

European Commission publishes Explanatory Notes on new VAT e-commerce rules

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The European Commission (Commission) has published [Explanatory Notes on the new value-added tax \(VAT\) e-commerce rules](#). These Explanatory Notes (EN) contain extensive explanations and clarifications on these new rules including practical examples on how to apply the rules for suppliers or electronic interfaces (e.g., marketplaces and platforms) involved in e-commerce transactions. These EN are meant to help online businesses and in particular small and medium-sized enterprises (SMEs) to understand their VAT obligations arising from cross-border supplies to consumers in the European Union (EU).

Due to the practical difficulties created by the measures taken to contain the coronavirus pandemic (COVID-19), application of the new VAT e-commerce rules has been postponed by six months. Thus, the rules will apply as of 1 July 2021 instead of 1 January 2021, as originally planned, giving Member States and businesses additional time to prepare.

The Commission aims at simplifying VAT obligations for companies carrying out cross-border sales of goods or services (mainly online) to final consumers and to ensure that VAT on such supplies is paid correctly to the Member State in which the supply takes place, in line with the principle of taxation in the Member State of destination.

The Commission proposed EU legislation in this area in two stages. The first measures entered into force in 2015 and covered telecommunications, broadcasting and electronic services to consumers. The second stage of measures was adopted by the Council in December 2017 and extended the simplification to distance sales of goods as well as to any type of cross-border service supplied to final customers taking place in the EU. The latter measures, also referred to as "the VAT e-commerce package" are set to apply from 1 July 2021.

Implementation of the VAT e-commerce package has been gradual and in 2021 the extension of the Mini One Stop Shop (MOSS) and the special provisions concerning the obligations of electronic interfaces will enter into force:

- ▶ Businesses operating electronic interfaces such as marketplaces or platforms will, in certain situations, be deemed for VAT purposes to be the supplier of goods sold to customers in the EU by companies using the marketplace or platform. Consequently, they will have to collect and pay the VAT on these sales.
- ▶ Building on the success of the MOSS for telecommunications, broadcasting and electronic (TBE) services, this concept will be extended and turned into a One Stop Shop (OSS) with the following provisions:

- The non-Union scheme for supplies of TBE services by taxable persons not established in the EU will be extended to all types of cross-border services to final consumers in the EU.
- The Union scheme for intra-EU supplies of TBE services will be extended to all types of business to consumer services as well as to intra-EU distance sales of goods and certain domestic supplies facilitated by electronic interfaces. The extension to intra-EU distance sales of goods goes hand in hand with the abolition of the current distance sales threshold, in line with the commitment to apply the destination principle for VAT.
- An import scheme will be created covering distance sales of goods imported from third countries or territories to customers in the EU up to a value of €150. This goes hand in hand with the abolition of the current VAT exemption for goods in small consignment of a value of up to €22. This is also in line with the commitment to apply the destination principle for VAT.
- Where the import OSS is not used, a second simplification mechanism will be available for imports. Import VAT will be collected from customers by the customs declarant (e.g., postal operator, courier firm, customs agents) which will pay it to the customs authorities via a monthly payment.

The Commission press release is available [here](#).

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