

Special Report

The EU E-Commerce Package: Traps for the Unwary... and Opportunities for the Well Informed!



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Introduction

On July 1, 2021, the 27 EU Member States were required to implement the second phase of the EU E-commerce package, under Council Directive 2006/112/EC, as amended (the "EU Value Added Tax (VAT) Directive") and related EU regulations. The implementation date for the first phase was January 1, 2019.

The purpose of the EU e-commerce package is to simplify cross-border trade in the EU, reduce the administrative costs of VAT compliance, enable EU businesses to compete on an equal footing with non-EU businesses and ensure that VAT is correctly charged under the destination principle.

In the second phase:

- Operators of electronic marketplaces or platforms ("online marketplaces") become liable to account for and collect VAT on business-to-consumer ("B2C") supplies of goods sold over the internet to final customers in the EU, if the goods are either low-value imports (i.e., not exceeding 150 euros) or are supplied within the EU by non-EU suppliers. New reporting and recordkeeping requirements apply.
- A "One Stop Shop" (OSS) is introduced to enable suppliers (including online marketplaces) to register, declare and pay VAT in a single EU Member State for the following B2C supplies made in the EU:
 - Services supplied by taxable persons not established within the EU;
 - Cross-border sales of goods (so-called "distance sales") and of services supplied by taxable persons established in an EU Member State other than the state of consumption; and
 - Distance sales of low-value imports from outside the EU.

The OSS replaces the "Mini One Stop Shop" implemented on or after January 1, 2015, which provided simplified registration for B2C supplies in the EU of telecommunications, broadcasting and electronically supplied services ("TBE Services").

- A second simplification mechanism for imports permits import VAT on low value imports to be collected by postal operators, couriers and other customs declarants;
- Pre-existing EU Member State-specific distance sales thresholds are replaced with an EU-wide threshold of 10,000 euros, covering distance sales and TBE Services; and
- The VAT exemption for imports of small consignments with a value of up to 22 euros is abolished.

The new rules disrupt established practices of cross border businesses, while offering a range of opportunities to various market players. This White Paper surveys the key pitfalls and planning possibilities under Europe's new e-commerce regime.



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EU E-Commerce VAT Reboot—and Its Impact on Global Sellers



by Liz Armbruester, Senior Vice President of
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June 30, 2021

The EU will officially implement sweeping value-added tax (VAT) reforms for domestic and international sellers on July 1, 2021. Included in the reforms are significant changes on everything from VAT registrations and exemptions to new marketplace obligations. As with any change, the reforms are bringing new complexity for businesses selling into the EU.

Global Sellers Face New VAT Rules

For global sellers currently selling into the EU or those planning to in the future, there are three fundamental changes to e-commerce EU VAT, including a single VAT return for the EU, the removal of VAT exemptions for low-value parcels, and new deemed supplier rules for marketplaces.

The key reform—known as the One-Stop Shop (OSS)—will allow some sellers to report all their pan-EU distance sales on a single VAT return in just one member state instead of having multiple VAT registrations across the EU. The aim is both to boost cross-border online trade and promote trade across the EU's digital single market by reducing compliance obligations.

The OSS scheme will simplify the current requirement for sellers trading within the EU to VAT register in each country they sell to. The scheme is optional and open for EU and non-EU sellers; they must register with a single member state to file an OSS return for their business-to-consumer (B2C) sales of goods within the EU.

The next significant change comes as part of the EU's efforts to close the import VAT exemption loophole and even the playing field for EU sellers when it comes to price. Beginning July 1, the existing 22-euro (\$26) VAT exemption on low-value parcels imported into the EU for delivery to customers will be withdrawn and import VAT would apply to parcels of all value.

Under the new rules, VAT can now be charged at the point of sales for transactions up to the value of 150 euros. The VAT charged may then be declared and paid via a new submission, the Import One-Stop Shop (IOSS). All sellers can register in one EU member state to use this IOSS scheme, although non-EU sellers would need to register through an intermediary. The registration for IOSS in one EU state enables sellers to declare VAT on any affected imports across all of the EU.

The third change has a direct impact on online marketplaces. Similar to marketplace facilitator laws in the U.S., the reforms will require marketplaces that process cross-border sales on behalf of third parties to become the deemed sellers for VAT collections.

The new deemed supplier regulations will apply in two cases when the marketplace is facilitating a B2C sale:

- imports with a cross-border transaction not exceeding 150 euros by EU and non-EU sellers;
- sales within the EU by non-EU sellers for transactions of any value.

Global Sellers Need to Adapt for Immediate Impact

Each of the reforms going into effect on July 1 seeks to address existing disparities, combat fraud, and streamline the process for domestic EU and international sellers. Still, retailers and marketplaces selling within and into the EU will see far-reaching implications for their businesses on everything from pricing to tax calculations. To prepare for these implications, there are several steps and considerations impacted businesses will need to take.

Taking Advantage of IOSS

When it comes to the IOSS, sellers will need to adjust their registration, calculation, and returns processes. With the IOSS, sellers will need to register with one member state. Upon registration, the seller will receive a unique IOSS identification number to place on all packages under 150 euros sent to the EU.

Before July 1, 2021, EU and non-EU sellers selling goods online to EU customers can ship goods into the EU directly to the customer, import VAT-free, if the goods are valued at 22 euros or below.

With the IOSS, sellers will now calculate and charge VAT at the point of sale and submit the invoice with the package for clearance at customs.

Lastly, IOSS returns will need to be filed monthly, and depending on where a business is based an intermediary may be needed to complete the registration, filing and VAT payments.

