



VAT alert Belgium

European Commission proposes changed VAT rules for e-Commerce

On 1 December 2016, the European Commission published its [legislative proposal](#) to drastically change the VAT rules for online sales of goods and services in Europe, over the 2018-2021 period. This proposal is part of the Digital Single Market Strategy, one of the pillars of the Juncker Commission policy. It aims to establish a single market wherein e-Commerce businesses have easier access to clients on a cross-border basis. One of the key difficulties which such businesses face is the complex VAT legislation for cross-border business activities. Furthermore, monitoring these business flows is not easy for tax authorities due to this complexity.

The proposal is partly based on a [study conducted by Deloitte](#) for the European Commission. Deloitte first took a snapshot of the economic importance of e-Commerce, as well as companies' compliance with legislation and the monitoring by governments. Building on the analysis of the currently successful Mini One Stop Shop ('MOSS') for certain online services, Deloitte analysed which policy options were available to the European Commission to simplify the administrative framework for businesses, while ensuring that governments collect their revenue.

The changes are proposed within the context of an industry that grew by 18% in 2015 and that realised an EU wide turnover amounting to EUR 540 billion (of which EUR 96 billion are cross-border sales). The Commission's proposals aim to further boost this growth by reducing the administrative and

compliance costs for e-Commerce businesses, with specific detail for SMEs and micro-businesses.

Simplifications

In practice, the first simplifications will be introduced as of 2018 and will be limited to providers of online electronic services. The changes aim to address certain issues that appeared during the evaluation of the VAT rules for electronically supplied services introduced in 2015.

At that time, all suppliers of online services were obliged to apply the VAT rate of the customer's country when supplying within a B2C context. They could pay over this VAT through a unique portal in their own Member State, called the Mini One Stop Shop or MOSS. The evaluation, which was carried out by Deloitte, in a dialogue with both businesses and national tax authorities, showed that the system and its roll-out on a European level was generally quite successful.

As of 2018, it is foreseen that EU businesses selling cross-border electronic services without exceeding a yearly turnover threshold of EUR 10,000 can opt to apply the rules of their home country, possibly including the exemption for small businesses. This rule brings simplification for a large number of micro-businesses which can remain out of the MOSS regime in this manner.

Another simplification targets small enterprises selling online services (such as video streaming or selling apps) whereby their yearly turnover from cross-border sales remains below a threshold of EUR 100,000. Going forward, these companies will only have to collect one piece of proof to demonstrate the customer's location, which defines the applicable VAT rate. Currently, they require two corresponding indicators (e.g. Billing address, IP address, etc.).

As of 2021, these rules and the MOSS portal, currently accessible for online services, will be extended to the online sale of goods. This is a tremendous step towards simplification for a large number of small and large businesses that are currently obliged to have VAT numbers in different EU Member States, meet corresponding reporting obligations and incur administrative costs.

Other changes include the possibility for businesses to apply the invoicing rules as foreseen by their home country, rather than the customer's country. Consequently, a company selling goods or services to consumers in different countries may no longer be obliged to issue invoices. Moreover, the audit on businesses reporting VAT via the MOSS portal will always be undertaken by the tax authorities from the country where the business is established, allowing companies to deal with audits in a familiar environment and in their own language.

Equal treatment for EU businesses

An important change that will come into effect in 2021 is the abolition of different thresholds that exist for (VAT exempt) imports of goods for private consumers in the EU and for sales to consumers across EU borders. This mainly aims to remove

the current unfair competition from non-EU businesses that can bring goods free of VAT within the EU. It is estimated that tax authorities are losing, on a yearly basis, up to EUR 4.8 billion in VAT due to businesses not meeting their tax obligations in this field.

Going forward, businesses and tax authorities no longer need to take into account these thresholds, simplifying tax administration. For micro-businesses, the possibility to treat sales with a yearly value threshold of EUR 10,000 as subject to their home country VAT regime will still apply.

Possibility to lower VAT rate for electronic publications

As part of the changes dealing with cross-border e-Commerce, the European Commission also proposes to allow Member States, as of 2018, to tax electronic publications at the same VAT rate (usually a reduced or even zero rate) as the printed equivalent. This removes an existing discrimination suffered by e-books, online journals and periodicals.

Impact for Belgium

The proposed rules still have to be adopted by the European Council, which is foreseen in the course of 2017, before they can be implemented at national level. Johan Van der Paal, indirect tax partner at Deloitte, also sees a lot of potential for Belgian business selling online: *"In the proposals for 2018, a lot of attention has been paid to the interests of smaller businesses, for which the administrative burden connected with cross-border sales is often limiting their growth potential. In addition, the Commission opted to have a phased extension of the future VAT regime, which is supported by the impact study made by Deloitte for the European Commission, published together with the proposals"*.

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