

The VAT Package

British Chamber of Commerce – 10 December 2009





Agenda

- What is the VAT package
- Place of supply of services / liability
 - New general rules
 - Status of customer
 - Proof of status
 - New general B2B rule
 - New general B2C rule
 - New formalities
- Examples
- 8th Directive Refunds



BRITISH CHAMBER
OF COMMERCE IN BELGIUM

What is the VAT package ?

3 key elements

- Place of supply of services - liability
- EC Sales Listing for services – reporting
- 8th Directive refunds



Place of supply of services / liability New general rules

Place of supply depends on status of customer

- B2B: general rule place where customer (taxable person acting as such) is established or fixed establishment is located or where customer usually resides
- B2C: general rule place where supplier is established or fixed establishment is located or where supplier usually resides

EXCEPTIONS TO BOTH RULES



BRITISH CHAMBER
OF COMMERCE IN BELGIUM

Place of supply of services / liability
Status of customer

Qualification as taxable person = key element

- “Regular” taxable person (exempt or not)
- Partial taxable person
- Non taxable legal person identified for VAT purposes



Place of supply of services / liability Status of customer

“Regular” taxable person

- Any person who independently, carries out in any place any economic activity, whatever the purpose or result of that activity
- All lawyers qualify as taxable persons even if not identified for VAT purposes
- No link with establishment → also outside EU

B2B RULE WILL ALWAYS APPLY



Place of supply of services / liability

Status of customer

Partial taxable person

- Taxable person that also performs activities which fall outside the scope of VAT; e.g. holdings
- Qualifies as taxable person for all services it purchases
- Derogation for “physical person” – private use

B2B RULE WILL ALWAYS APPLY

Non taxable legal person identified for VAT purposes

- Passive holding; community identified for other reasons than outgoing transactions



BRITISH CHAMBER
OF COMMERCE IN BELGIUM

Place of supply of services / liability
Status of customer

What if your customer has a PE

- Only when ultimate beneficiary is PE, place of supply where PE is established



Place of supply of services / liability Proof of status

How to prove that your customer = taxable person

- Established within the EU
 - VAT number
 - Confirmation of validity / accuracy
- Established outside the EU
 - VAT number / trade register number
 - Confirmation of validity / accuracy



Place of supply of services / liability New general rule B2B

- Place where customer (taxable person acting as such) **is established** or fixed establishment is located or customer usually resides
- Generalised “reverse charge” unless exemption
- Subject to a number of exceptions



Place of supply of services / liability

Exceptions to new B2B rule (amongst others)

- Supply of services connected with immovable property
 - > place where immovable property is located
- Passenger transport services
 - > place where transport takes place
- Services (including ancillary) relating to cultural, artistic, scientific, educational, sporting and similar events such as fairs and exhibitions
 - > place where activities are physically carried out
- Restaurant and catering services
 - > place where services are physically carried out
- Short term hiring of means of transport
 - > place where means of transport is put at the disposal



Place of supply of services / liability General B2C rule

- Place where supplier is established or fixed establishment is located or supplier usually resides
- Supplier liable to account for VAT
- Subject to a number of exceptions; e.g. immaterial services rendered to non-taxable person outside the EU

Place of supply of services / liability

New formalities



Belgian VAT return

- General

- Box for yearly client listing

- Outgoing transactions

- Box 00: transactions exempt of VAT by article 44
- Box 44: services taxable in other EU MS
- Box 48: credit notes related to services reported in box 44

- Incoming transactions

- Box 88: service taxable in Belgium – customer liable to reverse charge – NOT when service provider established outside EU
- Box 55: VAT due on services reported in box 88
- Box 84: credit notes related to services reported in box 88

Place of supply of services / liability

New formalities



EC Sales Listing for services (ESL)

- Integration in current ESL
- Monthly filing when VAT returns are monthly
- Quarterly filing when VAT returns are quarterly or no VAT returns are filed
- Only services located in other EU MS and not exempt
- Use of codes
 - S for services
 - L for goods
 - T for triangulation
- No tolerance as to late filing
- Electronic filing mandatory



