Place of supply of natural gas and electricity (also heat and cooling)

VAT Information Sheet 21/10
January 2011

This Information Sheet replaces Information Sheet 10/04 (Changes to the place of supply of natural gas and electricity). It reflects minor changes to existing rules and an extension of the arrangements to cover heat and cooling, both effective from 1 January 2011.

1. Introduction

1.1 Content

This Information Sheet explains the special VAT treatment of supplies of natural gas and electricity. It also applies to heat and cooling. The main focus is on the place of supply, but there are other related provisions (see paragraph 2.2).

1.2 Changes from 1 January 2011

As a result of the changes effective from 1 January 2011

- the arrangements also apply to heat and cooling (see paragraph 2.4)

- for natural gas the rules extend to all types of pipeline (including storage facilities), but only where the pipeline is located within the EU or is linked to a system within the EU (see paragraph 2.2), and

- the relief from VAT at importation extends to all imports of natural gas via the UK natural gas system (including wet gas and liquid natural gas imported by tanker) (see paragraph 6.1).

1.3 Those affected

The content of this Information Sheet will be of interest to suppliers, importers and VAT-registered recipients of natural gas, electricity, heat and cooling.
1.4 Background

These arrangements simplify the VAT rules for cross-border supplies of natural gas, electricity, heat and cooling. Under the normal rules goods are taxed at the place where dispatch or transport to the customer commences. However, the special rules described in this Information Sheet reflect the fact that, unlike other goods requiring transportation, supplies of natural gas, electricity, heat and cooling are normally transmitted through networks, grids, and the like that are linked with other Member States.

2. Basic principles

2.1 Scope - place of supply

The main focus is on the place of supply of natural gas, electricity, heat and cooling (see section 3). However, the following provisions also apply:

- a reverse-charge mechanism for VAT-registered customers to account for VAT where the supplier is located outside the UK (see section 4)
- time of supply rule for supplies covered by the reverse charge mechanism (see section 4), and
- relief from VAT at importation (see section 6).

2.2 Natural gas

References in this notice to natural gas mean gas located in a natural gas system within, or linked to, the EU. So, for example, the rules apply to natural gas located in, say, the French natural gas system and the linked Swiss system. However, gas located for example in the USA, which is not linked to a system in the EU, is not affected.

For the purpose of these arrangements a natural gas system includes linked storage facilities. Also included is gas imported into an EU natural gas system, including gas imported in liquid form by tanker. The rules do not apply, for example to supplies of bottled gas which are subject to the normal place of supply rules for goods.

2.3 Electricity

Unlike natural gas, the rules described in this Information Sheet apply to electricity wherever it is located. So for example, a wholesale supply of electricity located in the USA, to a customer belonging (see paragraph 3.7) in the UK, takes place in the UK and so is subject to UK VAT.
2.4 Heat and cooling

The rules extend to heat and cooling supplied via networks. This covers communal heating and air-conditioning systems which, in some Member States, involve cross-border supplies. However, there is little impact for the UK. Consequently the following sections refer only to natural gas and electricity. Nevertheless, any reference to natural gas and electricity applies equally to heat and cooling.

2.5 UK consumers

The arrangements do not affect domestic consumers who are charged VAT by their supplier in the normal way. However, VAT-registered consumers can be required to account for the VAT due as a reverse-charge if, exceptionally, their supplier is located outside the UK. This VAT is recoverable as input tax, subject to the normal rules.

3. Place of supply

3.1 Introduction

The place of supply rules establish where a supply is treated as taking place for VAT purposes. An important aspect of this is determining whether a supply takes place within the EU and, if so, in which Member State the supply is to be taxed.

3.2 Main rules

Under these arrangements wholesale supplies of natural gas and electricity purchased for resale are treated as taking place where the customer is located. Otherwise the place of supply is where the natural gas or electricity is effectively used and consumed. As a result it is un-necessary to identify the physical location of what is being supplied. For wholesale supplies the customer's location is determined in much the same way as the place of supply services (see paragraph 3.7).

3.3 Additional rules

There are two additional rules. The first applies where a supply is to somebody who intends to resell the natural gas or electricity as part of a different supply. This can occur where a landlord rents property to a tenant and the rent is inclusive of any gas or electricity consumed by the tenant. The second special rule applies where the supply is to a member of a VAT group registration who is to resell the natural gas or electricity for consumption by another member of the same group.

In both cases, the supply for resale is exceptionally treated as being consumed by the recipient (eg the landlord or first group member respectively) at the place where actual consumption takes place. This ensures that the natural gas and electricity concerned remains liable to taxation at the place of consumption.
3.4 Un-consumed or partly consumed supplies

This can happen, for example, where a major consumer overestimates their expected level of consumption and uses the balance for purposes other than consumption (e.g., sells it on). The place of supply of the un-consumed element of the original supply becomes the place where the would-be consumer’s business is established.

