

More changes for digital supplies?

Changes effective from 1 January 2015 significantly affected the VAT liability of Business to Consumer (B2C) supplies of broadcasting, telecommunications and electronic (BTE) services to customers belonging in the European Union (EU).

A consequence of the changes meant that B2C suppliers of BTE services had a liability to VAT register, account for local VAT and submit VAT returns in each EU Member State where they had a customer.

However, to 'simplify' the level of administration needed the EU introduced an optional scheme for VAT accounting; the Mini-One-Stop-Shop (MOSS). Under MOSS, B2C suppliers of BTE services continue to charge the rate of VAT of the Member State in which the customer is established. However, they register for MOSS in only one Member State, and submit one MOSS VAT return and one payment to settle the net VAT liability in respect of the B2C supplies of BTE services to customers in other EU member states. For businesses located in the UK, the MOSS return, in addition to their 'normal' VAT returns, would be submitted to HMRC, who would then accordingly distribute the appropriate amount of local VAT to the relevant Member State.

Despite the long period of consultation and ratification by the EU, the introduction of the changes and the MOSS simplification has been confusing. Indeed, many businesses are still struggling to get to grips with the new rules (due to costs, complexity, invoicing requirements, and in some cases not being aware of changes to contractual arrangements imposed on them by intermediaries in the supply chain, etc.). Also, some businesses, including non-EU suppliers, are not aware of the rules at all or, perhaps, are merely ignoring them.

Changes to the VAT position on the B2C supply goods?

As if the January 2015 changes did not cause enough problems for the digital services industry, the EU intend to make legislative proposals, as early as next year, to amend the VAT rules and extend the January 2015 changes to online suppliers of physical goods.

The proposed changes come as the EU attempts to create a single market for its digital businesses; in an attempt to 'simplify' and encourage cross border trading.

If introduced, the changes will mean that all online businesses selling goods to non-business customers located in other Member States will either have to register for VAT in each Member State their customers are located or opt to submit a single VAT return under the MOSS scheme.

In order to ensure that EU businesses, including start-ups, can compete more fairly with those businesses established outside the EU and with each other, the EU plans to:

- cancel the Small Consignment Import Exemption which enables non-EU established businesses to supply goods, which have a value to a maximum prescribed amount, to EU customers on a VAT free basis; and
- introduce an EU-wide VAT registration threshold for cross border sales.

Some businesses may find that the proposed changes could reduce their administrative burden and for those that it would not, consideration could be given to changing the way in which the goods are supplied to maintain the current status quo. In any event, affected businesses will need to ensure that they are aware of the changes and plan accordingly.

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