



HOW CAN HONEST TAXABLE PERSONS PROTECT THEMSELVES AGAINST VAT FRAUD?

Introduction – Scope of the VAT session

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1. Introduction – Scope of the VAT session
2. EU Commission's approach on how to fight against VAT fraud and to protect honest taxable persons
3. Case studies / Panel discussions on responsibilities, obligations, risk management
 - Right to deduct input VAT
 - Tax-exemption for cross-border supplies
4. Open discussion



- VAT fraud is a major concern in the European Union
 - in the spotlight for the last years
 - VAT fraud is not only a concern for authorities, it is important to all of us!
 - Significant tax losses hurts public budget and impacts good faith taxpayers
- EU policy - Developments
 - Adoption of two VAT directives
 - Quick Reaction Mechanism
 - Reverse Charge Mechanism



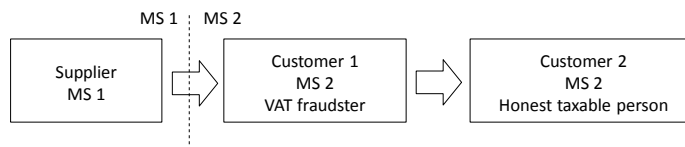
- Case law by ECJ
 - Started 2006 with *Optigen* and *Kittel* (right to deduction of input VAT)
 - Followed in 2007 with *Teleos* and *Collee* (tax exemption for iC supplies)
 - Developed in 2010–2013 with R, *Mecsek-Gabona*, *David*, *Mahageben*
 - No sympathy for fraudsters (cannot rely on the EU VAT system)
 - Taxable person who knew, or should/could have known, must be regarded as a participant in that fraud



- Do honest taxable persons have to pay the price for fight against VAT fraud?
 - Policy problem: who should bear the consequences
 - Fraudsters – taxable persons – society
 - ECJ pushes pressure/burden on taxable persons
 - Responsibilities (act in good faith/exercise care of prudent businessman)
 - Obligations (take every step which could be reasonably asked ...)
 - Burden of proof
 - Implementation of a proper risk management as preventive measure



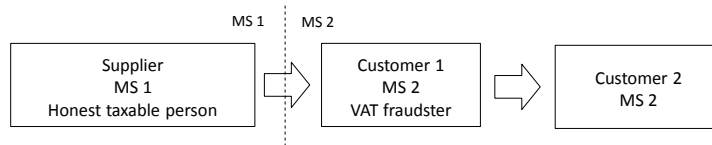
Case Study 1 – Right to deduct input VAT



- Supplier delivers goods to Customer 1 who resells the goods to Customer 2
- Goods are directly transported from MS 1 to premises of Customer 2 in MS 2
- Supplier issues an invoice without VAT to Customer 1 (iC-supply of goods)
- Customer 1 issues an invoice with local VAT to Customer 2
- Customer 2 pays full invoice amount incl VAT to Customer 1 and claims for input VAT deduction in its local VAT return
- In course of a VAT audit it is detected that Customer 1 neither has submitted any VAT re-turns to the local tax authorities nor paid the VAT due for the local supply of goods to Customer 2



Case Study 2 – Tax-exemption for Cross-border supply of goods



- Supplier delivers goods to Customer 1
- Customer 1 shall organize the transport of the goods from MS 1 to MS 2
- Supplier issues an invoice without VAT to Customer 1 (iC-supply of goods)
- In course of a VAT audit in MS 2 it is detected that Customer 1 neither has declared an iC-acquisition of goods nor a subsequent supply of goods in MS 2