

Intermediary's obligations and liability under IOSS 1/24/21



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The Import One-Stop Shop ("IOSS"), a special VAT scheme for distance sales of goods imported from third countries or third territories, will be implemented across the EU from 1 July 2021 as part of extensive amendments to the VAT rules for e-commerce companies. This article explores an intermediary's obligations and liability under the IOSS.

IOSS

For consignments with an intrinsic value of up to EUR 150 the IOSS can be used by:

1. EU companies making distance sales of imported goods;
2. companies established in third countries and third territories that make distance sales of goods imported from a third country; and
3. interfaces (platforms, apps etc) facilitating distance sales of goods imported from third countries.

The IOSS is intended as a simplification scheme to help those companies avoid having to register in each member state to which they supply goods to consumers. To this end, non-EU companies will have to appoint an intermediary (except for Norwegian companies, who do not require an intermediary because Norway has entered into an agreement with the EU on administrative cooperation in taxation).

The intermediary

The intermediary is a taxable person established in the EU that is appointed by another taxable person who makes distance sales of goods imported from third countries or third territories, to be responsible for paying VAT and performing obligations under the IOSS in that person's name and on their behalf.

Obligations

The intermediary has to carry out all the obligations the IOSS imposes on the supplier or electronic interface that has appointed him, including the submission of IOSS VAT returns and payment of VAT on distance sales of imported goods. The Latvian VAT Act does not provide for joint and several liability for the intermediary and the supplier/interface. According to the European Commission's guidelines, however, the supplier or the deemed supplier (in the case of an interface) who has appointed the intermediary remains responsible for their VAT obligations, including payment of VAT, together with the intermediary. According to the guidelines, in the event of a VAT debt the member states should try to recover the VAT first from the intermediary and if that fails they can try to recover it from the supplier or the deemed supplier. It is important to note that the intermediary does not have to be the person that files customs declarations to release the goods for free circulation.

The intermediary's other obligations include reporting any substantial changes that result in the taxable person no longer meeting the conditions for using the IOSS, as well as announcing that the person will no longer use it, or reporting any other changes in the person's registration details. The person using the IOSS has to keep a detailed record of supplies covered by the scheme. The intermediary has to keep a separate record for each taxable person he represents. To demonstrate that the tax calculations are correct, the accounting data will have to be kept for ten years after 31 December in the year the supplies were made. The intermediary will have to file accounting data for each distinct type of supply at the request of the Latvian State Revenue Service ("SRS").

Before the intermediary begins using the IOSS for a non-EU taxable person, he will provide identification details of the taxable person he represents and his own in a request to register for Latvian VAT to use the IOSS. The SRS will make a decision about IOSS registration within five working days. For this purpose the SRS will give the intermediary an individual registration number on the SRS's Register of Taxable Persons that can be used only for the IOSS. The intermediary will have a separate individual registration number for each taxable person he represents.

Accordingly, if you are considering becoming an intermediary under the IOSS then you should evaluate the prospective company you plan to represent in order to avoid potential tax risks. You would also need a detailed agreement on the apportionment of liability to mitigate the risk of only the intermediary being held financially liable.