3.5 Customer's place of belonging - business establishment

The business establishment is the principal place of business and is usually the head office, headquarters or "seat" from which the business is run. There can be only one such place which may be an office, showroom or factory.

3.6 Customer's place of belonging - fixed establishment

A fixed establishment is an establishment other than the business establishment, to which the natural gas and electricity is supplied. A business may have several fixed establishments.

3.7 Customers with more than one establishment

If the customer has establishments in more than one country, the supplier should look at each supply separately. For each supply of natural gas or electricity, the supply will take place where the establishment most directly connected with that particular supply is located.

When deciding which establishment is most directly connected with the supply, the supplier should consider all the facts, including:

- at which establishment the supply is effectively used or enjoyed
- which establishment appears on the contracts, correspondence and invoices
- where the directors or others who entered into the contract are permanently based and
- at which establishment decisions are taken and controls are exercised over the performance of the contracts.

However, where an establishment is physically receiving the supply of natural gas or electricity, it is normally that establishment which is most directly connected with the supply, even if the contractual position is different.
3.8 Impact on UK suppliers

The following tables show the impact of the rules on UK suppliers. Table 1 covers supplies made to wholesale customers (ie those buying for resale) and Table 2 to supplies made to consumers:

Table 1

<table>
<thead>
<tr>
<th>in UK</th>
<th>in another EU Member State</th>
<th>outside EU</th>
</tr>
</thead>
<tbody>
<tr>
<td>The place of your supply is the UK as that is where your customer is established. You should charge UK VAT on your supply.</td>
<td>The place of your supply is the EU Member State where your customer has established their business. You do not need to charge or account for UK VAT on your supply if your customer is VAT registered. Your customer accounts for the VAT due as a reverse-charge. If your customer is not VAT-registered, you may need to register for VAT in the Member State where your customer is established and charge and account for VAT there on your supply.</td>
<td>The place of your supply is outside the EU (the place where your customer is established). You do not need to charge VAT on your supply, as it is outside the scope of EU VAT.</td>
</tr>
</tbody>
</table>

Table 2

<table>
<thead>
<tr>
<th>in the UK</th>
<th>in another EU Member State</th>
<th>outside EU</th>
</tr>
</thead>
<tbody>
<tr>
<td>The place of your supply is</td>
<td>The place of your supply is</td>
<td>The place of your supply is</td>
</tr>
</tbody>
</table>
the UK, as that is where consumption takes place.
You should charge UK VAT on your supply.

the EU Member State as that is where consumption takes place.
You do not need to charge UK VAT on your supply if your customer is VAT-registered in the Member State where consumption takes place. Your customer will account for the VAT due as a reverse-charge.

If your customer is not VAT-registered, you may need to register for VAT in the Member State where consumption takes place and account for VAT there on your supply.

outside the EU (the place where the consumption takes place).
You do not need to charge VAT on your supply, as it is outside the scope of EU VAT.

4. The reverse charge mechanism

4.1 Introduction
The 'reverse-charge' is a mechanism which enables VAT-registered customers to account for the VAT due as output tax on their VAT returns, rather than the supplier. Generally it applies where the supplier belongs outside the customer's Member State. The customer can recover the VAT accounted for as input tax on the same return, subject to the normal rules. Where it applies the supplier is not required to register for VAT in that Member State for the supplies involved.

4.2 Application to natural gas and electricity supplied to UK businesses
The reverse charge applies where

- the supply takes place in the UK, and
- the supplier is located outside the UK, and
- the customer is registered for VAT in the UK.

Where this is the case it is for the UK customer to account for the VAT under the reverse charge mechanism.
4.3 Position where supplier is also registered for VAT in the UK

All UK VAT-registered businesses who receive a supply of natural gas or electricity that takes place in the UK, from a supplier outside the United Kingdom, are required to account for the VAT on the supply as a reverse charge. This applies even if a non-established supplier is registered for VAT in the UK for other UK business activities.

4.4 Impact on UK customers

The table below sets out how a VAT-registered business in the UK should account for VAT on supplies of natural gas or electricity they receive from suppliers in the UK and suppliers outside the UK.

| If you are a UK VAT registered customer receiving a supply of natural gas (located in a natural gas system within, or linked to, the EU) or electricity either for resale or consumption by you from a supplier established in UK outside UK |
|--------------------------------------------------|--------------------------------------------------|
| in UK | outside UK |
| Your supplier will charge you VAT in the normal way. | Your supplier will not charge you VAT, but for supplies treated as taking place in the UK you should account for the VAT due on the supply on your VAT return as a reverse-charge. This means you include the VAT due as both output tax and input tax on your return. You can recover this input tax subject to the normal rules. |

4.5 Time of supply (tax point) for supplies subject to the reverse charge

The customer accounts for the VAT due on the VAT return covering the accounting period during which the supplies are paid for. If the payment is not in money, the customer should account for VAT on the last day of the accounting period in which the gas or electricity is removed or made available.

