

CENTRAL EUROPEAN GAS HUB AG

INFORMATION ON VAT & CUSTOMS REGULATIONS FOR TRADING & SUPPLY OF GAS AT THE AUSTRIAN VIRTUAL TRADING POINT (VTP)



1. VAT

The supply of natural gas through an Austrian natural gas transmission or distribution system or any network connected to such a system is ("Gas Supply") is subject to the rules of the European Union on the common system of value added tax ("VAT").

Place of supply: The place of Gas Supply to a taxable dealer is deemed the place where that taxable dealer has established his business or has a permanent establishment to which the gas is supplied for. A taxable dealer is any taxable person whose principal activity in respect of the purchase of gas is reselling the gas and whose own consumption of the gas is negligible ("Dealer").

Gas Supply to other persons are deemed to take place where the customer effectively uses and consumes the gas or, to the extent the gas is not effectively consumed, where the customer has established his business or a permanent establishment for which the gas is supplied (*ref. Art. 38 and 39 of Directive 2006/112/EC regarding VAT*).

Taxable supplies in Austria: Accordingly, Gas Supply is subject to Austrian VAT (at a rate of 20%) if

- the Gas Supply is made **to an Austrian resident Dealer** or to a **Dealer with an Austrian permanent establishment** for which the gas is supplied; or if
- the Gas Supply is made **to other customers who effectively use and consume the gas in Austria** or, if all or a part of the natural gas is not effectively consumed, have their place of business in Austria or an Austrian permanent establishment for which the gas is supplied.

Reverse Charge System: Gas Supplies which are taxable in Austria are subject to a reverse charge system if (a) the supplier has **neither his place of business in Austria nor an Austrian permanent establishment** involved in the Gas supply **and** (b) the purchaser is registered in Austria for VAT purposes. However, with effect as of 1 January 2014 Gas Supplies which are taxable in Austria are always subject to reverse charge (irrespective of the residence of the supplier), if the purchaser is a Dealer (i.e. a reseller whose own consumption of the gas is negligible). In cases of doubt whether the purchaser is a Dealer, the supplier may according to the guidelines of the Austrian Ministry of Finance rely on a written confirmation of the purchaser.

Reverse charge means that the **VAT becomes payable by the purchaser** (but the supplier remains liable for payment of the VAT). The invoice for the Gas Supply must not include Austrian VAT but must refer to the fact that the VAT is payable by the purchaser.

Exemption for imports: The importation of gas through a natural gas system or any network connected to such a system is **exempt** from import VAT but a **respective declaration** has to be made when the gas is imported.

2. CUSTOMS

Natural gas traded on the Austrian Virtual Trading Point (VTP) is subject to the customs legislation of the European Union.

As natural gas traded on the VTP is **generally transported by pipeline, it should be deemed to be placed under the Community transit procedure** (Art 450 of the European Commission Regulation (EEC) No 2454/93 as amended for the implementation of the Community Customs Code – Implementing Regulation) either

- on entry into the customs territory of the Community for such gas which enters that territory by pipeline, or
- on placing into the pipeline system for such gas which is already within the customs territory of the Community.

Where necessary, the Community status of the gas needs to be established in accordance with Articles 313 to 340 of the Implementing Regulation.

The transit operation shall be deemed to end when the gas transported by pipeline arrives at the consignee's plant or is accepted into the distribution network of a consignee, and is entered in his records. The undertakings involved in the carriage **must keep records** and make them available to the customs authorities for the purpose of any controls considered necessary in connection with the Community transit operations.

The gas must be declared for release into free circulation but **the tariff is zero** (code 2711 21 autonomous tariff suspension erga omnes). Upon authorisation by the competent customs authorities, the gas may be declared by way of the local clearance procedure which enables a declaration by way of an entry in the records of the declarant at the premises of the person concerned or at other places designated or approved by the customs authorities and where only supplementary declarations need to be filed with the customs authorities.

The handling of customs declarations, documents of origin and duties is **each party's own responsibility**.

Customs Information:

Questions pertaining to customs matters may be also directed to the official Austrian Customs Information Service Desk which provides free of charge advise on an anonymous basis. Please find below the contact details:

Central Information Service of the Austrian Customs Administration

Zollamt Klagenfurt / Villach
Ackerweg 19, 9500 Villach
Telefon ++43/1/51 433-564053
Fax ++43/1/51 433-5964053
E-Mail zollinfo@bmf.gv.at

Important notice & disclaimer: *This information is of a general nature and is not a full and comprehensive description of all potential VAT and customs law aspects in connection with the supply or purchase of natural gas at the Austrian VTP. It is limited to Austrian law and does not take into account the market participant's individual circumstances. This overview is not intended to be, nor should it be construed to be, legal or tax advice. Market participants should consult their own professional advisors as to the particular VAT and customs law consequences of the supply or purchase of natural gas on the Austrian VTP. CEGH and its employees, representatives assume no liability for this information and are under no obligation to update this information.*