

The VAT Ecommerce Package

Prepare for the EU VAT reforms coming in July

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What is the VAT Ecommerce Package?



Starting 1 July 2021, new VAT rules for online business to consumer (B2C) sales of goods and services are coming into force throughout the European Union to reflect the increase of digital and cross-border commerce taking place online and often on large marketplaces.

For tax authorities, it's clear that the original EU indirect tax rules have not been able to keep up with the boom in ecommerce. As a result, local businesses have been facing unfair competition from overseas sellers who are not always charging VAT on the products they sell to EU consumers. The EU estimates that €5 billion of VAT is lost each year due to the complexity of the rules and non-compliance on cross-border digital sales of goods.

In order to finally end this unfair tax environment and create a strong Internal Market, the EU is introducing changes that aim to simplify VAT compliance for ecommerce companies but also ensure a level playing field for EU sellers and traders based overseas.

Firstly, the new rules are intended to make sure that VAT is always paid where consumers are located from 1 July 2021 which should end the disadvantage that local businesses have suffered from for years. Secondly, a set of simplifications will apply to reduce the administrative burden on businesses. Lastly, online marketplaces will have an increased role in charging and collecting VAT from EU based consumers for specific scenarios.



The end of the distance selling thresholds



Under the current EU legislation, VAT rules for B2C online selling are relatively straightforward until you start selling to customers based in other EU countries. As your online business takes off and your EU-wide turnover increases, you may breach a local so-called 'distance selling threshold' in another EU Member State.

The distance selling thresholds exist across the EU as part of the VAT distance selling regime. They are calculated on the total B2C supplies of an online business within each EU Member State. Once your total sales to private individuals within a specific Member State exceeds the local distance selling threshold within a calendar year, you must VAT register in this country, start charging the applicable VAT rates and remit the collected VAT to the relevant tax administration.

This essentially means that currently, VAT should be charged in the EU Member State where your goods are shipped from until you breach a distance selling threshold in another country.

Over the years, online retailers have thus multiplied the number of VAT registrations they need in various Member States, resulting in complex and burdensome VAT reporting.

To allow online businesses to thrive across the EU without VAT being an obstacle, the European Union is scrapping these individual distance selling thresholds to replace them with a single EU-wide one.

Key Takeaway:

The country specific distance selling thresholds will continue to apply until 30 June 2021.

Businesses should still register for VAT if they breach any threshold before the changes come into effect.



A single threshold for EU based businesses and the principle of taxing at destination

Starting 1 July 2021, EU based businesses will need to charge VAT in the Member State where their customers are located, unless their yearly turnover of cross-border sales of goods and e-services remains below the new EU-wide limit of EUR10,000. Anything under the threshold should be taxed in the country of departure.

This new EU-wide threshold will replace the country-specific distance selling thresholds from 1 July 2021. This is to ensure VAT is due where the customers are located as a general rule, except for EU based micro-businesses.

It is worth noting that the new threshold will only apply to EU based businesses established in and dispatching goods from a single Member State. This means that if you are holding stock in several EU countries or are based in a third country (for example, the UK) the EU10,000 threshold will not apply to you.

The replacement of the distance selling thresholds by a lower EU-wide limit means that online retailers will need to comply with the relevant VAT rates (standard and reduced) in each Member State, the likelihood of which is much higher than it would have been under the current distance selling rules.

By introducing this new EUR10,000 yearly limit, the EU is aiming to stop the distortion of competition that can currently incur due to the various EU VAT rates and ensure the principle of taxation at destination is applied.

To mitigate the increased VAT reporting obligations that this 'destination principle' general rule will inevitably bring, several simplifications will come into effect to ease the burden for online businesses.

These include new optional One-Stop Shop schemes allowing businesses to submit a single EU VAT return instead of registering in each Member State they make B2C supplies in.

Key Takeaway: If your business is based outside of the EU, there will be no threshold to exceed and therefore VAT should be charged in the destination country from the first sale cross-border. This can be through a VAT registration in each country where customers are based or an OSS registration in the country where you are holding your stock.

Introducing the new One-Stop Shop scheme

The One-Stop Shop (OSS) is an electronic portal which will allow companies to account for VAT in a single interface rather than registering in each EU Member State where they make B2C supplies.

The OSS scheme will work as an extension of the existing Mini One-Stop Shop (MOSS) whose scope will be widened from 1 July 2021 to allow more B2C supplies to be accounted for.