Understand Marketplace Definitions to Determine the Deemed Supplier

- To understand where the new rules will apply, further consideration should be applied to the definition of a marketplace and facilitation, and the scope of transactions impacted. Once identified as a deemed supplier, a new two-stage VAT transaction process must be applied to the transaction:

- the seller will sell goods to the marketplace on a business-to-business (B2B) VAT exempt-with-credit basis—meaning the seller remains free to deduct any input VAT suffered on the purchase of the goods. The transport of the goods will be attached to this transaction, entitling the transport to a zero rating;
- the marketplace will sell the goods to the customer, charging the VAT rate of the customer's country of residence. The VAT is due when the marketplace receives the order, the commitment, or the order to pay from the customer.

Planning Points

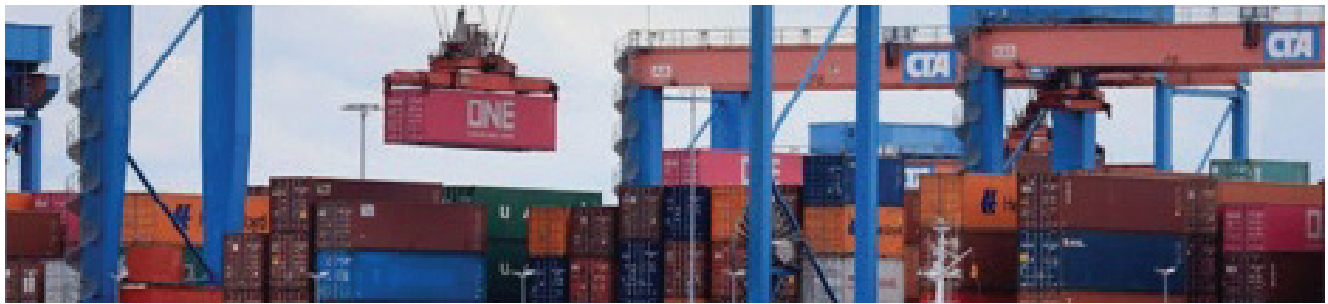
For global businesses selling in the EU, these new VAT reforms will have immediate and long-lasting impacts on e-commerce operations across the 27-nation bloc. Understanding these changes is the first step in ensuring that businesses will avoid any delays or penalties.

As businesses work to adapt their processes for EU transactions, technology will be essential in quickly complying and maintaining compliance for years to come.

This column does not necessarily reflect the opinion of The Bureau of National Affairs, Inc. or its owners.

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EU VAT and E-Commerce Sales: 10 Common Misconceptions Clarified



by Aleksandra Bal, Indirect Tax Technology & Operations Lead, Stripe
June 28, 2021

On July 1, 2021, new value-added tax (VAT) rules for e-commerce sales take effect in the EU. Although much has been written about the new rules ("e-commerce VAT package") and the EU itself has produced numerous guidance documents, businesses still struggle to get a good grasp of the relatively complex legislation.

While the general objectives and principles of the e-commerce VAT package seem to be well understood, "the devil is in the details" and these details will ultimately determine whether a business is compliant or not.

This article clarifies 10 common misconceptions about the new EU VAT rules for e-commerce sales.

Misconception 1: New Rules Affect All E-Commerce Sellers

Although the e-commerce VAT package introduces far-reaching changes that both EU and non-EU sellers must be aware of, its scope is limited to business-to-consumer (B2C) situations. The new rules will affect any seller who (1) sells goods and services to consumers in the EU; and (2) is involved (even indirectly) in the transport of the goods. If your customers are VAT-registered businesses or they take care of the transport of the goods themselves, you do not need to worry about the new provisions.

Misconception 2: One-Stop Shop Is Mandatory

The foundations of the e-commerce VAT package are three One-Stop Shop (OSS) schemes: the Union scheme, the non-Union scheme and the import (IOSS) scheme.

The Union and non-Union schemes allow businesses to register in one EU country for the purposes of declaring VAT due in all EU countries where their customers are located.

The import scheme permits businesses to import goods VAT-free: the seller charges VAT of the customer country at the time of the sale rather than paying import VAT when the goods enter the EU territory.

All three schemes are optional. Although they seek to simplify compliance, there are also good reasons not to use them. As you cannot deduct input VAT in your OSS return, businesses incurring significant expenses in other countries may prefer local registrations over an OSS scheme.

Misconception 3: Union Scheme Is for EU Businesses Only

A common misconception is that EU businesses can use the Union scheme, whereas the non-Union one is designed for businesses established outside the EU.

This is true as far as supplies of services are concerned. For supplies of services, non-EU businesses use the non-Union scheme and sellers established in the EU register for the Union scheme. However, non-EU businesses may also register for the Union scheme if they perform intra-EU distance sales of goods (i.e. sales of goods from one EU country to another). Such sales are not covered by the non-Union scheme that applies exclusively to services.

As every scheme covers different supplies, a non-EU business may end up registering for all three schemes: the Union scheme for supplies of goods located in the EU, the non-Union scheme for supplies of services, and the import scheme for sales of goods imported from third countries.

Misconception 4: One-Stop Shop is Only for Sales Above 10,000 Euros

In general, when an EU-based seller sells physical goods or digital services to consumers in other EU countries, it must charge the VAT of the customer's country. To avoid VAT registrations in countries where its customers are located, the seller may opt to use the Union scheme.

However, there is a simplification for EU businesses whose sales of digital products and distance sales of goods to consumers in other EU countries do not exceed 10,000 euros (\$12,100). Such businesses do not have to charge the VAT of their customer country but may apply their local VAT.

This exception is subject to strict conditions:

- the business is established in only one EU member state;
- it supplies goods only from its country of establishment;
- its revenue from sales of goods and digital services to consumers in other EU countries (and not its total sales) does not exceed 10,000 euros. The threshold is not counted separately for supplies of goods and digital services but the sum of all these supplies must not exceed 10,000 euros for the threshold to apply.

