

A background image showing a UPS delivery person in a brown uniform and cap handing a cardboard box to a smiling woman in a blue cardigan on a porch. A brown dog is lying on the porch in the foreground.

## **E-Commerce and Impact of Import VAT Deductions: What is Exempt and What are You Required to Declare?**

**VAT Package for E-Commerce: Australia – EU – UK**

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**15/06/2020**



This presentation is for informational purposes only.

It does not constitute legal advice - please consult with your own legal counsel for such advice.

Do not rely on this information without performing your own research.



# Agenda

**The E-Commerce Reality, its Challenges and Customs Legislation**

**Australia: GST on low-Value Goods Imported**

**EU VAT Package for E-commerce**

**UK – Small Parcels**

**Enabling E-Commerce While Effectively Collecting Taxes**

**Q&A**

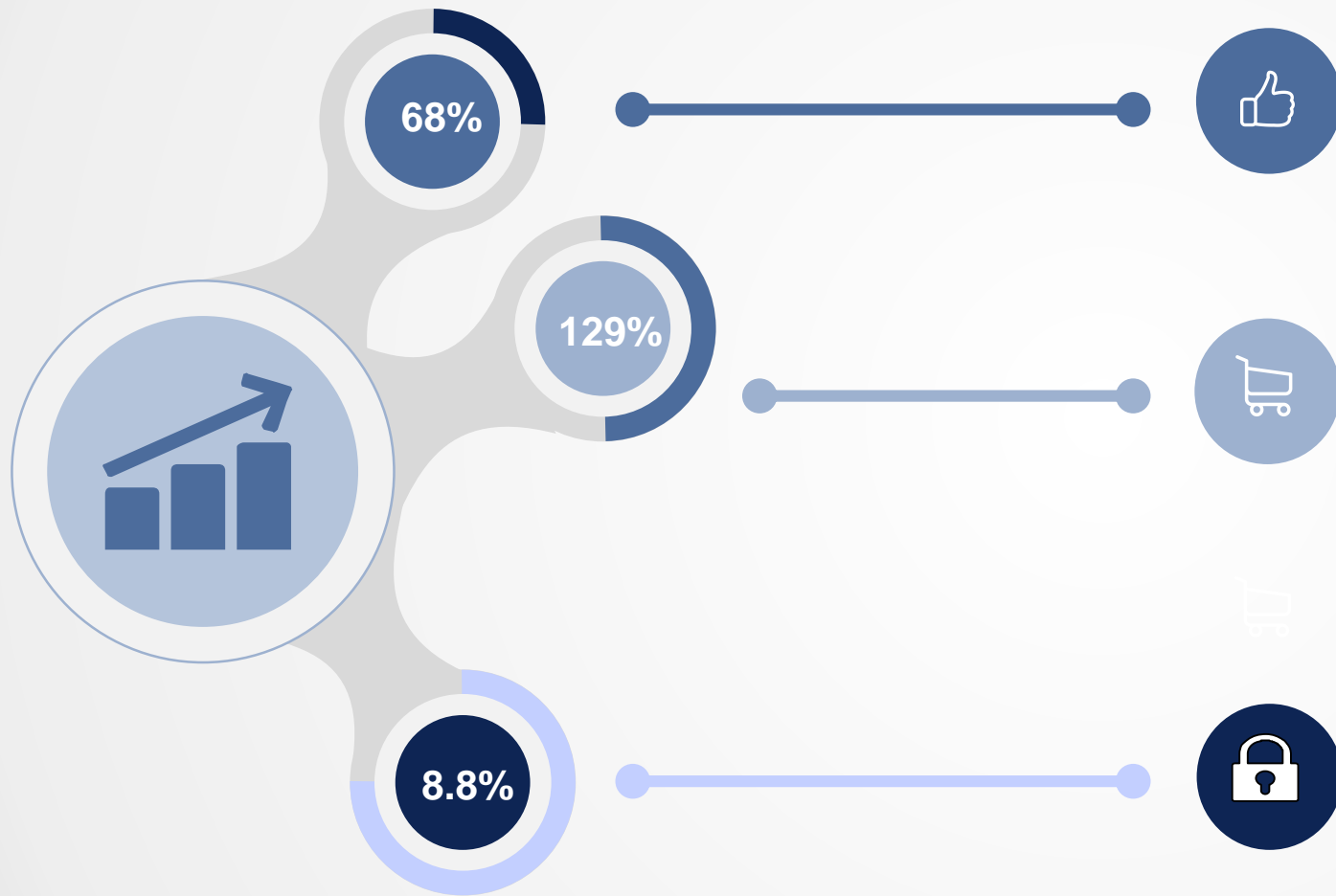


# E-Commerce



- Consumers increasingly want faster, more flexible, and lower-cost parcel delivery services
- E-commerce continues to radically reshape how both B2C (business-to-consumer), B2B (business-to-business) and B2B2C (business-to-business-to consumers) companies serve their customers

# E-Commerce & Covid 19\*



## US Retailers online

U.S. retailers' online **year-over-year (YoY) revenue growth is up 68%** as of mid-April, surpassing an earlier peak of 49% in early January.

