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## VAT treatment of online businesses

The VAT treatment for online businesses is changing from 1 January 2015. Services provided by a UK business via a website or app will be liable for VAT in the country where the service is purchased and not (as now) in the UK.

On 1 January 2015, all businesses supplying:

- telecommunications (e.g. fixed and mobile telephone services, videophone services and access to the internet);

- broadcasting (e.g. radio and television programmes); and/or

- e-services (e.g. video on demand, apps, music downloads, gaming and e-books) but NOT webinars or teaching over the internet.

to a private consumer in another EU member country (known as "intra EU B2C supplies") will have the VAT on those goods taxed in the country in which the consumer is based as opposed to the country in which the supplier is established, as is the case currently.

If your business therefore sells services to private individuals located in other EU Member States, you will need to start considering the updates that will be required to your contracts, systems and pricing to get ready for this significant change. Standard and reduced rates of VAT across Europe range from 3% to 27% so any errors in VAT accounting after 1 January 2015 could turn a profitable sale into a loss.

The EU legislation for these changes are already in place and this will be incorporated into UK primary legislation by Finance Bill 2014.

If your business falls into one of the above categories, you will either need to become VAT registered in every EU member state in which you sell to consumers or, starting from October 2014, you can sign up to HMRC's 'Mini One Stop Shop' (MOSS) which allows you to register in your "country of identification" and account quarterly for VAT on supplies to other EU member countries.

### Who it affects and what you need to do

If your company is caught by the new legislation, you should be aware of one or more of the following legal issues:

- Data protection laws – In attempting to determine where your customer is based there is a high likelihood that you will be processing a customer's personal information (billing address, IP address, bank details etc.). Under the Data Protection Act 1998, if you process personal information of your customers in this way you will need to register with



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the Information Commissioner's Office as a data controller and comply with all relevant laws.

- Contracts with intermediaries – If you have a business to business contract with a distributor in a different member state, it is recommended that this is reviewed in order to consider who will be responsible for account for VAT when the service finally reaches the consumer.

- VAT compliance – as mentioned above, if you are caught by the new VAT rules, you will have to decide whether you want to register for VAT in each EU member state that you supply services to, or sign up to the MOSS. Although, signing up to the MOSS is initially simpler, keep in mind that that there are still significant administrative, record-keeping and audit requirements that need to be constantly maintained.

If you feel that your business may be affected by one or more of these issues, we would be more than happy to discuss this with you. You can contact us by email at [office@buckworthsolicitors.co.uk](mailto:office@buckworthsolicitors.co.uk) or by phone on 020 7952 1723.