

E-commerce and VAT 1/46/20



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In our Flash News editions of 6 March and 15 May 2020 we said that the EU is planning to simplify the VAT treatment of e-commerce and Latvia is planning to amend the VAT Act on e-commerce. This article explores the progress in adopting these changes and the latest e-commerce developments in the UK.

As we wrote earlier, traders that supply telecommunications, broadcasting and electronically supplied services and have opted for the Mini One Stop Shop ("MOSS") scheme are currently not required to register for VAT in more than one member state. Adopting the new e-commerce package will bring the following changes:

1. Widen the scope of MOSS by extending the non-Union scheme to any services that a non-established taxable person supplies to non-taxable persons;
2. Widen the scope of MOSS by extending the Union scheme to any supplies of services and distance sales of goods to non-taxable persons within the EU;
3. Introduce the Import One Stop Shop ("IOSS"), a new special scheme for distance sales of goods imported from third countries or territories, and apply it to any consignment (other than excise goods) with an intrinsic value of up to EUR 150;
4. Following the adoption of the import scheme for distance sales of goods imported from third countries or territories and the cancellation of a VAT exemption on low value consignments (up to EUR 22), it is proposed to introduce simplification measures for persons declaring goods for customs (postal operators and courier posts) and allow them to report and pay VAT on consignments from third countries or territories on a monthly basis unless VAT on those consignments is reported under IOSS;
5. If an electronic interface facilitates distance sales of goods imported from third countries or territories with an intrinsic value of up to EUR 150, or facilitates an intra-Community supply of goods by a non-established taxable person to a non-taxable person, then that electronic interface will be considered to have acquired and supplied those goods and will be held responsible for calculating, collecting and paying VAT to the government.

An EU-level agreement has been reached to postpone adoption of the new rules. Accordingly, the new e-commerce rules will be applicable from 1 July 2021.

Given the limited scope for having the legislation explain how the new e-commerce rules will apply in practice, the European Commission has issued special explanatory notes on their practical application.

As an example of the matters being considered we can mention an explanation of when an electronic interface will be treated as not facilitating distance sales. If an interface, whether directly or indirectly, (the indicators being assessed cumulatively) –

- lays down no conditions for making supplies of goods. Conditions for supplies of goods should be interpreted very broadly and include conditions for using the platform;
- is not involved in collecting payment or in authorising collection from a customer;
- is not involved in the ordering or direct supply of goods;

- the interface only processes payments for supplies of goods, only advertises goods, or only directs customers to other electronic interfaces where goods are offered for purchase, without any further involvement in supplies.

This information and more details are available from the explanatory notes. Although they are not legally binding on member states, they are quite useful when it comes to figuring out how the new rules will apply in practice.

The UK

New e-commerce rules are coming into force in the UK on 1 January 2021:

- The VAT exemption on the import of low value goods (up to GBP 15) will be cancelled;
- EU traders will be liable to register for and pay VAT in the UK to supply low value goods (up to GBP 135) to UK consumers and unregistered taxable persons;
- If electronic interfaces facilitate sales of goods situated outside the UK, or goods situated in the UK but sold by a non-UK resident, they can be held responsible for collecting VAT;
- A new scheme for supplies of electronically supplied services to UK consumers is in the works.

The UK tax authority has issued a policy paper on the expected changes.

Norway has adopted similar e-commerce rules (effective from 1 April 2020). Australia, New Zealand and other countries have adopted special schemes for cross-border supplies of low value goods. The number of countries operating similar schemes is expected to grow in the future.

If e-commerce issues are on your agenda, you are welcome to attend PwC's seminar "Tax, legal and automated data processing aspects in e-commerce" on 24 November 2020 where we will be discussing the VAT and CIT aspects in EU cross-border e-commerce transactions, the legal aspects to consider in cross-border e-commerce, and automated data processing solutions to facilitate accounting in e-commerce (for details [click here](#)).