

TAX

VAT AND NON RESIDENT TAXABLE PERSONS

VdA EXPERTISE



May 2021

Circular Letter no. 30235, of 27 April 2021, clarifies the VAT rights and obligations applicable to non resident taxable persons who carry out supplies of goods or services in Portugal.

REGISTRATION FOR VAT PURPOSES

The Portuguese Tax Authority ("PTA") clarifies that the obligation to register for VAT purposes in Portugal only applies to non resident taxable persons who carry out taxable transactions in national territory to which the reverse charge mechanism does not apply.

The PTA considers that taxable persons carrying out VATable transactions within national territory whose customers are taxable persons and to which the reverse charge mechanism applies should not register for VAT purposes. Additionally, taxable persons should not carry out taxable transactions to which the reverse charge mechanism applies under a Portuguese VAT number.

TAX REPRESENTATIVE APPOINTMENT

The PTA confirms that the appointment of a tax representative is only mandatory for non-resident taxable persons who are required to register for VAT purposes and do not have their head office, permanent establishment or domicile in another EU Member State. The appointment of a tax representative is optional for non resident taxable persons who have their head office, permanent establishment or domicile in another EU Member State.

INVOICING

Invoices issued with regard to taxable transactions carried out in the national territory are subject to Portuguese invoicing rules. However, transactions carried out by a non resident supplier, where the reverse charge mechanism applies, are subject to the invoicing rules of the country where the supplier has established its business.

Accordingly, VAT registered taxable persons who assess VAT on taxable transactions carried out in national territory are subject to Portuguese invoicing rules.

DEDUCTION OF INPUT VAT AND REFUNDS

Non resident taxable persons who are VAT registered in Portugal may recover input VAT borne in Portugal through the VAT Refund Scheme for Taxable Persons Not Established in the Member-State of refund, approved by Decree-Law 186/2009, of 12 August. Taxable persons established outside the EU should appoint a tax representative solely for the purposes of the Refund Scheme.

Taxable persons who carry out taxable transactions in Portugal to which reverse charge does not apply and, as such, are required to register for VAT purposes in Portugal, must deduct the VAT borne in Portugal through their periodic VAT returns.

REVERSE CHARGE RULES

According to the PTA, where the conditions for the application of the reverse charge mechanism are met (according to paragraphs e), g) and h) of the Portuguese VAT Code), the person in charge of assessing the VAT is the purchaser of the goods or services and therefore the supplier should not assess VAT.

The PTA further clarifies that the application of the reverse charge mechanism is mandatory for taxable transactions carried out in the national territory by non resident suppliers, dissipating many of the existing doubts regarding a possible optional nature of this rule.

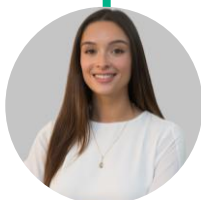
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