## Canadian Ecommerce orders

There's been a **129% year-over-year growth** in U.S. & Canadian e-commerce orders as of April 21 and an impressive 146% growth in all online retail orders

## Conversion Rates increase

Online conversion rates **increased 8.8%** in February, reflecting a level of shopping urgency typically seen during Cyber Mondays

\* Source: Forbes

# Risks involved considering valuations and authenticity of goods

## VAT EVASION

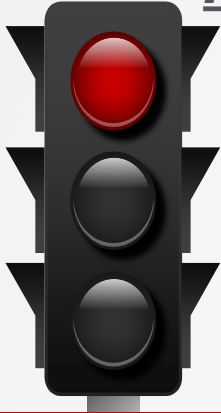


## IPR

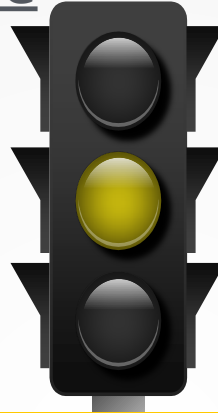
- more than 27 million articles suspected of violating intellectual property rights.
- almost 70 000 detention cases were registered by Customs.
- value of the equivalent genuine products is estimated to be over 740 million euro.

# Background and future situation

## Retail disadvantage



As traditional retail pay duties and taxes for their imported bulk shipments, EU-AU-UK domestic retailers face a disadvantage on B2C shipments below de minimis threshold as they are exempt through the online purchase channels versus purchasing the items in a local retail store.



Challenges collecting VAT from market places

- There are hundreds of thousands of e-commerce shops and market places around the world
- How to reassign centrally paid VAT to end customer/user at destination member state?

## Future situation



Any new model of customs treatment for low value consignments (LVC) has to ensure effective collection of D&T and customs control. New rules should also:

- enable comprehensive implementation of customs and VAT legislation
- ensure a level-playing field between all economic operators with comparable business activities

# Customer experience of the Importer



**It will be significantly more expensive for those who trade or import online for private use.**

- Risk of double taxation. Paid to the distant seller, but upon arrival buyer may be unexpected VAT or taxes
- Increase of purchase price, now including items as of 0 to include collection fees and VAT



**However a better level of Consumer protection will be achieved**

- Enhanced safety and market conformity e.g. CE marking
- Reducing/eliminating illicit trade, counterfeit and illegal items



**As well as market access**

- e-commerce is changing the entire international trade environment including cross-border flow of goods.
- It will be easier to access global markets, particularly for small and medium size businesses. Customs worldwide are challenged to find a balance between supervision and facilitation, covering the relevant fiscal and non-fiscal risks.



# Challenges for Marketplaces



- Marketplaces to perform a new role collecting and remitting the VAT on behalf of the merchants
- Key priority is optimal customer experience. It is critical to ensure the delivery and customs clearance go without delays or obstructions
- Several identified areas where the new rules lack clarity and problems could occur
- Mapping end-to-end transaction flow:
  - VAT and customs aspects have to be considered together, otherwise there is a risk of blind spots
  - Best results can be achieved if platforms and express carriers join efforts for this mapping exercise and share their knowledge

# Challenges for the Customs declarant

- Possible increase in number of customs declarations & VAT collection activities.
- Refusal of delivery, cost to store, return or destroy
- Classification risks: interpretations causing different valuation/customs scheme
- Liabilities where inaccuracies from the information provided by deemed supplier cause mis-declaration
- Automation requirements, additional resource effort
- Difficulties in matching incoming shipments with pre paid shipments

## **Readiness of Customs Authorities in EU and UK, VAT administrations (and businesses-Post) by 2021 (Australia already implemented)**

- Absence of Transition planning when national systems / process not ready in time
- Alignment of the customs process with VAT processes



# What's in it for Marketplaces

- Marketplaces to perform their new role collecting and remitting the VAT on behalf of the merchants, but clean **all in check out** is a clear advantage
- Key priority is **optimal customer experience and green channelling**. It is critical to ensure the delivery and customs clearance go, without undue delays or issues
- **Returns of goods** will be facilitated by simplified processes. Marketplaces keep log/trail of returns, customs process to enable **positive customer experience**
- EU IOSS, Import One Stop Shop facilitating **First point in the EU release** avoiding customs procedures at destination in a patchwork of 27 Member States.
- UPS managing end-to-end transaction flow: **Relaxed way of doing business**
  - if you are an early adopter, you'll get a head-start with not be using
  - Seamless flow, Marketplace to collect VAT, UPS facilitate
  - Trusted partnership with customs authorities





## **GST on Low-Value Goods imported**

Australia

# What are the changes?

The Australian Government introduced the Treasury Laws Amendment (GST Low Value Goods) Act 2017 applying 10% Goods and Services Tax (GST) on imported goods with customs value of AUD 1,000 and below to consumers in Australia. This was implemented July 1, 2018

## Shippers outside Australia

- Affects those who supply AUD 75,000 and more goods to consumers in Australia during a 12-month period

- Shippers are required to register, charge, report and remit GST on their sales of low value goods (AUD 1,000 and below) to consumers in Australia

