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How the new One-Stop Shop EU VAT rules affect e-commerce

The impacts on tax compliance, sales channels, and the bottom line

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The European Union's new value-added tax (VAT) regulations, and its creation of the One-Stop Shop, significantly impact the way companies calculate, collect, declare, and pay the VAT due on e-commerce sales in the 27 EU member states.

The new reforms are multi-faceted, nuanced, and affect business-to-consumer (B2C) e-commerce companies and marketplaces of all sizes, inside and outside the EU, as well as postal operators and couriers, customs and tax administrators, and consumers.

The European Commission enacted the regime to simplify VAT reporting and processing for companies, but early signs suggest many businesses were not prepared when the new requirements went into effect in the summer of 2021.

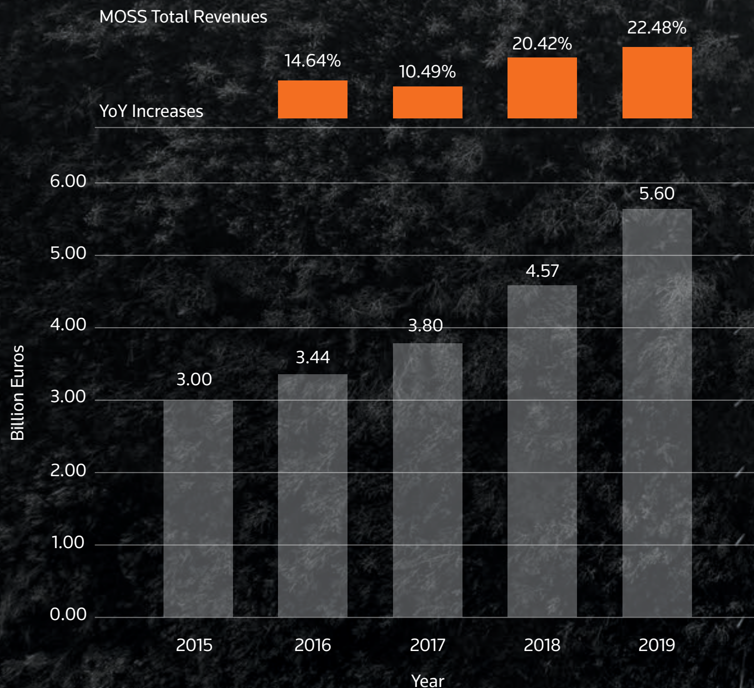
For example, when International Tax Review and Thomson Reuters conducted a webinar to update companies on the EU VAT reboot weeks after the new regulations went into effect, half of the 155 participants said they had not fully reviewed the legislation or its impact on their businesses and supply chains. One-quarter said the webinar was the first time they heard about the tax compliance obligations.

"That was unexpected and a bit of a shock," says Gunjan Tripathi, European Indirect Tax Proposition Lead at Thomson Reuters and a panellist on the webinar. "Companies need to comply because these regulations impact their supply chains, sales channels, and profitability. And they need to stay current, because the requirements will continue to evolve and likely increase in complexity and variability among member states."

An overview of the EU One-Stop Shop and its three new VAT returns

The new EU VAT regime established the One-Stop Shop (OSS), an online portal launched 1 July 2021, to extend the reach of the former Mini One-Stop Shop (MOSS). The MOSS enabled providers of telecommunications, broadcasting, and electronic (TBE) services to declare and pay in a single EU member state the total VAT they were required to submit to all member states.

Data from the European Commission shows that VAT revenues collected under MOSS grew consistently from €3 billion in 2015 to €5.6 billion in 2019 (when it climbed 22% in a single year).



> The new regulations create three types of VAT returns and registration processes

The OSS scheme goes further, encompassing:

- All business-to-consumer (B2C) services taking place within EU member states where the business is not established.
- All distance sales of goods — made through mail order, telesales, or online — from suppliers in one EU country to customers in a different EU country who are not registered for VAT.
- Certain domestic goods sold online under certain conditions.

Another change: Under the old EU VAT rules, goods valued at less than €22 that were imported into the EU by non-EU companies were exempt from VAT. That exemption has been eliminated. “The threshold is now €0, which means even the smallest of items have to go through the tax net,” Tripathi says.

“Additionally, the new regulations create three types of VAT returns and registration processes,” she explains. “While the three types of VAT returns are similar, the way businesses register for them varies.”

Transactions that can be reported in the Union One-Stop Shop and the Non-Union One-Stop Shop

The Union One-Stop Shop covers all types of electronic B2C services, distance sales of goods within the EU, and certain domestic sales facilitated online.

