

VAT and Services: New Rules VAT Package Will Apply As Of January 1st, 2010

Are you prepared?

The new VAT rules, which, as provided by the two EU directives dated February 12 and December 16, 2008, become effective as of January 1st, 2010 in all EU States, imply significant changes to which your business must adapt itself as soon as possible.

I. Changes resulting from the VAT package for services

The "VAT Package" results in the following three principal changes in services:

1. Change in the VAT territorial rules

The general rule of VAT taxation of services in the State where the supplier is established will no longer apply as of January 1st, 2010.

Based on the two new general rules:

- services supplied to a VAT-taxable person will be taxable in the State where the recipient is established,
- services supplied to a non-VAT-taxable person (or to a VAT-taxable person acting as a final consumer) will still be taxable in the State where the supplier is established.

As for the past rules, there will be a number of exceptions to both general rules.

Charts 1 and 2 summarize, for services supplied to a VAT-taxable person and for services rendered to a non-VAT-taxable person, the general VAT rules applicable before and after January 1st, 2010, as well as their main exception.

2. Increase in situations where the reverse charge rule will apply

As a matter of principle, the VAT payment will remain with the supplier.

However, as of January 1st, 2010, the reverse charge rule (resulting in the payment of the VAT by the recipient) will be applicable to any services supplied to VAT-taxable persons if the supplier is not established in the State of the recipient.

3. Introduction of a new tax-filing obligation

The supplier will be required to file a so-called "European Declaration of Services" (EDS) to declare services supplied to VAT-taxable persons established in another EU State.

Services exempt from VAT in the EU State where the recipient is established (although taxable in that State according to the new VAT rules), as well as acquisition of services, will not have to be declared on the EDS.

II. How to be prepared?

To be prepared for the new VAT obligation, we advise you to perform, as soon as possible, a detailed review of your enterprise acquisitions and sales of services:

1. For services invoiced by your enterprise by distinguishing:

- Services supplied to customers established in France (for which the VAT reform should not trigger any consequences), and
- Services supplied to customers established outside of France (whether it be in or outside of the EU) by distinguishing those rendered to VAT-taxable persons from those rendered to non-

VAT taxable persons.
(See Chart 3 attached for standard services)

2. For services invoiced to your enterprise by distinguishing:

- Services supplied by a supplier established in France (which will not be affected by the VAT reform), and
- Services supplied by a supplier established out of France among which it would be necessary to identify those services for which your enterprise will be liable for VAT based on the reverse charge rule.

(See Chart 4 attached for standard services)

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We will be happy to assist your enterprise with this review in order to:

- Determine the consequences of the VAT reform for your enterprise with respect to VAT invoiced, collected and paid under the reversed charge rule,
- Identify the necessary changes of your invoices for services supplied,
- Ascertain that invoices issued by your suppliers comply with the new rule,
- Adapt or introduce appropriate procedure to enable your enterprise to :
 - Obtain and check the VAT identification number of recipient not established in France,
 - Organize the stockage and the update of this information (or otherwise to take the risk of a tax reassessment equal to the VAT deemed collected by the supplier on invoices issued with no VAT to recipient for which it will not be possible to demonstrate the quality of VAT taxpayer).
 - Organize the collection of information and the preparation of the EDS.

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CHART 1

Place of VAT taxation

Services supplied to a VAT-taxable person

	Until 31 December 2009	From 1 st January 2010
MAIN RULE	Taxation in France if the supplier is established in France	Taxation in France if the customer is established in France
EXCEPTIONS	Until 31 December 2009	From 1st January 2010
Services related to real estate (including services of estate agents and "holiday accommodation")	Taxation in France if the real estate is situated in France.	
Passenger transport services	Taxation in France proportional to the distances covered in France.	
Services and ancillary services relating to cultural, educational events, etc., including the services of the organizers	Until 31 December 2010 Taxation in France if physically carried out in France.	From 1st January 2011 Taxation in France if the customer is established in France. ¹
Restaurant and catering services	Taxation in France if the services are physically carried out in France.	
Short-term hiring of a means of transport (no more than thirty days)	Taxation in France if the supplier is established in France <u>and</u> the means of transport is used in France or in another EU member State.	Taxation in France if the means of transport is actually put at the disposal of the customer in France.
Restaurant and catering services physically carried out on board ships, aircraft or trains during the section of a passenger transport operation effected within the Community.	Taxation in France if the restaurant and catering services are physically carried out in France.	Taxation in France if the point of departure of the passenger transport operation is located in France.

1. As an exception, services carried out for fairs and exhibitions from the 1st January 2011 will be taxable in France if the events take place in France.

