



## FINACONT TAX NEWSLETTER

The place of fulfillment of services provided for non-taxable persons remotely



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„From 1 January 2019 the rules on the place of fulfillment of telecommunication services, radio and audio-visual media services and electronically supplied services provided to non-taxable persons settled down in the Community or having their permanent or usual residence there were amended. New provisions on the place of fulfillment should be applied for the first time to cases where the date of fulfillment is after

From 1 January 2019 the rules on the place of fulfillment of telecommunications services, radio and audio-visual media services and electronically supplied services provided to non-taxable persons settled down in the Community or having their permanent or usual residence there were amended. New provisions on the place of fulfillment should be applied for the first time to cases where the date of fulfillment is after 31 December 2018.

According to the regulations in force since 1 January 2015 the place of fulfillment of services that can be provided remotely to non-taxable persons was the place of settlement, the permanent or usual residence of the customer. This means that service providers providing services that can be provided remotely should file tax return and pay tax in the Member State where the customer resides. In order to ensure that the service providers of such services should not register as taxpayers in each customer's Member State to fulfill their tax payment liabilities (as these services are provided to non-taxable persons),

so-called “one-stop shop” system has been set up which has allowed taxpayers to submit tax returns and pay tax due in the customer's Member State in the country where service provider resides. Despite the simplification, this change has caused difficulties for micro and small businesses, so the Act on VAT introduces further simplification as of January 1, 2019.

Under the legislation in force from 1 January 2019 and the paragraph 3 of Section 45/a of the VAT Act, if the taxpayer settled in only one Member State within the Community for economic purposes or, in the absence of an economic settlement he has permanent or usual residence only in one Member State of the Community, the taxpayer should perform his tax liability after services that can be provided remotely with value below the specified threshold in the Member State where he resides and under the rules of the Member State of his residence.

This provision can be applied to services provided remotely by the taxpayer to a non-taxable person settled down or having permanent or usual residence in a Member State other than the country of the taxpayer's residence, **if the total amount of these services without tax does not exceed EUR 10,000 or the equivalent in the respective State's national currency either in the financial year or in the previous year..**

Only the fee, without tax, of services provided remotely to a non-taxable person settled down or having permanent or usual residence in a Member State other than that in which the taxpayer, providing services, resides should be considered when calculating the value threshold, but the value of services provided to non-taxable persons settled down outside the Community or in the same Member State or provided to taxpayers should not be considered.

**For a taxpayer settled down in Hungary this means that he is required to perform tax liabilities of services provided remotely to a non-taxable person of another member state and not exceeding the threshold of EUR 10,000 provided under Hungarian tax rules (with tax rate and VAT tax return valid on Hungary if he has not chosen VAT exempt status by subjective right).**

According to paragraph (4) of Section 45/a of the VAT Act, if a taxable person exceeds the threshold of EUR 10,000 with any service that can be provided remotely, and can be considered when calculating the threshold, he must pay the tax in the Member State where the non-taxable customer has its residence

after the service which exceeds the threshold. **The place of fulfillment of services provided remotely to a non-taxable person with residence outside the Community remains, in all cases, the place of residence of the customer, which means that VAT should not be charged and paid in the Community.**

With regard to services provided remotely to non-taxable persons taxpayers have allowed to perform tax liabilities generated in a Member State other than the country where he has residence with the one-stop shop (OSS) system, through the tax authority of his own country. However, according to the rules in force until 31 December 2018, the rules of the Member State where the tax liability has arisen should have been applied to the preparation of documents of transactions. This meant that taxpayers were to be aware of the documentation rules of each Member State where they had this type of transaction. As this was a serious administrative burden for them, **on the basis of the amendment in force since 1 January 2019, the rules of the Member State where the taxpayer was registered at the OSS system should apply to the documentation of transactions for which the taxpayer fulfills tax liabilities with OSS system..** Thus, a taxpayer who was registered at the one-stop shop system in Hungary must apply the Hungarian invoicing rules for his transactions submitted through the one-stop shop system.

Please contact our colleagues if you wish to have a detailed interpretation of this legislation as this newsletter offers general understanding.

Should you have any questions, please do not hesitate to contact us.

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There can be diverse practices, methods and taxation manners as a result of various interpretations with regard to the tax regulations and the connected law sources. The above listed changes are only for information, can be used only at one's own tax risk in specified cases. In certain cases a further proposal of tax authorities or other polities can reduce the tax risks.