

EU VAT changes e-commerce

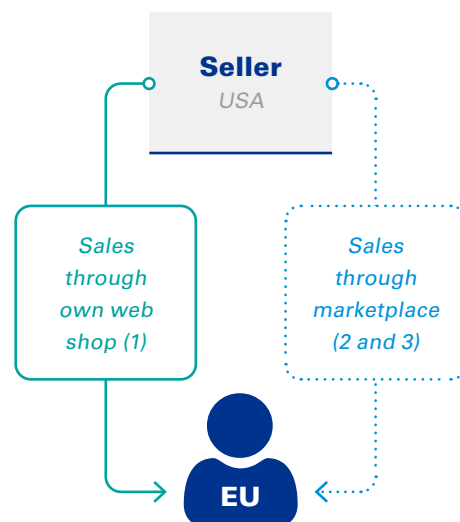
As of 1 July 2021

The European Union ('EU') will implement significant changes to its VAT rules on 1 July 2021, impacting e-commerce sellers, marketplace operators and logistics service providers. This brochure outlines the impact on sellers and marketplaces and the options available to them for the implementation, by way of a practical example.

Practical example

A seller located in The United States sells goods to private individual consumers (B2C) located in the EU through its own web shop and through a third-party marketplace (acting as an agent). The following types of transactions occur:

No.	Sales channel	Location of inventory	Transaction type
1	Own web shop	USA	B2C import into the EU
2	Marketplace	USA	
3	Marketplace	Within the EU (fulfilment centre)	B2C sale within the EU



How it works now

Until 30 June 2021

We have set out below how the sales transactions in the example above are dealt with under the present EU VAT rules.

B2C imports into the EU

(transaction types 1 and 2)

- Imports of low value consignments into the EU (up to EUR 22) are generally exempt from VAT. There are a few exceptions of EU countries where such exemptions do currently not apply;
- The carrier (or postal operator) must collect VAT (and duties) on the importation of consignments exceeding the low value thresholds. Depending on which trade term (Incoterm) is applied to the sale, the carrier will seek to recover this VAT from the consumer (e.g. incoterm DAP) or from the seller (incoterm DDP);
- There are currently no obligations for marketplace operators to collect VAT on B2C imports into the EU.

B2C sales within the EU

(transaction type 3)

- Since the goods are shipped to the consumer from local inventory held within the EU (i.e. inventory held in EU fulfilment centres from a marketplace), the overseas seller must generally register and account for VAT on such sales;
- VAT in the EU ship-to country (i.e. the country where the consumer receives the goods) applies subject to exceeding the local annual turnover thresholds, which range between EUR 35k – EUR 100k;
- For sales below the annual turnover threshold in the EU ship-to country, VAT applies in the EU ship-from country (i.e. the country where the inventory is held and from where the goods are shipped to the consumer);
- There are currently no obligations for marketplace operators to collect VAT on B2C sales within the EU (though they may be held jointly and severally liable for the VAT in certain EU countries).

How it will work

As of 1 July 2021

We have set out below how the sales transactions in the example above are dealt with under the new EU VAT rules as of 1 July 2021.

B2C imports into the EU – sales through own web shop

(transaction type 1)

The VAT exemptions for imports of low value consignments will be removed. VAT will need to be collected on all imports into the EU. A distinction will be made between consignments (i) \leq EUR 150 and (ii) $>$ EUR 150.

i. B2C imports of consignments
≤ EUR 150 into the EU

The web shop seller effectively has two options:

