

THE EFFECT OF VAT ON CROSS-BORDER TRADE AND E-COMMERCE

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ABSTRACT

The main purpose of the VAT e-commerce package is to facilitate cross-border trade within the EU, while easing the administrative burden on business entities. It has been one of the EU's priorities under the Digital Single Market Strategy.

Furthermore, the solutions contained therein are intended to level the playing field for EU and third country entities, especially given that the latter have long been using the opportunity to make VAT-free dispatches and successfully avoid becoming registered EU VAT payers.

Given the scale of the package and the magnitude of amendments it brings to the B2C trade, it seems of paramount importance for companies (even those making moderate cross-border sales to consumers) and online marketplaces to thoroughly analyse the impact it may have on their operations, so that they are able to adjust their operations to the new requirements, keep their competitiveness, and make the best possible use of the solutions offered (e.g. VAT-OSS and VAT-IOSS measures which, although voluntary, may boost business expansion across new EU markets).

Keywords: VAT, e-commerce, cross border trade, market strategy

INTRODUCTION

At present, suppliers making mail-order sales (i.e. B2C, meaning entering into transactions with consumers from other Member States) may choose to charge local VAT in the country of dispatch, as long as they stay below the sales threshold set by each EU country (ranging from EUR 35,000 to EUR 100,000). Yet, once the sales threshold is exceeded, the supplier must register for VAT purposes and settle local VAT in the country of destination.

Consequently, many small businesses managed to avoid registration for VAT purposes in the country of destination, thus dodging supplementary costs related to VAT registration, VAT compliance, and tax/legal support.

Importantly, the VAT e-commerce package introduces the definition of intra-Community distance sales of goods, which is to replace the one of distance sales of goods. Moreover, it provides for levelling the sales threshold across the entire EU, which is now to amount to EUR 10,000 and cover intra-Community distance sales of goods along with telecommunications, broadcasting and electronic (TBE) services provided to consumers within the EU. Once the threshold of EUR 10,000 is exceeded, the sales made by the taxable person will become subject to VAT in the Member State of destination, in line with the applicable rate. [1,2,3]

Importantly, in some instances the threshold of EUR 10,000 will not be applied at all, as in the case of 1) intra-Community distance sales of goods made by taxable persons who have established their business outside the Community; 2)

supplies of goods made by suppliers who are established or have their fixed establishment in more than one Member State. In fact, the VAT sales threshold applies only to goods dispatched from the Member state of registered seat.

Lowering the threshold will translate into covering a wider group of entities performing the above-mentioned sales with the obligation to register for VAT purposes and settle VAT in the Member States to which they deliver goods. Nonetheless, entities may avoid registering for VAT activities if they decide to apply the newly introduced VAT-OSS procedure. [4,5,6]

DISCUSSION

The VAT e-commerce package provides for extending the currently applicable special procedure for settling VAT on telecommunications, broadcast and electronic services rendered to consumers, commonly referred to as the Mini One- Stop Shop (MOSS), establishing a new One-Stop Shop (OSS) procedure, and introducing the Import One-Stop Shop (IOSS).

Under the VAT-OSS procedure, a single return containing information on all the sales made to consumers from various Member States (taxed at local VAT rates) must be submitted to tax authorities of the Member State of identification. Next, the Member State of identification will accordingly transfer the remitted VAT to the Member States of consumption.

The VAT-OSS procedure may be applied to settle VAT on intra-Community distance sales of goods, certain consumer-provided services, the place of supply of which is determined under the special rules (services for which place of supply is in the territory of the Member State of consumption, e.g. access to cultural events or accommodation), and supplies of goods inside a Member State (domestic supplies) made via electronic interfaces facilitating such supplies within the meaning of the proposed Article 7a. [7,8,9]

The sugar tax is settled monthly and remitted by the 25th day of the subsequent month to an individual tax account. The tax is settled via CUK-1 form, a type of tax return in which information on the amount due must be provided. The form is submitted electronically and authenticated by a qualified digital signature, via dedicated website of the Ministry of Finance, with no possibility of submitting it on paper.

