

VAT and e-commerce

New legal provisions adopted in Brussels

6 December 2017

The VAT treatment of supplies of goods and services in the digital economy continues to be an area of challenge and change, affecting businesses around the world. In keeping with this trend, on 5 December 2017, the European Union ("EU") adopted new legal provisions which principally affect both EU and non-EU businesses involved in the sale of goods cross-border to EU consumers ("distance sales"). The provisions will in many cases change the VAT compliance obligations for such businesses. In addition, they will extend VAT compliance obligations to online platforms which facilitate distance sales of goods coming from outside the EU and distance sales within the EU by non-EU suppliers. The changes will also in many cases affect the VAT reporting obligations of postal operators and couriers in respect of distance sales of goods from non-EU countries. These are significant changes but, for the most part, they will not enter into effect before 1 January 2021. Some changes, principally affecting small and medium sized enterprises involved in supplies of digital services will come into effect on 1 January 2019.

To see the information published by the European Commission in respect of these changes, please follow this link: https://ec.europa.eu/taxation_customs/business/vat/digital-single-market-modernising-vat-cross-border-ecommerce_en

The principal measures can be summarized as follows:

Goods sold to EU consumers from outside the EU

The existing relief from VAT on consignments imported into the EU from outside the EU with a value of less than 22 Euros (EUR) will be abolished in 2021. However, where distance sales of goods imported into the EU are facilitated by an electronic marketplace including platforms or portals and have an intrinsic value of EUR150 or below, the marketplace operator will be liable to pay the VAT in the EU country where the customer is located. Where the EUR150 threshold is exceeded, a full customs declaration will still be required. These changes will also affect the VAT reporting obligations of postal operators and couriers, with certain VAT reporting simplifications also being included in the measures.

Goods sold cross border within the EU

The intra-EU regime for distance sales will also have a major overhaul with effect from 1 January 2021. The one-stop-shop regime already in place for supplies of digital and other services will be extended to distance sales of goods. While this will help avoid the requirement for online sellers to have multiple-country VAT registrations, it will however require more businesses to charge VAT on distance sales of goods based on the location of their customer. This is because current national registration thresholds for distance sales of goods will be replaced by a new common annual threshold of EUR10,000 for all cross border sales within the EU.

Implementation and timeline

The measures set out above in respect of distance sales of goods will come into effect on 1 January 2021. This long lead in period is needed to ensure the necessary administrative and infrastructure changes are in place in all EU Member States. More importantly however, much of the detail of how the measures will work in practice will need to be included in implementing regulations that will have to be finalized well before this date. For example, more work will be needed on details such as who exactly is liable for collecting and paying the tax and the information obligations that fall on businesses. The European Commission has not formally started drafting these implementing regulations but early indications are that they will closely follow the approach taken in the regulations for the 2015 changes for telecoms, broadcasting and electronic services.

Additional changes affecting the current regime for B2C supplies of telecoms, broadcasting and electronic services will come into effect on 1 January 2019. This includes the introduction of an annual EUR10,000 threshold for cross-border supplies of such services, below which the supplier can apply the VAT rules in their home country. These measures will extend to distance sales of goods with effect from 1 January 2021.

How can KPMG help?

While 2021 may seem some way off, businesses involved in or which facilitate distance sales of goods to consumers in the EU should begin to consider the implications of these measures for their business. KPMG firms can assist with the assessment and implementation of these changes in your business.

Perhaps more urgently, however, the coming months will be critical for engaging with the European Commission and governments on the development of detailed implementing regulations. KPMG professionals have already engaged with the key stakeholders on the development of these measures and will continue to do so. We would welcome your input into this process.

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