

Lesser known tax and administrative requirements for cross-border e-commerce 2/34/21



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We have written earlier about the VAT treatment of distance sales and the new VAT simplification schemes such as the One Stop Shop (“OSS”) and the Import One Stop Shop (“IOSS”) allowing sellers to register for VAT in one member state and pay VAT on distance sales to consumers in all member states. This article explores what other tax or administrative obligations may arise from cross-border e-commerce in another member state.

Natural resource tax

All member states are required to adopt measures ensuring the collection of packaging and other environmentally harmful goods, yet each member state may choose the way of achieving this goal. Along with Latvia, some other member states (e.g. Estonia and Lithuania) may require foreign companies supplying goods to local consumers to pay natural resource tax (or a similar tax) under their national rules or to ensure the collection of imported packaging or environmentally harmful goods (directly or through an organisation). Depending on the member state, such an obligation may arise also when a company is using the OSS or IOSS scheme to simplify distance sales. And each member state operates different tax rates and payment requirements that sellers have to meet.

A levy on the import of blank media and devices that can be used for reproduction

The import into Latvia of blank media (USB drives and computer hard drives) and devices that can be used for reproduction (computers and smartphones) attracts a levy that is proportionally divided between authors, performers, and soundtrack and film producers. A similar obligation operates in some other member states, including Estonia and Lithuania, and this levy extends to foreign companies that import qualifying goods.

Intrastat reporting

Companies that have reached thresholds on taking goods from Latvia to another member state, or bringing goods from a member state to Latvia, have to record dispatches or arrivals on Intrastat report forms giving details of the goods and their value. Some other member states operate a similar requirement for companies registered for local VAT, and in certain countries this may extend to companies registered for the OSS scheme.

Registration on various registers

A foreign company selling foodstuffs, food additives, vitamin supplements, medical goods or other goods

subject to special requirements in Latvia is liable to register those goods or the company on the relevant register. A Latvian company selling goods to consumers in another country may be liable to register those goods or the company as a seller of such goods in the particular country. So it is advisable to assess whether goods are subject to special requirements in a particular member state and, if so, whether there is an obligation to register the goods or the company selling them.

An obligation to report transactions

We have written earlier that the EU Council has adopted [Directive \(EU\) 2021/514 \(“DAC7”\)](#) amending [Directive 2011/16/EU](#) on administrative cooperation in the field of taxation. From 2023, DAC7 requires digital platforms and platform operators to disclose the income of any seller using a digital platform. These rules impose a reporting obligation on digital platforms based within or outside the EU. A similar reporting obligation on services supplied in a digital environment operates in Belgium. So when it comes to e-commerce we recommend assessing whether the country where the company’s customers are located operates a reporting obligation and whether the company is subject to it.

The takeaway

To avoid the risk of defaulting on taxes or other payments or administrative requirements in other member states where goods are supplied to consumers, we recommend finding out whether there is an obligation to pay natural resource tax (or a similar tax) and a levy on the import of blank media and devices that can be used for reproduction, and whether there is an obligation to file a report and be entered on the register of companies or goods, as well as other similar obligations in the country where the company’s customers are located.