Currently, the MOSS only allows businesses to account for the VAT due on their supplies of Telecommunication, broadcasting and electronic services to EU customers (usually referred to as TBE and digital services).

There are two existing schemes which consist of:

- 1.The Union MOSS scheme for EU-based businesses
- 2.The non-Union MOSS for businesses based outside of the EU.

Starting 1 July 2021, the scopes of both the Union and non-Union MOSS are being extended into the new Union and non-Union OSS schemes to allow the following EU B2C supplies to be reported:

Eligible Supplies	EU businesses	Non-EU businesses
Intra-EU B2C distance sales of goods	Union One-Stop Shop (Union OSS)	Union One-Stop Shop (Union OSS)
Intra-EU B2C services	Union One-Stop Shop (Union OSS)	Non-Union One-Stop Shop (non-Union OSS)

The One-Stop Shop is an optional scheme which works as an alternative to registering for VAT in several Member States. The OSS returns are solely to account for payable VAT, which means businesses will not be able to offset any input VAT via the scheme. This is important to take into consideration when opting for OSS or not. For example, a business which usually incurs VAT in other Member States might want to keep its local VAT registrations to be able to deduct the VAT incurred on purchases in its VAT return.



Registering on the new OSS schemes

Starting 1 April 2021, Member States are opening the pre-registrations to their national OSS schemes so that businesses can be ready to report their B2C supplies for the go-live date of July 1st 2021.

EU-based businesses will need to register for OSS from their country of establishment.

Businesses based outside of the EU will be able to register for the Union OSS in a Member State where they hold stock. For the non-Union OSS, non-EU based companies can choose where to register to record their supply of services.

Key Takeaway: Under the current distance selling regime, all supplies are reported in the country specific VAT returns. This will change with the introduction of the OSS which only allows B2C cross-border supplies to be accounted for.

Businesses should determine if any of their B2C supplies qualify for the new schemes. The new OSS only covers B2C cross-border sales of goods and services, which means that if you are VAT-registered for any other supply than distance selling of goods to private individuals, you may need to keep your existing VAT registrations. The OSS VAT returns will be required in addition to any domestic VAT returns or additional reporting required for other types of supplies.

The abolition of the low value consignment relief

Currently, goods with a value up to EUR22 are exempt from VAT when imported into the EU. The problem is that with the boom of ecommerce, this exemption has led to fraudulent practices and significant loss in VAT revenues for EU tax administrations.

To end the commercial advantage that non-EU sellers would have on EU based companies, the EU is removing this VAT exemption at importation. When the new rules come into effect, VAT will be due on all commercial goods being imported in the EU irrespective of their value.

To mitigate the impact on businesses and custom operators, a new simplification scheme, the Import One-Stop Shop, will go live from 1 July 2021.





The new Import One-Stop Shop (IOSS)

The Import One-Stop Shop (IOSS) is an electronic portal made available to EU and non-EU business to account for the VAT due on their low value distance sales of imported goods from 1 July 2021.

This new scheme will allow businesses, including online marketplaces, to report the import VAT due on their B2C sales of goods imported into the EU with a consignment value that does not exceed EUR150.

Registering on the IOSS

EU-based businesses can register on the IOSS directly with the tax authorities of the Member State where they are established.

Non-EU businesses must appoint an EU-based intermediary in order to use the IOSS simplification scheme.

Businesses will be able to register for the IOSS from 1 April 2021 to report transactions taking place from 1 July 2021.

Supplies covered by the IOSS

Under the IOSS scheme, traders will be able to account and pay for the VAT due on distance sales of imported goods whose intrinsic value does not exceed EUR 150.

How to determine the value of the imported goods?

The value of the goods refers to the intrinsic value of goods packed together and dispatched simultaneously by the same trader to the same consignee and thus the same transport contract.

This value should exclude transport and insurance costs unless they are already included in the price rather than mentioned separately on the invoice.

Essentially, it is the price that consumers pay for the goods at checkout before transport, insurance and taxes.

How does it work in practice?

Traders signed up to the IOSS will need to charge VAT when accepting payment from their EU customers for orders valued up to EUR 150 and shipped in the same parcel. The rates applied to the goods should be based on where the customer is located, and therefore where the goods are being dispatched to.

Qualifying consignments will then be imported into the EU import VAT and duty-exempt (as the VAT would have already been collected at checkout from the buyer by the seller) and fast-released through customs. The IOSS user will have to submit a monthly IOSS return and make a monthly payment of the VAT collected from EU consumers.