Place of supply of services / liability New formalities

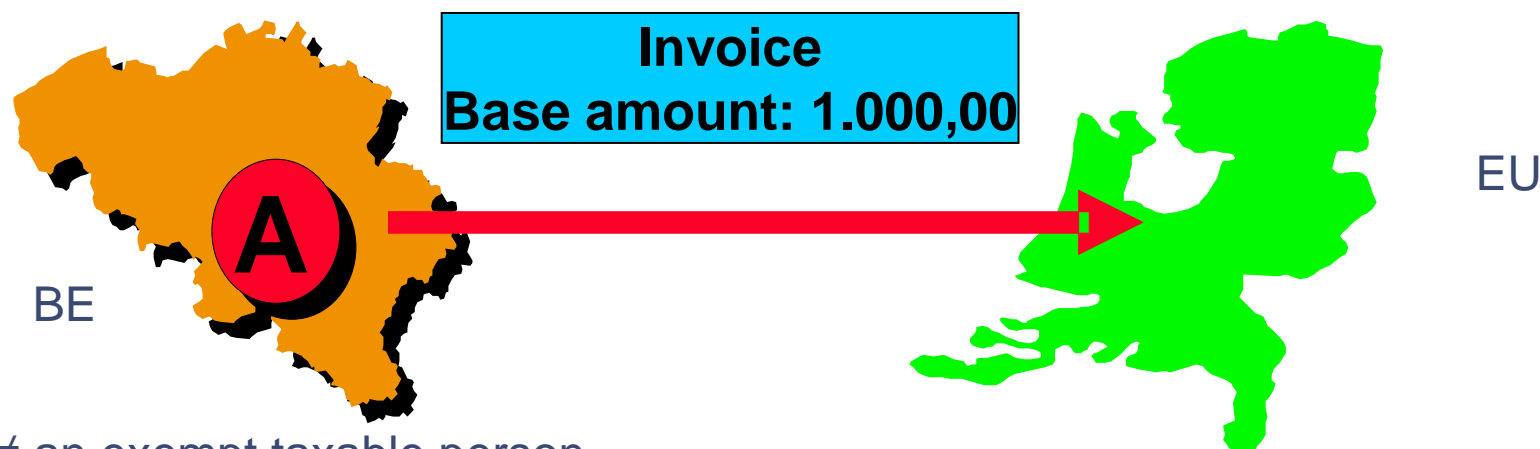
A Belgian VAT number will be attributed to (amongst others)

- Non taxable legal persons and VAT exempt taxable persons:
 - Which perform ICA > 11.200 EUR
 - Which opt to tax their ICA in Belgium
- All taxable persons who receive a service for which they are liable to account for the BE VAT → special VAT return
- All taxable persons established in BE who render a service which will be taxable in another EU Member State → ESL



