European Commission - Fact Sheet

# Modernising VAT for e-commerce: Questions and Answers

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**Why is the Commission tackling VAT for e-commerce?**

Current EU VAT rules (the 'VAT Directive') were agreed between all Member States before the rise of the internet and the boom in online sales, and especially cross-border sales. The rulebook clearly needs to be updated if we want to encourage online businesses and the digital economy to expand cross-border and to thrive. Businesses and national tax administrations have pointed to such problems as:

- **The complexity and cost of VAT obligations**: companies that sell goods online pay around €8,000 in VAT compliance costs for every EU country into which they sell. This is a significant cost which can prohibit growth for online traders, in particular SMEs;
- **Revenue losses for Member States**: it is estimated that €5 billion of VAT is lost each year in the EU due to non-compliance on cross-border online sales. This figure is projected to rise to €7 billion by 2020;
- **Not a level playing field**: under current rules, imported goods bought online from non-EU countries are exempt from VAT if they cost below €22. Companies based outside the EU can fraudulently mark expensive goods such as mobile phones and tablets as costing less than €22, meaning that no VAT is paid. This puts EU businesses at a clear disadvantage to non-EU businesses.

The Commission therefore committed as part of the Digital Single Market strategy and the VAT Action Plan to bring forward proposals before the end of 2016 to modernise VAT rules for cross-border e-commerce.

The Commission also pledged to address the unequal treatment of paper versus e-publications, including e-books and e-newspapers, for VAT purposes. Legal constraints often result in the VAT rate on e-publications being higher than the one on the corresponding printed version. Our proposal will allow Member States to align VAT rates for e-publications with their printed equivalents across the EU.

**What are you proposing?**

The Commission has proposed practical new measures to support the digital economy when it comes to VAT compliance, which can currently place heavy burdens on small companies operating online. The new rules should help to accelerate growth for online businesses, in particular startups and SMEs. Proposals include:

- New rules allowing companies that sell goods online to take care of all their VAT obligations in the EU through a digital online portal ('One Stop Shop'), hosted by their own tax administration and in their own language. These rules already exist for online sellers of electronic services ('e-services');
- To support startups and micro-businesses, the introduction of a yearly VAT threshold of €10 000 under which cross-border sales for online companies are treated as domestic sales, with VAT paid to their own tax administration. This goes hand in hand with other initiatives such as same invoicing and record keeping rules. Our aim is to make trading in the single market as similar as possible to trading at home for these companies;
- The removal of the current exemption from VAT for imports of small consignments from outside the EU, which leads to unfair competition and distortion for EU companies;
- A change to existing VAT rules to enable Member States to apply the same VAT rate to e-publications like e-books and online newspapers, as they apply to their printed equivalents.These new rules will have a major effect for companies selling goods and services online that will now be able to benefit from fairer rules, lower compliance costs and reduced administrative burdens. Member States and citizens will benefit from additional VAT revenues of €7 billion annually and a more competitive market in the EU.

**New rules for e-commerce sales**

**What will change for businesses that sell goods and services online?**

Companies that sell e-services such as mobile phone apps can already sell to customers in other

Member States while only registering for VAT in their home Member State. They account for all their VAT in a single quarterly return, through an online portal hosted by their home tax administration. VAT revenues are then transferred from the home tax administration to the relevant Member States to which the company has sold e-services to consumers.

The Commission is now proposing that this simplification for e-services be made available for online sellers of goods as well. At the moment, companies that sell goods online in other Member States are obliged to register for VAT in all the other EU countries in which they sell goods to consumers. This adds significant costs and burdens to their operating costs. A move to the single EU VAT portal will be 95% less costly for these businesses.

Online sales will be taxed in the same way and at the same rates as their physical equivalents in shops, while the same VAT rate will be charged in the Member State where the EU consumer is based, regardless of where an online retailer is based.

