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VAT Treatment in eMobility:
Considerations for CPOs and EMPs

December 2025

1 Introduction

For CPOs and EMPs operating across borders, VAT compliance represents one of the most complex operational challenges in eMobility. The ecosystem of eMobility today consists of a large number of interconnected players whose roles and geographic reach cannot in all cases be clearly defined. On both, the side of the providers of charging services (eMobility Service Providers – EMPs) and on the side of the operators of public charging infrastructure (Charging Point Operators – CPOs), this repeatedly gives rise to VAT-related questions, the answers to which can at times be difficult to determine. In particular because European legislation in various EU Member States has either not yet been sufficiently specified or transposed into national law, or EU legislation is interpreted differently from one country to another. Not to mention, the different interpretation of legislation by market participants in this still evolving industry.

In the following, we take a closer look at the VAT treatment of aspects relating to charging transactions carried out within the European Union and outline possible approaches as to how VAT could be handled by different stakeholders in various scenarios. To anticipate the key message – in many cases, it is not possible to establish clear and, above all, fully harmonized rules across Europe. For this reason alone, this Insights Paper is intended to inform and prompt consideration, not to constitute legal advice or a prescriptive recommendation for action or implementation. Rather, it is intended to provide an overview of the challenges arising from the current legal situation and address new developments in EU legislation that will enter into force in the coming years and could make the handling of VAT at least partially clearer and simpler.

2 VAT Treatment of Invoices for End Consumers (B2C)

For B2C transactions in eMobility, the fundamental principle mirrors other sectors: service providers must include VAT on invoices and remit it in the jurisdiction where the service is supplied.[1] Accordingly, the VAT rate of the country determined as the place of supply must be applied. If the charging transaction takes place in a country in which the recipient of the service is resident or at least registered for tax purposes, this generally does not present a problem.

The situation is quite different, however, for charging transactions carried out by end customers in countries in which the responsible EMP is not officially active. What sounds unusual at first glance becomes understandable upon closer inspection of the deep interconnection between EMPs and CPOs, whose business territories can differ significantly. It is entirely possible for an EMP to have contractual relationships with CPOs that operate charging infrastructure in regions of the world in which the EMP itself is not active or in which it is not registered for VAT purposes.

While an EMP can attempt to block customer access to such charging infrastructure, this solution is by no means trivial from a technical standpoint. In certain authorization constellations, particularly when using RFID cards, where the CPO does not send an additional request to the EMP before releasing the charging transaction, such blocking is not technically feasible at all.

This creates a decision point for EMPs: either technically restrict access to markets where they are not registered for VAT purposes or accept the potential tax liability. Neither option is ideal from a business perspective, but understanding these trade-offs is essential for informed decision-making. Essentially today, EMPs are limited to restricting access

[1] Essentially, the currently applicable legal framework is derived from Council Directive 2006/112/EC on the common system of value added tax, in particular from Articles 44 to 59.

to markets in which the provider is not active, or accepting reduced network coverage for its own end customers. Simply put, the solutions are often either too complex or too expensive for EMPs.

This may change in the future, however, because from 1 January 2027, the supply of electricity to end customers including for charging electric vehicles, will become part of the EU's One-Stop Shop (OSS) scheme under the new ViDA[2] rules. As a result, EMPs will no longer generally need to register for VAT in every Member State in which they supply electricity to end customers in the context of EV charging.

The OSS scheme is, in simple terms, an EU-wide special regime designed to simplify the collection of VAT on cross-border B2C supplies. It was introduced to reduce the burden on businesses by providing a central point of contact for VAT reporting.

[2] Council Directive (EU) 2025/516 amending Directive 2006/112/EC as regards VAT rules for the digital age. "VAT in the Digital Age" (ViDA for short) refers to an initiative of the European Commission to modernise the existing European VAT system. The package of measures was adopted by the Council of the EU in November 2024. On the basis of the existing VAT Directive (Directive 2006/112/EC), ViDA introduces new provisions on digital reporting requirements and the platform economy and extends the One-Stop Shop system.

