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New VAT-rules for e-commerce

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New VAT-rules for e-commerce

Starting July 1, 2021, the VAT rules for e-commerce will change. These changes are likely to have a major impact on companies active in the e-commerce market, specifically for companies with direct B2C sales (i.e. sales made to end-consumers / non VAT entrepreneurs).

The current VAT rules for e-commerce are complicated and no longer reflect the increasingly digitizing society and blurring of borders within the (online) retail environment. That is why the VAT rules will change as of July 1, 2021. The changes only apply to sales to consumers (B2C). The rules for B2B sales remain in place.

The main changes are:

- Termination of the threshold for distance sales.
- Abolition of VAT exemption for small shipments.
- Introduction of a platform liability.
- Declaration / VAT returns through simplified arrangements;

via a One Stop Shop in your own country (instead of via foreign registrations).

- Introduction of the import scheme (Import One Stop Shop) Special arrangement for the payment of VAT by postal and courier companies.

In this document we will discuss the upcoming changes and their impact on you as an entrepreneur. First of all, the current VAT rules will be briefly explained before we go into the new rules.



Current VAT-rules

Current VAT-rules

In order to explain the relevant current VAT-rules correctly, a distinction needs to be made between the supply of services and the supply of goods to consumers (i.e. non-VAT entrepreneurs). We will focus on cross-border supplies (where the consumers and supplier are established in different EU-countries), since these transactions will trigger VAT-obligations in the other Member State. We will also briefly discuss the VAT-exemption for the import of goods with a low value.

Services

The place of supply of services which relate to telecommunication, broadcasting or other electronic services ("TBE-services") to consumers is the country where the consumer "consumes" the service (typically where he resides). This means that suppliers of these services must account for VAT and pay VAT in that country.

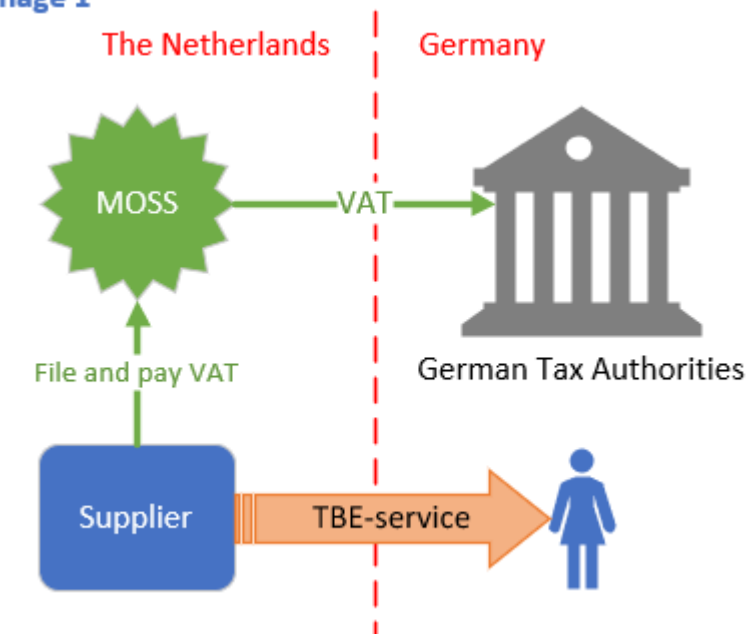
If the consumer and supplier reside/ are established in different countries, the supplier can use the Mini One Stop Shop ("MOSS") scheme to file and pay VAT in the relevant EU-country. When the MOSS scheme is used, all VAT is filed in a separate tax return in the country of establishment of the supplier. The country of establishment

will pay the VAT owed to the country of consumption.

A supplier who is not established in the EU, but supplies TBE-services to consumers in the EU, can also use the MOSS-scheme by registration for the MOSS in a EU-Member State of choice.

Example: A Dutch supplier, supplies TBE-services to consumers in Germany. The place of supply is Germany and German VAT is due. The supplier files and pays the VAT via the MOSS in the Netherlands. The Dutch Tax Authorities pay the received VAT to Germany. (see image 1)