## Impact to importers

- Affects consumers in Australia

- They will find qualifying businesses outside Australia will be charging 10% GST at the point of purchase for consignments/shipments AUD 1,000 and below





# How shippers can ensure compliance with updated regulations?

- ❑ Shippers meeting the AUD 75,000 threshold have to register with the Australian Taxation Office
- ❑ These shippers are expected to begin charging 10% GST to consumers in Australia at the point of purchase for goods with customs value AUD 1,000 and below
- ❑ Shippers are required to ensure the relevant tax information is included on the customs declarations for these goods



- ❑ Stakeholders impacted will be Sellers, Operator of online marketplace, Re-deliverers
- ❑ GST is applicable on goods sold to B2C customers. A customer can only be treated B2B where a customer's Australian Business Number and a declaration confirming GST registration is entered. All others are treated as B2C
- ❑ To assist customers with this requirement, UPS has made adjustments to our systems allowing the capture and reporting of this tax information and automatically update the customs declaration forms

# Benefits of the Australian Vendor Collect model

Goods with a customs value below AUD 1,000 per shipment subject to GST from 1 July 2017 collected through suppliers

Better Transparency of online purchases

If accurately implemented and applied to postal operators and private carriers, the model should capture the vast majority of postal shipments.

New streamlined GST registration system for vendors, electronic distribution platforms and goods forwarders

Minimizes collection costs for transporters, compliance & enforcement costs for government and delivery delays to consumers

The Australian model was described in 2017 at the Conference of Asia-Pacific Express Carriers (CAPEC) as “the most efficient and equitable approach to global e-commerce”. In particular, it praised the Australian model for including Point of Sale GST at origin, equitable vendor registration reporting requirements, less red tape and greater certainty for consumers, an air “express” pathway for all Australian consumers and a collaborative approach with the Australian Tax Office and Treasury to streamline reporting processes and maximise compliance levels.



## EU VAT package for e-commerce

European Union

# EU VAT package for e-commerce – What are the changes?

Currently

- Shipments with an intrinsic value below 22 Euro are:
  - exempt from VAT
  - released through a declaration by any other act (manifest)

As of  
July 1<sup>st</sup> 2021

(8th May EU proposal to defer by 6 Months to July 1, 2021)

- **VAT exemption is waved for all shipments with an intrinsic value below 22 Euro**

- **For shipments with an intrinsic value below 150 Euro (B2B and B2C), a new process will be implemented:**

- Responsibility for the shipper to register and process VAT payment
- Declarant on import will process shipments at the first Point of Entry through a super reduced data set

The EU Council adopted the VAT e-commerce package on 5th December 2017 abolishing the import VAT exemption for LVC goods not exceeding 10/22€ and introduced simplifications for collection payment of import VAT (IOSS) and special arrangements on B2C distance sales of goods from third countries to customers in the EU.

# VAT collection on imports of low value goods

Together with the removal of the import VAT exemption for low value goods, the new VAT rules introduce **two possibilities to collect the import VAT**:



- Use the special scheme for distance sales of goods imported from third countries/territories: **Import Scheme, Import One Stop Shop (IOSS)**.
- The use of **IOSS is not mandatory**.



- Use the **special arrangements for declaration and payment of import VAT**. Available to declarants for imports of low value goods destined to consumers in the EU. Can be applied when IOSS is not and is typically designed for postal or courier operators.
- The use of **special arrangements is not mandatory**.

Although both simplifications for the collection of import VAT mentioned above are optional, there are incentives in the form of customs facilitations that will be available to encourage businesses to use them. When traders do not avail themselves of these simplifications, the importation will take place using the current more burdensome standard customs procedures.