Online companies selling goods cross-border for up to €10 000 yearly will now be able to treat these sales similar to their domestic sales and therefore deal only with their national tax authority. On top of this, companies selling e-services cross-border with less than €100,000 cross-border sales per year currently need two pieces of evidence to identify the location of their customers. We propose that one piece of evidence should suffice for traders of e-services. This should provide SMEs with simpler rules (a 'soft landing') on their VAT obligations.

Finally, simpler invoicing rules and applying the same record-keeping obligations as in the Member State of the company will mean that businesses will not have to worry about complying with accounting rules in other Member States. Nor will they have to keep such records for a ten-year period as they do now.

**What will the impact be on trade?**

Trade between Member States should increase as a result of the proposed simplifications and the decrease in cross-border VAT compliance costs. Domestic online companies and traditional high street businesses will also benefit as they can no longer be undercut by businesses charging a lower VAT rate or indeed charging no VAT at all.

After 2021, all goods bought online by EU consumers from sellers outside the EU will also be subject to VAT, in line with current EU sales practices. While there may be a decrease in sales from outside the EU as a result of a more level playing-field in this market segment, trustworthy sellers from outside the EU should welcome the measures since it brings certainty over final pricing to their EU customers. Currently, a significant number of parcels are refused once they arrive in the EU by consumers as they are faced with additional VAT and clearance fees from postal or courier operators.

**Why did you set the threshold under which small business can apply national rules at €10 000?**

The Commission has sought to strike the right balance between reducing burdens for small business while ensuring that the threshold did not create distortions to the Single Market arising from differences in VAT rates. A threshold that was set too high could also have a distortive effect. Setting the threshold at €10 000 will give a boost to 430 000 businesses across the EU representing 97% of all micro-businesses trading cross-border. At the same time, 6 500 of the smallest companies selling e-services through the One Stop Shop system will be relieved from VAT obligations in other Member States.

**How will businesses be informed of the new rules?**

A portal which provides information to traders and tax administrations already exists, with general information on the rules applicable to e-services and on how to use the One Stop Shop. To help businesses to comply with these rules, it includes comprehensive information on the individual VAT rules for e-services in all Member States. The Commission is improving this portal and an updated version will go live during the second quarter of 2017 – ahead of the new system being extended to online goods.

**What impact will this have on tax administrations in Member States?**

The assessment of the existing One Stop Shop has already proven its effectiveness as a means of collecting taxes from traders located in other Member States. This is particularly relevant in the digital economy as businesses no longer need a physical presence in the market. Extension of the current rules to tangible goods should lead to increased compliance rates.

**What role will online market places have in VAT collection under the new scheme?**

Given the fact that the majority of international online trade is carried out via online market places (estimated at 70-75%), they will continue to have an important role in the new set-up for e-commerce rules, similar to their current role for e-services. Significant simplifications for VAT compliance are already offered to these online market places via an extended single online registration and VAT reporting tool within the current VAT One Stop Shop for e-services. This will be extended to online goods and will help to reduce administrative burdens and allow company resources to concentrate on core-business activities (e.g. sales, delivery, better customer experience, etc.).

**Why are you removing the VAT exemption on imports of small consignments from non-EU countries?**

Small consignments imported into the EU that are worth less than €22 are currently exempt from VAT. With around 150 million parcels imported free of VAT into the EU each year, this system is open to massive fraud and abuse, creating major distortions against EU business. Firstly, EU businesses are put at a clear disadvantage since unlike the non-EU businesses they are liable to apply VAT from the first eurocent sold. Secondly, imported high-value goods such as smartphones and tablets are consistently undervalued or wrongly described in the importation paperwork in order to benefit from this VAT exemption.

Compliant EU companies – both online and traditional – are therefore put at a significant disadvantage, leading to mounting VAT losses in the EU. Removing this VAT exemption has been strongly requested by European e-commerce organisations, while other OECD members have taken or are about to take similar measures.

Registration in the VAT One Stop Shop will be open to trustworthy sellers from outside the EU. All such traders will be able to designate an EU intermediary (such as a market place, courier, postal operator or customs agent) to deal with VAT-related compliance. It will be efficient because a large number of consignments are usually of low value and since most intermediaries are already familiar with the EU VAT system and procedures and have good relations with customs and tax authorities.