The Non-Union One-Stop Shop is used by sellers who are not established in the EU to report their B2C sales of goods and services in the EU. Examples cited by the European Commission include:

- Admission to cultural, artistic, sporting, scientific, educational, entertainment, or similar events.
- Transport services and ancillary transport activities such as loading, unloading, handling, or similar activities.
- Supply of restaurant and catering services for consumption on board ships, aircraft, and trains.

The Import One-Stop Shop (IOSS) covers the distance sales of goods valued up to €150 that are imported from third territories or third countries to customers in the EU.

Ultimately, the OSS is designed to streamline VAT compliance by enabling businesses that sell goods and services to consumers throughout the EU to:

- Register for VAT electronically in a single member state for all eligible sales to customers located in any member state.
- Declare the VAT due on all these sales in a single electronic return.
- Make a single payment of the declared VAT.
- Work in one language through the tax administration of the member state they registered in, even though their sales and VAT obligations may span across all the EU member states.

	Non-EU established taxable person/ supplier	EU established taxable person/ supplier
B2C supplies of services	Non-Union Scheme (OSS)	Union Scheme (OSS)
Distance sales of goods within the EU	Union Scheme (OSS)	Union Scheme (OSS)
Domestic supplies of goods by deemed suppliers	Union Scheme (OSS)	Union Scheme (OSS)

Ultimately, the OSS is designed to streamline VAT compliance

OSS VAT compliance challenges

While the OSS was designed to simplify and streamline VAT compliance — and mitigate tax avoidance — on e-commerce sales, its implementation has been hampered by challenges for companies. Here's one example. The new VAT reporting process was intended to standardise tax filing procedures across the EU — but digital filing formats and processes vary among EU member states, and there are signs that supporting automated filing is not a priority for some EU countries.

In the Netherlands, tax authorities delayed plans to support automated filing from December 2021 until mid-2022. Even after the OSS launched, Ireland and Belgium had shared no information on their implementation timelines. Some countries require filing documents to be submitted in XML format while others require CSV. In Germany, authorities suggested they may release a macro Excel tool to convert data, but provided no technical information or timelines.

And, of course, the future will remain uncertain because each of the 27 member states can alter their specific requirements, rates, and processes at any time.

Supporting automated filing is not a priority for some EU countries

Expect more EU VAT e-commerce regulation changes

If the past is predictive, the VAT regulatory landscape will continue to change – the OSS schemes are the latest in a series of international tax regulations requiring greater digitalisation, disclosure, and transparency in tax reporting.

Brazil introduced real-time, electronic invoicing and reporting requirements in 2008, and three years later Mexico began requiring companies to digitally disclose VAT activity as it happened. In 2018, Italy became the first EU country to enact e-invoicing and digital VAT reporting, followed a year later by the UK's Making Tax Digital initiative.

Meanwhile, tax policy makers globally aligned around the Organisation for Economic Cooperation and Development's (OECD) tax base erosion and profit shifting (BEPS) initiative. Under BEPS, authorities exchange taxpayer information between countries to better the tax implications of multinational business activity.

The EU's Directive on Administrative Cooperation 2018/822 — or DAC6 — is the latest example of countries collaborating to mandate digital disclosure of corporate financial information so tax authorities can assess risk, close loopholes, and determine whether to conduct audits. DAC6 is closely linked to BEPS Action 12 on Mandatory Disclosure Rules, although its scope is broader. Failure to comply can result in multimillion-euro fines, criminal penalties, and reputational damage.

"Since the final BEPS recommendations were endorsed by the G20 and European Union (EU) in 2015, they have gradually been implemented in a phased approach that is set to continue to 2022 and in some cases even beyond," KPMG noted. "The recommendations not only include substantive tax law changes but also new disclosure requirements for companies and automatic information exchanges between tax administrations. And, on top of that, public pressure continues to drive towards more corporate tax transparency to the public."

Relentless change is likely to continue: Most corporate indirect tax specialists surveyed for the 2021 State of the Corporate Tax Department study said they anticipated major government change — particularly related to digital filing or real-time reporting. "Most survey respondents feel their departments are going to face significant challenges around technology, processes, and human capital, in order to comply with emerging rules," the study reported.

The requirements will continue to evolve and likely increase in complexity

Who is impacted by the latest EU VAT rules and which OSS returns to use

Business entities are impacted in different ways by the new EU VAT rules. Here's an overview:

EU and non-EU suppliers can select the Union OSS VAT return for their distance sales of goods into the EU, or the IOSS VAT return for distance sales of *imported goods* into the EU.

