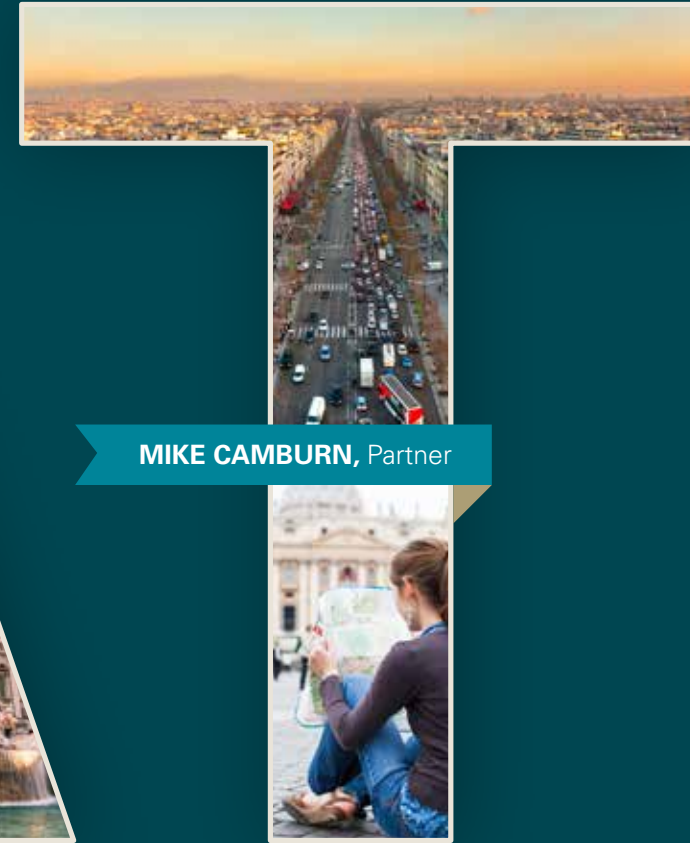


Telcos and providers of electronic services face new legislation determining how they account for VAT. We outline some of the major issues they face.

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ALL CHANGE ON



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Q: What is happening to EU VAT legislation as it affects these businesses, and when does it come into force?

From 1st January 2015, any EU business selling telecoms, broadcasting or electronically supplied services to consumers will need to charge and account for VAT in the European country where the customer belongs, or, in some cases, where the service is consumed. At present, VAT only needs to be accounted for in the country where the supplier of the service is established.

For example, a telco with customers across the EU may need to register for VAT in each of those member states, as each will be deemed a 'place of supply'.

There is an alternative possibility. A 'mini-one-stop-shop' (or 'MOSS') registration will allow businesses to sign up for VAT in one member state and account for all European VAT in one return. However, MOSS comes with its own complications, including onerous record-keeping obligations.

The new rules will affect all EU telcos and electronic service providers. They also have implications for non-EU businesses selling to consumers in the EU. From 2015, these will also have to either account for VAT through local registrations or register for MOSS.

Q: What is the purpose of these changes?

The idea is to help level the VAT playing field across Europe, or to make it as level as possible without individual rates being harmonised.

Q: What added burden will telcos face?

Telcos are likely to have added responsibilities, as well as unwanted exposure to penalties for non-compliance. The legislation means that telcos must understand exactly who they are selling to and where. They must also realise that, under the new regime, they may have liabilities in certain EU member states where previously they had none.

// **TELCOS MAY HAVE LIABILITIES IN CERTAIN EU MEMBER STATES WHERE PREVIOUSLY THEY HAD NONE.**

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Q: How will the new rules affect the way a telco is run?

The business implications associated with the changes are numerous. The average rate of VAT in the EU is 21.54% (as of January 2014), so any business currently based in a country where VAT rates are much lower will experience a fall in profit margins.

With suppliers charging many different rates according to where customers are based, decisions will need to be made about pricing of products. Are they to be priced differently in each country, or is one blended rate across all countries preferable? How will invoicing need to be managed? Will it need to be different for each separate country?

A telco will need to have systems and processes in place in advance of 2015, so they know where all customers are located in order to be charged VAT at the correct rate. This may necessitate considerable IT spend.

A TELCO WILL NEED TO HAVE SYSTEMS AND PROCESSES IN PLACE IN ADVANCE OF 2015

Q: What steps should businesses be taking right now?

January 2015 may seem like a long way off, but telcos should take action right now. They need to consider how this new legislation will impact stakeholders throughout their organisation, and to assess what the changes mean on a practical level.

First, identify where the customer is located. Telcos should have records on most customers, particularly those that pay by monthly subscription, as their location will be specified in the contract. Other sources of information include the mobile country code of a customer's SIM card, their billing address or the location of a customer's fixed landline.

The biggest complication comes from the legal relationship between the telco and those organisations that provide content around the basic service they deliver. Telcos generally buy content (such as weather updates, horoscopes, games, etc) from multiple suppliers and aggregators. An aggregator will act as an agent for a range of different services.

When the telco in turn makes that content available to the subscriber, are they acting as an agent or as a principal? If they are deemed to be acting as agent, then they must collect VAT from the customer to pass back through the chain. If a principal, they must account for the VAT themselves. The EC says that if you are "authorising" the charge to the customer then you are, in essence, acting as principal unless you can demonstrate otherwise.

This issue will be more or less complex depending on the number of players involved, and because of the web of different legal relationships between those players.

At a commercial level, you need a clear understanding of what the supply chain looks like. The risk is that tax will either go uncollected or be overpaid.

There are benefits and drawbacks to each option that telcos face in order to ensure compliance, and telcos will need to evaluate all of these thoroughly in advance of 2015.

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