

Notice to European Correspondents - Fees: VAT in the European Union (EU)

June 2012

Translations: Chinese 

Dear Sirs

Fees: VAT in the European Union (EU)

This circular sets out the position for fees for services which may be paid by the Club as insurer on behalf of its insured Members and which may be subject to VAT in the EU.

The procedures set out are necessary to comply with EU VAT regulations and to ensure that billing of fees and the charging of VAT is carried out correctly in relation to services where you are instructed by the Club or where the Club agrees to pay your fees in relation to a claim or incident falling within the insurance cover provided by the Club. This circular is therefore only relevant to those correspondents or suppliers instructed within the EU.

Billing Procedure

Services provided by suppliers are supplied to the Club's Members, who are covered under their insurance contract with the Club. In addition, the Club is only acting for the Member in making payment. It is not therefore a recipient of the supplies. All invoices for goods and services supplied, even if instructions are given by the Club on the Member's behalf, should therefore be made out to the Member quoting the Member's VAT registration number, at the Member's address, and should not be made out to the Club.

Previous procedures referred to invoicing "The Owner of...c/o The West of England..." This form of billing is unlikely to meet the requirements of local VAT regulation and should no longer be used.

Supplies of Services

For supplies of services the VAT treatment varies depending on:

- a. The type of service provided, and
- b. The place where the supplier and recipient are based.

Services Falling Under the General Rule

The great majority of supplies of services made to businesses in the EU fall under the basic rule for place of supply. Under this rule, services charged to a business in a different country to the supplier's are normally liable to VAT in the country of receipt and, as a result, are outside the scope of local VAT. This means local VAT is not chargeable.

To enable EU suppliers providing services to EU Members to treat their services as outside the scope of local VAT, suppliers should use the Member's VAT registration number or alternative evidence of their business status if they are not VAT registered.

a. Domestic Supplies

We would expect that services provided by suppliers in the same country as the Member would be subject to local VAT.

b. Services supplied by a EU supplier to a Member located in another EU Member State

EU suppliers should obtain the Member's VAT registration number (or alternative evidence of their business status if they are not VAT registered) and therefore we would not expect the supplier to charge VAT on its services. The Club may be able to help in obtaining the VAT number.

c. Services supplied by a EU supplier to a Member located outside the EU

We would not expect a EU supplier to charge VAT on supplies it makes to Members established outside the EU.

d. Services supplied by a supplier outside the EU

Rules on the charging of VAT or similar taxes vary greatly outside the EU. Therefore, this circular does not attempt to give any advice on this.

Land Related Supplies

The basic rule for the place of services for "business to business" supplies within the EU does not apply to services relating to land. Land related services include services of surveyors, architects, engineers etc. In this case the place of supply, and hence the country where VAT is due, is the place where the land is located. Dock damage surveys may come under this rule.

Use and Enjoyment Provisions

Some EU states have incorporated "use and enjoyment" provisions which require suppliers to charge local VAT on services provided to customers based in another country that would otherwise be outside the scope of local VAT. This applies only for a limited number of defined services where those services are "used" and "enjoyed" in the country of supply. Where this may be an issue suppliers should seek local VAT advice to determine the correct VAT liability of their supplies.

General Position with Certain Common Club Related Supplies

Subject to particular advice:

a. Representation services of a Club correspondent will be outside the scope of VAT.

b. Services of surveyors will generally be outside the scope of VAT but there may be instances where VAT may apply depending on the nature of the survey (e.g. surveys relating to land such as a survey of damage to a berth, as above, may be subject to VAT in the Member State in which the berth is situated).

Recent legislation in Greece has enacted that some legal services are to be treated as supplied in Greece

and are therefore deemed to be subject to VAT in Greece and so are not “export services” covered in section c below.

- c. Services of consultants, engineers, consultancy bureaux, lawyers, accountants, loss adjusters and similar “export services” are deemed to be supplied in the State where the Member belongs. Consultancy may include translation and valuation services, testing and analysis of goods and scientific reports.

Payment Procedures

Notwithstanding the above, if the Club has instructed you on the basis that it will pay fees directly, your invoice should be sent to the Club for payment:

Class 1: Unless we advise to the contrary invoices should be sent to the Club for payment in the usual way.

Class 2: Unless we advise to the contrary invoices should be sent to the Member (direct or via the Club) for payment by the Member.

If Correspondents or Members have any questions on these procedures they should contact the Managers.

Yours faithfully

For: **West of England Insurance Services (Luxembourg) S.A.**
(As Managers)

M H Pender
Director