3 VAT Treatment of Supplies of Electricity Between Businesses (B2B)

Compared with B2C transactions, B2B VAT treatment involves additional considerations. Due to this fact, for business-to-business transactions, unlike in relationships with end customers, the tax liability can be shifted (the so-called reverse charge mechanism). It is also due to specific rules that apply to the (re-)sale of electricity or charging current.

In this context, an EMP will generally be regarded as a "reseller" if it purchases electricity primarily for the purpose of reselling it to end-customers and does not consume that electricity itself. This classification is crucial to the treatment of VAT, as this informs which party must assume tax liability. VAT at least partially clearer and simpler.

3.1 Place of Supply

Determining the place of supply is fundamental to understanding VAT obligations in B2B transactions. The EU addresses this in Article 38 of the VAT Directive, which states: *(1) In respect of supplies of [...] electricity [...] to a taxable dealer, the place of supply shall be the place where that taxable dealer has established his business or has a fixed establishment for which the goods are supplied or, in the absence of such a place, the place where he has his permanent address or usually resides.*

The VAT Directive is clear in this respect, as it describes a clear sequence of rules for determining the place of supply that leaves little room for ambiguity. If, therefore, the EMP has no establishment in the place where the service is supplied, which, as described in Chapter 1, is entirely possible, then the place of supply simply defaults to its place of establishment.

[3]There are, in fact, various positions on this. For example, the German tax authorities have stated that classification as a reseller is demonstrated by presenting a USt 1 TH form (Section 13b.3a(2), sentences 5–7 UStAE), whereas German legal literature considers either self-declaration or the nature of the business activity alone to be sufficient as the decisive criterion for reseller status (Sternberg in: Wäger, Umsatzsteuergesetz, 3rd edition 2024, § 3g marginal no. 17).

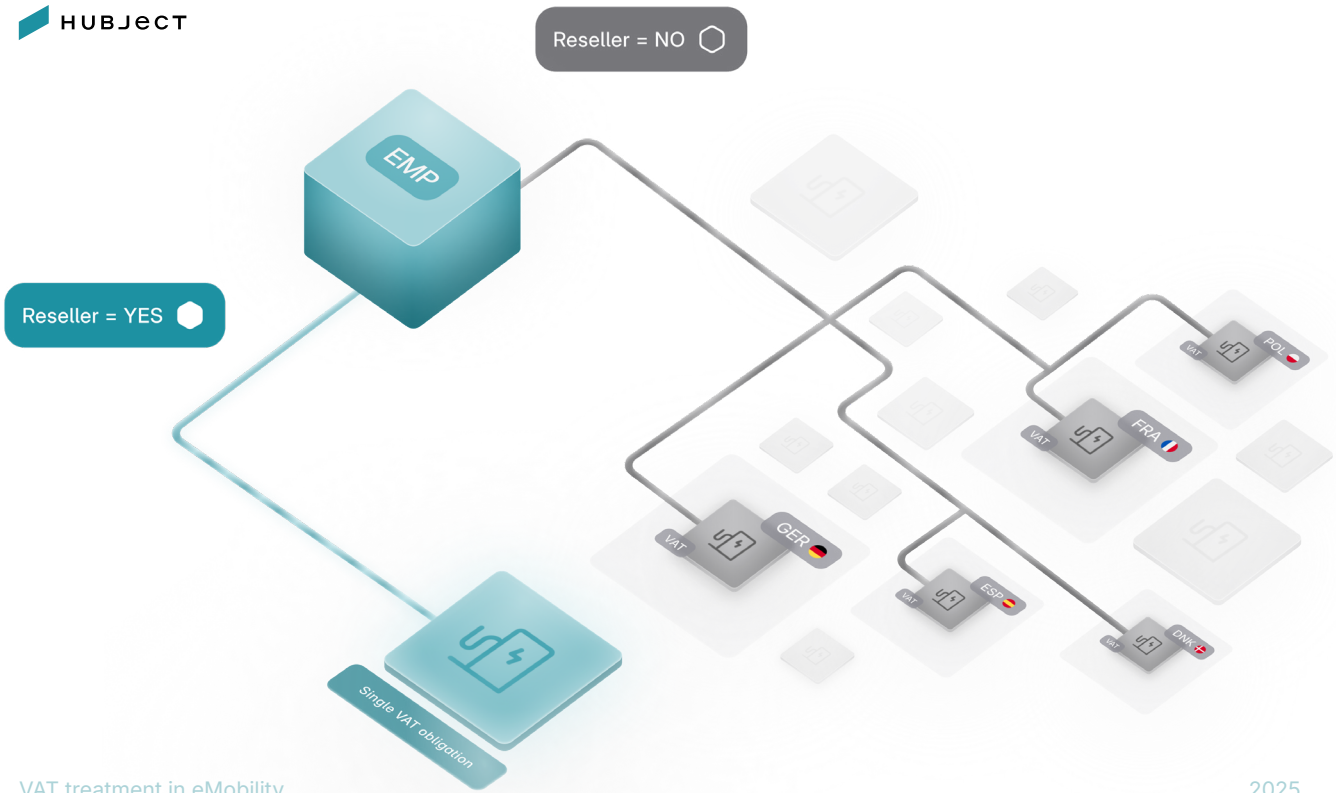
The Directive, however, links this method of determining the place of supply to a condition: *(2) For the purposes of paragraph 1, a 'taxable dealer' shall mean a taxable person whose principal activity in respect of purchases of [...] electricity [...] is reselling those products and whose own consumption of those products is negligible.*

