

# NEWSLETTER II / 2015



## TAX COMPLIANCE IN RELATION TO ONLINE GAMES OF CHANCE SUPPLIED TO FRENCH CONSUMERS

Ordinance No. 2015-459 of 23 April 2015 amends as of January 1, 2016 reporting and payment requirements of levies on horse racing betting, sports betting, online games of chance made in France and betting engaged from abroad on French races.

These levies are currently reported on a specific paper form (Form No. 3330). As of 1 January 2016, they must be declared and paid online in the annex to the VAT return. The frequency and the date of the e-filing and tele-payment are the same as those applicable to VAT returns.

The French VAT treatment of the National Lottery, horse racing betting, sports betting and online games of chance in France, are VAT exempt, with the exception of services of organizers and services of intermediaries involved in the organization of these games and betting. Net income from organizing online games of chance and betting is subject to French VAT when the consumer resides in France. As a result any suppliers of such services will need to pay French VAT, which is deemed to be included in the net income and is calculated as net gaming revenue x 20/120).

It is worth noting that electronic services include «supply of music, films and games, including games of chance and gambling games, (...)». Therefore, suppliers may wish to declare the VAT due in France using the Mini One Stop Shop scheme which allows them to be relieved of the obligation to be separately registered in France for VAT purposes as far as electronic services are concerned as the Mini One Stop Shop scheme is administered via the suppliers' own country's VAT authorities. Alternatively, they may wish to register for VAT in France either directly or via an agent, or a tax representative if they are based outside France.

We are pleased to inform you that La Représentation Fiscale will be exhibitor at the trade show E-Commerce Paris to be held from 21st to 23rd September 2015, at the Parc des Expositions in Porte de Versailles- Hall 1. This trade show has become the biggest international cross-channel event to take place in Europe.

We are also pleased to inform you that La Représentation Fiscale will take part to the 7th session of the Rencontres Export organized by the Chamber of Commerce and Industry of Paris.

This event will take place in Bourse du Commerce-2, rue Vivienne 75001 Paris, on 23rd November 2015 and is only dedicated to the international trade and gives you the opportunity to meet many actors of the private and public international trade. You can plan a specific appointment with us and we will meet on our booth stand. During these Rencontres Export, we will also hold a workshop regarding the topic « Deal with international VAT matters -Feedbacks »

Come over and meet us !!

### New member from Croatia joins TRA

SOUR.CE offers high-quality tax, legal, accounting and administrative support to international and local entrepreneurs operating in Croatia.

SOUR.CE was established to provide tax and accounting services to law firm clients, who are primarily foreign investors. With our law firm VMO and our service company SOUR.CE, clients receive a single point of contact and full support for their business operations in Croatia. Our aim is to provide clients with timely and accurate advice that will minimize their business risk.

SOUR.CE promotes close, integrated and almost inhouse relationships with their clients as they grow their business operations in Croatia and neighboring countries.

In addition to general accounting services for companies, SOUR.CE also provides a wide array of specific services such as VAT services, payroll services and immigration support.



The team at SOUR.CE consists of 4 accountants, who can be further integrated with other accounting experts if necessary based on a client's needs. The majority of team members have experience in "Big Four" accounting firms or other international companies.

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New member from Czech Republic joins TRA



**Účetní** s.r.o.

Účetní, s.r.o. was established in 1996. Since its founding the scope of its activities have included the provision of complex accountancy (double-entry accounting, single-entry bookkeeping and payroll administration), tax and accounting consultancy, audit and related business consultancy activities. After further development, the company founded two separate subsidiaries: Účetní k.s. (providing services mostly to non-VAT payers) and Auditorská s.r.o. (focusing on providing tax consultancy and audit services).

Since its foundation, the Company has provided services to several hundred clients, the majority of whom continue to work with us today. Among our clients there are companies operating in the areas of service, trade, tourism, industry and agriculture, but also solicitors, private doctors and professional sportsmen. There are small companies, but also a number of mid-sized and large companies who use our services. Although our clients are predominantly from the private sector, we also work with public, grant-funded and nonprofit organizations and communities.

The company's team consists of professionals led by the certified auditors and tax consultants. We speak English, German and Spanish.

At present, the Company's services are provided by Tomáš Novotný, Pavel Kuře (English and Spanish), Milan Erlebach (German and English), Veronika Ottová (English) and others. Tomáš and Pavel are members of both the Czech Chamber of Tax Consultants and the Czech Chamber of Auditors. Milan is a member the Czech Chamber of Tax Consultants.

In terms of VAT, we have been working with the EU VAT system since its introduction in 2004 and we have significant experience of working on intracommunity issues including working with the Czech-German Business Chamber. We frequently provide clients with consultancy services, VAT registration services and assisting with compliance work including dealing with all communication with tax authorities.

## NEW CRITERION TO BE MET FOR «SEA GOING MERCHANT SHIPS» TO BE ELIGIBLE FOR THE FRENCH VAT EXEMPTION

The French tax authorities have released new guidelines in May 2015 about the criteria to be met for a vessel to qualify as a «sea-going merchant ship» in order to benefit from the French VAT exemption as from 2016.

