TAX

COVID-19 Practical Considerations: Deferral of VAT e-commerce package

14 May 2020

On 12 February 2020, Regulation (EU) 2020/194 was adopted to implement the VAT e-commerce package.

The aim of the VAT e-commerce package is to simplify VAT obligations for companies carrying out cross-border sales of goods or services (predominantly online) to final consumers and to ensure that VAT on such supplies is paid correctly to the Member State of the customer, in line with the principle of taxation in the Member State of destination.

The new VAT rules were due to apply from 1 January 2021, but due to the practical difficulties imposed by the COVID-19 restrictions, it is proposed that implementation will be delayed by six months so that they will apply from 1 July 2021.

New Rules – an overview

The major changes to the VAT obligations for e-commerce sellers and marketplaces are:

- The launch of the One-Stop-Shop EU VAT return;
- Ending low-value import VAT exemption and new Import One Stop Shop returns; and
- Making marketplaces deemed supplier for VAT purposes.

It is hoped that this reduction in compliance obligations will boost cross-border online trade and promote trade across the EU's digital single market. The reduction in VAT compliance obligations will enable some sellers to report all pan-EU sales on a single VAT return in their home country.

EU 2021 One-Stop-Shop (OSS) VAT return for e-commerce

The first major change is the introduction of a single One-Stop-Shop (OSS) EU VAT return. B2C (business to consumer) sellers dispatching their goods from a single country will no longer be required to register for foreign VAT once they have passed the relevant country distance selling threshold. Instead they may complete and file a new OSS filing alongside their regular domestic VAT return, listing all pan-EU sales. The VAT due is then remitted to the home VAT authority of the seller, which forwards the VAT to the appropriate countries.

This is an extension of the 2015 Mini One-Stop-Shop, which successfully trialled a single EU return for B2C sales of a number of digital services.

Non-EU sellers may also avail of the OSS regime, provided they nominate a single EU state to register as a 'non-Union' taxpayer and file in that country.

Any business selling less than €10,000 per annum cross-border on B2C goods and services will be exempt from the obligation to complete an OSS return. Instead such business can charge their domestic VAT rate and report the sales below this threshold in their regular domestic VAT return.

Scrapping of import VAT exempt threshold

Currently, goods sold online to EU consumers can be imported VAT-free if the consignment of goods is valued at €22 or below. This was intended to relieve customs from the burden of checking large volumes of packages for small tax revenues. However, it disadvantages EU-based sellers, as they must charge VAT when goods are dispatched from within the EU.

To deal with this distortion in favour of non-EU sellers, the VAT exempt threshold will be abolished, and a new requirement for EU and non-EU sellers to charge VAT at the point of sale for consignments of €150 or below will be introduced. VAT charged at the point of sale will be remitted through the Import One-Stop-Shop (IOSS). The IOSS will be available to both EU and non-EU based vendors, but in the case of non-EU vendors the appointment of an EU-based intermediary who will take responsibility for paying the VAT will generally be required.

Marketplaces VAT deemed supplier rules

To combat perceived e-commerce VAT evasion, online marketplaces platforms have been co-opted as deemed suppliers where they facilitate certain cross-border B2C transactions of third-party sellers. The marketplace will then take on the VAT rights and obligations of the sale, but will not take on other obligations such as product liabilities. Marketplaces will have new record-keeping responsibilities such as keeping records in sufficient detail to enable tax authorities to assess that VAT has been correctly accounted for at least 10 years after the transaction.

Two types of cross-border transactions are in scope:

- Import sales by EU or non-EU sellers to consumers of consignments not exceeding €150; and
- Consignments sold by a non-EU seller to an EU consumer of any value.

To comply with the new rules, a two-stage VAT transaction will take place. Once a seller and customer have agreed a sale, the seller will sell the goods to the marketplace on a B2B VAT exempt with credit basis. Then, the marketplace will sell the goods to the customer, charging the VAT rate of the consumer's country of residence.

Deferral

Ultimately, it is hoped that these rules will benefit businesses due to a substantial reduction in cross-border VAT compliance costs and facilitating greater cross-border trade. However the six month delay to implementation will be welcomed by businesses, many of whom are dealing with a myriad of issues arising as a result of the COVID-19 pandemic, because updating systems to accommodate the new regime may be a significant task.

If you would like further information on this matter please contact a member of our tax team.

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