This clarification will apply to the vast majority of EMPs, given that they mostly resell the electricity acquired to their end customers.

In this context, the question frequently arises as to whether EMPs are under any legal obligation to prove their status as a reseller of energy to the CPO. The EU does not address this explicitly, meaning there is no express legal obligation to provide such proof to CPOs. A party becomes a reseller within the meaning of Article 38(2) as a result of its actual business activities.[3]

The need for proof therefore arises solely from the CPO's desire, as the supplier of electricity, to avoid incorrect VAT treatment and the associated tax liability. If the recipient of the service is, in fact, not a reseller, Article 39 of the VAT Directive provides for the following rule on the place of supply: *Where the supply of [...] electricity [...] does not fall under Article 38, the place of supply shall be the place where the customer actually uses and consumes the goods.*

In this case, the only possible place of supply is the country in which the EV is actually charged. The EMP's permanent residence or usual place of abode is not relevant.



Place of Supply Decision Flow

Key Takeaways	
1.	**Determining VAT depends on the place of supply, the conditions of which are articulated in the EU VAT directive.**
2.	**The VAT directive (Article 38) provides a cascading system for determining the place of supply, with the place of supply influenced by whether the EMP is classified as a reseller.**
3.	**If an EMP is classified as a reseller (which applies to the vast majority), and the EMP has no establishment in the place where the service is supplied, then the place of supply simply defaults to the EMP's place of establishment or residence.**
4.	**There is no legal obligation for EMPs to prove reseller status – this request is often driven by CPOs to avoid potential incorrect VAT treatment and associated tax liability from their side.**
5.	**If an EMP is not treated as a reseller, the place of supply shifts to where the charge occurs (Article 39).**

3.2 Reverse Charge

It is fair to ask in determining the place of supply, why such a prominent focus is placed on the recipient of the service and their role as a reseller, rather than on the supplier of the service, given that it is normally the latter who is required to remit VAT. Articles 195 and 199a of the VAT Directive provide an answer to this question. Article 195 states:

VAT shall be payable by any taxable person, identified for VAT purposes in the Member State in which the tax is due, to whom goods are supplied under the conditions laid down in Articles 38 and 39, where the supplier is not established in that Member State.

In other words, in such cases the reverse charge mechanism may apply. This means that the tax liability is transferred to the recipient of the service, who is then required to remit VAT – namely in the place that is determined as the place of supply on the basis of Articles 38 and 39 of the Directive. However, this is only mandatory where the supplier of the service is not established in the Member State in which the tax is due. While such a scenario is theoretically possible, it is rather unlikely that a CPO would not have a registered business in a country in which it operates infrastructure.

This is precisely where Article 199a(e) comes into play, which allows the reverse charge mechanism to be applied as a general rule even where the recipient is a reseller within the meaning of Article 38(2): *Member States may, until 31 December 2026, provide that VAT is payable by the taxable person to whom the following supplies are made: […] (e) supplies of gas and electricity to a taxable dealer as defined in Article 38(2).*

However, unlike Article 195, the application of the reverse charge mechanism in this case is not mandatory but optional.

