



Switzerland: Tax Alert January 2016

Extended VAT registration for non-established businesses

Non-established businesses providing construction work, installation work or mere work on goods, even if the goods are not altered, may have to register for VAT

Non-established businesses are obliged to register for VAT in Switzerland, if their annual supply of goods exceeds CHF 100,000 in Switzerland. The supply of a good is historically rather broadly defined and covers the supply or construction of a good, the installation of a good and the mere work on a good, whether it is altered (e.g. by repairing or renovating) or not (e.g. by verifying and testing functionality, calibrating or cleaning). Contrary, as a supply of service in connection with a good only valuation or assessment work may qualify.

The place of supply, if a good is constructed, installed or worked on, is the place where the good is or was at the time the work was finished.

The Federal Council of Switzerland waived a provision in the law with effect of 1 January 2015 that permitted the application of the reverse-charge mechanism for installation work (when no goods were imported) and work on goods. As a result more non-established businesses had and will have to register for VAT.

There is a tendency to extend the liability to register for VAT for non-established businesses in order to mitigate distortions in the Swiss market place, where foreign businesses benefited from a price advantage over domestic businesses as the foreign-ones did not have to factor in Swiss VAT at the standard rate of 8 % on their supplies of

goods. Therefore, further changes of law are to be expected, which would increase the number of registrations for VAT of non-established businesses in the future.

Non-established businesses, which have to register for VAT in Switzerland, must assign a fiscal representative and provide financial guarantees, usually a bank guarantee or a cash deposit, to the Federal Tax Administration in order to collateralize future tax debts.

Non-established businesses are advised to clear on their possible obligation to register for VAT in Switzerland in order to avoid retroactive tax charge at the standard rate of 8 % over the 5-year statute of limitation period, interest charge of 4 % per year on unpaid taxes, fines and penalties.

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