Vessels of overall length greater than or equal to 15 meters are treated as such if they fulfill the following conditions for the previous calendar year (2015):

- Be registered as a commercial vessel in or outside France;
- Be permanently crewed;
- Be exclusively earmarked for commercial purpose (rental or chartering);
- Make at least 70% of all their navigation outside national territorial waters.

This percentage results from the ratio between (i) the number of trips during which the ship sails out of French territorial waters during the calendar year preceding the year of application of the VAT exemption and (ii) all trips made during the same period.



The percentage is determined each calendar year. When this percentage is equal to or greater than 70% in respect of a calendar year, the ship qualifies for the exemption for the following calendar year. When this percentage is below 70%, the exemption ceases to apply from 1 January the following year. The calculation of the percentage of shipping outside French territorial waters applies as from 2015. As a result, the consequences of this calculation on VAT will apply as of 2016.

A trip refers to any commercial navigation performed between two ports in national territorial waters, EU or international, and this includes the loading / unloading of cargo and / or embarking / disembarking passengers. Not taken into account for the calculation of the percentage are trips made for non-commercial reasons, such as sea trials, navigations to go to the site, etc.

The percentage established should be supported by evidence such as the log-book or information from the navigation system and location-based instruments (GPS position fix, printing trajectory, track AIS) of the vessel.

In the case of ships provided with crew, in determining the percentage, and in particular calculating the extent of navigation outside national territorial waters, a charter contract is regarded as a single trip as long as no new passenger joins or no passenger permanently leaves during a stopover. Where passengers join or leave the vessel, the number of trips are determined by the number of stopovers the vessel is contracted to make.

Lastly, the exemption may be applied if boat trips are the main business of the ship from its dock activity although it is up to the operator to prove that the boat trips are the main business of the ship and in that regard represent more than half of all leases during a calendar year.

Lastly, for information, the exemption referred to above does not concern chartering of pleasure yachts, which remain taxable (cf Bacino ECJ case) regardless whether the vessel qualifies for the 70 % criterion for the purpose of supplies, importations, as well as domestic and intra-Community acquisitions.

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## A new member firm in Luxembourg joins TRA

Tax Connected S.á.R.L. joined the Tax Representative Alliance (TRA) as a new member in Luxembourg in January 2015. Tax Connected was incorporated in Luxembourg in 2010 by Thierry Derochette, who was formerly a consultant with PWC. Thierry has been active in the VAT sector in Luxembourg since 1994. Although he is actually involved in different training sessions in Luxembourg, Belgium and France. In 2014, Laurent Carnol joined the firm as partner. Laurent has a strong experience in corporate tax structuring.

The main objective of the company is to be a dedicated tax advisor for companies and individuals which have activities in Luxembourg. The company specializes in tax compliance and has vast experience in the different fields of the taxation system in Luxembourg. With a long experience in VAT, Tax Connected provides support to foreign companies that already have or who envisage having activities in Luxembourg. In this context, we can assist clients with handling compliance formalities and declarations on their behalf and this includes VAT registration in Luxembourg, preparation and submitting VAT returns, VAT payments or VAT refunds and the necessary declarations of exchange of goods (Intrastat). More information is available on our website:



[www.taxconnected.com](http://www.taxconnected.com)

## CHANGE AT SHAREHOLDER STRUCTURE OF GERMAN TRA MEMBER

Succession plan in view of retirement: Tax advisor Marcel Radke and LKC group take shares in WW+KN Wagner Winkler & Collegen GmbH in Regensburg, Germany.



LKC group (which has headquarters in Munich-Gruenwald) will take shares in WW+KN Wagner Winkler & Collegen GmbH in Regensburg on July 1st, 2015. The share-transfer is a result of the succession plan for retiring managing partner and shareholder Gerhard Wagner. However, in the future it is planned that a substantial part of the shares will be owned by the local WW+KN management primarily Managing Partner Matthias Winkler and managers Marcel Radke and Kerstin Winkler.

WW+KN Wagner Winkler & Collegen GmbH employs approximately 30 people staff and is focused on providing consultancy services to foreign companies that have business affairs in Germany. Although it will become a member of the LKC group WW+KN will remain independent and autonomous operationally in the future and as a result there will in practice be no changes for clients and employees.

LKC group has 13 offices and employs more than 300 people staff in Germany. In 2014 the group, pooling auditors, lawyers and tax advisors, generated more than 30 million euro turnover and belongs to the 25 biggest auditing companies in Germany. Within the LKC group WW+KN Wagner Winkler & Collegen GmbH will represent the 14th office. WW+KN Wagner Winkler & Collegen GmbH will also do business under its current name and only add to its company name "a member of LKC group".

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## France: The reverse charge for import VAT

Since 1 January 2015, businesses have been able to request authorization to reverse charge VAT on imports of goods from third countries directly on their turnover return (Law No. 2014-1655 of 29 December 2014 rectificative Finance Law for 2014), at least provided that they benefit from a home clearance procedure (PDU :procédure de domiciliation unique).