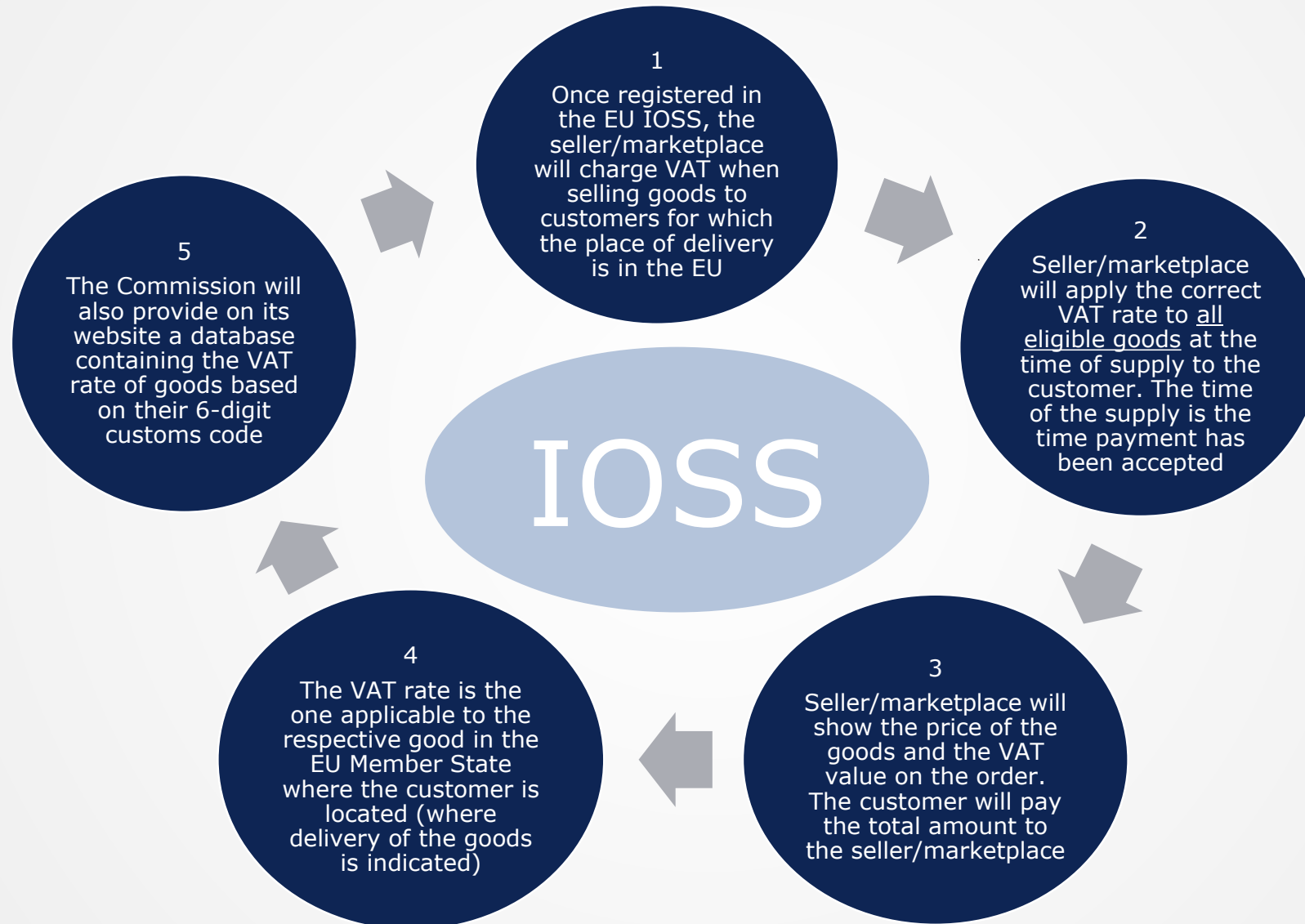
# VAT Reform changes

Value of goods	Before 1 July 2021		After 1 July 2021	
	VAT	Customs duties	VAT	Customs duties
<b>Goods ≤10/22 EUR</b>	Exempt from VAT	Exempt from customs duties	VAT due in EU	Exempt from customs duties
<b>Goods &gt; 10/22 EUR and ≤ 150 EUR</b>	VAT due in EU	Exempt from customs duties	VAT due in EU	Exempt from customs duties
<b>Goods &gt; 150 EUR</b>	VAT due in EU*  VAT applied on (value of goods + customs duties)	Customs due in EU  Customs duties applied on the value of goods	VAT due in EU*  VAT applied on (value of goods + customs duties)	Customs due in EU  Customs duties applied on the value of goods

The implementation of the VAT e-commerce package required amendments to the customs legislation UCC-DA and UCC-IA to set up the same rights and obligations for all declarants. (i.e.Art.143a) of the UCC-DA and column H7 in Annex B)