Examples

Intellectual services B2B



A ≠ an exempt taxable person

Up to 31/12/09

- **VAT return of A**
Box 47: 1.000,00

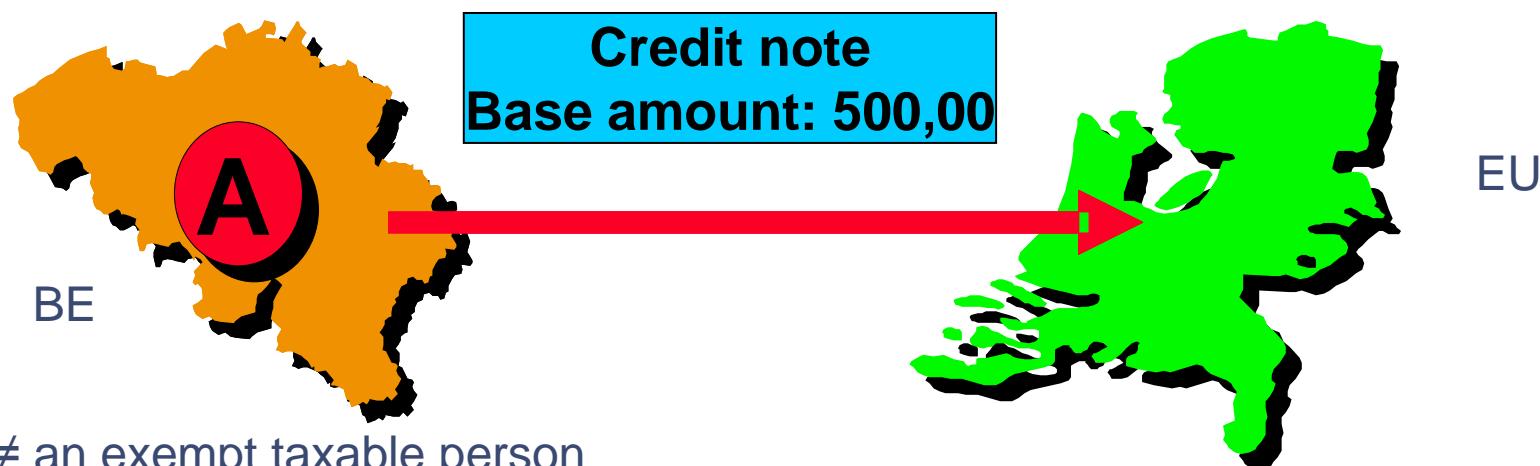
From 1/1/10

- **VAT return of A**
Box 44: 1.000,00
- **ESL**
Code S and EU VAT number of customer



Examples

Intellectual services B2B



A ≠ an exempt taxable person

Up to 31/12/09

- **VAT return of A**
Box 49: 500,00

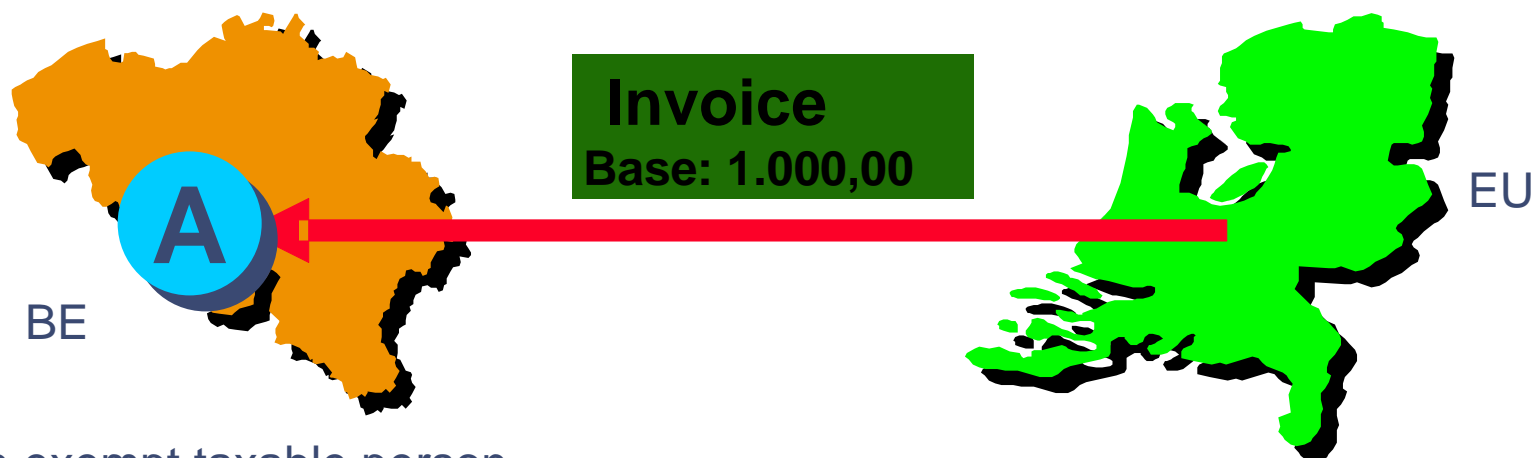
From 1/1/10

- **VAT return of A**
Box 48: 500,00
- **ESL**
Code S and EU VAT number of customer



Examples

Intellectual services B2B



A ≠ an exempt taxable person

Up to 31/12/09

- **VAT return of A**
 - Box 82: 1.000,00
 - Box 87: 1.000,00
 - Box 56: 210,00 (= VAT due)
 - Box 59: 210,00 (= recoverable VAT)