Accounting for VAT due and deductible on the same VAT return allows operators to eliminate cash flow costs normally borne from the time the tax is paid to customs until it is recovered.

The operators who currently benefit from this home clearance procedure may ask for the reverse charge to apply at the local customs office where they are domiciled and to do so only requires them to sign an amendment to the current authorization.

This procedure mainly concerns companies who regularly make customs clearances (imports or exports) at several customs offices. Indeed, in order to benefit from using the reverse charge procedure, operators must customs clear their goods at two customs offices (or more).

Importers not established in the EU may also benefit from using the reverse charge although they will need to appoint a customs representative.

## ROMANIA: STANDARD VAT RATE MOST PROBABLY TO BE REDUCED AS OF 2016

During the parliamentary debates on the revised Romanian Fiscal Code and Fiscal Procedures Code, the proposal to reduce the VAT rate from 24% to 19% (initially planned at 20%) was approved by the Committee for Budget, Finance and Banks of the Chamber of Deputies on 23 June 2015. The cut is based on a quicker than expected return to growth in the country.

The proposal pushes the standard rate of VAT to 19%, as it was raised to 24% in 2010 at the height of the financial and Euro crisis. The intention is to apply the new standard rate as from 1 January 2016, however, there is a possibility the new rate will apply even earlier.

The European Commission has immediately criticised the proposal as undermining Romania's fiscal position. The International Monetary Fund has also previously warned against it too.

Romania has an emergency 4 billion EUR fund to tap into, but this expires in the autumn of 2015. The Commission has deplored the differences in fiscal



policies between the Romanian government and the creditors of the country. "We regret that once more the mission of the creditors could not be achieved," Vice-President of the EU Commission, Valdis Dombrovskis, said on

July 14 2015. He explained that the macroeconomic adjustment programme that has been launched in exchange for financial help in the form of a 4 billion EUR credit line "has left the rails" despite the good economic growth of Romania.

As Romania's President Klaus Iohannis also recently refused to sign the new Fiscal Code (which provides for the lower VAT rate), as adopted by the Romanian Parliament, new tensions are expected both domestically and internationally between Bucharest and Brussels. It is anticipated that a final decision will take place shortly.

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## FOUNDATION OF A GMBH IN GERMANY

The foundation of a GmbH isn't as easy as one might think. It is a time-consuming and formal procedure and without any professional assistance, it may be difficult for foreign companies to handle this procedure on their own.

The foundation of a GmbH can be divided into three parts:

### 1. Memorandum of association

The first step to form a GmbH is to issue a memorandum of association (article of association). At this stage it is possible to trade as a company but it must be noted, that during this period all shareholders are liable with their own assets because legally the GmbH does not yet exist.

There are numerous obligatory clauses and different strategic options concerning the preparation of the memorandum of association. Therefore, taking appropriate advice is very important.

### 2. Notarization

The next step is to notarize the certification of the article of association at the notary. Additional steps are the payment of the registered capital as well as the appointment of the executive bodies.

### 3. Commercial register

The GmbH only comes into existence upon entry in the commercial register and the liability is then limited to the corporate assets.

In summary, the following points must be clarified in advance:

- Determination of share capital
- Execution of an article of association
- Appointment at the notary
- Opening of a bank account
- Registration of the GmbH at the local authority
- Registration of the GmbH with the commercial register
- Preparation of an opening balance sheet

If you need individual advice, please send your enquiry to [office@german-tax-consultants.com](mailto:office@german-tax-consultants.com) or call +49(0) 941 58 61 30. We are looking forward to hearing from you!

WW+KN can assist you with the following services:

- Coordination of GmbH foundation with the notary
- Financial accounting and VAT returns
- Payroll accounting
- Tax registration
- Financial statements and annual tax returns
- Company address at our office and mailbox services

## A new member firm in England joins TRA

TRA is pleased to announce the recent appointment of The VAT People Limited as its UK associate. Established originally in 1996, The VAT People Limited has two consultancy arms - The VAT People which advises and assists clients with any UK VAT matters and The Customs People which provides Customs & AEO consultancy services to businesses that import into / export out of the EU.



The VAT People has 6 consultants, 5 of whom are former UK VAT & Customs inspectors and the company's aim is to assist clients make sense of the UK VAT system & EU Customs system so that they are both compliant but maximise their VAT & Duty positions.

Our clients are wide ranging from large multinational businesses to Small & Medium Size Enterprises including Owner Managed Businesses mainly based in the UK although we do assist businesses based both in other EU Member States and beyond such as the USA & Canada. We are happy to deal directly with businesses or via other advisers such as accountants and we work closely with a large number of accountants in the UK.

Further details of our consultants and the work we undertake can be found on our websites, [www.thevatpeople.co.uk](http://www.thevatpeople.co.uk) and [www.thecustomspeople.co.uk](http://www.thecustomspeople.co.uk)