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VAT issues when establishing stocks abroad

A stock abroad can either be established as a call-off stock or as a consignment stock. The latter type generally requires the Danish company to be registered for VAT in the country in which the stock is located.

By Pernille Rise, prt@bdo.dk

It is not uncommon for Danish export companies to establish stocks abroad – either based on customer requests, or because it is logistically appropriate. Such storage is established either as a call-off stock or as a consignment stock. In both cases, the Danish company retains ownership of the goods until the goods are withdrawn from the stock.

Only a single customer has access to a call-off stock. It can be located either at the customer's premises or at third parties, but the customer controls the stock and can take off the inventory whenever he needs it. The customer must be able to document movements. Billing occurs when items are taken off the stock.

Several customers have access to a consignment stock. The owner documents movements. Also in this case, billing occurs as items are taken off the stock.

VAT registration
The VAT implications of establishing a stock abroad vary from country to country. However, many countries have similar rules.

When establishing a stock in another EU country, as a starting point, the Danish company - regardless of the type of stock chosen - must be registered for VAT in the country where the stock is established and pay VAT on the purchase price of the goods. Usually, this can be deducted on the VAT declaration in the same country.

When the foreign customer collects goods from the stock, this is considered a domestic delivery. This means that the Danish company must issue an invoice to the customer and apply the VAT rate of the country in question concerning the goods withdrawn from the stock. However, some countries - excluding Denmark - have introduced rules meaning that the seller does not always have to register for VAT abroad. In the following, the rules for certain countries are listed to illustrate the significant differences.

Germany and the UK
In both of these countries, the seller is not required to register for VAT, if the established stock is a call-off stock. In this case, the movement of goods is considered a EU sale of goods directly to the customer and can therefore be completed without Danish VAT. Instead, the customer must pay VAT locally on the purchase price of the goods. In Germany, this is a relatively new practice. Hence, the exact requirements in order to be exempt from VAT registration are not entirely clear.

CONTENT

The Netherlands
In the Netherlands, the simplification applies to both call-off stocks and consignment stocks.

Norway
All goods must be processed by customs before entering Norway, and the Danish company will have to pay import VAT. Only if the end customer is specified as an importer, VAT registration can be omitted.

VAT when Danish companies perform assembly work in Norway

When Danish companies perform assembly work in Norway, they must register for VAT there. If they deliver the goods they are assembling, often, the delivery is subject to VAT. The rules are enforced rigidly.

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When a foreign company sends employees to Denmark to install or assemble a machine or a plant, Danish VAT registration is not required, as the transaction is subject to the rules on reverse charge. This means that the Danish company (the buyer) must pay VAT on the invoiced services.

When Danish companies send employees to Norway to perform a similar job, it is completely opposite. The Danish company must be registered for VAT in Norway, if the value of the assignment exceeds NOK 50,000, because Norway does not apply rules on reverse charge to assembly work.

The Norwegian VAT obligation is not necessarily limited to the assembly work
If a Danish company sells a plant, etc. to a Norwegian customer and also undertakes installation in Norway, often, VAT also applies to the goods. This means that invoicing of both goods and assembly work must be done via the Norwegian VAT number and with the application of Norwegian VAT.

The problem can be illustrated by a ruling from March 2017 from “Oslo Tingsret”. The case concerned a company based in the Netherlands, which delivered and mounted interior solutions to Norwegian restaurants and bars, etc. As the case concerned a single delivery, the court ruled that Norwegian VAT should be paid on the value of both the goods and the assembly work.

It is the assembly work that triggers the VAT obligation for both goods and assembly work. Foreign companies selling goods to Norwegian customers without being responsible for installation or assembly in Norway shall not pay Norwegian VAT.

Severe fines
The Norwegian tax authorities have a strict line with foreign companies and may demand payment of Norwegian VAT for the preceding 10 years. Often, payment of additional tax (fine) of up to 3 times the unpaid VAT is demanded - for example in the case of the Dutch company mentioned above.

Depositing of goods in Norway
In other situations, sales to Norway can also give rise to VAT challenges. Thus, we regularly see cases, where Danish companies let a Norwegian customer process goods purchased in Denmark through customs. However, this may be inappropriate if ownership of the goods does not transfer until the assembly is completed. In this case, the customer cannot deduct import VAT, as this requires ownership at the time of customs clearance.

Registration of Danish employees in Norway
Danish companies sending employees on assembly work, etc. in Norway, should be aware that employees must be registered with the Norwegian authorities before commencing work.