



## ECOMMERCE

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**VAT REGULATION IS  
CHANGING ON 1<sup>ST</sup> JULY 2021**

First of all, thank you for your trust.

We wanted to disseminate as much information as possible so that you can understand the 2021 ecommerce reform in the best possible way.

Our team of VAT experts offers you complete and personalised support with the aim of:

- providing an analysis of your activities;
- detailing the impacts of the ecommerce reform on your operations;
- providing a range of solutions in order to be in compliance.

Before getting to the heart of the matter, it seems important to us to provide an overview of certain main concepts.

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## I. Some essential concepts

### A. What is VAT?

VAT (value-added tax) has three basic characteristics that should be kept in mind at all times:

- VAT is a tax on the final consumption of goods;
- VAT is an indirect tax;
- VAT is mainly governed at Community level.

#### 1. VAT is a tax on the final consumption of goods and services

The person who actually bears the cost of VAT, called a “taxpayer”, is the person who qualifies as the **final consumer** of goods and services.

#### 2. VAT is an indirect tax

If the final consumer has the status of “taxpayer”, because he/she bears the final cost of VAT, the latter does not have the status of “**person liable for tax**”, since s/he is not responsible for paying VAT back to the state.

#### 3. VAT is a tax mainly regulated at community level

The rules governing VAT mainly come from the “**European Directives**” that the Member States of the European Union have to integrate into their own legislation.

#### 4. What does VAT mean for individuals, also called “taxpayers”?

End consumers pay VAT on the products and services consumed. The VAT rate will depend on the type of product, the service provided and the member state in which the transaction is carried out.

#### 5. What does VAT mean for companies, also known as those “liable for VAT”?

Companies subject to VAT collect VAT from individuals and pay it to the tax authorities of the Member State concerned.

VAT is neither a charge nor a product. Companies will be able to reclaim the VAT they are liable to pay on their purchases of goods and services used for business purposes.

## 6. What is an intra-community VAT number?

The person liable to VAT performing operations falling within the scope of VAT for which s/he is liable is assigned an individual VAT identification number.

### B. What does the concept of ecommerce/electronic commerce represent?

Any activity related to the online sale of goods and/or services.

### C. What are Marketplaces?

This is any company facilitating BtoC sales through an electronic interface.

### D. What does Business to consumer or BtoC mean?

Professional jargon for the relationship between a company and an end consumer.

### E. What does Business to Business or BtoB mean?

Expression used to qualify the professional relations between companies.

### F. What does MOSS (Mini One-Stop Shop) mean?

Mini one-stop shop allowing companies based in the European Union and outside the European Union to declare their BtoC sales of cross-border electronic services.

### G. What is meant by special arrangement?

- OSS for companies based outside Europe (Non-EU OSS). Applicable to intra-community distance sales.
- OSS for companies based in Europe (EU OSS). Applicable to intra-community distance sales and certain cross-border services.
- IOSS for EU and non-EU companies. Applicable to distance sales of goods imported from non-EU territory.

**Registration on the portal from 1<sup>st</sup> April 2021**

## II. What does the ecommerce VAT package consist of?

### A. Introduction

The reform was initiated with the aim of a global overhaul of European VAT regulations following the massive expansion of sales made via the Internet.

This reform comes into force on 1<sup>st</sup> July 2021 and will have a significant impact on all ecommerce stakeholders (online traders/dropshippers).

#### 1. Objectives of the reform

- To adapt the current VAT system to the boom in ecommerce.
- To reduce and simplify red tape for ecommerce companies.
- To stop massive VAT fraud in ecommerce.

#### 2. The main changes

- Redefinition of the concept of “distance selling”.
- Removal of distance selling thresholds.
- Withdrawal of the VAT exemption on imported parcels worth less than 22 euros.
- Establishment of the one-stop shop VAT return for the sale of goods and services.
- Introduction of three optional special arrangements and corresponding electronic portals (OSS).
- VAT accountability of marketplaces.

### B. Overhaul of the definition of distance selling

#### 1. Intra-Community distance selling

This concept, which captures the very essence of current distance selling, defines sales to a BtoC customer with transport from an EU Member State 1, and to a Member State 2.