There will also be changes to the treatment of B2B transactions in the context of ViDA. The degree of simplification these changes will provide for eMobility operators remains to be fully understood. At least, the reverse charge mechanism will now become mandatory rather than optional in cases where a business that is neither established nor registered in the Member State in which VAT is due supplies goods or services to a person that is registered for VAT in that Member State.

The EU Member States will however, continue to have discretion to determine whether the reverse charge mechanism applies where the supplier is registered for VAT in the Member State of supply but has no establishment there, and the recipient of the service is not registered in that Member State. As a result, the local registrations that have so far often been necessary in such constellations are, in principle, expected to be largely eliminated in the future. In reality however, this will likely mean that one will have to adapt to differing local legal frameworks.

Key Takeaways
1. **The EMPs status as a "reseller" is important because the reverse charge mechanism shifts VAT liability away from the supplier (CPO).**
2. **Reverse charging is currently mandatory in limited cases; for example, only where the supplier is not established in the country where the VAT is due, though this is rarely the case with CPOs.**
3. **ViDA will make reverse charges mandatory in more cases, however member states will retain flexibility to implement discretionary treatment for specific scenarios.**

3.3 Local legislation

Even today, it is in particular local legislation that often makes a uniform approach to calculating and remitting VAT difficult. German law, for example, provides that the reverse charge mechanism can also be applied within Germany where both the supplier and the recipient are established there, but only if both can be classified as resellers. Whether all EU Member States follow this interpretation and application of Article 199a of the VAT Directive is questionable and cannot be analyzed further here.

A very similar issue arises in relation to determining the place of supply where businesses cannot be classified as resellers. In this context, Article 39 of the VAT Directive stipulates that the place of supply is the place "where the customer actually uses and consumes the goods". In the case of EV charging, this will, as a rule, be the location of the charging point.

However German law provides an example of effectively overriding the EU Directive. The German tax authorities take the view that a recipient of a supply who resells excess capacity does not 'actually use and consume' the goods (sec. 3g.1 para. 5 sent. 3 German Administrative VAT Guidelines). In such cases, pursuant to Act. 39 sent. 2 VAT Directive and sec. 3g para. 2 sent. 2 German VAT Act, the goods are deemed to be used and consumed at the place where the recipient operates its business or has a fixed establishment to which the goods are supplied.

According to the German tax authorities, this means that the place of supply is always the place where the recipient is established when electricity is "resold" (sec. 3g.1 para. 5 sent. 3 German Administrative VAT Guidelines). Stakeholders should be aware that other Member States may interpret and apply the relevant provisions of the VAT Directive differently.

Particularly in the context of automated or semi-automated invoicing processes, differing local rules repeatedly create problems for stakeholders. Anyone wishing to avoid the risk of incorrect taxation must, in case of doubt, still subject even automatically generated invoices to an additional manual review, since the number of factors that may influence the type and level of taxation may be higher than expected. The varying local interpretations create significant complexity, both for suppliers and recipients for understanding who is required to remit VAT, and in which country.

Key Takeaways	
1.	**Local tax laws (for example, in Germany), often reinterpet or override EU VAR rules, preventing a uniform EU-wide approach to VAT in EV charging.**
2.	**Germany applies the reverse charge mechanism to suppliers of electricity to "resellers" (EMPs), even in cases where, under a strict intrepreation of the VAT directive, article 38, the reverse charge would not normally apply because the EMP has an establshment in the Member State where VAT is due.**
3.	**As local rules differ and may overrise or modify EU principles, automated invoicing systems often cannot reliably determine the correct VAT treatement, making manual review a good practice to avoid misapplied VAT.**