The seller may choose to disregard the threshold and to charge the VAT of the customer country,

registering directly in the customer's country or for the OSS Union scheme. If it decides to do so, it will be bound by this decision for two calendar years.

Misconception 5: Non-EU Businesses do not Require a Tax Representative

A non-EU business selling digital services to EU consumers may register for the non-Union scheme directly with the tax authorities of an EU member state of its choice. A tax representative is not needed. However, EU member states may require non-EU businesses that want to register for the Union scheme to appoint a representative.

A non-EU business which wants to use the import scheme must appoint an intermediary for this purpose. An intermediary is an EU-based business which will be liable to remit VAT and fulfill the VAT obligations laid down in the import scheme in the name and on behalf of the person represented.

The obligation to appoint an intermediary is waived for non-EU sellers who are established in a country with which the EU has concluded an agreement on mutual assistance for the recovery of VAT (Norway, the U.K.) and who send goods from that country. However, as soon as such a seller starts shipping goods from other third countries, it has to appoint an intermediary to use the import scheme.

Misconception 6: One-Stop Shop Covers all Sales of Goods to EU Consumers

The OSS Union scheme applies only to sales of goods that are shipped from one EU country to another. This means that if a business sends goods to customers in its country, it must declare them in its domestic VAT return. For example, a Belgian retailer selling goods from its Belgian warehouse to both Belgian and Dutch consumers may use the OSS Union scheme for the goods shipped to the Netherlands. However, its local Belgian sales must be declared in the Belgian VAT return.

There is only one situation where local sales of goods are declared via the Union scheme: a non-EU business sells goods located in the EU and this sale is facilitated by an online marketplace.

Misconception 7: One-Stop Shop Does Not Cover Sales Into the U.K.

Although the U.K. is no longer part of the EU, the EU VAT rules continue to apply to sales of goods between the EU and Northern Ireland. Northern Ireland has a dual VAT regime: it follows the EU VAT rules for the sales of goods but it is treated as a non-EU country for the sales of services. This means that sales of goods (but not services) to consumers in Northern Ireland may be declared via the OSS Union scheme.

Businesses established in Northern Ireland may register for the OSS Union scheme if they sell and ship goods from Northern Ireland to EU consumers. However, if they provide services or ship goods from other parts of the U.K. to the EU, they may register for the non-Union scheme or the import scheme, respectively.

Misconception 8: Import Scheme Applies to Goods Below 150 Euros

The import scheme applies to sales of goods imported in consignments whose intrinsic value does not exceed 150 euros. Thus, the value of the consignment and not the value of the goods must be below 150 euros.

A “consignment” is defined as goods packed together and dispatched by the seller to one customer. When multiple orders of the same customer are packed and transported together, they form a single consignment. If a customer purchases one item for 80 euros, the seller may apply the import scheme as the consignment value is below 150 euros. However, if the customer orders two copies of this item, the import scheme cannot be applied, as the consignment value is 160 euros.

Misconception 9: EU VAT Number can be Used for all Special Schemes

Each scheme requires the use of a different identification number. For the Union scheme, the seller is identified with the same VAT number that it uses for all other intra-EU transactions. If a non-EU business registers for the Union scheme, it will be allocated a VAT number by the EU member state of registration.

For the non-Union scheme, a non-EU business will be allocated a special number in the format EUxxxyyyyz. This number can only be used to declare supplies falling under the non-Union scheme. Similarly, a business opting to use the import scheme will be allocated an IOSS VAT identification number in the format IMxxxyyyyz.

Misconception 10: Tax Invoices are Obligatory in E-Commerce Sales

Although invoices are commonly issued in e-commerce transactions, there is no legal obligation to issue an invoice for sales covered by any of the special schemes. If the seller chooses to issue an invoice, the rules of the EU country where it is registered apply. However, if the seller performs intra-EU distance sales of goods but does not use the Union scheme, it is obliged to issue an invoice following the rules of the customer's country.

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EU Modernized VAT Regime: Express Logistics and Transportation Companies Get Prepared



by Marius Penninks, Vice President,
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June 23, 2021

On July 1, 2021, as one of the priorities under the [Digital Single Market Strategy](#), the EU will introduce new rules on the value-added tax (VAT) applied to cross-border e-commerce sales. These rules are part of a framework for modernizing procedures in the EU and bringing customs rules up to speed with the realities of our e-commerce environment and modern trade.

Introducing these changes brings the EU closer to operating a fully automated customs union, making it easier to combat VAT fraud and ensure fair market conditions for businesses operating in the EU. And while the changes will ultimately streamline and digitize VAT and trade as we know it, their near-immediate impact will predominantly be on the operations of e-commerce and express logistics businesses and postal operators. Such organizations will be met with two important changes:

- new tax compliance obligations for e-commerce shipments with a value up to 150 euros (\$180);
- a rise in the number of low-value consignments that need to be cleared by customs, resulting from the ending of the 22-euro de minimis import VAT exemption.

The Import One-Stop Shop

Under the new rules, there are two* import processes for bringing goods up to 150 euros from outside of the EU into a member state. The first of these is the Import One-Stop Shop (IOSS), a non-

mandatory online portal that allows e-commerce businesses to collect VAT at the point of sale.

Suppliers can use the IOSS when making e-commerce sales on eligible goods into the EU, allowing them to submit monthly VAT returns and remit it directly to the relevant tax authority. Under the IOSS scheme, the supplier will provide an IOSS VAT identification number to the carrier, who will then submit it to the appropriate customs body. The goods will not be assessed for VAT on arrival in the EU.