Image 1



Current VAT-rules

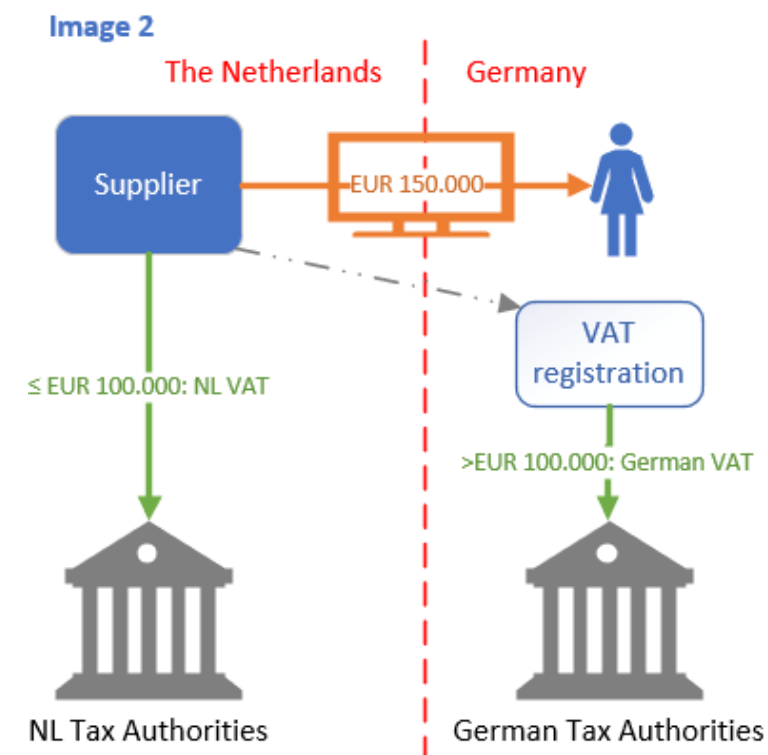
Goods

The place of supply of goods sold to consumers is the country where the consumer receives the goods. Even if the supplier of the goods is not established in the same country, and also if the goods are shipped from another EU country ("distance sales"), as a starting point, VAT remains due in the country where the consumer receives the goods.

To avoid that a supplier needs to register for VAT purposes in every EU-country, the current VAT-rules contain a threshold for distance sales. When the total value of the sales to consumers does not exceed a certain threshold, the place of supply is deemed to be the place where the good are shipped from. This threshold applies per EU-country (where the goods are received by consumers) and can differ per EU-country.

Example: A Dutch supplier sells televisions (from a warehouse in the Netherlands) to consumers in Germany. The total value of the sold televisions in a year is EUR 150.000. The threshold for distance sales in Germany is EUR 100.000. For all sales up to EUR 100.000 the place of supply is the Netherlands and VAT is due in the Netherlands. From the moment the threshold is exceeded, the supplier should register for VAT purposes in Germany and charge German VAT to the consumers.

(see image 2). The supplier can always choose to pay German VAT via a VAT registration in Germany. This is also possible before the threshold is exceeded.



Exemption for imported goods

In the current VAT-rules, the import of goods by/on behalf of consumers with a low value (up to 22 Euro's) is exempt from VAT.



New VAT-rules for e-commerce

New VAT-rules for e-commerce

Starting July 1, 2021 the new VAT-rules for e-commerce will come into effect. The changes will affect suppliers who supply TBE-services and distance sales of goods. The import of low value goods (<EUR 22) will also be affected. In a broader context, VAT entrepreneurs who provide services to consumers / non-VAT entrepreneurs in other EU-countries will also benefit from the simplifications offered for VAT returns.

The current thresholds for distance sales will be replaced. Starting July 1, 2021 sales to a consumer outside the Netherlands will almost always mean that the supplier needs to charge and pay VAT in the other EU-country.

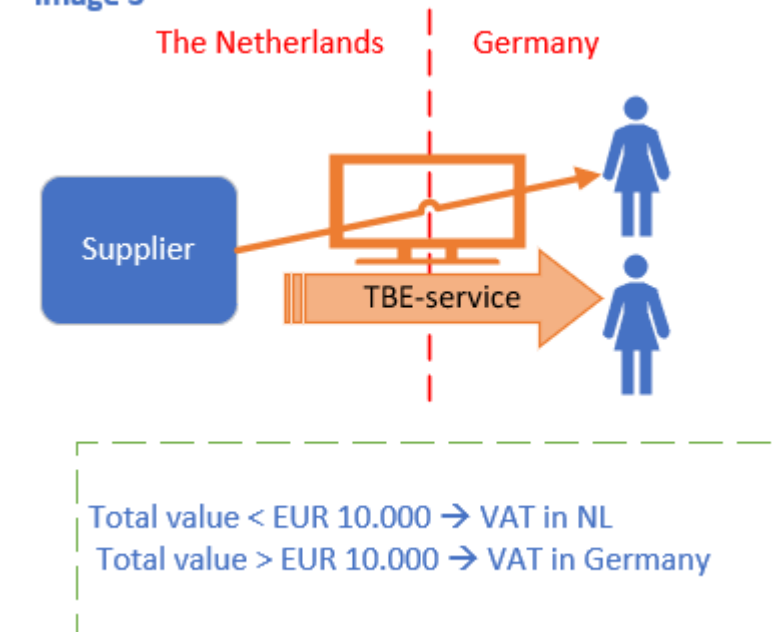
Instead of different thresholds per EU-country, there will be one threshold of EUR 10.000. This threshold will apply to all combined TBE-services and distance sales made by a supplier.

