



International Tax SIG

Chairs:

Cathal Cusack, Cusack & Co, Ireland;

Inger Lise Lovneseth, Magnus Legal, Norway

Interactive group discussions on topical matters

Independent legal & accounting firms

Advisors2Go: Experts at your fingertips

Updated and improved directory app live!

- Refreshed look, improved functionality
- Find an MSI member on the go
- Works offline, no internet required (after initial login)
- Available for Apple and Android devices

What's new:

- *Member only-access to safeguard your data*
 - *simply use your MSI website login!*
- *TOP 5 contacts now showing*
- *Improved search and filters*
- *US state search*



International Tax

Reporting on AML and regulatory matters

- *Experience of firms*
- *Multiple reporting lines*
- *Different threshold levels – proof, suspicion, etc*
- *“Tipping off” and the risk on referrals*

International Tax

Client onboarding

- *Cost*
- *Time taken*

International Tax

Referrals

- *Initial call for support but not actionable advice?*
- *Firm to firm OR firm to client*
- *Who is responsible for setting the extent of the work – liaising with the original referrer where the initial case has expanded greatly*

International Tax

Tariffs

- *Update*
- *Experience to date*



MSI Showcase

Thomas Eggierth, ADKL Group

Inger Lise Løvneseth, Magnus Legal Business Law Firm

Claude Aemisegger, Schochauer ag, Attorneys-at-Law

Independent legal & accounting firms

The «Meteomatics» Showcase

MSI Collaboration on Swiss – German – Norwegian Tax Aspects



Thomas Eggierth



Inger Lise Løvneseth



Claude Aemisegger

The „**Meteomatics**“ Showcase – Overview and Swiss tax aspects

- Swiss startup company **Meteomatics**
- **Global leader in weather intelligence** / weather information: **most accurate hyperlocal weather data forecast for any location at any time in the world**
- Use of latest technologies including **meteodrones**
- **International expansion** with international tax challenges
- Offering for **local customers** in Norwegian / German / nordic markets
- Processing of **big data** – need for **data servers** and **technical handling abroad**

Swiss tax challenges / coordination work with MSI service providers

- No „tax occulte“ outside Switzerland
- No tax loss outside Switzerland
- No double taxation Switzerland / foreign countries – handling of risks for permanent establishments
- Clearance of transfer pricing for crossborder intercompany services provided

Meteomatics AS – Norwegian entity

- Meteomatics decided to establish a Norwegian entity and Magnus Legal was asked to support.
- Magnus Legal also provides accounting services for the Norwegian entity, a member of our accounting team doing bookkeeping services for Meteomatics in Norway noticed a “strange” invoice, with a VAT rate of 19 % (which sounds off because Norway’s standard rate is 25 % and we do not have a reduced rate at 19 %). The invoice was for a prepayment, with the delivery of hardware in Germany, at the Norwegian company’s German location, which made it even more questionable as to why any VAT was charged – if this was an export sale from Norway, then there should be 0 % VAT on the Norwegian invoice.
- We connected with Thomas at ADKL. Thomas quickly agreed that a mutual call was a good idea, where we then discussed the case from both tax (PE) and VAT investigation, with a recommendation to make an internal assessment.

A person in a grey suit and black shoes is walking up a set of concrete stairs. The scene is captured from a low angle, focusing on the person's legs and feet. The background shows a modern building with large windows and a clear sky.

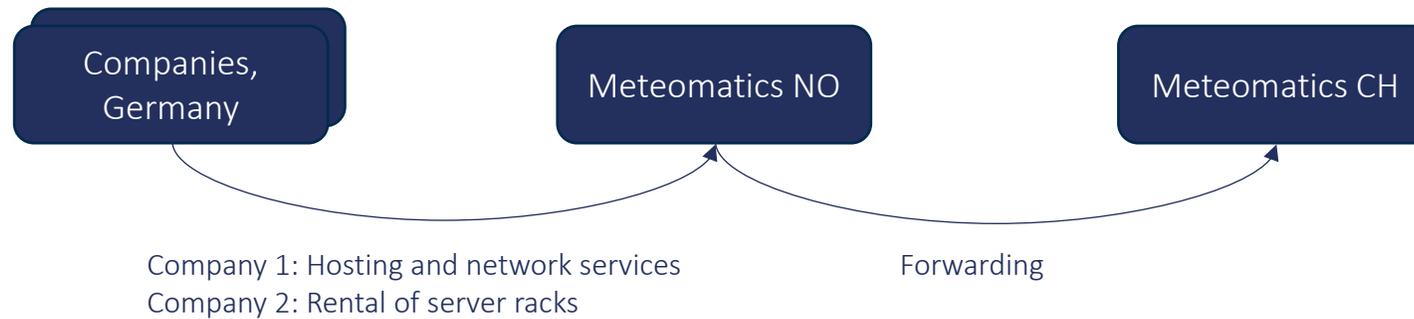
Showcase:
Meteomatics – Tax handling
in Germany

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Facts of the case

Facts 1 – Permanent Establishment



Facts 2 – Acquisition of Hardware



Question: Is there a permanent establishment in Germany for VAT purposes?