**What impact will this have on customs administrations in Member States?**

The clearance of small consignments from trusted non-EU traders who register with the VAT One Stop Shop would be simplified in terms of customs procedures. Consignments valued up to €150 will no longer be stopped at customs for VAT clearance and VAT collection for these goods will be managed separately on a self-assessment basis. This marks an important change in the world of customs, moving from clearance per transaction to clearance on overall sales. However, the new VAT rules will in no way interfere with other customs rules and regulations concerning safety and security.

**What will change for express carriers and postal operators following the removal of the VAT exemption?**

Postal operators and couriers will indeed see additional reporting obligations. But this will be counteracted by significant simplifications. Operators will also be able to act as intermediaries for non-EU traders in the VAT One Stop Shop. Most importantly, operators will be able to make periodic reports to tax authorities for VAT purposes, as opposed to the individual declaration for each package at the moment. As the rules are only foreseen to come into effect in 2021, operators should have sufficient time to prepare. In any case, and independently from any changes to VAT rules, the new Union Customs Code (UCC) already foresees important changes for small packages on the grounds of safety and security.

**Will prices for consumers go up following this proposal?**

The projected rise in VAT revenues for Member States will occur thanks to more trade and easier rules for businesses, rather than extra VAT on consumer goods. In fact, our proposal should lead to a decrease in prices on goods thanks to increased competition and fewer administrative burdens. Following the abolition of the VAT exemption for imported small consignments, there may be a slight increase in prices on imported goods from outside the EU up to a value of €150. This is because VAT will always be applied on certain goods which are currently exempt (up to €22) or which are currently undervalued or misrepresented when reaching EU borders (non-compliance). However, this increase in price should be counterbalanced by more efficient delivery times and consumer certainty that the price paid online will not need to be topped up by extra charges on delivery.

**The EU VAT 'One Stop Shop'**

**What is the VAT One Stop Shop?**

The One Stop Shop is an electronic system that allows online companies selling telecommunications, broadcasting or electronically supplied services (in short 'e-services') established in the EU or in non-EU countries to declare and pay VAT in a single Member State in a quarterly VAT return for all their sales to final consumers in the EU. That Member State then distributes the VAT amounts received between the Member States where e-services are bought and consumed. It has been in operation since

January 2015.

**Is the current VAT One Stop Shop working?**

The evaluation of the current One Stop Shop for sales of e-services has shown that businesses and tax administrations alike are very satisfied. VAT compliance costs for businesses have decreased by €500 million, or about €41 000 per company, compared to the alternative of having to register and account for VAT in each and every Member State where customers are based.

In 2015, approximately €3 billion of VAT was paid via the One Stop Shop for e-services, representing about 70% of the total sales of e-services. This shows that direct registration in each Member State was chosen only by a small minority of generally large businesses who are already registered for other reasons.

That said, the evaluation of the current One Stop Shop has revealed a number of areas for possible improvement, including the €10 000 threshold for micro-businesses. A number of those improvements which do not require changes to IT systems are proposed to apply as of 2018.

**How will companies registered in the One-Stop Shop be audited?**

EachMember State will need to ensure that One Stop Shop registered businesses based in their country are compliant. At the same time, cross-border enforcement will need to be improved. For businesses, their primary contact will now be the tax administration in their own Member State that will ensure that audits are

**VAT fraud and non-compliance in e-commerce**

**How much VAT fraud and evasion is there in the e-commerce sector?**

It is estimated that Member States currently lose €5 billion VAT revenues annually due to non-compliance as well as the VAT foregone from the VAT exemption for the importation of small consignments. This is estimated to rise to €7 billion by 2020.

A recent study based on real purchases found that 65% of consignments from third countries were non-compliant with EU VAT rules. It is also estimated that up to €25 billion of non-EU trade is non-VAT compliant.