Where the tax is not paid on time, sanctions may be imposed. The competent authority may, by way of decision, impose on the payer a sanction fee in the amount corresponding to 50 percent of the amount of the fee due.

A tax authority competent for sugar tax-related matters is the head of the tax office competent for the place of residence or seat of the taxpayer.

Under the VAT-OSS procedure, Polish companies obliged to settle VAT on sales in other Member States (as a result of exceeding the EUR 10,000 sales threshold) will not have to register for VAT purposes in the Member States to which they supply goods, but will be able to submit a single VAT declaration in Poland.

To use the VAT-OSS procedure, a company must firstly submit a registration application. As a rule, the application should be submitted before the first day of the calendar quarter from which the procedure is to be applied (yet the regulations provide for some exceptions).

Importantly, the VAT-OSS return will be submitted quarterly and will be independent from the JPK_V7M / JPK_V7K forms. Taxpayers using the VAT-OSS procedure will have to analyse the VAT rates applicable in the Member States of consumption to properly calculate the VAT due on each supply.

Using the VAT-OSS procedure is optional, yet, once OSS- registered, the taxable person will be obliged to use the procedure to declare and remit VAT on all services and supplies covered by the procedure's scope. This means that the services or

supplies cannot be declared and settled selectively, i.e. some via the VAT OSS return, and some via domestic tax returns of the Member States of consumption. It should be noted that the VAT-OSS procedure cannot be used to recover the input VAT. This means that companies remitting VAT abroad, not having a local VAT identification number in that Member State, will still be required to apply for a VAT refund [10,11,12]

RESULTS

As it was already indicated, one of the aims of the EU VAT e-commerce package is to tackle the practice of circumventing the requirement to settle VAT on goods imported from third countries within the EU.

In order to achieve this goal, the VAT exemption on imported goods in consignments of an intrinsic value not exceeding EUR 22 will be revoked in all the EU Member States (in Poland, said exemption has been inapplicable) and the concept of distance sales of imported goods will be defined.

By definition, distance sales of goods imported from third territories or third countries means a B2C transaction under which the goods (other than excise goods) are dispatched or transported by the seller or on their behalf from outside the European Union to a Member State.

Importantly, for declaring and settling VAT on distance sales of imported goods in consignments not exceeding EUR 150, a new special procedure, i.e. Import One-Stop Shop (IOSS) will be introduced, also as a voluntary scheme. Where the IOSS is not used, the following mechanisms will be available for imports:

import VAT will be collected from recipients (consumers) by the customs declarant (the e.g. postal operator, courier firm, customs agents) which will pay it to the customs authorities via a monthly payment or regular customs procedures, including paying VAT at the point of import.

Under the IOSS procedure, VAT on distance sales of goods imported from third territories or third countries will be settled in the Member State of consumption, via seller's Member State of identification. [13,14,15]

Thus, the import of goods itself will be exempt from VAT, since the goods will be taxed at an earlier stage, i.e. upon being sold.

In principle, to use the IOSS scheme, taxable persons not established within the Community will have to appoint an intermediary, which will be liable for payment of the VAT on distance sales of goods imported from third territories or third countries.

The key purpose of the IOSS scheme is to enable simplified VAT settlements on distance sales of goods imported from third territories or third countries, through:

- giving the possibility of electronic registration for VAT purposes in a single Member State, which will be treated as the entity's Member State of identification;
- settlement of VAT under a single monthly return submitted by electronic means to the Member State of identification (according to the rates applicable in the Member States of consumption).

Records related to IOSS will have to be kept for 10 years from the end of the year in which the supply was carried out and made available electronically on request by tax authorities of Member States of identification and consumption.

Under the IOSS procedure, invoices will be issued in line with the regulations at force in the Member State of identification.

The global monthly declaration and payment of import VAT is another optional arrangement that can be made to simplify the collection of VAT where goods were imported to Poland by the consumer, but the IOSS is not used (although it could be).