Any supplier that is based outside the EU and does not have an entity in the EU will be required to appoint an EU-based intermediary to fulfill VAT obligations on behalf of their business under the IOSS.

The second option is where a supplier chooses not to register for the IOSS: the customs declarant will be required to collect VAT from the end consumer and pay it forward to the relevant tax authority.

This has enormous potential to adversely impact the end consumer's experience, at a time when buyers are increasingly expecting rapid and seamless delivery of goods. We are accustomed to logging in online, browsing e-commerce sites with ease, and having our chosen goods arrive on our doorsteps with a rapid turnaround and minimal fuss. The fast movement of the range of goods available at our fingertips, particularly those with a value of 22 euros and below, has become an expectation rather than a "nice-to-have."

However, if a consumer purchases goods from outside the EU from a supplier that is not using the IOSS and VAT is not applied at the point of

purchase, this harmonious customer experience could be disrupted—and e-commerce businesses and express delivery companies should not underestimate the potential negative impact of levying VAT at the point of importation to an unexpectant consumer.

Imported goods are not normally released by customs until VAT and any relevant duties are paid. Some carriers may hold the shipment for payment, others will clear and bill the recipient, along with a disbursement fee for doing so. Unanticipated customs clearance and disbursement fees may also be applied to parcels from suppliers that do not have an IOSS number.

While this is the reality of EU cross-border trade in which we must operate, postal operators and express delivery services will be all too aware of the business and reputational impact if, and when, customer experience is tarnished by additional unexpected charges.

End of Import VAT Exemption and Impact on Express Transportation Industry

Prior to July 1, 2021, goods valued under 22 euros were essentially exempt from both import VAT and customs duty. However, the planned lifting of the 22-euro de minimis, also known as the Low Value Consignment Relief (LVCR), will immediately increase the number of goods liable to VAT that are moving through the networks of express transportation companies in Europe.

In the near- and long-term, the lifting of the LVCR will have clear time, space and cost implications for express delivery companies: more time will be spent clearing the greater number of goods that will now be subject to VAT; more warehousing space will be required to store those items pending clearance by customs authorities; and ultimately it will mean investing in more employees to process the anticipated higher volumes of packages and VAT invoices, as well as in new processing facilities.

The onus will also fall on logistics and transportation businesses to assess their own obligations for collecting input VAT according to the new terms, to ensure they are compliant.

While the changes do have the potential to impact e-commerce businesses' customer service levels, it is important to remember that the lifting of the LVCR will level the playing field for e-commerce businesses operating in the EU, by preventing parcels imported from outside of the EU intentionally or accidentally avoiding VAT by under- or misreporting the value of imported goods. The Commission's VAT [Gap Report 2020](#) estimated the 2018 gap between expected VAT revenue and actual amount collected at 140 billion euros, in no small part due to fraud and evasion, alongside other factors including maladministration and legal tax optimization.

Under the new rules, online marketplaces that facilitate cross-border sales (imported into the EU and up to 150 euros) to EU consumers will, under certain circumstances, also be responsible for the remittance of VAT due on goods sold on their platforms. These marketplaces will be eligible to register for the IOSS, allowing them to pay their VAT obligations on a monthly basis. Again, collecting VAT at the point of purchase will minimize handling fees levied by express transportation companies, to the benefit of the marketplace, the delivery agent, and the customer at destination.

Planning Points

What else can be done to mitigate the business impact of the new VAT rules on companies in the parcel and logistics industry?

- Securing commercial invoices from shippers is one of the most important things that can be done to support simplified customs clearance processes under the new rules.
- It is vital that express transportation businesses and postal operators educate their e-commerce customers on the importance of proper documentation and the accurate valuation and description of goods. This will reduce the risk of packages being held, support smooth logistics processes, and help to mitigate unexpected costs.
- Ensure your workforce has the capacity and expertise to manage the uptick in the number of low-value parcels that will require clearing.
- Where necessary, invest in your warehousing and processing facilities to ensure you are adequately

prepared for the ending of the 22-euro de minimis import VAT exemption.

- Work with e-commerce businesses to educate them on the benefits of the IOSS platform and the potential impact on the customer experience of levying VAT on the customer at the point of delivery.

The EU is also taking steps to support the parcel and express logistics industry—an amendment to the Union Customs Code Delegated [Regulation \(EU\) 2015/2446](#) will see the introduction of a simplified customs declaration for all shipments with a value below 150 euros, the “super-reduced dataset” (SRDS).

This amendment will help parcel operators and couriers to manage the uptick in consignments entering the EU by offering a simplified level of data in customs declarations. With the introduction of the SRDS, customs brokers will only be required to handle a third of the data found on a standard declaration, which has the potential to ease the pressure.

Going Forward

At FedEx, in anticipation of these changes and to support the smooth flow of our customers’ goods, we have made significant investments in our infrastructure, people, and training, to ensure we have the capacity and capabilities to process additional low-value shipments that will need clearing. Staff are being added in local areas across various member states and we have opened a new service center in Porto to support these efforts.

FedEx has also worked with [KPMG](#) to develop a streamlined IOSS registration process for customers, which will include support with the IOSS registration process, the submission of customers’ monthly IOSS return, real-time notifications handling, and an online portal and alerts.