Until 1<sup>st</sup> July 2021, distance sales are subject to VAT:

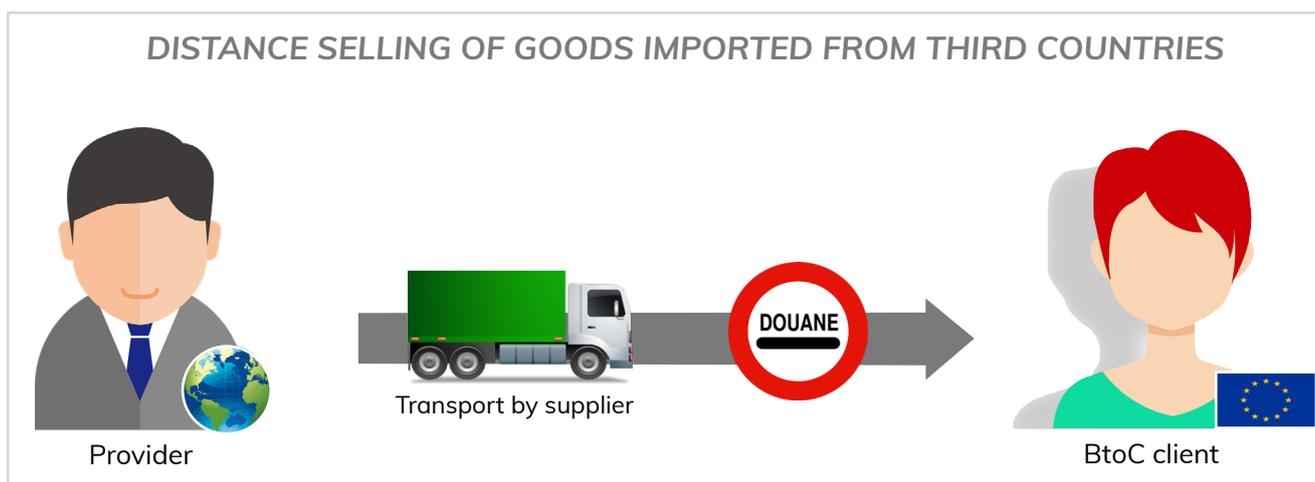
- In the country of departure as long as the distance selling threshold in the country of arrival is not exceeded.
- In the country of arrival once the distance selling threshold in the country of arrival is exceeded.

**From 1<sup>st</sup> July 2021, the thresholds will be removed.**

Therefore, from 1<sup>st</sup> July 2021, intra-Community distance sales will always be subject to VAT in the country of arrival, and from the first euro.

## 2. Distance selling of imported goods

This new concept defines the sale to a BtoC customer with direct transport by the seller from a non-EU country to an EU Member State.



At present, this scheme does not exist as such, which results in the following VAT treatment for the seller:

- Taxable imports in the Member State of destination (payment of import VAT and customs duties);
- Local BtoC sales taxable in the Member State of destination.

This results in an obligation of VAT identification for the seller in the Member State of destination.

As of 1<sup>st</sup> July 2021, the arrangement and the VAT treatment will differ depending on the intrinsic value of the package, and depending on whether or not the seller opted to use the special arrangement called IOSS.

