

# VAT aspects of sharing economy (3) (1/31/19)

This article again picks up where we left off about sharing economy.

## Combined business models

A platform may not charge for its use but choose to gain income from acting as payment intermediary or offering another service. For example, a platform where restaurants offer their meals may choose to gain income from a delivery service, making deliveries on its own or acquiring external services.

Bundled services always raise the question of whether this involves supplies of a single principal service and multiple ancillary services that are all treated for VAT purposes according to the principal service, or whether this involves supplies of multiple independent services for which their individual VAT treatment should be assessed separately.

This also raises the question of whether a platform's service that involves providing an opportunity to pay for goods and services via the platform will be regarded as an exempt financial service.

Since platform operations are not restricted to the national scale, it would be useful for the member states to agree on a uniform approach to the treatment of a platform's operations or on a set of criteria for assessing its activities for VAT purposes to ease the administrative burden and to prevent any double taxation or double non-taxation and competition distortions.

## The European Commission's proposals

The European Commission has put forward a number of proposals for e-commerce expected to be put into practice as from 2021.

One of the proposals provides for platforms being held responsible for paying VAT on goods that non-EU persons supply to non-taxable persons and for paying import VAT on transactions completed via the platform. This will ensure that the correct amount of VAT is charged on goods sold out of an intra-Community warehouse even if they are in fact sold by a non-EU entity.

A platform will be regarded as the supplier of goods if it helps non-EU entities sell goods (costing up to €150) to EU customers through it. There are plans to specify cases where a platform will be considered to promote supplies, depending on whether it prescribes delivery terms and depending on its involvement in making payments or ordering and delivering goods. An online platform will also be required to record the goods or services sold by entities through it. Online sellers will be able to fulfil their VAT obligations under the mini-one stop shop (MOSS) scheme.

As from 2021, the scope of MOSS for reporting and paying VAT will be expanded to make it available to suppliers of all kinds of B2C services, including distant sales of goods or services (for online sellers). This will allow online sellers to fulfil their VAT obligations across the EU through a user-friendly website in their native language. So far, on reaching a specified threshold for distant sales in each country, sellers have been required to register for VAT in each member state where they want to sell goods, which significantly restricts cross-border sales by small and medium entities. For e-service providers, this scheme was

adopted back in 2015 and has been working well.

According to the proposed amendments directly affecting e-commerce with effect from 2021, the current import exemption on low-value consignments (up to €22) is to be replaced by a special arrangement for low-value consignments (B2C import). This provides for two options:

1. The seller applies the expanded MOSS scheme and takes a VAT exemption on imports (a non-EU person must appoint an intermediary) and reports an onward distant supply to the customer. The tax point will occur when payment for the goods is accepted. The value of goods must not exceed €150;
2. Provided the value of goods does not exceed €150, where the seller has defaulted on his obligations, paying VAT will be the responsibility of the person that presents the goods at a customs office, who will then collect the VAT charge from the customer. The expanded MOSS scheme will not apply to imports costing over €150.