

Switzerland - Tax Alert

In the focus: Mandatory VAT Registration for Non-Established Businesses Making Electronic and Telecommunication Services



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As of 1 January 2018 a non-established business making electronic and telecommunication services to a recipient in Switzerland must register for VAT in Switzerland, if the Swiss recipient itself is not registered for VAT, unless the non-established business can prove that its worldwide revenue from all its supplies and services is less than CHF 100,000 per year. Up to 31 December 2017 such a non-established business has only to register for VAT, if its electronic and telecommunication services to Swiss recipients not registered for VAT amounts to CHF 100,000 or more per year.

Electronic and telecommunication services made by a non-established business are considered to be made at the place of the recipient. In case the Swiss recipient is registered for VAT, the Swiss recipient has generally to apply the reverse charge mechanism. If the Swiss recipient is not registered for VAT, which is typical for an individual, the reverse charge mechanism does generally not apply, rather the non-established business must register for VAT and is responsible to account and pay the VAT due.

Electronic services are particularly seen as the sale of music, films, games and other applications or content via remote data transmission. Telecommunication services are typically seen as radio and television broadcasting. For instance, an electronic service may take place by the sale of an application from a website/web-store or by an in-app sale. If the Swiss purchaser is not registered for VAT in Switzerland, the non-established supplier of the electronic or telecommunication services has to register for VAT in Switzerland, unless the non-established business can prove that its worldwide revenue from all its supplies and services is less than CHF 100,000 per year.

There is currently no legislation or practice foreseen that would exempt non-established businesses making electronic and telecommunication services to Swiss recipients not registered for VAT. Non-established businesses concerned by this new rule should assume a mandatory registration for VAT in Switzerland as from 1 January 2018.

Non-established businesses, which have to register for VAT, must assign a fiscal representative in Switzerland and provide financial guarantee, 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 clarify their possible obligation to register for VAT in order to avoid retrospective tax charge at the standard rate of 8 % till 31 December 2017 and 7.7 % as from 1 January 2018 over the 5-year statute of limitation period, interest charge of 4 % per year on unpaid taxes, fines and penalties. Due to the self-assessment nature of the value added tax, directors of a non-established business might be held jointly and severally liable for the tax amount in cases of unlawful non-registration or evasion.

Grant Thornton Switzerland/Liechtenstein is well-positioned to give advice regarding VAT registration and fiscal representation for non-established businesses.