New EU VAT Rules

International Tax, KPMG Israel

From the start of 2024, new European regulations have been introduced for all EU payment processors/ payment service providers (PSP).

They are required to collect and report data to their relevant tax authority relating to certain cross-border payments.

This is known as Central Electronic System of Payment Information (CESOP) regulations.

These regulations are designed to help detect and combat VAT fraud on cross-border e-commerce.

When not compliant, in addition to possible penalties and interest, the company's account may be effectively closed down, preventing it from conducting its business activity.

So how does it affect Israeli businesses?

For a number of years, the European Commission has been concerned that significant amounts of VAT are being lost by businesses purposely not registering for VAT under EU VAT rules. Various measures have been introduced to identify this and CESOP regulations are the latest weapon of the EU Commission to try and identify sellers of goods and services who should be VAT registered in the EU but are not.

What type of businesses should be VAT registered in the EU?

B2C Suppliers of electronic services are obliged to register for VAT in the EU and account for VAT based on the location of their consumer.

There is a "one stop shop" scheme which allows non-EU businesses to register one EU county and complete one VAT filing detailing the amount of VAT in each country where consumers are located. The business then makes one VAT payment to the tax authority representing this VAT. These rules have been in place for approximately 20 years, but have been ignored by many non-EU sellers of electronic services.

Another area the EU Commission has concerns about is B2C sellers of goods on online market places (e.g. Amazon, ebay etc.). For a number of years, under EU VAT rules, the marketplaces can in certain cases become responsible for accounting for VAT. This has led online marketplaces to close the accounts of sellers where they believe that sellers are not complying with the rules.

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How can this impact a business outside the EU

It is not clear exactly what EU Tax Authorities will do with this information. Apart from being able to identify overseas businesses who are not complying with the VAT rules, it is possible that EU Tax Authorities may pressure EU PSPs not to transfer funds where they perceive that VAT fraud has occurred.

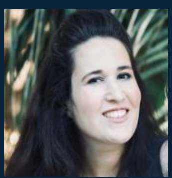
It is worth noting that there has been lots of talk about "split payment VAT system" as one way that has been proposed of closing the VAT gap and making it easier for governments to track and collect VAT. Under the split payment system, at the time of sale the VAT part of the transaction would be paid into a dedicated VAT account by the PSP allocated to the seller by the government. Our prediction is that the CESOP regulations lay the foundations for EU governments to be able to operate a split payment VAT system for the collection of VAT.

We have extensive experience advising Israeli and non-EU businesses who make sales of electronic services to EU consumers including:

- How to fulfil their VAT reporting obligations, including EU VAT registration, VAT filings as well as dealing with and mitigating penalties for late registration situations
- Advising how businesses ensure they are compliant with EU VAT rules including advice on the requirement to collect certain information from consumers to identify customer location.
- While B2B sales should not be subject to VAT there are strict requirements regarding information required to prove customers are 'in business'
- Advice on what records are required to be kept

If your business makes supplies of electronic services to EU consumers and are not VAT registered in the EU, you should think about this now.

Contacts



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