4.6 Reduced VAT rate

It is for the customer, who is treated as the supplier under the reverse charge mechanism, to determine whether any of the supplies they are receiving are put to qualifying use (see Notice 701/19 Fuel and power). Where there is mixed use, the recipient should apportion consumption as between qualifying, and non-qualifying, use and in calculating the reverse-charge, apply the reduced rate to the qualifying proportion. If the qualifying use exceeds 60 per cent, they are eligible to account for VAT at the reduced rate on the full amount.
Certificates are unnecessary in these circumstances. However, the customer is required to undertake, and retain, the same apportionment calculations as they would have relied on in providing a supplier with the appropriate certificate.

4.7 Non-UK suppliers whose customers in the UK are not registered for VAT

A non-UK supplier with customers who are not registered for VAT remains liable to register here and charge VAT in the normal way.

5. Services relating to gas or electricity distribution systems

5.1 The position up to and including 31 December 2009

Services in the form of allowing access to, and actual use of, the distribution networks were covered by Schedule 5 of the VAT Act 1994 and so treated as services. These were services which, although not directly involving use of the systems, were clearly an adjunct to such usage. For further information about Schedule 5 services see section 11 of Notice 741 Place of supply of services (before 1 January 2010)

5.2 The position from 1 January 2010

Since 1 January 2010 B2B supplies of this nature are covered by the general place of supply rule (see Notice 741A Place of supply of services.)

6. Third country imports and exports

6.1 Importation of natural gas or electricity into the UK from outside the EU

Gas imported via the UK natural gas system and electricity are relieved from VAT at importation. This includes liquid natural gas imported by tanker and wet gas.

The relief from VAT can be claimed against the following Commodity Codes:

Natural gas in gaseous state, 2711 21 00 00
Liquid natural gas and wet gas, 2711 11 00 00
Electricity, 2716 00 00 00

6.2 Export declarations for natural gas or electricity leaving the UK for export outside the EU

These arrangements do not affect export procedures and the requirement to submit export declarations.
7. Supplies within the EC

7.1 Acquisition procedures
Supplies of natural gas or electricity are not subject to intra-EC supply and acquisition procedures.

7.2 Movements of own goods
Natural gas and electricity is excluded from the rules under which a movement of own goods is normally treated as an intra-EC supply and acquisition (see Notice 725 The Single Market).

7.3 EC Sales Lists
EC Sales Lists are not required for supplies of natural gas or electricity between Member States.

8. Other issues

8.1 Climate Change Levy (CCL)
Suppliers who fall within the scope of the CCL regime remain liable to be registered for CCL even if they are not required to be registered for VAT in the UK. If a supply of electricity or gas is chargeable with CCL it is irrelevant whether or not the supplier is established in the UK. As soon as a supply is made which is chargeable with CCL, the supplier must notify and register. There is no registration threshold for CCL.

This might arise for instance, where a supplier is established outside the UK, is not registered for VAT in the UK, and starts to make supplies of electricity for consumption in the UK. These supplies could be subject to a reverse charge for VAT, but will still be chargeable with CCL according to the normal rules. The supplier must register for CCL in the UK.

8.2 Content of the supplier’s invoice
UK suppliers are required to follow the invoicing rules as they apply in the Member State in which their supply takes place. Similarly, non-UK suppliers are required to follow UK VAT invoicing rules whenever their supply is treated as taking place in the UK.

8.3 Terminal Markets
If you trade gas and electricity contracts on a terminal market and, as a result of these arrangements, the supply you either make or receive takes place in the UK, you should see Notice 701/9 Derivatives and terminal markets to determine the correct treatment.
8.4 Gas and electricity derivatives

The VAT treatment of derivatives in gas and electricity varies depending on the type of derivative contract - see paragraph 2.2 of Notice 701/9 Derivatives and terminal markets.

9. Who can I contact for further information?

If you require further information about establishing the status and location of your customers for supplies of electronically supplied services please ring the VAT Helpline on 0845 010 9000. You can call between 8.00 am and 8.00 pm, Monday to Friday.

If you have hearing difficulties, please ring the Textphone service on 0845 000 0200.

If you would like to speak to someone in Welsh, please ring 0845 010 0300, between 8.00 am and 6.00 pm, Monday to Friday.