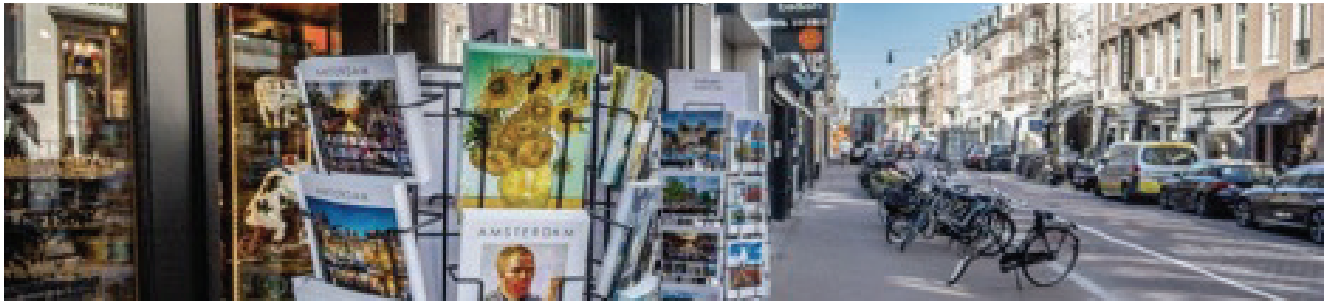
We have also launched a range of online [learning materials](#) so customers can understand the changes and mitigate against the risk of non-compliance, to minimize disruption to their business and avoid adversely impacting their customer service come July 1.

It is crucial that shippers are kept informed by their chosen express couriers so they can act proactively. We aim to educate and support European businesses on any changes affecting their logistics processes, and will continue to do so and facilitate trade in Europe and globally as we move forward.

*A third scheme (Special Arrangement) allowing postal operators, carriers and customs agents to collect VAT for goods up to 150 euros from end-consumers and file monthly declarations with tax authorities, will not be covered here.

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Companies to Face New EU Tax on Their Cheapest Goods July 1



by Gregory Henderson
Bloomberg Industry
June 14, 2021

Companies selling their products in the European Union face a new wave of tax complexity starting July 1, when the 27-nation bloc starts charging a value-added tax on goods worth less than 22 euros (\$27).

Such goods aren't currently taxed because the revenue on them wasn't considered worth the paperwork, but the explosion of e-commerce in the last decade has led the European Commission to believe member states can gain 7 billion euros from the updated tax rules.

The law, passed in 2019, was to have taken effect Jan. 1, but implementation was delayed six months because of difficulties surrounding the coronavirus.

Many U.S. companies are accustomed to collecting tax only on the final sale of goods. With a VAT companies pay input and output tax to each other at each stage in the supply chain, so the final burden of the tax rests with the consumer.

Some businesses will "definitely" be caught by surprise, said Tayde Aburto, CEO of the U.S. Business Association of E-commerce. His organization is working with the EU to educate small businesses members about the changes.

Companies that aren't prepared for the changes could have their goods delayed or rejected at the border, or customers could be surprised with a VAT bill when they claim the goods.

The new tax "just makes it even more challenging for the small guys," Aburto said. "We'll have to wait and see how customers react to increases in pricing for some of their favorite products."

'A Global Trend'

Bigger e-commerce platforms such as Amazon and eBay are likely to have the proper systems in place, as they've already encountered these changes in Australia and New Zealand in 2018 and 2019. Amazon and eBay did not respond to requests for comment.

Rogier Vanhorick, the global digital lead for indirect tax at Deloitte, has spent several years preparing clients to avoid negative outcomes from the change. But he noted that some companies "haven't even begun to think about invoice requirements, let alone user experience."

Christiaan van der Valk, vice president of strategy for tax software company Sovos, said the change "is comparable in many ways," to the situation U.S. companies found themselves in following the Wayfair judgment of 2018, when the U.S. Supreme Court cleared the way for states to enforce tax requirements for out-of-state sellers based on a measure of economic activity.

"It's also different in some ways, since you can't really compare sales tax and VAT in many ways," he said. "But it all points to [the] same trend of destination-based taxing for e-commerce. It's a global trend."

Package of Measures

The change is part of a **package of measures** aimed at modernizing VAT for cross-border transactions and cutting down on VAT fraud in the EU.

"In terms of its depth, its complexity and its scope, it's probably one of the biggest internet and e-commerce-related legislations coming out of Brussels, by far," said van der Valk.

Additional changes include the expansion of the so-called "One Stop Shop," which will allow non-EU companies to make VAT payments to multiple European tax authorities through a single member state, and **new tax liability for online marketplaces** that facilitate e-commerce sales within the EU.

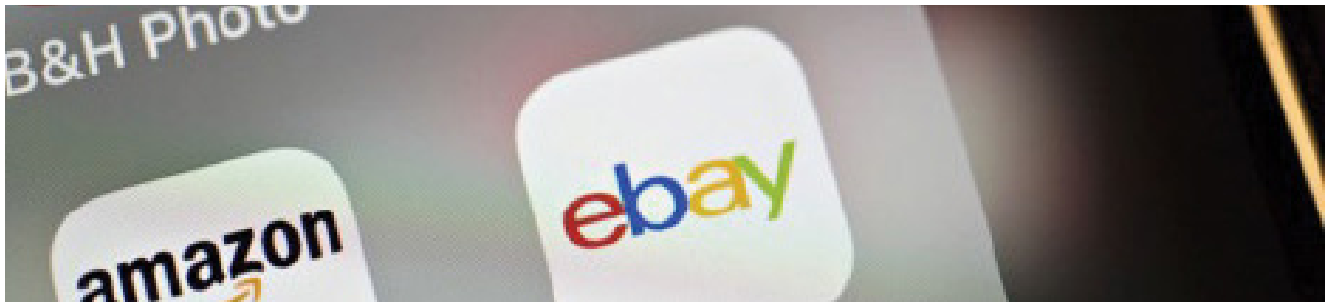
Companies involved in the remote sale of goods and services—whether a supplier or an online marketplace, and whether based in the EU or outside—will need to rethink their pricing, fulfillment, interfaces, liability, and tax determination, Van der Valk said.

Although some European e-commerce will also be disrupted by the new VAT rules, most European companies expect to benefit from the changes, said Sebastiano Toffaletti, secretary general of the European Digital SME Alliance.