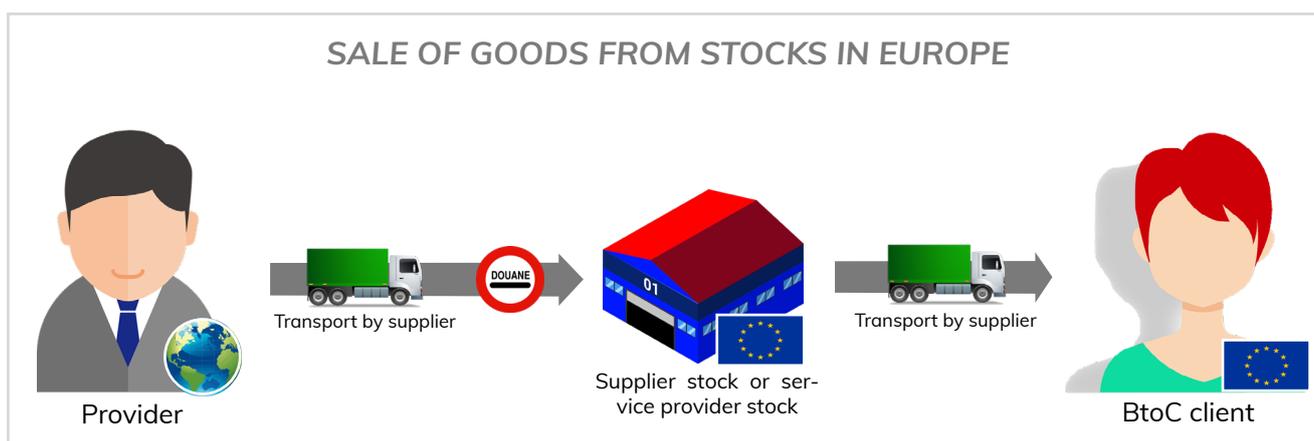
For example, only distance sales of imported goods with an intrinsic value less than or equal to €150 declared via the IOSS will be subject to VAT in the Member State of arrival, from the first euro.

### 3. Specific case: import followed by a BtoC sale in Europe with intermediate storage in Europe

Does not fall within the definition of intra-Community distance selling and distance selling of imported goods; the completion of a sale to a BtoC customer with intermediate storage in Europe from a non-EU country to an EU Member State.

Thus, the seller must carry out:

- taxable imports in the Member State of destination (payment of import VAT and customs duties);
- either:
  - ✓ Local BtoC sales taxable in the Member State of destination;
  - ✓ Intra-Community distance sales taxable in the Member State of destination from the first euro as from 1<sup>st</sup> July 2021.



#### C. Withdrawal of the VAT exemption on parcels worth less than 22 euros

Currently, shipments with an intrinsic value of less than 22 euros from suppliers based outside the European Union are exempt from customs declaration and import VAT.

This mechanism leads to massive VAT fraud resulting from voluntary undervaluation on the part of suppliers and a disparity in customs control.

With the aim of drastically reducing tax fraud, the European Union has opted for an overhaul of this rule by initiating the abolition of this exemption.

Thus, it has been agreed that from 1<sup>st</sup> July 2021, in response to the removal of this exemption, a VAT exemption on imports for distance sales of imported goods with an intrinsic value less than or equal to 150 euros will be set up, and this will only be for declarations via the special IOSS arrangement.

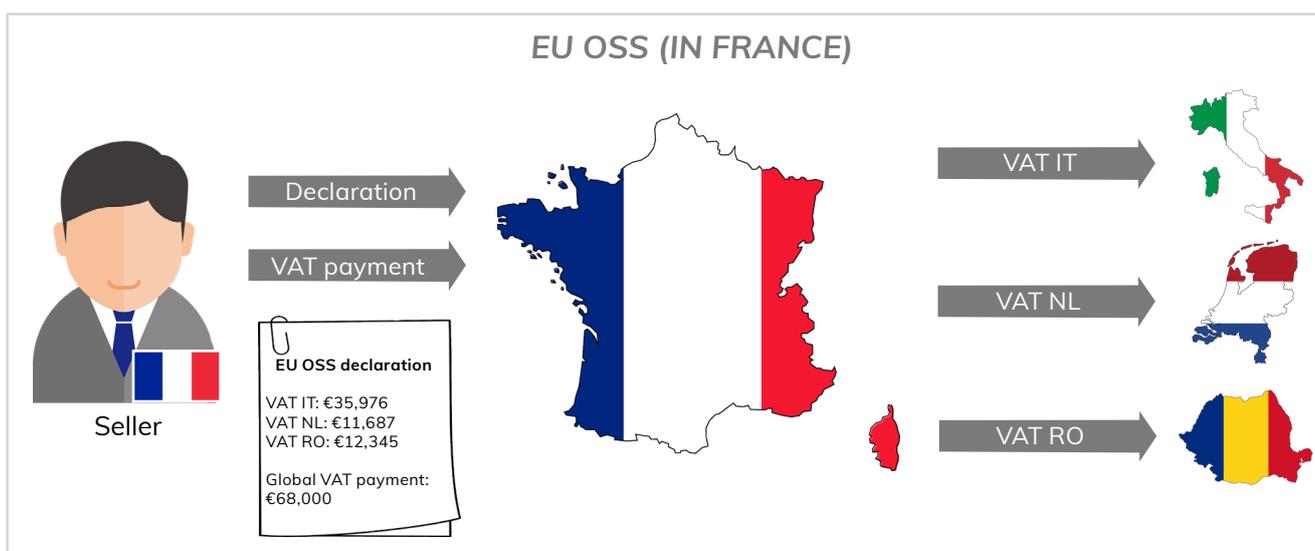
**PLEASE NOTE: a specific customs declaration must still be lodged upon importation.**

