agency
- Charitable organisation.





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