A series of lockdowns in Europe aimed at halting the spread of coronavirus has forced smaller physical stores in Europe to set up small e-commerce businesses. These will benefit from a more level playing field, Toffaletti said.

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Online Sellers: Be Ready for EU VAT and Customs Changes



by Aiki Kuldkepp, Senior Manager, Tax
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April 26, 2021

If you are:

- a business selling goods online across the EU;
- an importer of low-value goods; or
- an online platform bringing together sellers and buyers of goods or/and services;

then you need to prepare for major changes that will take place for your business on July 1, 2021.

This article will look at the most important changes.

Firstly, an overview is provided of the main implications of changes to (both EU and non-EU) online sellers shipping goods across Europe from a stock located in the EU.

Secondly, the article will look at the One-Stop-Shop (OSS)–simplified reporting and payment of value-added tax (VAT).

Thirdly, an overview is provided of the impact of the changes for businesses which are importing low-value goods from third countries in the EU.

Fourthly, a short overview is provided of the impact of changes to electronic interfaces/platforms.

Finally, the article will provide an overview of how to register for the simplified OSS reporting.

Major Changes for Online Sellers Shipping Within EU

An overview is provided below of the changes for online sellers who deliver the goods from a stock (e.g. located in a fulfilment center) in one or more EU member states (MSs).

On July 1, 2021, current distance selling thresholds will be abolished and all business-to-consumer (B2C) sales of goods will be taxed in the EU MS of arrival. VAT registration in all EU MSs where customers reside could be avoided if the OSS scheme is used. The OSS may therefore bring considerable savings in VAT compliance costs for businesses selling online across the EU. Any occasional input VAT could be claimed through the (EU online) VAT refund system for non-established taxpayers.

Abolition of Distance Selling Thresholds

Current rules

Under the current EU distance sales rules, intra-EU B2C sales are subject to VAT in the country of departure of goods until the sales exceed a local threshold in the EU MS where the customer is located. After breaching a local threshold (ranging from 35,000 euros (\$42,000) to 100,000 euros) in this EU MS, an online retailer is obliged to VAT register, charge VAT of the EU MS of arrival and remit the collected VAT to the tax authorities of the EU MS.

Rules after July 1, 2021

As of July 1, 2021, all distance sales of goods will be taxed in the EU MS of arrival. The current thresholds will be abolished (see an exception for small EU businesses below). However, VAT registration in all those countries could be avoided if the VAT reporting takes place via the OSS. If the OSS is used, there will be no need to file VAT returns in all EU MSs where the VAT is due.

All B2C sales could be reported via a quarterly return to the tax authorities of a single ("own") MS under the OSS (so-called OSS VAT return). The cross-border services to final customers residing in the EU (such as providing admission to events or services related to immovable property) could also be reported in the OSS VAT return. B2B supplies cannot be reported via the OSS.

New threshold for EU businesses

EU businesses established in only one EU MS may opt for taxation in the EU MS of departure if all their B2C sales of goods and digital (TBE) services in the EU do not exceed 10,000 euros per year. No threshold applies to non-EU businesses.

OSS–Simplified Reporting and Payment of VAT

Simplified reporting for cross-border supplies and certain local supplies

The OSS (extension of current MOSS) will apply to cross-border B2C sales of goods and all cross-border services to EU non-taxable persons (including those supplied by non-EU suppliers) and to certain domestic supplies of goods "facilitated" by electronic interfaces/online platforms. The Union OSS will be available for intra-EU distance sales of goods and cross-border B2C supplies of services by EU companies and the non-Union OSS for supplies of B2C services by non-EU suppliers.

The Import One-Stop-Shop (IOSS), which is discussed further below, will provide a simplified mechanism for suppliers and deemed suppliers to be able to account for VAT due on import of low-value goods.

Reporting can be done in one VAT return in a single MS

Sellers will still be obliged to charge VAT of the customer country; however, this VAT could be reported via a quarterly OSS VAT return in a single MS. The OSS allows for a single payment to this MS, which then forwards the VAT payments to the various EU MSs of consumption.

VAT deduction cannot be done in the OSS return

Businesses cannot claim an input VAT deduction on the OSS VAT return. If the OSS is used for VAT reporting then any occasional input VAT should be claimed via an EU online refund system (previous "8th Directive refund") by businesses established in the EU, or via a "13th Directive refund" by non-EU businesses.

Regular VAT registrations may still be required if the OSS is used

A VAT registration and regular VAT returns are still necessary in EU MSs where an online seller keeps stock and performs B2B intra-EU supplies and local sales from this stock.

Sales in the U.K. cannot be reported in the OSS. Sales of goods in Northern Ireland (NI) could be reported via the OSS since special treatment applies to NI after Brexit.

Using the OSS is optional

A business may choose not to make use of the OSS, and instead to register for VAT in all EU MSs where it has customers. However, if it chooses to register for the OSS then all supplies which fall under the OSS should be declared in the business's OSS return. This also applies to cross-border B2C services falling under the OSS. You cannot, therefore, opt to use the OSS scheme just for supplies in selected MSs and not for supplies in other MSs.

Invoicing

The obligation to issue an invoice is removed for intra-EU distance sales when the OSS/Union scheme is used, e.g. when goods are shipped within the EU or B2C services are supplied by taxable persons established within the EU which fall under the OSS.

Major Changes for Importers of Low-Value Goods into the EU

IOSS–Simplified Reporting and Payment of VAT

As of July 1, 2021, all imports will be subject to VAT unless the IOSS is used. The IOSS is a new special scheme for reporting sales of low-value goods imported from outside the EU. Under the IOSS, the importer can charge VAT at the point of sale to the customer and declare and pay this VAT via a monthly IOSS return.