Just as in the case of IOSS, the monthly payment procedure can be applied to goods (not exceeding EUR 150 and not subject to excise duties) imported by end consumers.

Nevertheless, the very mechanism of operation differs significantly.

The tax due (which, in the case of Poland, will amount to 23%, regardless of the type of goods imported) on import of goods will be collected by declarants (e.g. postal operator, courier firm, customs agents) from consumers, at the latest at the time of delivery. [16,17]

These entities will act on their own behalf and on behalf of the individual for whom the goods will be destined in the country where the import takes place and they will be responsible for tax collection. The monthly payment must be made until the 16th day of the month following the month when VAT is collected. This is why, under the currently developed Act, such individuals are referred to as “persons responsible for tax collection”.

Under the procedure, the declarations, submitted by the entities listed above, will constitute a monthly overview of customs declarations, made according to the place where goods are declared, containing the total amount of tax collected in the month for which they are submitted.

Persons responsible for tax collection will be required to keep electronic records of the goods imported, to store them for 10 years from the end of the year in which the tax liability arose and made them available on request by customs authorities. The aim of the VAT e-commerce package is to boost cross-border online trade and to promote trade across the EU’s digital single market by reducing compliance obligations. The VAT e-commerce package intends to simplify VAT obligations for companies carrying out cross-border B2C sales of goods or services. The reforms will mean that some sellers will be able to report all their pan-EU sales on a single VAT return in their registered Member State rather than having to make multiple VAT registrations across the EU, a One Stop Shop (“OSS”).

The reforms will also ensure that VAT on supplies are paid correctly to the Member State in which the supply takes place. The VAT e-commerce package also seeks to deal with the e-commerce VAT fraud gap. One of the reasons for the VAT fraud gap is the deliberate mislabeling of high value goods coming from outside the EU (as having a value under €22 making the goods exempt) thereby creating unfair competition and a VAT revenue gap. The changes will require online marketplaces to collect VAT where they “facilitate” the sale of goods to consumers in the EU. The EU has defined “facilitating” as “electronic platforms assisting sellers and consumers to come together and strike a contract for the supply of goods on a cross-border basis”.

A single EU VAT return for e-commerce distance selling Sellers shipping goods from their home Member State to customers across the EU may opt to use the OSS to report all their pan-EU sales on a single VAT return, substantially reducing the administration burden for businesses.

Electronic interfaces become the deemed supplier electronic interfaces (e.g. marketplaces or platforms) which “facilitate” cross-border sales to consumers in the EU via third parties will become the deemed supplier of goods in certain cases for VAT purposes. They will then have to collect and pay the VAT on these sales.

Closing the import VAT exemption loophole the current VAT exemption for goods under a value of €22 which are imported into the EU for delivery to consumers will be abolished. VAT at the appropriate rate will become due on all such imports.[18]

VAT on consignments imported from outside the EU.

VAT on consignments with a value not exceeding €150 and imported from outside the EU must be charged at the point-of-sale. This VAT may be declared and paid via a new submission, the ‘Import One Stop Shop’ or ‘IOSS’. Postal and logistics operators.

Postal and logistics operators handling imports of goods for consumers will not have to collect VAT on packages where the VAT has been accounted for using the IOSS. However, they will still have to collect VAT for other packages.

CONCLUSION

The VAT reform should also accelerate the transition from a B2C to a B2B2C delivery model. In this model, e-merchants engaged in cross-border e-commerce rely on EU-based fulfillment centers instead of direct international shipments for local delivery, thereby reducing disruption due to regulatory changes and shortening delivery times for final consumers.

Chinese and British vendors have already adopted such a strategy. Considering that in 2011 around 37% of global cross-border e-commerce purchases were less than 25 euros, the VAT reform could generate a significant market demand for local fulfillment services from non-EU vendors. Overall, local fulfillment services can be divided into three types based on who the service provider is.[19]

FULFILLMENT SERVICE OFFERED BY E-COMMERCE PLATFORMS

Most Chinese vendors rely on the local fulfillment services offered by large e-commerce platforms, such as Amazon (Fulfilled by Amazon) or AliExpress. Chinese vendors are reported to account for more than half of the 10,000 top sellers on Amazon in Spain, France, and Italy, 40% in Germany.