Not only will the IOSS simplify the VAT compliance for traders making distance sales of imported goods into the EU, it will also give EU customers greater visibility on how much they are paying for the goods they order.

The main advantage of using IOSS is that buyers know exactly how much they are paying for the goods they order without any additional charges when receiving the goods.



Alternatives to the IOSS scheme

When the IOSS for distance sales of imported goods of a value up to EUR150 is not used by online sellers or marketplaces, the responsibility to collect and remit VAT will fall on postal operators and couriers.

Under the new rules, and when IOSS is not used, the EU authorities will collect VAT upon importation of the goods in the same way import VAT is currently collected on higher value goods. EU customers will only be delivered the goods once VAT has been paid.

To mitigate the added administrative cost and impact on cashflow for postal operators and couriers, a special arrangement is being introduced where the collected VAT is paid to the authorities on a monthly basis.

However, the European Commission is encouraging online sellers and marketplaces to opt for the IOSS rather than this alternative special arrangement to ensure a smooth customer experience and speedier customs clearance of the goods.

Key Takeaway: From 1 July 2021, all commercial goods imported into the EU will need to be charged with VAT based on where the customers are located.

Along with the OSS, each Member state will be launching a new optional simplification scheme called IOSS. This scheme will allow all online retailers and marketplaces to account for the VAT due on goods imported in a consignment with a value not exceeding EUR150. Businesses based outside of the EU will need to appoint an EU-based intermediary to use the IOSS. Under IOSS, VAT needs to be charged at the point of accepting the payment from the customers which means the goods can then be imported VAT free into the EU.



Accounting for the VAT due on B2C services

The range of B2C supplies that can be reported through the new OSS schemes will include services other than TBE services as of 1 July 2021.

The range of business to consumers services include, but not limited to, hiring means of transport, services related to property such as renovation work or even catering.

The OSS scheme to use for services will depend on where you are established as a business. Indeed, EU based business can simply report their cross-border supplies of B2C services on the Union-OSS. As an EU-business, the services you supply domestically to customers located in the Member State where you are established, will continue to be accounted for in your local VAT return rather than on the OSS.

Non-EU businesses will be able to choose where to register for the non-Union OSS and can join the scheme without the need for an intermediary.

Example

Business A is a construction firm established in the UK who provides renovation services to private individuals. When Business A is contracted for some renovation work in France and Germany, VAT will be due where its clients are based.

Under the new rules, Business A will need to charge its EU customers the VAT rates applicable where they are located.

To account for the VAT due on the services supplied to the French and German customers, Business A will have the option to register for VAT in both France and Germany, or to opt for the non-Union Scheme.

Suppose Business A chooses to register for the non-Union OSS in France, they would be able to do so directly, without the need to appoint a local intermediary. Once registered on the non-Union OSS scheme in France, Business A will need to account for the VAT due on the B2C services via the French OSS return.



Supplies covered by the new One-Stop Shop schemes

	Union-OSS	Non-Union OSS	Import OSS
Supplies covered by the scheme	<p>B2C Intra-EU distance sales of goods by EU and Non-EU businesses.</p> <p>B2C cross-border supplies of all services by businesses based in the EU</p>	<p>All B2C supplies of services by a business established outside of the EU (e.g. the UK)</p>	<p>Distance sales of goods to EU consumers when the goods are imported in consignments with a value not exceeding EUR150, irrespective of where the seller is based.</p>

New VAT reporting & payment obligation for online marketplaces

From 1 July 2021, online marketplaces will become responsible for charging and collecting VAT on behalf of sellers in specific scenarios.

This shift of VAT liability will ensure that goods are no longer sold to EU consumers VAT-exempt by overseas traders either by fraud or for not being aware of their VAT obligations.

Under the new VAT rules for ecommerce, online marketplaces will be responsible for charging and collecting VAT from consumers when they facilitate the following supplies:

1. Distance sales of goods imported into the EU with a value up to EUR 150 and/or
2. Supply of goods to EU consumers when the goods are already located within the EU and the seller is based outside of the EU. This is irrespective of the value of the goods.

How does this work in practice?

When one of the above transactions take place, the liability to charge and collect the VAT from the EU customers will move from the seller to the marketplace. As a result, the seller will be deemed to be making a zero-rated supply to the marketplace whilst the marketplace will be considered as the actual seller of the goods for VAT purposes. The marketplace will be referred to as becoming the 'deemed supplier' of the goods.