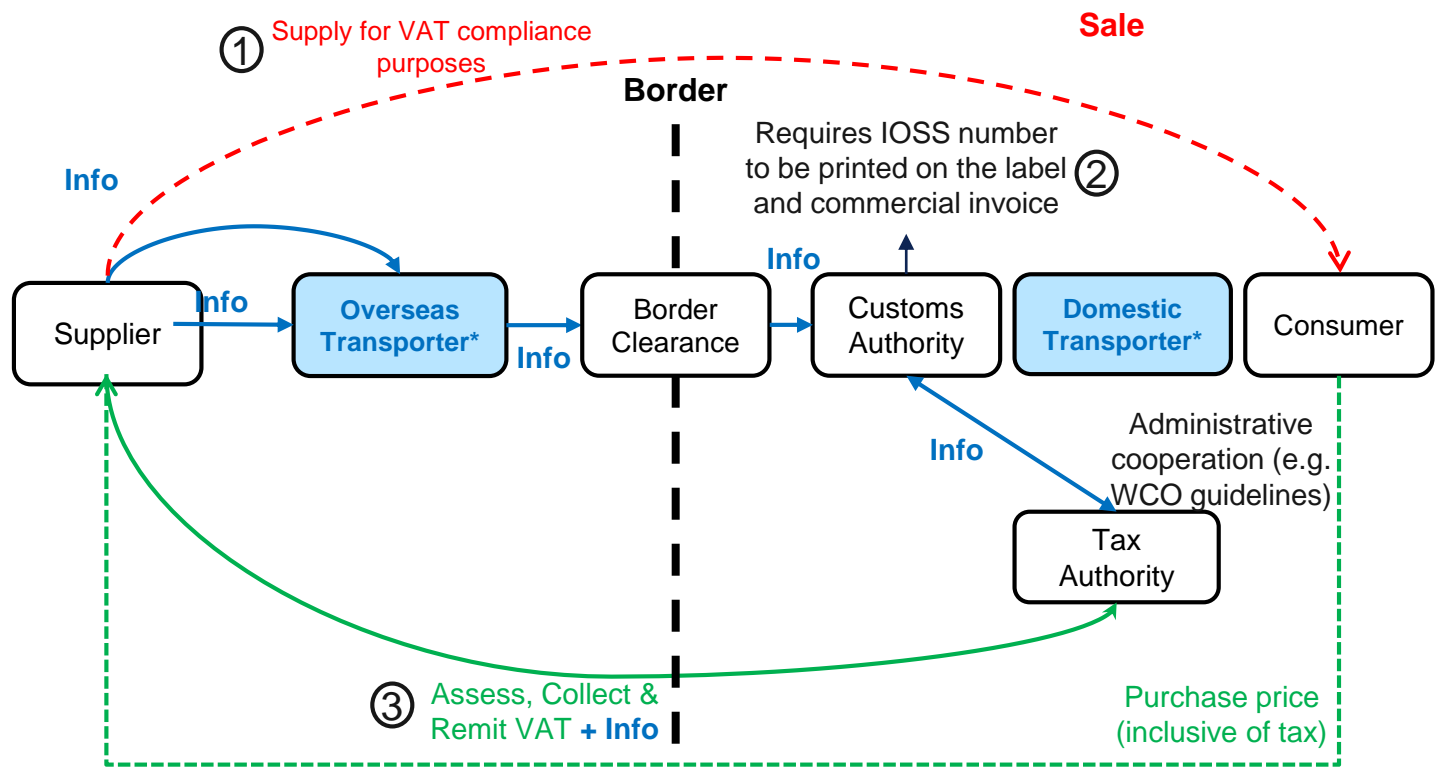
# Marketplaces: One Stop Shop (IOSS) – How does it work?



# Specific consideration for low-value imports

## Direct from Supplier

- Regulatory
- Financial



Impact	UPS action
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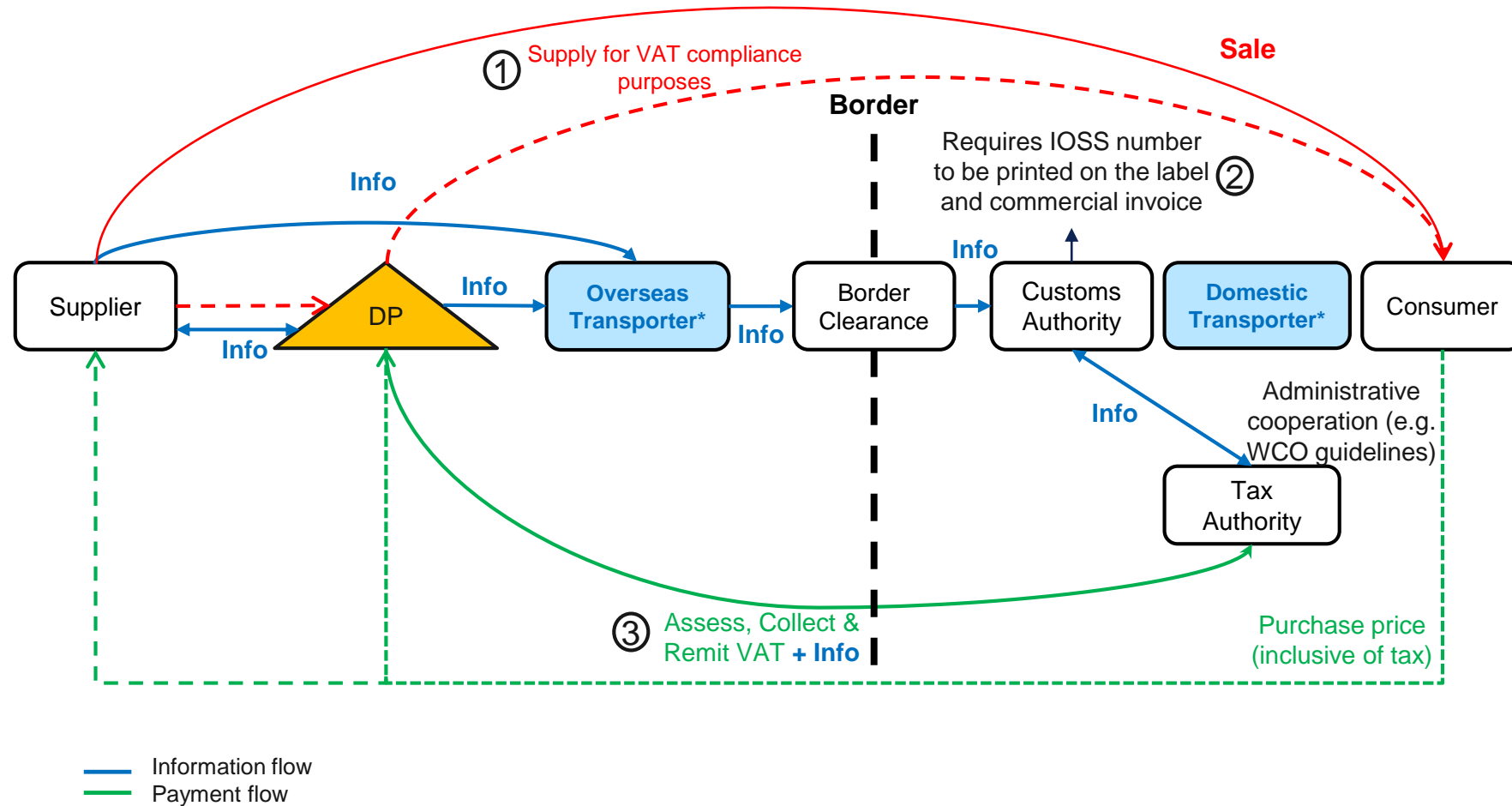
- 1** Supplier to get IOSS registered  
Act as an intermediary
- 2** Carriers to ensure visibility of IOSS number to customs  
Enable shipping tools for IOSS number entry and print it onto shipping docs
- 3** UPS to settle for Supplier supported  
Europe Brokerage to settle and report

