

Use and Enjoyment - VAT Directive 2006/112/EC - Article 59a

In Denmark, there are no use and enjoyment rules applicable with respect to telecommunications, broadcasting and electronic services provided to non-VAT taxable persons in accordance with Article 59a of Directive 2006/112/EC.

Time of supply / chargeability - Deferment and Cash Accounting Scheme - VAT Directive 2006/112/EC - Article 66

In Denmark, telecommunications, broadcasting and electronic services generally become taxable when the service is delivered.

VAT becomes chargeable when an invoice is issued if issued before or shortly after delivery. No specific time frame is given by the Danish VAT Act as to what corresponds to "shortly after delivery" and this is usually determined on a case by case basis. However, VAT becomes chargeable, when a payment is made on account before the service is supplied and before an invoice is issued.

Reference to the above may be found in Article 23 of the Danish VAT Act.

Time of supply / chargeability - Continuous supplies - VAT Directive 2006/112/EC - Article 64(2)

In Denmark, continuous supplies of services are regarded as being completed at the end of the period to which the invoice or the payments relate.

Reference to the above may be found in Article 23 stk. 5 of the Danish VAT Act.

Re-valuation of services at open market value - VAT Directive 2006/112/EC - Article 80

In Denmark, for supplies of services made to a "closely related party" the taxable basis may be deemed to be the cost price of the supply of service (purchase or production costs).

"Closely related party" includes situations where:

- the supplier and the purchaser have family ties or other close personal connections
- the supplier and the purchaser are subject to legal, management or membership ties
- the supplier or the purchaser has financial interests in the other party's business or property.

The above rule is to be applied in all cases covered under (a) of paragraph 1 of Article 80 of the Directive. In cases covered under (b) and (c), the rule applies when the tax authorities have issued an enforcement notice to the supplier.

Reference to the above may be found in Article 29 c.f. and Article 28, stk. 3 of the Danish VAT Act.

Bad Debt relief - VAT Directive 2006/112/EC - Article 90

Bad debt relief is available in Denmark; the taxable amount (VAT exclusive) can be adjusted when a loss is "established" through bankruptcy, compulsory composition, voluntary composition, execution levied by bailiff in vain or sale by order of the court.

Recently the Danish tax authorities gave the possibility for taxpayers to correct the output VAT on small bad debt losses if the creditor has performed sufficient actions to claim the debt compared to the size of the debt. A creditor has a possibility to consider the loss incurred, if it is decided that further recovery is unprofitable after an individual assessment. This requires that the claim has been through a reminder-procedure and subsequently the profitability of further recovery has been assessed internally at the creditor or by either a first-party agency or a third party agency.

Reference to the above may be found in Article 27, stk. 6 of the Danish VAT Act.

As a special rule, bad debt relief adjustments on services supplied under the MOSS should be made in the VAT return for the period when the supply was originally made.

Reference to the above may be found in Paragraph 3 of Article 66 G of the VAT Act.

Application of reduced VAT rates - VAT Directive 2006/112/EC - Article 98

In Denmark, no reduced VAT rates apply with respect to telecommunications, broadcasting and electronic services provided to non-VAT taxable persons.

Standard VAT Rate - VAT Directive 2006/112/EC - Article 96-97

In Denmark the standard VAT rate is 25%.

Release from payment of insignificant amounts of VAT - VAT Directive 2006/112/EC - Article 212

Denmark has not implemented rules under its domestic legislation whereby taxable persons are released from the payment of the VAT where the amount due is insignificant.

Invoicing Obligations - Obligation to issue an invoice - VAT Directive 2006/112/EC - Articles 217-249

In Denmark, a non-established taxable person who supplies telecommunications, broadcasting or electronic services under MOSS to a non-taxable person is not required to issue an invoice. Reference to the above may be found in Article 52a, stk. 1 of the Danish VAT Act and Article 64 in the Danish Ministerial Order on VAT.