EU suppliers can use the Union OSS return for B2C sales of services to consumers in the EU.

Non-EU suppliers can choose the Non-Union OSS return for B2C sales of services in the EU.

EU suppliers engaged in distance sales or B2C TBE services are affected by the new EU-wide threshold of €10.

Non-EU suppliers engaged in distance sales or B2C TBE services are affected by the abolition of the previous thresholds and unable to benefit from the new €10 threshold.

Companies importing goods into the EU will be affected by the end of the import VAT exemption on low-value goods, but postal operators may be eligible to use the IOSS or the simplified "special measures" for goods valued less that €150.

Operators of electronic interfaces or online marketplaces conducting distance sales of goods or B2C services may be affected by new record-keeping requirements.

Operators of electronic interfaces or online marketplace that are conducting distance sales of goods made by a non-EU established supplier and are considered to be a deemed supplier may be liable for the VAT reporting and payment obligations of such sales.

Business entities are impacted in different ways by the new EU VAT rules

Next steps and obligations for e-commerce businesses

Here are common scenarios for impacted businesses:

EU and non-EU established suppliers that want to use the Union OSS return for distance sales should apply to register on the online portal of one EU member state. (EU-established suppliers should register in their member state of establishment. Non-EU established suppliers should first VAT register in an EU member state.)

EU-established suppliers of distance sales or B2C telecommunications, broadcasting and entertainment services will be affected by the EU-wide threshold of €10, regardless of whether they register for the Union OSS. As a result, they should analyse whether to opt for the Union OSS in their member state of establishment or to VAT register in additional countries.

Non-EU established suppliers of distance sales or B2C telecommunications, broadcasting and entertainment services will no longer benefit from any thresholds regardless of whether they register for the Non-Union OSS. As a result, they should determine whether to opt for the Non-Union OSS in one member state or to VAT register in additional countries.

EU and non-EU importers of goods into the EU will be affected by the elimination of the VAT exemption for goods valued at less than €22.

EU and non-EU importers of goods into the EU can apply to register for the Import OSS in one member state to facilitate and simplify the declaration and payment of VAT for distance sales of imported goods with an intrinsic value not exceeding €150.

Postal and freight operators that handle the import and delivery of goods to consumers in the EU and do not register for the IOSS should verify their eligibility to benefit from the "special measures" which enable them to collect, declare, and pay the import VAT for certain consignments of goods whose intrinsic value is less than €150.

Operators of electronic interfaces or online marketplaces should analyse whether they are facilitating supplies of goods or services to EU consumers and, therefore, affected by new record-keeping requirements. Also, examine whether you are facilitating sales of goods by non-EU established suppliers, or distance sales of imported goods from EU or non-EU established suppliers, to the extent that you are a deemed supplier and liable for VAT accounting, reporting, and payment obligations.

EU and non-EU importers of goods will be affected by the elimination of the VAT exemption for goods valued at less than €22

Are indirect tax departments equipped to handle the new EU VAT rules?

Businesses with robust indirect tax determination and compliance software and processes — which are regularly updated to accommodate the latest regulatory changes — can manage these complexities and keep pace with change. However, many lack the necessary technology.

That's a conclusion drawn from the 2021 State of the Corporate Tax Department study (cited above) which is based on a survey of 821 tax specialists in the U.S., UK, Canada, and mainland Europe (with a small representation from other regions). Half of the survey respondents are responsible for their companies' determination, collection, and remittance of VAT and other indirect taxes.

Nearly half of the respondents said their tax teams are under-resourced and their top strategy for closing the gap is adopting technology and automation. Progress, however, has lagged: only one-third use indirect tax compliance technology, one-quarter use indirect tax determination software, and 10% have implemented digital tax reporting.

The study found that under-resourced companies spend 14% less, on average, than their sufficiently resourced peers and closing this budget gap can improve tax compliance, work quality, efficiency, and talent retention. "Technologies that make the most positive impact are those that create efficiencies and improve data quality," the report says. "This might be saving time and therefore cost, turning work around quicker, and reducing errors. Others see the impact as improving reporting or enabling better control. There are many benefits seen to having more organised and well-managed tax data, as well."

OSS is the latest regulatory development to strain this resource gap and intensify the need for automated indirect tax management, such as Thomson Reuters ONESOURCE® solutions for compliance and reporting.

In the end, the new EU VAT rules create substantive risks — complexity, change, and tax compliance challenges — for e-commerce sellers and entities, and the supply chains and sales channels they manage.

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