— Information flow  
— Payment flow

If the platform is not established in the EU, it will need to appoint an intermediary to be allowed to use the import scheme.

## Specific consideration for low-value imports

### Digital Platforms (DP)



**Impact**

- Regulatory (Orange circle)
- Financial (Teal circle)

	<b>Impact</b>	<b>UPS action</b>
1	DP/Supplier to get IOSS registered	Act as an intermediary
2	Carriers to ensure visibility of IOSS number to customs	Enable shipping tools for IOSS number entry and print it onto shipping docs
3	UPS to settle for DP/Supplier supported	Europe Brokerage to settle and report

— The actual information flow could differ (e.g. supplier can directly provide information to overseas transporters or the digital platforms can provide information received from the supplier to overseas transporters). Digital platforms could be also asked to provide information directly to the customs authority.

— The actual flow of payment could differ according to the arrangements in place between the underlying supplier and the digital platform.

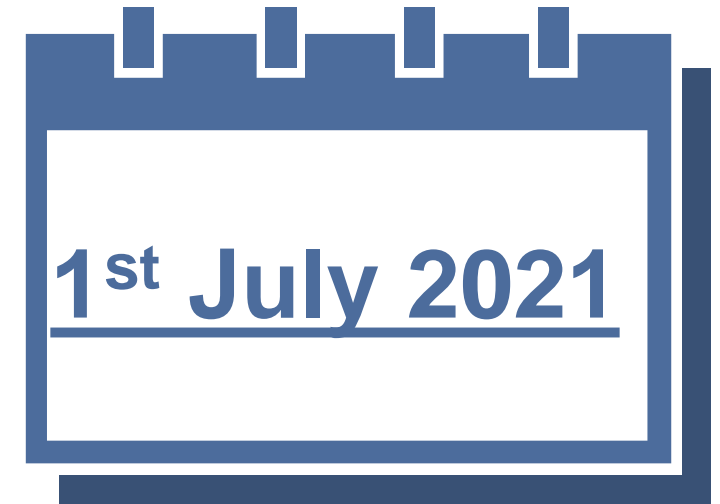
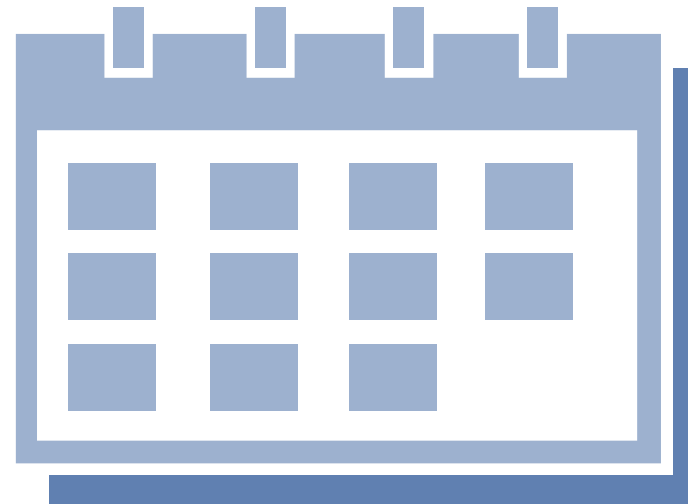
Platforms facilitating distance sales of imported low value goods by underlying suppliers operating on their electronic interfaces (so-called deemed suppliers). If the platform is not established in the EU, it will need to appoint an intermediary to be allowed to use the import scheme.