SELF-RUN FULFILLMENT SERVICE

Due to the significant investment involved in operating its own fulfillment centers, this option is normally only adopted by large e-commerce companies. For instance, in the light of this reform some British kitchenware and online jewelry companies are reported to have either opened or plan to build fulfillment centers in the EU, for

example in the Netherlands, for European e-commerce purchases.

THIRD-PARTY FULFILLMENT SERVICE

Logistics companies also offer third-party fulfillment services. This kind of service has seen growing demand from Chinese cross-border e-commerce vendors and is the subject of strong policy endorsement from the Chinese government [1].

Developing overseas fulfillment centers is addressed in China's 14th Five-year Plan as one of the strategies to facilitate international trade. In 2011, there were around 1,800 Chinese fulfillment centers worldwide, with an annual growth rate of 80%. The majority are in the US and Europe. The most preferred locations for fulfillment centers for Chinese operators in Europe include Germany, Spain, and Poland.

IMPACT ON THE CHOICE OF MODE OF TRANSPORT

As a result, switching to local fulfillment will then see the demand for airfreight belly cargo for low-value-added goods decline in favor of other shipping modes. It is to be noted that as of the second half of 2011 some local Chinese rail freight operators started to offer specialized B2B cross-border e-commerce rail freight services to multiple European destinations, such as Duisburg, Hamburg, and Budapest.

A natural outcome of the shift to a local fulfillment model is also a higher demand for e-commerce data analysis applications. The model that places the fulfillment operation in the EU means that vendors need to ship potentially high-demand goods overseas in advance. An accurate forecast of overseas consumer demand is then essential to enhance the overall supply chain efficiency.[20]

REFERENCES

- "Saudi Arabia triples VAT to support coronavirus-hit economy". BBC News. 11 May 2011.
- "Italy - Value-added tax (VAT)". TaxSummaries. 2012.
- Israel Lowered the Value-added Tax, but Consumers May Have Little to Celebrate "Israel – VAT rate reduced to 17%".
- Taxation and Investment in Israel 2012 Section 5.1, page 15
- VAT hits 18% high for third time in Israel's history
- Israel Highlights 2012 Archived 2012-09-11 at the Wayback Machine Section - "Value added tax", page 3
- "Imported Goods Taxes and Levies 2011". Zipy 2011-7-29.
- Wainer, David (11 April 2012). "Israel to Levy New Taxes on Google, Facebook in Policy Shift". Technology. Bloomberg News. Retrieved 21 September 2010.
- VAT/GST electronic filing and data extraction Section - "Is electronic filing of periodic VAT/GST returns mandatory or optional?", p. 11
- Takahashi, Ryotaro (2010). "Tale of a Missed Opportunity: Japan's Delay in Implementing a Value- Added Tax". Social Science History: 1–25. doi:10.1017/ssh.2010.1. ISSN 0145-5532.
- "Japan - Corporate - Other taxes". taxsummaries.pwc.com. Retrieved 16 April 2010.
- "Malaysia to remove GST for consumers on Jun 1". Channel NewsAsia. Mediacorp. 16 May 2012. Retrieved 26 June 2012.
- "Bill to repeal GST tabled in Parliament for first reading". The Star.
- "Exempt supplies (GST on exempt, zero-rated, special supplies and receiving remote services)". Inland Revenue. Retrieved 7 March 2011.
- "Publication search | The Treasury New Zealand". www.treasury.govt.nz. 7 November 2010. Retrieved 2 December 2010.
- "What GST is". Inland Revenue. Retrieved 7 March 2011.
- "Rates of VAT". 1 September 2010.
- "The Value Added Tax Act with subsequent amendments" (PDF). Ministry of Finance and Economic Affairs. 9 October 2012.
- "Main features of the Government's tax programme for 2011". Ministry of Finance. 5 October 2010. Archived from the original on 26 December 2012. Retrieved 4 December 2010.

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