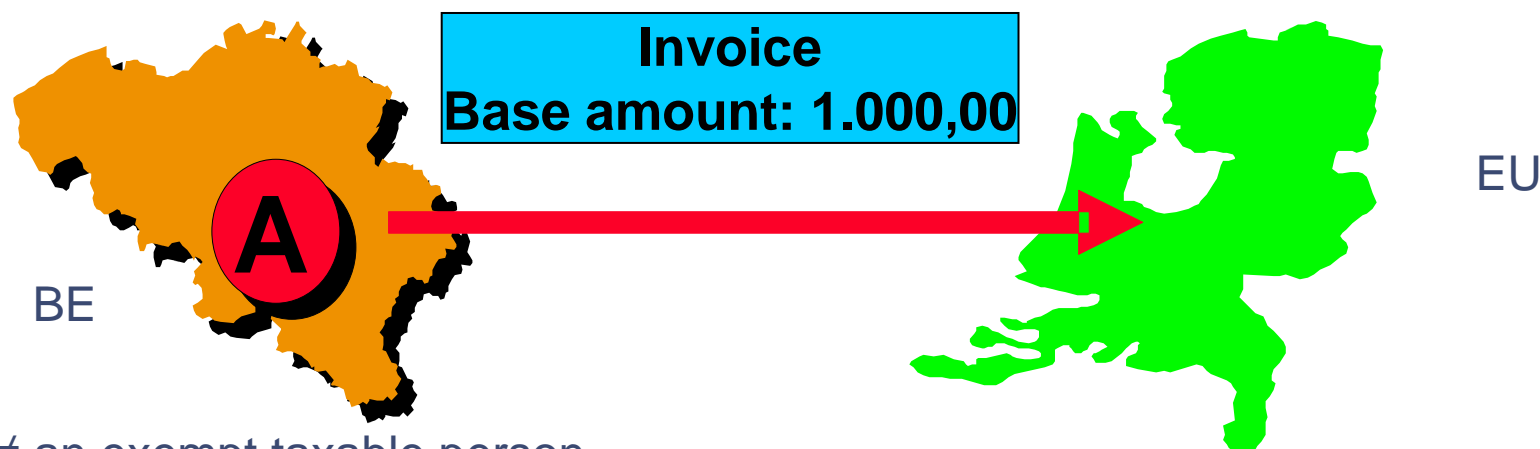
From 1/1/10

- **VAT return of A**
 - Box 82: 1.000,00
 - Box 88: 1.000,00
 - Box 55: 210,00 (= VAT due)
 - Box 59: 210,00 (= recoverable VAT)



Examples

Management services B2B



A ≠ an exempt taxable person

Up to 31/12/09

- **VAT return of A**
Box 03: 1.000,00
Box 54: 210,00

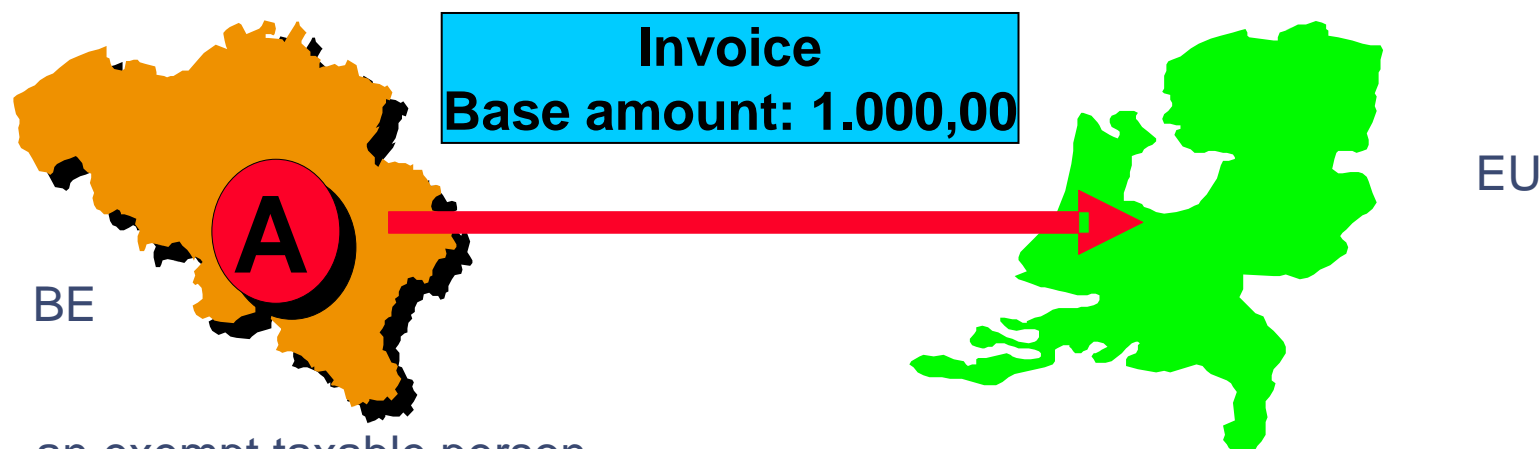
From 1/1/10

- **VAT return of A**
Box 44: 1.000,00
- **ESL**
Code S and EU VAT number of customer



