



e-commerce – the main changes for VAT

On 5 December 2017, Council Directive (EU) 2017/2455 was adopted, amending Directives 2006/112/EC and 2009/132/EC concerning VAT obligations applicable to supply of electronic services and distance sales of goods.

In concrete terms, these changes concern operators:

- Who sell electronic services¹ or goods via the Internet to non-taxable persons (individuals),
- And those who facilitate the supplies of electronic services¹ or goods via the Internet, through the use of a virtual marketplace, a platform, a web portal or any similar means.

The new rules come into effect gradually, on January 1st, 2019 and on January 1st, 2021.

The main changes are summarized below :

1. EU-based operators providing electronically supplied services¹ to individuals residing in the EU	
Current situation	From January 1st, 2019
<p>These operators must charge VAT of the country of residence of their clients from the 1st Euro of supply.</p> <p>They can declare and pay the collected foreign VAT, centrally to the VAT administration of their country of establishment using the mini-one-stop shop system, called "VAT MOSS".</p>	<p>A threshold of EUR 10,000 is set: it will allow these operators to charge VAT of their Member State of establishment as long as the combined total of their supplies of electronic services¹ to individuals in the EU does not exceed EUR 10,000 per year.</p> <p>If the threshold is exceeded, they will have to apply the VAT of the country of their client, declare and pay it using the VAT MOSS system of their country of establishment, as it is currently the case.</p>

2. Non-EU operators who are VAT registered in a Member State because of their other activities	
Current situation	From January 1st, 2019
<p>These operators are excluded from the possibility of using the VAT MOSS system.</p>	<p>These operators will have the possibility to declare their supplies of electronic services¹ or sales of goods via the Internet, using the VAT MOSS system of the Member State of their choice, while keeping the benefit of their VAT identification abroad to declare their other transactions.</p>

3. Operators supplying goods via the Internet to individuals residing in the EU	
Current situation	From January 1st, 2021
<p>These operators must charge the VAT of the EU country in which the goods are at the time they are dispatched to their clients, as long as the annual volume of their supplies to a Member State does not exceed the threshold set by that Member State.</p> <p>If the threshold is exceeded, the operators must register for VAT in the country of destination in order to invoice and pay the VAT of this country, which can generate additional administrative costs.</p>	<p>The thresholds set by the countries of destination under the current distance sales regime will disappear in favour of a single threshold of EUR 10,000 : operators established in the EU may charge VAT of their country of establishment (for services) or place of departure of the transport (for goods), as long as the combined amount of supplies of goods and electronic services to individuals in the EU does not exceed EUR 10,000 per year.</p> <p>Once the threshold is reached, these operators will be able to use the VAT MOSS system to declare and pay centrally to their Member State of establishment the foreign VAT charged to their clients.</p>

¹ This includes: telecommunication and broadcasting services, website hosting and maintenance, software provision, distance learning, online sales of pictures, movies, music, games, etc.
Are not considered as electronic services: sales of goods via the Internet, online booking of services of a material nature (hotel, car, concert, etc.), services transmitted by email (advice, opinion, etc.)



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4. Operators who facilitate the supplies of electronic services¹ or the delivery of goods via the internet through a marketplace, platform, web portal or similar means	
Current situation	From January 1st, 2021
The clients of these operators are liable for VAT due on supplies of services and goods through the marketplace.	These operators will be deemed to receive and supply the goods themselves, in the following two cases: - goods with a value lower than EUR 150 that are imported in the EU and delivered to an individual; - or goods that are delivered from the EU to an individual by a supplier not established in the EU.

5. Import of low value goods	
Current situation	From January 1st, 2021
Import of goods with an intrinsic value lower than EUR 22 is VAT exempt	The VAT exemption for low value goods is removed. The supplier will benefit from a VAT exemption on import if he has opted for the declaration and centralized payment of VAT by the VAT MOSS system*. He will then have to charge the VAT of the country of destination to his client.
<p>* When importing goods with a value lower than EUR 150, the supplier may opt for the central declaration and payment of VAT using the VAT MOSS system in the following cases:</p> <ul style="list-style-type: none"> - he is established within the EU territory - he is established outside the EU territory <ul style="list-style-type: none"> o but is established in a country with which the EU has a mutual assistance agreement ; o or, in the absence of such an agreement, he has appointed an intermediary established in the EU to represent him. <p>If the supplier has not opted for the VAT MOSS system, the person presenting the goods to customs can use special arrangements to declare and pay the VAT due on import in the country of destination, on behalf of the recipient. However, goods subject to excise duties (eg tobacco, alcohol) are excluded from this new procedure.</p> <p>When importing goods with a value higher than EUR 150, a customs declaration must be issued. However, the current legislation does not specify who should be the importer of record (the supplier or the recipient) and in which country the customs declaration must be filed (country of the recipient or any other country).</p>	

6. Operators who supply services to individuals residing in the EU	
Current situation	From January 1st, 2021
The operators supplying electronically supplied services¹ to EU individuals can centrally declare and pay the collected foreign VAT, using the VAT MOSS system.	The operators supplying any type of services to EU individuals can centrally declare and pay the collected foreign VAT, using the VAT MOSS system.

Other changes

Other administrative changes will occur on January 1st, 2021 (invoicing, filing date of VAT MOSS returns...) and a certain number of questions remains open. Please contact us for further information.

Our services

- Confirmation of the VAT treatment of your e-commerce flows
- Coaching/trainings
- Support for your VAT obligations in Luxembourg and abroad, including the VAT MOSS system:
 - o Assistance, preparation and filing of the VAT registration form and VAT returns

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