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**Customs Flash**
Belgium

# What do new EU VAT rules on e-commerce mean for your business?

## Introduction

On 1 December 2016, the European Commission published a legislative proposal on new VAT rules for online sale of goods and services in the EU. The modernised rules are part of the Digital Single Market Strategy for Europe.

In drafting its proposal, the European Commission used the analysis carried out by Deloitte on 'VAT Aspects of cross-border e-commerce', commissioned by European Commission Directorate General Taxud. Indirect tax specialists from Deloitte's global network contributed to this study.

Implementation of the new VAT rules for e-commerce and online business is foreseen as of 2018, with the key changes for online supplies of goods only entering into force in 2021.

Under the Digital Market Strategy, VAT has been identified as one of the key obstacles holding back the growth of e-commerce. The modernised VAT rules proposed by the European Commission aim to address the main difficulties of the current system.

### Background

Currently, business to consumer (B2C) e-commerce in the EU accounts for EUR 540 billion for all 28 member states, according to the Deloitte study on 'VAT Aspects of cross-border e-commerce. Almost 15% of EU businesses are active through some form of e-commerce, with this figure rising to about 35% of large firms (those with over 250 employees). From a consumer perspective, almost one-fifth of all purchases were made from another EU country, with these cross-border purchases originating mostly from Germany, the UK or France.

## How do VAT and other trade barriers limit e-commerce?

For businesses selling goods and services online, the EU single market is not yet truly accomplished. There are many different types of trade barriers impacting e-commerce, including VAT obligations for e-sellers in particular. Other e-commerce trade barriers include geo-blocking and parcel delivery, as well as sales conditions such as labelling or establishment requirements.

Under current legislation, businesses experience a high complexity in dealing with VAT obligations. For example, a Belgian customer buying, via the internet, from a company based in another European Member State will have to pay VAT in the country for which the goods are ultimately bound. This requires the supplying company to register in Belgium, in addition to its registration in the home-country and all other Member States where sales are realised. Registration costs and requirements differ for each EU Member State, creating an impressive administrative burden and limiting the appetite of businesses and consumers to buy and sell in other EU countries. VAT compliance costs amount to an average EUR 8,000 annually for a business selling goods online.

## What will new VAT rules on e-commerce mean for companies selling over the internet?

To reduce this red tape and facilitate trade, the new measures propose the introduction of an EU wide portal for online VAT payments (the online ‘VAT One Stop Shop’) as of 2021.

Based on the successful MOSS system (‘Mini One Stop Shop’), for collection of VAT over the sale of e-services such as mobile phone apps, the new online portal will largely reduce administrative burdens for sellers. This will result in savings for businesses across the EU, whereas Governments will gain through increased VAT revenues for Member States.

**About the new EU VAT portal**

The proposed VAT portal will be similar to the MOSS-system already in place for cross-border sales of e-services, telecommunication, radio- and television broadcasting to consumers, the so-called TBE services. The new EU VAT portal will only require registration in the country of establishment (for non-EU businesses in a chosen Member State of identification). One e-declaration for all services and goods sold in all member states (non-home country) and one payment for all VAT due will be made.

For goods sent from outside the EU, the OSS-system will be accompanied by a fast-track customs mechanism.

The rules will allow a simplification of the administrative framework for businesses, while still ensuring that governments collect their revenues.

The new VAT rules will correct the current disadvantage faced by EU companies (compared to non-EU businesses) trading small consignments worth less than EUR 22. Currently, when non-EU businesses export small consignments to the EU (under 22 Euro), their supplies are exempt from VAT, while EU businesses are liable to pay VAT on all supplies, regardless of their value.

The vast amount of small packages entering the EU below this value threshold, and exempt from VAT, creates unfair competition for EU-retailers and a significant loss for Governments.

As of 2021, this exemption threshold will no longer be in place under the new VAT rules. The (non-EU) e-commerce businesses selling products towards the EU will be eligible for the VAT One Stop Shop, allowing them to pay VAT based on sales of products towards EU customers, as long as these shipments have an intrinsic value below EUR 150.

If suppliers do not enter the VAT One Stop Shop for goods shipped from outside the EU to EU consumers, they still have the possibility to apply a special import scheme for distance sales of goods imported from third countries with an intrinsic value of less than EUR 150. Vendors not established within the EU can, or in some situations must, designate a person within the Community that will collect VAT from the consumers in whose name the goods are imported and will pay it over to the authorities in the importing Member State. By default, goods under this scheme will be subject to the normal VAT rate. The person presenting such goods to customs in the Community can report and pay import VAT electronically on the basis of a monthly declaration on behalf of the buyer.

The new rules also foresee that EU based micro-businesses and start-ups, currently dealing with different VAT Member States' obligations, will be able to continue selling online whilst applying VAT rules in their home country for up to a yearly threshold of EUR 10,000 in online sales. For SMEs, simplified rules will apply for identifying where their customers are based, with a new yearly threshold of EUR 100,000.

## Your company and how Deloitte can help

Implementation of the new rules on VAT for e-commerce and online businesses depends on the European Council's adoption of the package in the course of 2017. In the meantime, companies selling goods and services over the internet within Europe, as well as from outside the EU, should start assessing the opportunities and possible challenges for their online sales as result of the modernised set of EU VAT rules for e-commerce and online business.

**More information**

The European Commission’s legislative proposal for new VAT rules to support e-commerce and online businesses in the EU can be found **here**.  The study made by specialists from Deloitte’s Global Indirect Tax network for DG Taxud can be found here: ‘VAT Aspects of cross-border e-commerce - Options for modernisation’.

**Contacts**

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