There is also evidence of abuse of the existing intra-EU distance sales (€35 000 or €100 000 for each Member State). Such abuse can involve sellers taking advantage of differentials in VAT rates between Member States (as high as 27%) or indeed not charging any VAT at all. These sellers exploit the lack of cooperation between Member States which harms citizens in terms of tax to fund public services and businesses in terms of their competitiveness.

**How will the proposals help to fight and prevent fraud in e-commerce?**

The proposals are an important step in helping to fight and prevent fraud in e-commerce. Fraud is facilitated by exceptions and the complexity of the current system. Addressing these should ensure greater compliance rates.

This will mean that:

- Compliant businesses will be able use the significantly less costly One Stop Shop to pay VAT due to Member States, leading to higher voluntary compliance rates. This will be particularly important when a seller does not have a physical presence in the Member State of the consumer.
- There should be greater cooperation and coordination by Member State tax administrations leading to a more efficient and effective audit regime. Audit resources can then be targeted at non-compliant businesses.
- The removal of the small consignments exemption will mean that VAT will apply in all cases to imports from non-EU countries. Online sellers will no longer be able to benefit from the exemption by under-declaring the value of the goods.
- Sellers from non-EU countries or their intermediaries will need to provide advance information on consignments to benefit from the simplification of the One Stop Shop. They will also need to keep records of supplies so that tax assessments can take place. If such sellers abuse the scheme they will be excluded from the scheme and will need to make customs declarations for each consignment on importation.
- The removal of the current distance sales thresholds will provide greater clarity. Member States will only need to control the new EU-wide threshold covering all sales to consumers in other Member States.

**VAT rates – E-publications**

**Will the Commission's proposal put an end to the unequal treatment between e-books and**

**e-newspapers and their printed equivalent?**

Yes, the Commission's proposal will allow Member States to align the VAT treatment of epublications, currently taxed at the standard rate, to the more favourable regime currently in force for traditional printed publications. Member States will not, however, be obliged to apply lower VAT rates to e-publications, and will continue to have full control over the budgetary implications.

**Why are you proposing to align minimum VAT rates for e-publications and their printed equivalents?**

Current rules, agreed by all 28 Member States, allow printed publications to be taxed at reduced, or in some cases super-reduced and zero VAT rates. However the rules also say that digital publications such as e-books and online newspapers should be taxed at the standard rate. The tax disadvantage for e-publications frequently amount to 10-20 percentage points. The proposal for alignment comes at the invitation of the Finance Ministers of Member States, following the Commission's announcement earlier this year as part of the VAT Action Plan.

**What is the market share of e-publications in the EU and how do you expect this proposal to encourage its development?**

The market share for e-publications is currently around 5% in the EU and is expected to grow to around 20% by 2021.

**Other**

**What was the result of the Better Regulation and REFIT assessments of the current One Stop Shop system and its extension?**

In preparing this proposal and as part of the Better Regulation agenda, the Commission carried out a regulatory fitness check of the existing One Stop Shop for sales of e-services, as well as the 2015 changes to the place of supply rules for such services. Today's proposal takes due account of this assessment by, in particular, addressing shortcomings and barriers currently faced by SMEs and micro-businesses. The main objectives of the new proposal are about "minimising burdens attached to cross-border e-commerce arising from different VAT regimes", while the proposed extension of the already existing One Stop Shop also takes on board certain shortcomings identified under the REFIT assessment of the 2015 initiative, such as the need for home country rules in terms of invoicing requirements, record keeping, coordination of audits, communication with taxpayers and the threshold for sales of goods as well as services.

**Who was consulted ahead of this package?**

The Commission engaged in an extensive consultation process for the proposal to modernise VAT for cross-border e-commerce. This included an open public consultation in late 2015 and a targeted consultation of SMEs and micro-business. In addition, two seminars were held to enable an in-depth analysis of the problems and the possible solutions.

For the initiative on VAT rates for e-publications an open public consultation for the initiative was held between July and September 2016. Some 858 stakeholders responded via the EU Survey tool. An impact assessment was also carried out.

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