Invoicing Obligations - Content of an invoice - VAT Directive 2006/112/EC - Articles 217-249

Not applicable given that there is no obligation to issue a VAT invoice in relation to telecommunications, broadcasting and electronic services provided to non-VAT taxable persons.

Invoicing Obligations - Time limit for issuing an invoice - VAT Directive 2006/112/EC - Articles 217-249

There is no time limit in Denmark for issuing VAT invoices.

Invoicing Obligations - Summary Invoices - VAT Directive 2006/112/EC - Articles 217-249

Summary invoices are available in Denmark in accordance with the rules laid down in Directive 2006/112/EC. Reference to the above may be found in Article 58, stk. 6 of the Danish Ministerial Order on VAT.

Invoicing Obligations - Electronic invoices - VAT Directive 2006/112/EC - Articles 217-249

Electronic invoices are available in Denmark in accordance with the rules laid down in Directive 2006/112/EC. Reference to the above may be found in Article 52a stk. 9 of the Danish VAT Act and Article 66 in the Danish Ministerial Order on VAT.

Invoicing Obligations - Batch of electronic invoices - VAT Directive 2006/112/EC - Articles 217-249

Batches of electronic invoices are available in Denmark in accordance with the rules laid down in Directive 2006/112/EC. Reference to the above may be found in Article 52a stk. 9 of the Danish VAT Act and Article 66 stk. 5 in the Danish Ministerial Order on VAT.

Additional obligations deemed necessary for collecting VAT and preventing evasion (anti-avoidance measures) - VAT Directive 2006/112/EC - Article 273

Denmark has not implemented any rules or anti-avoidance measures that may directly impact telecommunications, broadcasting and electronic services provided to non-VAT taxable persons.

Stand-still scheme - Derogations for States which were members of the Community on 1 January 1978 - VAT Directive 2006/112/EC - Articles 370-391

There are no provisions which are applicable under a Stand-still scheme in the Danish Ministerial Order on VAT or subject to common practice in Denmark that may be relevant for telecommunications, broadcasting and electronic services provided to non-VAT taxable persons.

Stand-still scheme - Derogations for States which acceded to the Community after 1 January 1978 - VAT Directive 2006/112/EC - Articles 370-391

N/A

VAT Treatment of vouchers

According to the Danish tax authorities' general practice, vouchers are treated differently depending on their usage. Where a voucher can only be used for a single service, the sale of the voucher is regarded as a prepayment. It is a requirement that all the relevant details in relation to the VAT taxable transaction are known at the time of purchase, in particular that the goods or services are specifically identified. On this basis, the seller must account for the VAT when the payment is received. Thus, no VAT is due when the voucher is redeemed.

Where a voucher may be used for purchase of multiple goods and/or services, i.e. the goods and/or services are not determined on the time of the sale of the voucher; the time of taxation is when the voucher is redeemed by the customer.

Reference to the above may be found in reference to administrative practice regarding Article 23 and 27 of the Danish VAT Act and the relevant CJEU case law.

Exemptions - VAT Directive 2006/112/EC - Articles 132 & 135 (E-learning activities)

In Denmark, school education and teaching in higher education, professional retraining and education, and other training in the nature of school or professional training, and supply of goods and services closely related thereto are VAT exempt. The exemption does not include courses that are operated for profit, and which are primarily directed at companies and institutions, etc.

Reference to the above may be found in Article 13, stk. 1 no. 3. of the Danish VAT Act.

Exemptions - VAT Directive 2006/112/EC - Articles 132 & 135 (Gambling activities)

In Denmark, e-gambling activities - that is the supply of a game of chance for money - are exempt. Bonus points and credits earned as part of gambling activities are not subject to VAT in Denmark.

Reference to the above may be found in Article 13, stk. 1, no. 12 of the Danish VAT Act.

Please note there may be a liability to register for Gaming Duty.