CHART 2

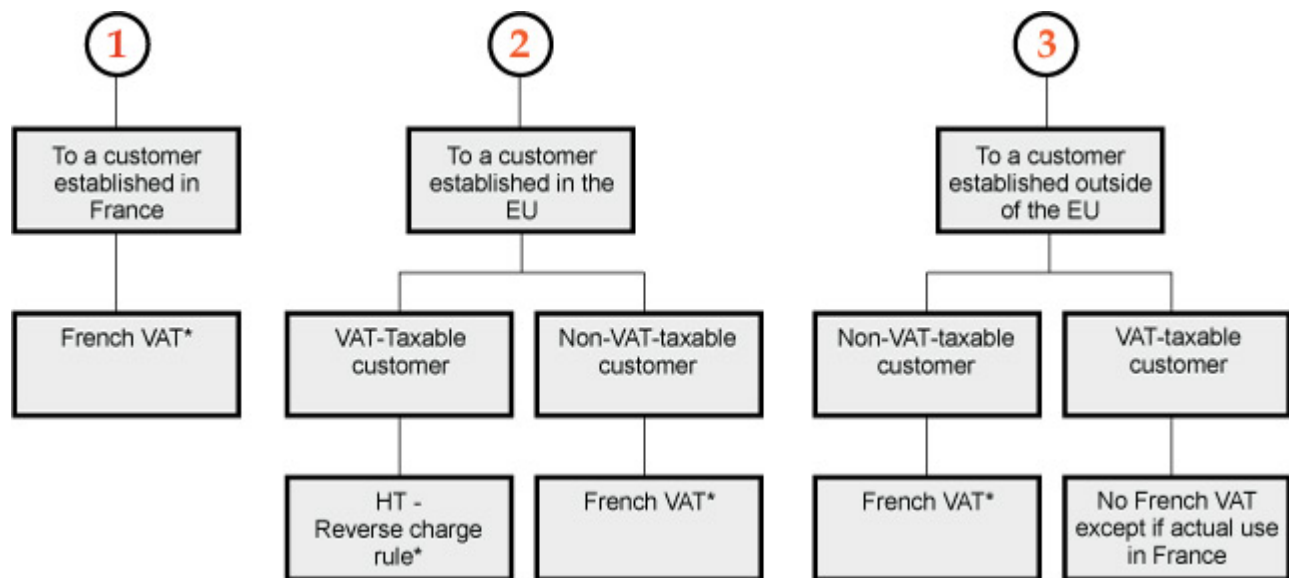
Place of services supplied to a non-VAT-taxable person

	Until 31 December 2009	From 1st January 2009
MAIN RULE	Taxation in France if the supplier is established in France	Taxation in France : If the supplier is established in France ; Or If the supplier establishing out of the community, the customer is established in France or in a other UE Member state and the services are used or operated in France
EXCEPTIONS	Until 31 December 2009	From 1st January 2009
Services supplied by intermediaries	Taxation in France if the underlying transaction is supplied in France	
Services related to real estate, including services of estate agents and "holiday accommodation"	Taxation in France if the real estate is situated in France	
Transport of goods in the EU.	Taxation in France if the place of departure of the transport is in France	
Transport of goods in France for delivery.	Taxation in France if the point of departure is in France	Taxation in France in proportion to distances covered in France
Passenger transport services	Taxation in France proportionally to the distances covered in France	
Services and ancillary services relating to cultural, educational events, etc., including the services of the organizers	Until 31 December 2010 Taxation in France if the activities are physically carried out in France	From 1st January 2011 Taxation in France if the activities actually take place in France
Ancillary transport activities such as loading, unloading, handling and similar activities	Taxation in France if the services are physically carried out in France	
Valuations of and work on movable tangible property	Taxation in France if the services are physically carried out in France	
Hiring of a means of transport	Taxation in France : - If the supplier is established in France and the means of transport is used in France or in the Community ; Or - If the supplier establishing out of the EU, the customer uses the means of transport in France	Taxation in France if the means of transport is actually put at the disposal of the customer in France. ²

Restaurant and catering services	Taxation in France if physically carried out in France	
Restaurant and catering services physically carried out on board ships, aircraft or trains during the section of a passenger transport operation effected within the Community	Taxation in France if physically carried out in France	Point of departure of the passenger transport operation
Immaterial services supplied to a customer established out of the EU	No taxation in France	
Electronically supplied services by a supplier established outside of the EU	Taxation in France if the customer is established in France	

2. As an exception, long-term hiring of means of transport will from the 1st January 2013, taxable in France if the customer is established in France. Moreover, specific rules will apply to the hiring of pleasure boats.

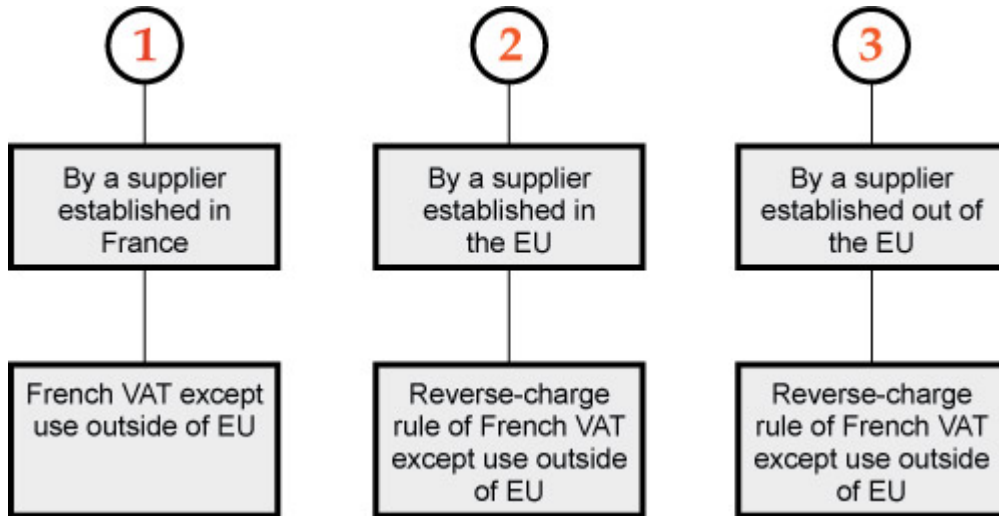
CHART 3 Standard Services Charged By Your Company



* Except actual use outside the EU

CHART 4

Standard Services Charged to Your Company



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September 2009



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