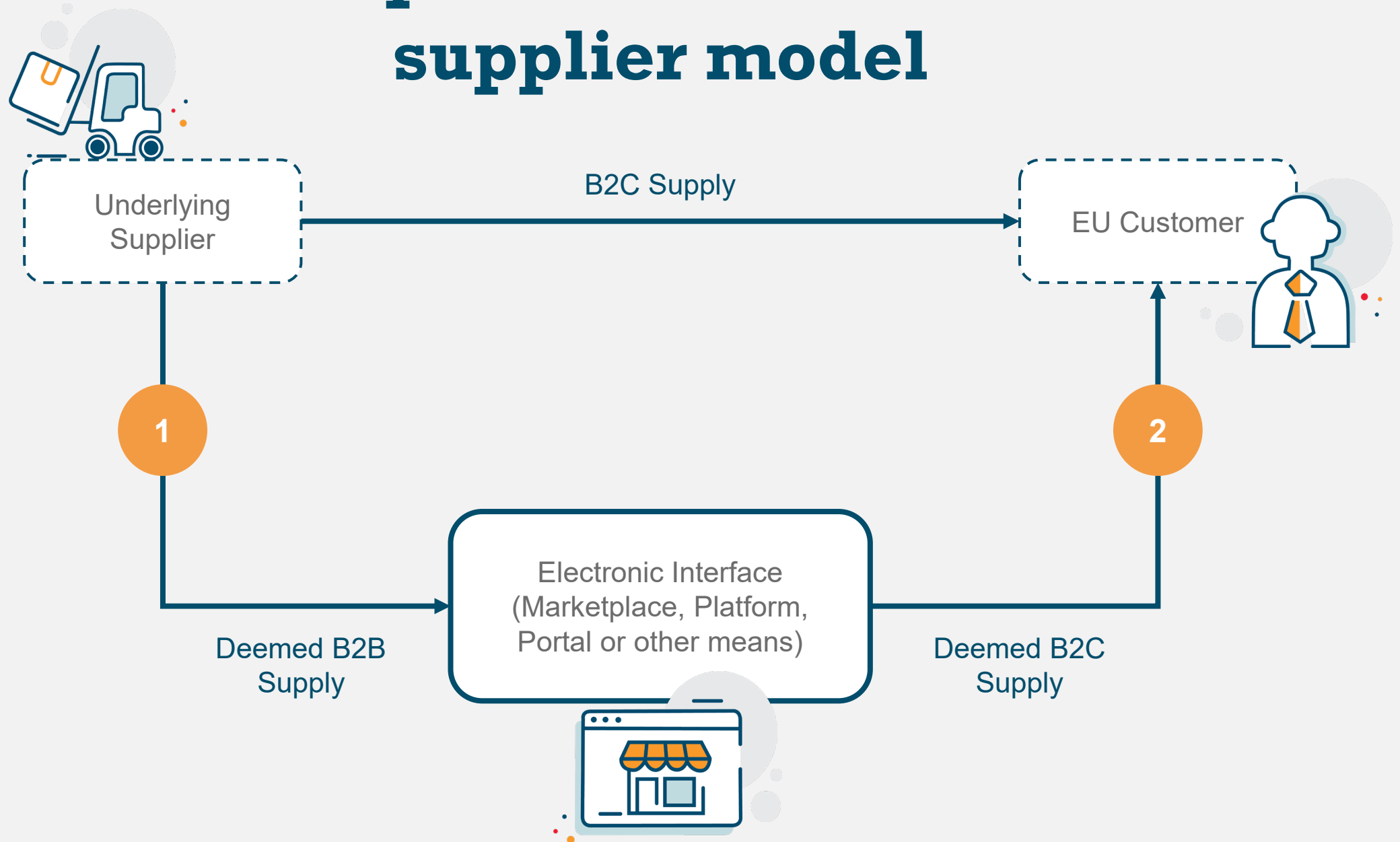
The marketplace or online platform will be deemed to have received the goods from the seller and supplied them to the final EU customer.

Essentially, what would be a direct supply from the seller to the consumers will become split into 2 distinct supplies:

1. A first B2B supply from the seller to the marketplace
2. A second B2C supply from the marketplace to the consumer



Consequences of the deemed supplier model





Holding goods in the EU under the new ecommerce rules

The OSS and IOSS simplification schemes only apply to distance sales of goods to private individuals. This means that if you are VAT-registered in the EU for another reason than distance selling, it's likely you will need to keep your existing VAT registration.

This is the case for businesses holding stock throughout the EU for example, including businesses trading on Amazon PAN-EU FBA scheme.