Examples

Intellectual services B2B



A = an exempt taxable person

Up to 31/12/09

- **No VAT obligations**

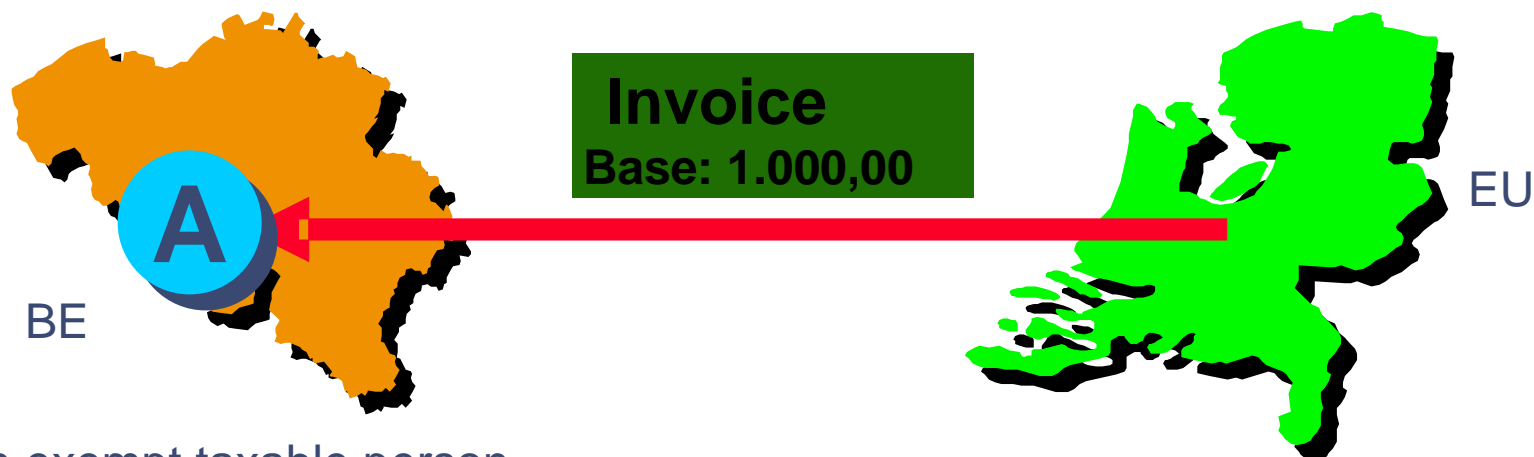
From 1/1/10

- **Taxable in country of recipient:**
 - Activation BE VAT number
 - ESL code S
- **Exempt in country of recipient**
 - No VAT obligations



Examples

Intellectual services B2B



A = an exempt taxable person

Up to 31/12/09

- **Exempt in BE**
 - No VAT obligations
- **Not exempt in BE**
 - Special VAT return

From 1/1/10

- **Exempt in BE**
 - No VAT obligations
 - Not in ESL of supplier
- **Not exempt in BE**
 - Activate BE VAT number
 - Special VAT return
 - In ESL of supplier



8th Directive Refunds

From 1/1/2010, 8th Directive procedure is to be replaced

- New electronic procedure in member state of establishment
 - Set of info to be provided in refund application
 - name of supplier,
 - VAT identification number of supplier,
 - amounts in currency of State of refund,
 - date and number of invoice,
 - nature of goods
- Member state of establishment will forward this request to Member State of refund
- Entitlement to refund according to Member State of refund