Assessment VAT – Facts 1

- § 12 German Fiscal Code: „A permanent establishment is any fixed place of business or facility that serves the activities of a company.”
- German literature: Accordingly, a fixed establishment requires a sufficient degree of permanence and a structure which, in terms of staffing and technical equipment, enables it to receive or provide services for its own needs. Staffing requires that, in the correct view of the European Court of Justice, the entrepreneur as the operator of the establishment has its own staff at its disposal.
- Company 1 already excludes independent access by Meteomatics in general. It is contractually regulated that Meteomatics does not have free access to the data center. Any notification is made by Company 1 as the tenant of the data center space.
- Company 2 generally grants independent access by keycards. This means that Meteomatics NO can access independently at any time. However, Meteomatics NO does not permanently keep personnel on the premises of Company 2.

➡ No permanent establishment for VAT purposes.

➡ Forwarding: other services that are not taxable in Germany

Assessment Income Taxes – Facts 1

- If a non-resident taxpayer carries out commercial activities in Germany, their limited tax liability is largely governed by national law and exclusively by the permanent establishment principle under treaty law.
 - Regarding the topic of permanent establishment: As shown on page 4.
 - The same basic principles under treaty law as under national law.
 - Server permanent establishment:
 - A server can be a permanent establishment if owned or rented server with permanent location.
 - Also fully automated operation without personnel is also possible (“Pipeline ruling” of the German Federal Fiscal Court).
 - However, a cloud server is usually not a permanent establishment.
 - Exceptions according to OECD: Server only used for auxiliary activities → no permanent establishment.
 - Permanent establishment exemptions under the OECD-MA: Software delivery servers, information procurement sites and preparation or auxiliary sites are not permanent establishments.
- ➔ The servers hosted and rented by the German company constitute a permanent establishment in Germany.

Assessment Income Taxes – Facts 1

Legal situation regarding the remuneration of server operating sites:

- OECD: Server can function without staff, but economic allocation questionable.
- German tax authorities:
 - Personnel function as an allocation criterion for assets.
 - Federal Fiscal Court rulings call into question the allocation of assets without a personnel function.

➡ Server permanent establishment can be established through power of disposal and physical hardware.

➡ Legal situation regarding remuneration is still unclear - an approach without remuneration could be justifiable.

Assessment VAT – Facts 2

- Sale of hardware located in Germany and remaining from Company, Norway to Meteomatics NO is subject to German VAT.
- Company, Norway must charge and remit 19 % VAT on the sale to Meteomatics NO.
- Meteomatics NO does not provide any taxable services for VAT purposes in Germany (see assessment – Facts 1). The company must therefore use the input tax refund procedure to obtain a refund of VAT.
- Problem: Refund via input tax refund procedure takes much longer than refunding within the regular VAT return. Gap in cash flow: more than 6 months (up to 1 year) instead of 1 month

➡ Application for input tax refund electronically via the portal of the Federal Central Tax Office

➡ Application must be submitted within six months of the end of the calendar year in which the VAT was incurred



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The logo for Magnus Legal, featuring the word 'MAGNUS' in a bold, white, sans-serif font with a red horizontal bar above the 'U'. Below it, the word 'LEGAL' is written in a smaller, white, sans-serif font. The logo is set against a dark blue rectangular background.

MAGNUS
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Future Tax SIGs

Next SIG Festival: Register online

- **Transfer pricing and tariffs**
 - Monday, 16 June at 18:00 UK/19:00 CET
 - Monday, 23 June at 10:00 UK/11:00 CET

- **International Tax**
 - Monday, 23 June 2025, at 07:00 UK/ 08:00 CET
 - Tuesday, 24 June 2025, at 15:00 UK/ 16:00 CET

- **VAT and Indirect Tax**
 - Tuesday, 24 June 2025, at 13:00 UK/ 14:00 CET

Other discussions and comments