# Commission proposed to delay the VAT e-commerce Reform

On Friday 8 May, the European Commission has published a legislative proposal to **postpone** the implementation of the Reform to **1st July 2021**. The decision from the Commission is most likely following the request from some EU countries as their IT systems would not be ready by the end of this year and the issues caused by the COVID-19 outbreak. The proposal includes a postponement of the following elements:

- The VAT IOSS whose aim is to allow all companies selling goods to their customers online to deal with their VAT obligations in the EU through one easy-to-use online portal in their own language.
- The abolition of the import VAT exemption for small consignments (valued at under € 22) and the IOSS VAT return.
- Rules on marketplaces deemed as suppliers in relation to VAT. As a reminder, these rules make online marketplaces responsible for ensuring VAT is collected on sales on their platforms that are made by companies in non-EU countries to EU consumers. This includes sales of goods already stored by non-EU companies in EU-based warehouses.

Both the European Parliament and the Council have been informed about the proposal, which will require adoption in Council by unanimity, according to the EU legislative procedure foreseen for VAT matters.





# Dataset change SRDs versus revamped H7, SRDs challenge

On 6 February 2020, roll out of July 2019 version H7 'Super Reduced Dataset' (SRDS) was decided with EU.  
This is particularly relevant in light of the Commission's proposal of 8 May 2020 to delay the implementation of the VAT on E-Commerce directive by 6 months.



Further to this development, we understand the above mentioned decision is being questioned again.  
It is of utmost importance to get clarity on what we need to implement by 1 January 2021 or, by 1 July 2021.  
The express industry argued that the short-term delay should not be used as a justification to reverse course on the agreed approach with respect to the H7.



However discussions made clear that EU and MS intend to go forward and introduce a revamped Super Reduced Data Set (SRDs). This becomes more challenging when taking into consideration that some Member States have indicated that they will not be ready with the H7, even by the new tentative date of July 2021, and will request to economic operators to provide alternate data sets such as the simplified or full declaration



*?!?We have not seen a final version of the revamped SRDs. Will all Member States implement the revised H7 so that we are able to implement one system in the 27 EU Member States?*



## **UK – Small Parcels**

Brexit United-Kingdom

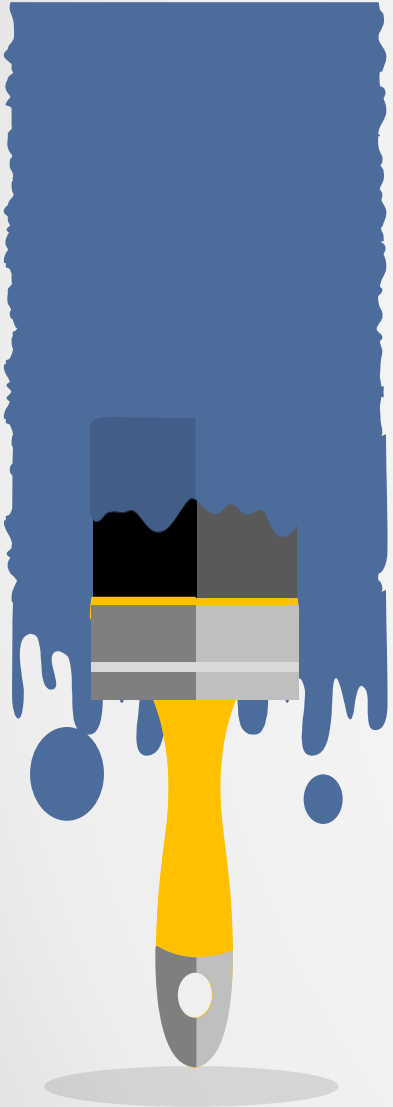
# UK VAT reform changes

Value of goods	Until 31 <sup>st</sup> December 2020		From 1 <sup>st</sup> January 2021	
	VAT	Customs duties	VAT	Customs duties
<b>Goods ≤£15</b>	Exempt from VAT under Low Value Consignment Relief (LVCR) and Low Value Bulking of Imports (LBVI)	Exempt from customs duties	VAT due in UK	Exempt from customs duties
<b>Goods between £15 and £135</b>	VAT due in UK using Customs Procedure Code (CPC) 4000004 and 4000006 (Mid Value Manifest)	Exempt from customs duties	VAT due in UK	Exempt from customs duties
<b>Goods &gt; £135</b>	VAT due in the UK and applied on (value of goods + customs duties) through formal import entry - Supplementary Declaration	Customs due in UK  Customs duties applied on the value of goods	VAT due in UK  VAT applied on (value of goods + customs duties)	Customs due in UK  Customs duties applied on the value of goods

The Taxation (Cross-border Trade) Act 2018 (TCTA 2018), which received Royal Assent on 13 September 2018, introduces a number of powers, including the power to make provisions in relation to any customs duties, VAT or excise in consequence of or connected with the UK's withdrawal from the EU.



# What are the known changes so far?



To ensure VAT can be collected on goods from overseas whilst minimizing burdens on UK recipients, HMRC is exploring shifting the liability for these imports away from the end consumer and using online marketplaces (OMPs) where present to collect the VAT.

Where goods are sold directly to consumers outside an OMP, the seller will be required to register for VAT themselves.