The new ecommerce rules do not abolish the requirement to register for VAT due to holding stock, nor do they abolish any other reporting obligation. This means that, in practice, a business could still be required to submit local VAT returns in addition to OSS returns.

Example 1:

Seller A is established in the UK -outside of the EU- and holds stock in France whilst making distance sales of goods to consumers based across the EU from their own website.

Under the new rules, Seller A would need to VAT register in France due to holding stock in this Member State. Then new EU-wide EUR10,000 threshold does not apply to Seller A as they are not established within the EU.

The French VAT due on the sales to French customers will need to be reported on the local French return. This is because OSS only covers cross-border supplies unless a marketplace is deemed supplier.

To account and pay for the VAT due on their intra-EU distance sales of goods, Seller A has two options:

1. Register on the Union One-Stop Shop in France -because this is where he is holding stock from- and report all cross-border supplies to EU consumers via the OSS.
2. Register for VAT where his customers are located with each tax administration.



Example 2:

Seller A decides to start selling on Amazon after moving goods to the marketplace fulfilment centres.

Under the new rules, Seller A will still require local VAT registrations due to holding stock in the EU. However, Seller A will be deemed making a VAT-exempt supply to Amazon when selling goods to EU consumers through the marketplace. The marketplace will in turn be the deemed supplier of the goods and responsible for charging and collecting the VAT due on the sales to EU consumers.

Seller A's responsibility will be to make sure he gives correct information to Amazon in terms of where the goods are located at the time of the sale.

Key Takeaway: The introduction of the new OSS schemes does not abolish the need to register for VAT due to taxable supply other than distance selling of goods. Holding stock within the EU remains a trigger for VAT registration as soon as you start warehousing inventory in a Member State, including under the Pan-EU program.

If you are selling on a Marketplace, make sure you understand who will be responsible for charging and collecting the VAT from EU customers.



What VAT reporting might look like from 1 July 2021

As mentioned in this e-book, the new OSS VAT returns will only apply to business to consumer distance sales of goods and services. This means that OSS returns will be required in addition to existing domestic and national VAT returns. As a business holding stock in several Member States for example, you may be required to keep national VAT registrations in addition to the new OSS and IOSS VAT returns.

Let's take a look at what the VAT compliance of a typical online retailer might look like from 1 July 2021:

Context

- Seller A is established in the UK
- Seller A makes B2C distance sales of goods on his own website, from the UK to the EU.
- Seller A is also signed up Amazon Pan EU program and has therefore moved inventory from the UK to Amazon's fulfilment centres in the EU.
- The value of the goods that Seller A supplies is low and always remain under EUR150.

Supplies	VAT Treatment
Distance sales from the UK to the EU on Seller A's own website	<p>Seller A remains responsible for charging and collecting the VAT due on the goods. As a value of the goods sold is below EUR150, Seller A can use the IOSS scheme. If he decides to use the IOSS, Seller A will need to charge VAT at the point of sale.</p> <p>The VAT rates should be based on where the customers are located in the EU.</p>
Intra-EU distance sales of goods on Amazon's website	<p>Seller A will be responsible for clearing the goods through customs when importing inventory from the UK to the EU.</p> <p>Amazon will be deemed responsible for charging and collecting VAT from EU customers as the goods are already located within the EU at the time of the sale and Seller A is established outside of the EU.</p> <p>Seller A will be deemed to be making a VAT-exempt supply of the goods to Amazon, and Amazon will become the deemed supplier of the goods for VAT purposes.</p> <p>Seller A will still be required to register for VAT where the inventory is held as holding stock remains a trigger for VAT registration in the EU.</p>

How to prepare for the ecommerce VAT changes?

- ❑ Review your supply chain to identify your VAT liability and potential new reporting obligations.
- ❑ Make sure your ERP systems are able to determine the VAT rates based on where your customers are located in the EU.
- ❑ Consider whether joining the OSS scheme makes sense for your business or if you should keep your existing VAT registrations.
- ❑ Plan ahead if you need to de-register in a Member State to keep your compliance burden low.
- ❑ Appoint an IOSS intermediary if you are based outside of the EU and planning to opt for this scheme. This may mean that guarantees will be required and can represent additional costs for your business which you should take into account.
- ❑ Speak to the marketplaces you sell goods on as in certain scenarios they will become the deemed supplier of your goods for VAT purposes.



For more information on the VAT ecommerce package, please take a look at the hub on our website. This is where we'll be sharing lots of useful resources such as articles, videos, FAQs, a jargon buster and more!

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