Downloaded from Blogs on 22.11.2026 07:44

By PwC Deutschland | 15 June 2011

Clarification of place of supply of services to consumers

The finance ministry has amended the VAT Implementation Decree to follow the European Council Regulation 282/2011 of March 15, 2011 clarifying the place of supply of services to consumers, including businesses purchasing the supply for other than business purposes.

Downloaded from Blogs on 22.11.2026 07:44

In principle, services to other businesses for use within the customer's business are taxable in the country of the customer, whilst those to consumers are taxable in the country of the supplier. However there are various exceptions, which, in the view of the European Commission, have not been uniformly applied in all member states. Accordingly, the Commission caused the Council to issue its Regulation 282/2011 on March 15, 2011 to provide the necessary clarification. This Regulation has direct application in member states, that is, there is no need to transpose it into national law. Accordingly, the finance ministry has amended the VAT Implementation Decree with effect from July 1, 2011 without waiting for any amendments to the legislation (VAT Act and VAT Implementation Order). The more important clarifications are:

- Classification of a customer as consumer or business is to be based on the circumstances at the time of supply.
- If there is doubt on whether the business service is for the head office, or for one or more branches of the customer, the fall-back position is the head office. However, the supplier must carefully consider all the circumstances – including the VAT ID No. given by the customer – before coming to the conclusion that the doubt cannot be resolved.
- A supplier may assume that a customer has acquired the service for his business where the latter has furnished him with a VAT ID No. which he has verified through the Central Tax Office.
- If the business customer has applied for, but not yet received, a VAT ID No. the supplier may use his discretion in satisfying himself as to the business context of the transaction. However, any such satisfaction is only temporary. In the final analysis, the ID No. must be furnished – at the latest by the time of the lower tax court hearing of the case – if the supply is not to be ranked as private.
- If the supplier is unable to obtain a certificate of the business identity of his non-EU customer from that customer's home country tax authorities, he has discretion on the form of evidence that he may accept.
- Services rendered in connection with the VAT refund claim of a foreign business are deemed to have been supplied abroad.
- Short-term car hire of no more than 30 days is taxable where the vehicle is put at the disposal of the hirer. If this is followed by a long-term hire (or lease) the two contracts are to be seen separately, unless the intent was to obtain a tax advantage.

Keywords

place of supply, services to consumers