The UK Prime Minister has been repeating there will be no extension to the Transition Period. It is imperative the UK have a plan that works for 1st January 2021 implementation date

## Achievable Objectives:

- abolishing Low Value Consignment Relief
- moving VAT collection away from the UK border to the point the UK consumer purchases the goods (replacing import VAT with domestic supply VAT) and
- involving OMPs in the collection of VAT where they facilitate the sale to the UK consumer

## Impact on importers:

- Where businesses make a supply of goods through an OMP **up to the value of £135**, the OMP will be deemed to be the supplier and liable to register and account for the VAT in the UK to HMRC
- No *de minimis* on VAT results in additional declarations
- Postponed accounting: B2B importers will process import VAT in their own books, outside of Low Value program. Liability for the VAT remains with the UK recipient



# Fulfillment Centers: Goods sitting in the UK sold by an overseas seller through an OMP

This aspect of the measure will apply to sales of goods by an overseas seller, where the goods are located in the UK and sold to a UK consumer.

As the goods have been imported into the UK at the point of sale, any import VAT and customs duty is expected to have been paid already, therefore the changes described below apply to the supply of goods of any value:

UK VAT will be due at the time the sale of goods takes place.

OMP will be deemed to be the supplier and liable to account for VAT on UK sales made through their platforms by overseas sellers

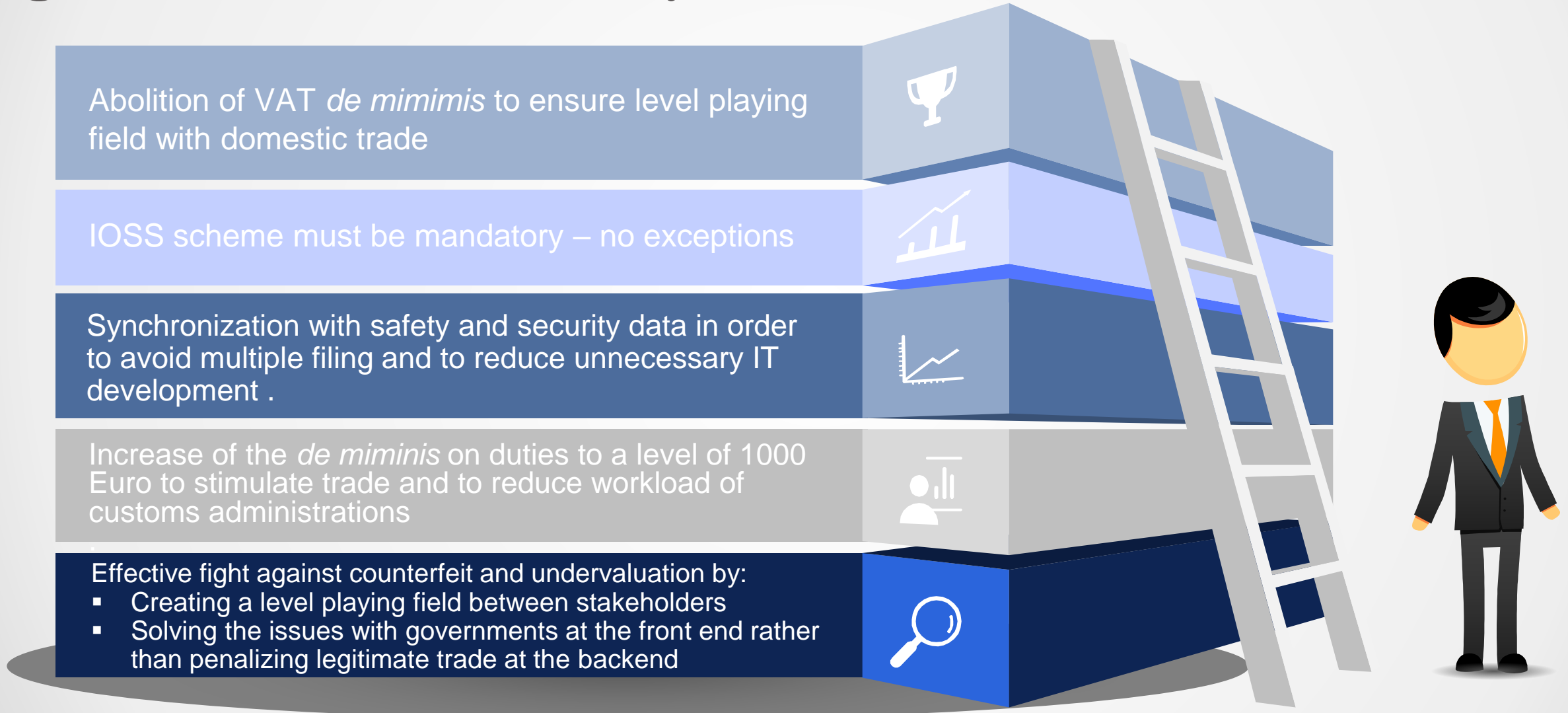


Overseas sellers operating through an OMP will no longer be making a supply to UK consumers. However, they will remain the importer of the goods and be able to recover import VAT charges incurred

Overseas sellers operating through their own website will still be liable as currently for accounting for VAT on UK sales and will be able to recover any import VAT as input tax, subject to the normal rules on input tax deduction



# What do we really need to enable E-commerce and to allow governments to effectively collect taxes?





Q&A

Thank you

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