The IOSS allows for a quick release of imported goods ("green channel" fast customs clearance for consignments not exceeding 150 euros) and also for a release of goods destined for customers located in other EU MSs than that of the entry of the goods in the EU.

Non-EU businesses can only register directly if they are established in a country that the EU has a VAT mutual assistance agreement in place with (at the moment, only Norway) and the goods are shipped from that country to the EU. In all other cases, a non-EU business must register for the IOSS indirectly through appointment of an intermediary.

Any occasional input VAT cannot be deducted via IOSS return and should be claimed through the (EU online) VAT refund system for non-established taxpayers.

Registering for IOSS

EU businesses can register for the IOSS in their own MS. Non-EU businesses requiring an appointment of an intermediary should register in the MS where their intermediary has established its business.

Major Changes for Sellers via Online Platforms on July 1, 2021

Drastic changes will also occur for businesses selling via electronic interfaces such as online marketplaces (e.g. dropshippers). If a business is selling not (only) via its own webshop but (also) via other electronic interfaces/online platforms (hereafter "platform") then the following changes may be relevant. The changes apply for both goods and services sold via platforms; we consider below the changes applicable for goods.

If a platform facilitates your sales and you are:

- a non-EU business shipping within the EU and/or importing low-value goods from third countries directly to final customers in the EU; or
- an EU business importing low-value goods from third countries directly to final customers in the EU;

then you should be aware of the following changes.

Platforms May be Considered Deemed Suppliers

As of July 1, 2021, if a platform facilitates sales by an actual seller (meaning that the platform brings the actual seller in contact with a customer, resulting in the supply of a good via the platform) then in certain cases the platform becomes liable for charging and reporting VAT, if a so-called platform fiction applies (i.e. the platform becomes a deemed supplier).

In cases where a platform facilitates sales of the actual seller (so-called underlying supplier, hereafter also a "seller") then the platform becomes a deemed supplier where the following conditions are met:

- non-Union goods not exceeding 150 euros are imported and shipped directly to a customer in the EU, irrespective of where the seller is established;
- Union goods, irrespective of their value, are supplied to customers in the EU from a location in the EU, if the seller is not established in the EU.

VAT Consequences if a Platform is Considered a Deemed Supplier

The single supply from the (actual) seller to its customer is split into two supplies:

- a supply from the seller to the platform (deemed B2B supply), which is treated as a supply without transport subject to a zero-rate VAT (outside of scope in the case of imports) ; and
- a supply from the platform to the customer (deemed B2C supply), which is the supply to which the transport is allocated.

What Does this Mean for You?

If a platform is considered a deemed supplier, it is liable to charge VAT from its customers and to

report and pay this VAT to the tax authorities. The (actual) seller of the goods is not allowed to charge VAT from its customers if the platform becomes a deemed supplier. The (actual) seller is liable to provide the complete information to the platform.

If you sell via platforms:

- you need to differentiate between the sales via your own webshop and sales via platforms that are considered deemed suppliers;
- changes may be required in your transactions' mapping and IT systems because of the changes in the VAT treatment of your sales;
- changes may be required in your invoicing or contracts because the VAT liability on your sales via platforms that are considered deemed suppliers shifts from you to platforms.

OSS Registrations are Open in the Netherlands

MOSS registrations will be automatically transferred to OSS in the Netherlands. For EU businesses, OSS registrations are possible from April 1 in the Netherlands. For non-EU businesses OSS registrations are possible from May 7 in the Netherlands.

Where can a business register for OSS?

The EU MS in which a business can register for the OSS depends on a number of factors. These factors include the type of supplies in which the business is engaged in (goods or services, or both), any establishments it may have in the EU, and whether it is eligible for the Union scheme or the non-Union scheme.

For example, EU businesses must register for the OSS in their own EU MS. Non-EU businesses without a fixed establishment in the EU supplying goods across the EU from stock located in one or more of the EU MSs (so-called EU distance sales of goods), must register for the Union Scheme in one of the EU MSs where the stock of their goods is located (in one of the EU MSs of the departure of the goods).

Businesses already registered for MOSS

If a business is already registered for MOSS for supplies of TBE services, this MOSS registration is transferred to OSS. Those companies should not file a separate OSS registration in the Netherlands but should update any details of their supplies under OSS.

Planning Points

Changes in internal business processes and IT systems may be needed to manage the changes.

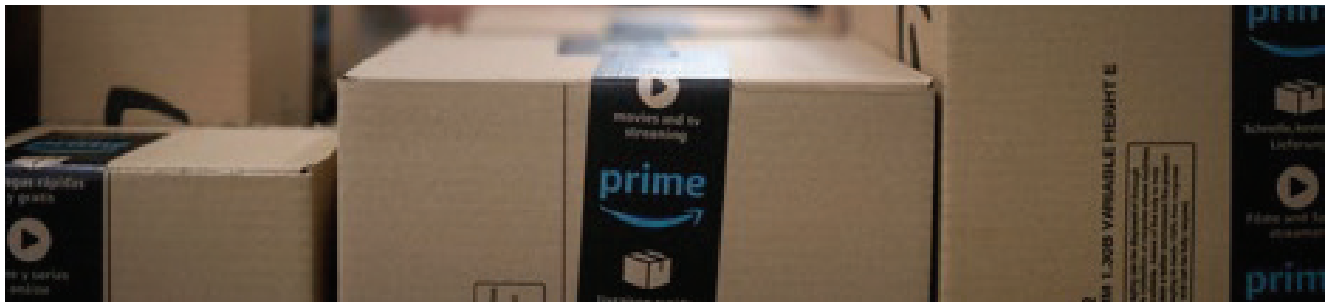
- Engage with VAT advisers to understand the VAT rules applicable to the flows of your goods.
- Check whether the OSS could be applied.
- Decide whether you want to use the OSS or you prefer to file VAT returns in all EU MSs of arrival.
- If you choose to make use of the OSS then you need to register for it.
- Check which administrative steps (such as de-registrations and notifications in various EU MSs) are required if you choose OSS.
- If you choose not to use the OSS then check whether any new registrations are required in any of the EU MSs where you have sales to final customers.