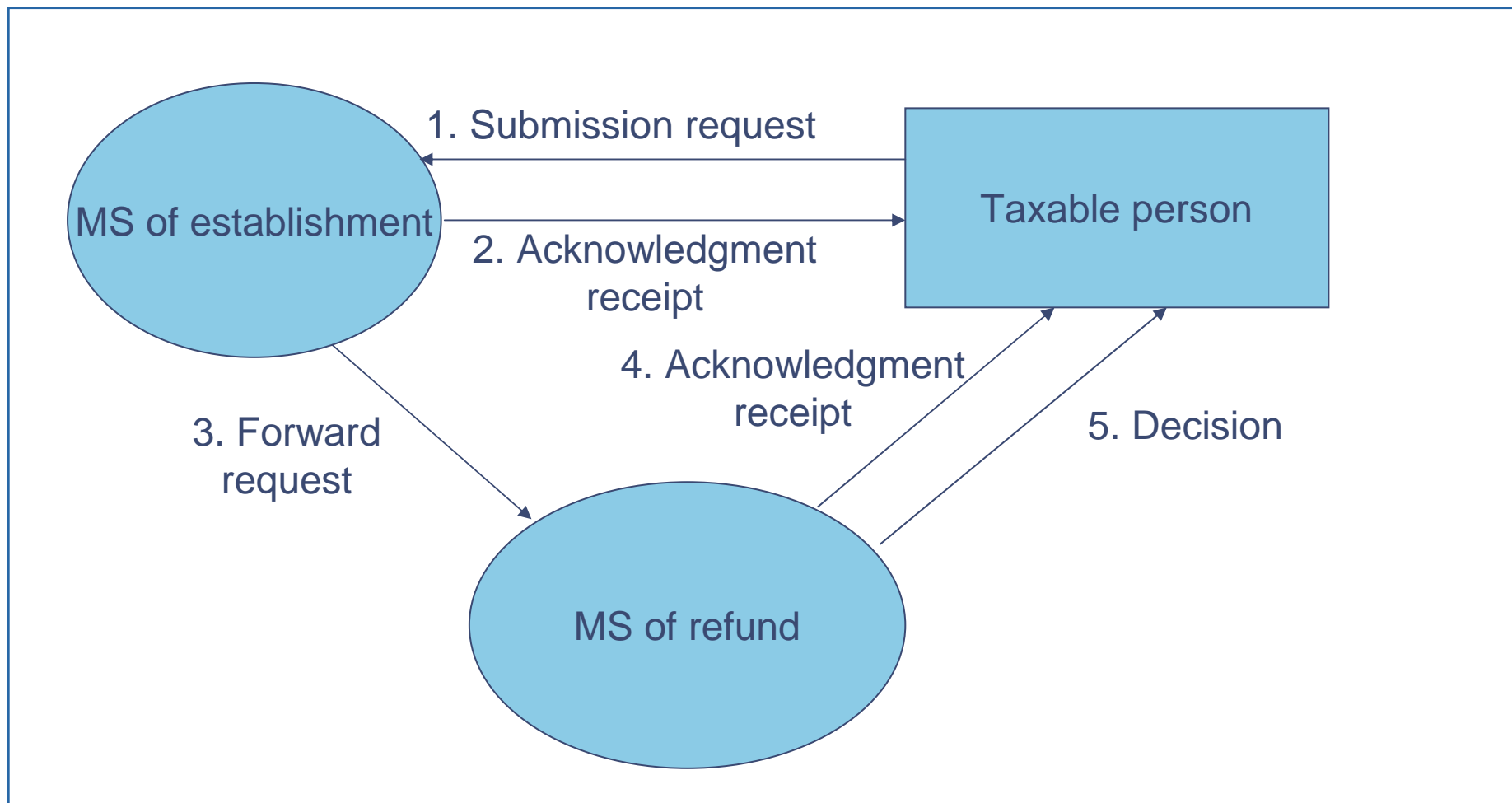


8th Directive Refunds

- Tighter timeframes for processing and payment of refunds
 - Submission of application:
 - At latest by 30 September following refund period (= not more than one calendar year - not less than three months)
 - Approval or rejection (or additional questions) by Member State of refund within 4 months (to be notified to applicant)



8th Directive Refunds





BRITISH CHAMBER
OF COMMERCE IN BELGIUM

Contact details

Claire de Lepeleire
Indirect Tax Director
Phone: +32 (0)2 710 74 17
Email : claire.de.lepeleire@pwc.be

© 2009 PricewaterhouseCoopers. All rights reserved. "PricewaterhouseCoopers" refers to the network of member firms of PricewaterhouseCoopers International Limited, each of which is a separate and independent legal entity. *connectedthinking is a trademark of PricewaterhouseCoopers.



December 2009
Slide 25

The VAT Package
PricewaterhouseCoopers