OPTION 1 Register and account for VAT at check-out	OPTION 2 Carrier collects VAT on importation
<p>The seller has the option to register for VAT under the Import One Stop Shop ("IOSS") system;</p>	<p>When the seller has not opted-in for the IOSS system (option 1), the carrier (or postal operator) declaring the goods for customs must collect VAT on importation;</p>
<p>It must then account for VAT in the EU ship-to country at check-out at the prevailing rate;</p>	<p>The carrier will likely charge an additional handling fee for this VAT collection service;</p>
<p>An advantage of this may be that the Seller can display the price inclusive of VAT to consumers at the point-of-sale;</p>	<p>Depending on the trade terms (Incoterms) applied to the sale, the carrier will seek to recover this VAT from the consumer (e.g. DAP sales) or from the seller (DDP sales);</p>
<p>The number of consignments rejected by consumers upon receipt may be limited when they know the final price upfront;</p>	<p>Where the carrier recovers the VAT from the consumer, it will not release the goods to the consumer until this consumer has paid the VAT;</p>
<p>The customs clearance process is quicker since the carrier does not need to collect VAT on importation;</p>	<p>The consumer may reject the goods if it did not know the additional VAT and handling costs upfront – i.e. at check-out;</p>
<p>The logistics may be simplified under central importation models whereby the goods are imported into EU country 1, but where the final destination is in EU country 2;</p>	<p>Where the consignments are imported into EU country 1, but the final destination is in EU country 2, they will be cleared for customs in EU country 2 and automatically be placed under bonded transport;</p>
<p>The seller registers for VAT in one EU country and only submits monthly returns to the Tax authorities in this country for all its imports into the EU (27 Member States and Northern Ireland).</p>	<p>The seller has no obligation to submit VAT returns when it has not opted-in for the IOSS system.</p>

ii. B2C imports of consignments
> EUR 150 into the EU

There will be no changes for B2C imports of consignments > EUR 150 into the EU. In other words, the carrier (or postal operator) must collect VAT on importation. Depending on which trade term (Incoterms) is applied to the sale, it will seek to recover the VAT from the consumer (e.g. Incoterm DAP) or from the seller (Incoterm DDP). If the seller operates a centralised clearance model, it needs to carefully consider its position.

B2C imports into the EU – sales through a marketplace

(transaction type 2)

- For B2C imports of consignments \leq EUR 150 into the EU, the marketplace that 'facilitates' the sale will generally be deemed to purchase the goods from the seller and to sell these goods to the consumer;
- The marketplace then effectively has the same two options as referred to above (transaction type 1). That is, it may opt-in for the IOSS system, or otherwise the carrier must collect VAT on importation;
- The seller needs to be aware of two things here: (i) the marketplace must account for VAT on the transaction if it has opted-in for the IOSS system (and not the seller itself); and (ii) the practical aspects of the marketplace's decision to opt-in for the IOSS system or not (i.e. potentially additional VAT and handling costs for the consumer, speed of customs clearance, bonded transport for centralised import models, etc.);
- There will be no changes for B2C imports of consignments $>$ EUR 150 into the EU. There marketplace is not considered to be a deemed seller for these transactions.

B2C sales within the EU – sales through a marketplace

(transaction type 3)

- Since the seller is located outside the EU (in The United States), the marketplace is deemed to purchase the goods from the seller and to sell these goods to the consumer;
- The marketplace must account for VAT on such deemed sales to the consumer in the EU ship-to country. The current annual turnover thresholds below which no VAT applies in the EU ship-to country (but instead in the EU ship-from country) will be removed and replaced by an EU-wide annual turnover threshold of EUR 10k;
- The marketplace will have the option to obtain a simplified VAT registration under the One Stop Shop ("OSS") system. The advantage of this is that it registers for VAT in one EU country and only submits quarterly VAT returns to the Tax authorities in this country for all its deemed B2C sales within the EU (27 Member States and Northern Ireland);
- The deemed sale from the seller to the marketplace is exempt from VAT. However, the seller is required to issue an invoice to the marketplace for such sales. To avoid that the marketplace is dealing with different invoice formats from each seller, the marketplace may adopt a self-billing arrangement. This is subject to the country specific rules where the deemed supply is made, but subject to a prior agreement on self-billing and an ongoing invoice acceptance procedure;
- Please note that the marketplace liability for B2C sales within the EU referred to above will only apply where the seller is located outside the EU. Sellers located in the EU must take care of the VAT accounting themselves.



How to prepare for these VAT changes?

E-commerce sellers, marketplace operators and logistics service providers will be impacted by the new EU VAT rules for e-commerce outlined above. They should be aware of the new VAT requirements and the options available to them for the implementation. The supply chains and the implementation options will have an impact on the VAT registration requirements, who will fund the VAT, the logistics and customs clearance process and the customer experience. We recommend each of these stakeholders to take appropriate steps for a timely implementation.



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