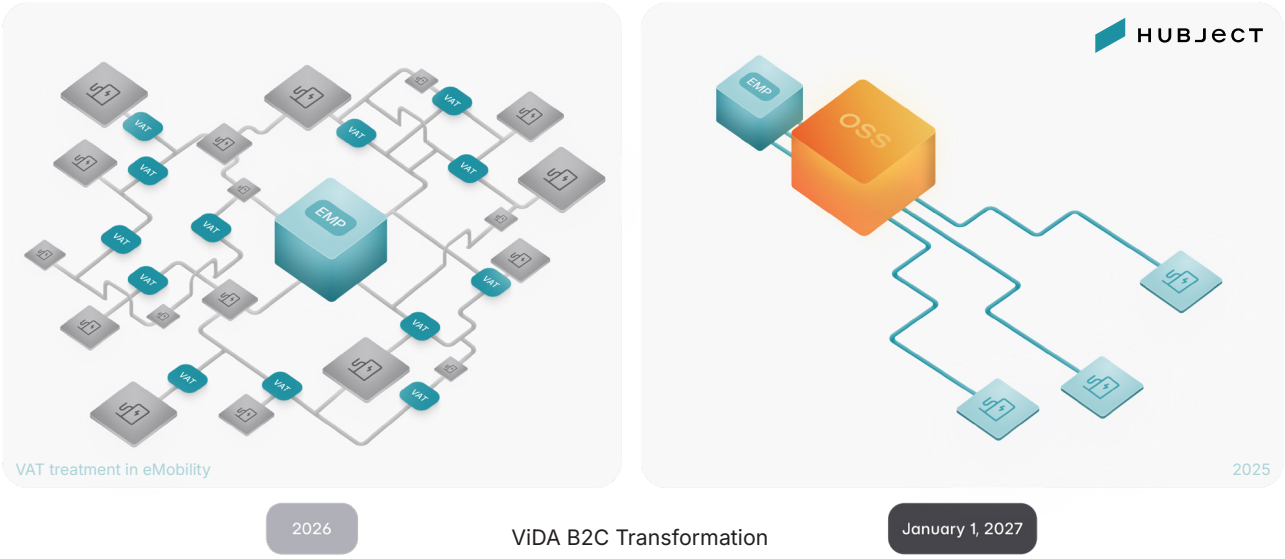
4 Conclusion

The analysis clearly shows that the VAT treatment of charging processes within the EU continues to be characterized by high complexity. The specific structure of the eMobility market, comprising a diverse set of cross-border, interconnected players, means that EMPs and CPOs repeatedly find themselves in situations where existing rules either fail to provide sufficiently clear answers or lead to different outcomes due to national nuances. The practical consequences range from increased administrative effort to significant risks of incorrect taxation.

This issue becomes particularly apparent in the interaction between the provisions of the VAT Directive, the reverse charge mechanism and the role of the reseller under Article 38. While the EU provides a basic framework for B2B situations, divergent national interpretations and additional local special rules prevent a consistently harmonized application across Member States. For businesses, this means that even technically sophisticated billing processes often have to be supplemented by manual checks in order to avoid tax liability risks.

However, with the upcoming ViDA reform ("VAT in the Digital Age"), a development is emerging that is likely to simplify the system in certain areas. In the B2C context in particular, ViDA sends a strong signal: the inclusion of the supply of electricity to end customers in the OSS scheme as of 1 January 2027 will provide EMPs with substantial administrative relief. The central reporting mechanism will remove the frequent need for multiple registrations in each country where charging transactions take place. This not only creates efficiencies but also reduces the risk of incorrect registrations and classification errors.

In the B2B area, the picture remains more nuanced. Although ViDA harmonizes certain aspects, in particular by making the use of the reverse charge mechanism mandatory in specific constellations involving non-established suppliers, Member States will continue to have significant leeway to adopt divergent rules. ViDA will therefore address some of the existing uncertainties but will not achieve full harmonization. As a result, businesses will continue to be required to design their tax processes carefully and to monitor changes in national legislation closely.



In conclusion, it can be said that ViDA represents an important step towards modernizing and simplifying the European VAT system, especially with regard to digital, cross-border business models such as electromobility. The reform will introduce structural simplifications – particularly for transactions with end customers – but full harmonization of the VAT treatment of electricity supplies within the EU will remain, for the time being, a longer-term objective. Companies should take these developments into account at an early stage in order to benefit from the new opportunities while continuing to manage existing risks appropriately.

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