

One Mistake Away: Navigating VAT Compliance in Wholesale

In wholesale distribution, overlooking VAT compliance isn't just costly - it's potentially catastrophic. Across Europe, tightened VAT regulations and retrospective penalties have turned routine transactions into high-stakes risks. Recent cases show how quickly companies can face financial penalties, reputational damage or even imprisonment. For distributors, resellers and sourcing managers in mobile, electronics and IT hardware, the urgency is clear: rigorous VAT compliance is no longer optional - it's essential to business survival.

VAT Carousel Fraud: Real Risks, Real Consequences

VAT carousel fraud, once considered a distant concern, now poses existential threats to legitimate wholesale businesses across Europe. The recent Supreme Court case involving a German distributor ordered to pay €32 million due to an intermediary's unpaid VAT illustrates just how severe repercussions can be. Accounts were frozen, warehouses blocked and normal business halted for over a year. These incidents show how regulatory enforcement often targets legitimate businesses, shifting the burden of proof onto the accused.

In Italy, a trader in Milan was unjustly labelled a 'missing trader' under the split payment regime. Despite proving innocence, he remained liable for €4.7 million in VAT - with his customer facing equal liability. In Poland, a payment to an unregistered account triggered joint VAT liability totalling 46% of the transaction.

Most dramatically, a German wholesaler's sales manager faced armed special forces at dawn, an aggressive enforcement action based merely on suspicion. He remained in custody for six months, only released following a pressured 'voluntary' statement. Such incidents underscore a troubling reality: European wholesalers are increasingly vulnerable, even when compliance measures appear thorough.

"In today's VAT landscape, even minor procedural oversights can lead to catastrophic financial and reputational damage."

The Changing Legal Landscape and the Burden of Proof

European Court of Justice rulings, notably 'Kittel/Recolta', established that VAT exemptions vanish if businesses "should have known" their involvement in a VAT fraud chain. Germany codified and intensified these rules in 2020 with Section 25f of the German VAT Act, significantly empowering tax authorities. Critics say this enables multiple VAT recoveries from a single transaction chain. Consequently, wholesalers now operate under constant digital scrutiny, with errors potentially translating into staggering financial liabilities.

Crucially, the burden of proof now falls on businesses rather than authorities: companies accused of involvement must actively prove their innocence. Without robust documentation and structured evidence, companies face severe financial and legal penalties, often with minimal recourse.

EU-wide Digital Compliance Trends

Recent technological advances in VAT compliance - including mandatory real-time e-invoicing, automated reconciliations and detailed EU-wide reporting - have heightened regulatory oversight. Authorities are quicker than ever to detect irregularities, increasing the necessity for businesses to maintain rigorous compliance practices.

Essential Protective Measures
Proactive risk management is essential. Compliance is now vital business infrastructure. Vogel, Sprinke & Kollegen recommend businesses adopt stringent measures:



Supplier Verification:

Comprehensive KYC checks, including validated VIES queries, commercial registry and sanctions screening.



Transparent Documentation:

Detailed records of goods movements - using CMRs, serial numbers, IMEI and photographic evidence of loading and packaging.



Financial Vigilance:

Plausibility checks on pricing, margins and financing to proactively detect red flags.



Secure Payments:

Adherence to approved payment channels, such as SEPA transfers to verified accounts (Germany: VAT ID checks; Poland: mandatory 'white list' payments).



Reliable Archiving: Secure, immutable record-keeping compliant with GoBD standards, maintained for 10 years and accessible within 48 hours.

"Tax compliance is no longer just a cost - it's essential insurance against the collapse of your business."

Vogel, Sprinke & Kollegen: Expertise and Practical Support

With expertise in law, tax, compliance and technology, Vogel, Sprinke & Kollegen offer tailored solutions to safeguard your business operations. Their specialist team provides comprehensive supply chain audits, robust tax compliance systems and decisive crisis management. The firm's competencies include international and European tax law, white-collar defence, regulatory compliance, cross-border structuring and corporate restructuring.

At ITC Malta, Dr Fabian Keller, LL.M., brings 35+ years of experience as CEO, CFO and counsel in fintech and regulated industries. His practical insights ensure your company can confidently navigate Europe's stringent VAT landscape.

Act Now to Protect Your Future

Protect your business proactively. Reach out directly to Dr Keller at keller@vogel-sprinke.de for initial guidance.

VSK
&
Vogel, Sprinke & Kollegen
Steuerberater-Rechtsanwälte

Dr Fabian Keller, LL.M