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Marketplaces Beware: Upcoming Enforcement on EU's VAT E-commerce Package



by Christiaan Van Der Valk
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The digital economy presents massive growth opportunities for regional businesses but also serves as an opportunity for additional public revenue. And as global marketplaces account for **57% of online sales**, governments have decided that transactions from the world's marketplaces, like Etsy and Alibaba, can no longer fly under the tax radar. For example, the U.S. now has economic nexus policies on the books requiring marketplaces to collect and remit sales tax on purchases made within their platforms. But the U.S. won't be alone for much longer. The European Union (EU) will soon follow, making marketplaces liable for VAT reporting requirements beginning July 1, 2021.

As with many new VAT policies, questions around liability are bound to come up. Marketplace facilitators operating within the EU will need to understand the nuances around reporting before enforcement begins to mitigate non-compliance risks.

Modernizing VAT for E-commerce

Over the past five years, as retail giants like Amazon began shipping their products around the globe, tax authorities struggled to keep pace. In 2019, the EU was facing a **140 billion euros (\$170 billion) VAT gap**. Not only did the EU want to minimize this gap and make sure member states collected the appropriate VAT, but it also wanted to simplify VAT reporting requirements for companies selling

to consumers across borders. The result is an EU program to combat the issue in two stages.

The EU completed the first stage in 2015, with a system called the Mini One Stop Shop (MOSS). Through MOSS, companies declare and pay VAT on business-to-consumer (B2C) supplies of telecommunications and broadcasting and electronic services within the EU.

The second stage is the **VAT e-commerce package**, introduced in December 2017 and originally scheduled to go into effect in January 2021. The VAT e-commerce package will build on the MOSS concept but extends the scheme to both intra-EU and imported goods and services provided to consumers.

In keeping with a global trend among tax administrations to place direct VAT responsibility on "natural" transaction aggregators, the second stage also makes marketplaces liable for VAT collection and remittance. If that wasn't complicated enough, a single online sale on a marketplace platform will now be viewed as two VAT supplies: one from the online seller to the marketplace, and one "deemed" from the marketplace to the consumer. This construct, which makes life for EU taxing authorities a lot easier, applies both to imported goods below 150 euros (\$182) and to marketplace sales between EU countries.

This requirement remains a challenge for marketplaces, as the VAT rates from EU member states varies. Successful compliance means that marketplace platforms can determine the

correct VAT rates for every transaction made on the platform without any errors. So, suppose two consumers living in different locations within the EU purchased a product from a marketplace seller located in London. In that case, the marketplace will need to determine the VAT rate for the jurisdictions of not only the seller, but also the other two consumers to ensure compliance. This can be further complicated when a marketplace seller lists their items with VAT included, requiring marketplaces to reverse calculate the VAT rate to avoid overcharging VAT.

In addition, marketplace facilitators will be required to keep sufficiently detailed electronic records of supplies for 10 years. This record-keeping requirement is not to be underestimated as it adds a significant, entirely new administrative burden.

The EU has given retailers and marketplaces a bit of a reprieve by delaying implementation until July 1, 2021, due to Covid-19. There may also be a chance that key member states such as Germany and the Netherlands will push for an extension to the end of 2021. However, a few EU countries have already enacted various marketplace rules in advance of the mandate. In January 2019, German legislation made marketplaces liable for their merchants' unpaid VAT and required that they collect information on third-party sales. In addition, Italy enacted a law in July 2019 that mirrors the EU's forthcoming marketplace provisions and applies them to sales of certain electronics, such as cell phones, laptops, and tablets.

Tax Enforcement Post-Covid

Though the European Union is providing an additional six months to comply with the upcoming mandate, marketplaces still have a list of updates that need to be made before the mandate goes into effect.

The upside is most marketplaces have been working to understand and interpret these changes. Now, marketplaces are moving into an execution phase, which includes:

- Aligning relevant master data to enable identification of the taxable status of both sellers and buyers, which is necessary to determine whether a transaction is B2B, B2C, C2C or C2B;

- Aligning goods and services classifications and integrating tax determination logic with their platform to calculate the correct rates of VAT for each member state of destination and performing reverse-calculation, if necessary;
- Implementing required changes to the checkout process, so the accurate VAT information is displayed before the order is complete;
- Implementing invoicing requirements for member states that have specific requirements; and
- Establishing new compliance protocols to enable regular filing of VAT declarations, whether it's a VAT return, iOSS return or OSS return.

In order to meet the EU's requirements, marketplaces should consider **implementing software** or using expert managed services for VAT reporting. This strategy will protect marketplaces from any risks associated with non-compliance when countries are stepping up enforcement to uncover additional financial resources after suffering the economic impacts of Covid-19.

Moving forward, the EU will likely step up enforcement to ensure its member states have access to finances that are rightfully theirs, leaving no room for reporting errors. That said, marketplaces should have a strategy in place to stay ahead of the complexity, nuances, and potential penalties associated with not only the EU's VAT e-commerce package, but for any future international tax mandates.

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An abstract graphic consisting of numerous curved, dotted lines that create a sense of depth and movement, resembling a perspective view of a grid or a series of concentric, wavy paths. The lines are black and white, and the overall effect is modern and dynamic.

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