## D. Introduction to three special arrangements for ecommerce

At present, there is only one optional special scheme, the MOSS (Mini One-Stop Shop). MOSS is currently open to companies based in the European Union and outside the European Union for their sales of cross-border BtoC electronic services only.

As of 1<sup>st</sup> July 2021, MOSS will be replaced by three new optional special arrangements which apply to ecommerce:

- Non-Union arrangement, called One-Stop Shop Non-EU (OSS NON-EU), which only applies to intra-Community BtoC services.
- Union arrangement, called One-Stop Shop EU (OSS EU), which applies in particular to intra-community distance sales.
- Import arrangement, called Import One-Stop Shop (IOSS), which only applies to distance sales of imported goods with a value less than or equal to 150 euros.



Example with the EU OSS:

- A French company carries out BtoC intra-Community distance sales from France to Italy, the Netherlands, and Romania.
- In principle, the French company must be registered in Italy, the Netherlands and Romania, and file conventional declarations there.
- However, as of 1<sup>st</sup> July 2021, the French company may elect to declare all its intra-Community distance sales in France, using its French VAT number and irrespective of the country in which the VAT is due.

*Please note: the French company must invoice and make the declaration using the VAT rate applicable in the country of arrival.*

- The French company must then file in France:
  - ✔ An EU OSS declaration listing all its intra-Community distance sales.
  - ✔ A classic VAT return showing all of its other transactions subject to French VAT.

#### E. Introduction to the concept of marketplace accountability in VAT matters

Currently, marketplaces have “no responsibility” for the payment of VAT from sellers using their services.

From 1<sup>st</sup> July 2021, the marketplaces will be considered, with regard to VAT, as having purchased and sold the products themselves.

*Please note, this liability differs depending on the type of operation, the type of seller and the intrinsic value of the package:*

- For companies based in the European Union, on distance selling of imported goods worth less than 150 euros only;
- For companies based outside the European Union, on all BtoC sales located in the EU, including local ones. No liability on distance selling of imported goods with a value greater than 150 euros.

Marketplaces can take advantage of OSS to report sales, including local sales.

### III. Conclusion

Following the increasingly important development of ecommerce, it should be noted that the legislator wanted to initiate a major overhaul of the regulations and the declaration process, in particular with the aim of limiting VAT fraud.

It is clear that this regulatory update marks an upheaval of the well-established rules of ecommerce and a number of habits.

As of 1<sup>st</sup> July 2021, it will be necessary to be able to distinguish sales according to:

- the value of the goods;
- their origin;
- the sales channel used;
- the person in charge of transport;
- the suitability of the option for the simplified OSS and IOSS arrangements.

All the parameters must be analysed on a case-by-case basis in order to best define the obligations of European or non-European online sellers.

Our ecommerce experts have recorded several hundred specific cases, each with customisable solutions.

ASD Group ecommerce experts support you step-by-step in setting up the ecommerce VAT package in accordance with your development objectives.

A laptop is shown from a low angle, displaying a data analytics dashboard. The dashboard includes a line chart with three data series, a heatmap grid, a world map titled 'Where are your users?', and a donut chart titled 'Sessions by device'. The text is overlaid on the center of the laptop screen.

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