Exemptions - VAT Directive 2006/112/EC - Articles 132 & 135 (General)

There are no further exemptions in the Denmark VAT legislation under which the supply of telecommunications, broadcasting and electronic services provided to non-VAT taxable persons may fall.

VAT Registration Process

MOSS registration:

An application with information on the taxable person, activities in Denmark, and relevant documents must be submitted to the Danish Business Authority (Erhvervsstyrelsen).

Access to web-portal and contact details of the local VAT Authorities

MOSS VAT returns must be filed via the web portal called "TastSelv Erhverv".

It can be found under the headline "Moms" as a link called "One Stop Moms"

The Danish Customs and Tax Administration (SKAT) can be contacted by email via the below link from their homepage: <https://www.skat.dk/SKAT.aspx?oId=5050>

Contact:

SKAT

Momsrefusion & -registrering

Pionér Alle 1

DK-6270 Tønder

Denmark

e-mail: onestopmoms@skat.dk

tel: 0045 72370200

Appointment of a VAT Agent

It is expected that the appointment of agents will be done under the general Danish provisions. A VAT Agent may be appointed via the web portal called "TastSelv Erhverv". If the agent is not registered for VAT in Denmark the agent must contact the Danish Customs and Tax Administration (SKAT) in order to get a password for the "TastSelv Erhverv".

Penalties for non-compliance (Failure to register and late registration)

No specific penalty is levied for late VAT registration in Denmark. A company operating without registration may be liable to a tax fee of DKK 2,000 provided that it is not in a VAT payable position. If the company is in a VAT payable position, a tax fee up to 200% of the undeclared VAT may be charged. In case of gross negligence or deliberate intent substantial tax fees and detention or imprisonment may be imposed. Reference to the above may be found in Article 81 of the Danish VAT Act and Article 133 of the Danish Ministerial Order on VAT.

Penalties for non-compliance (Non-payment and late payment of VAT)

An omitted or late tax payment is not itself subject to tax fees in Denmark, however, interest may be levied. The Danish tax authorities impose a late reminder fee of DKK 65. This late reminder fee generally requires that the business is registered for VAT. If VAT returns are not submitted, the Danish tax authorities make a preliminary assessment of the VAT due. The corresponding amount is due within 14 days after receiving a formal notice. In addition a tax fee of DKK 800 is charged. If a preliminary assessment of the VAT due has been made 4 times in a row the Tax Authorities may withdraw the company's VAT registration. Reference to the above may be found in Article 81 of the Danish VAT Act and Article 133 of the Danish Ministerial Order on VAT.

Penalties for non-compliance (Non-submission and late submission of VAT returns)

An omitted or late VAT return submission is not itself subject to tax fees in Denmark; however, interest may be levied. The Danish tax authorities may impose a late reminder fee of DKK 65. If VAT returns are not submitted, the Danish tax authorities make a preliminary assessment of the VAT due. The corresponding amount is due within 14 days after receiving a formal notice. In addition a tax fee of DKK 800 is charged. If a preliminary assessment of the VAT due has been made 4 times in a row the Tax Authorities may withdraw the company's VAT registration. Reference to the above may be found in Article 81 of the Danish VAT Act and Article 133 of the Danish Ministerial Order on VAT.

Penalties for non-compliance (Incomplete and incorrect VAT returns)

An incomplete or incorrect VAT return is not itself subject to tax fees in Denmark; however, interest may be levied. The Danish tax authorities impose a late reminder fee of DKK 65. This late reminder fee generally requires that the business is registered for VAT. Reference to the above may be found in Article 81 of the Danish VAT Act and Article 133 of the Danish Ministerial Order on VAT.

Penalties for non-compliance (Non-compliance with invoicing and accounting obligations)

No penalty scheme is applicable, and penalties will be determined in Court. Reference to the above may be found in Article 81 of the Danish VAT Act and Article 133 of the Danish Ministerial Order on VAT.