Example: a supplier supplies TBE-services to consumers in Germany. The supplier also sells televisions to consumers in Germany. The total value of the supply of goods and services exceeds the threshold of EUR 10.000 in a year. The place of supply for the services and goods will be Germany. The supplier needs to charge and pay VAT in

Germany

If the total value of the TBE-services and goods was less then EUR 10.000, the place of supply would be The Netherlands. (see image 3)

Image 3

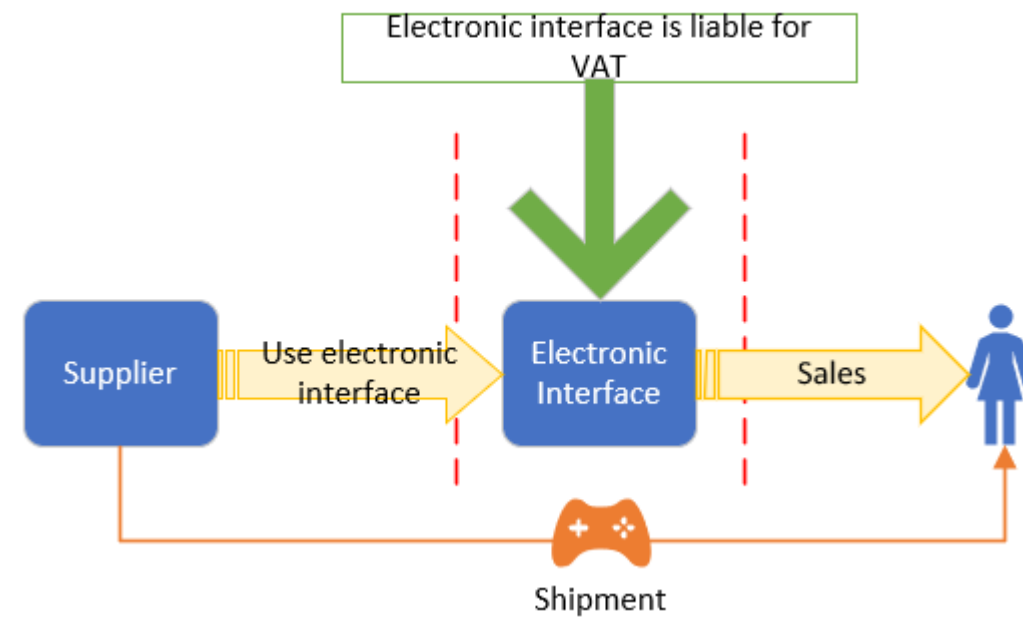


In addition, the new rules will also introduce a liabilities for electronic interfaces/ platform where they can be held liable for VAT on sales made through their platform, if the electronic interface has an active role in the sales process. Suppliers selling through these platforms will be deemed to make supplies to the platform (a VAT entrepreneur) rather than directly to the end-consumer.

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Example: an electronic interface offers suppliers the opportunity to sell game consoles via its website to consumers in different member states. The electronic interface will draft the invoices and inform the consumer about the shipping status. The electronic interface has an active role in the sales process. In this case the electronic interface is liable for VAT on the B2C sale. (see image 4)

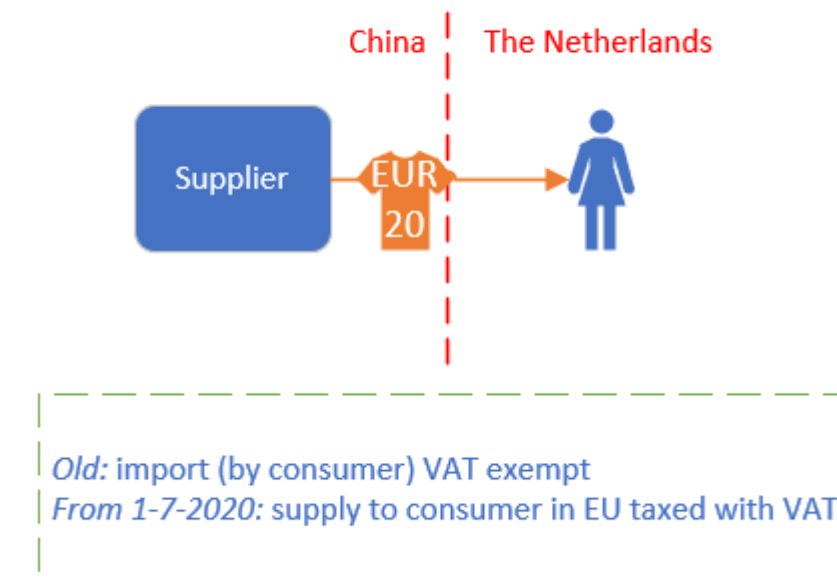
Image 4



Note! An electronic interface is only liable for VAT if the sales contain imported goods with a value of EUR 150 or less, or if the supplier is not established in the EU.

The VAT changes will also abolish the VAT exemption for low value (<EUR 22) goods. As a result, VAT is due on all imports/ shipments from outside the EU in the country of arrival of the goods at the consumer. Shipments with a value up to and including EUR 150 remain exempt from import duties. (see image 5)

Image 5





Simplification of the VAT-return

Simplification of the VAT return

In order to prevent suppliers from having to register for VAT in each EU-country, the MOSS will be extended to the One Stop Shop ("OSS"). The simplified VAT return is therefore no longer limited to digital services only and a supplier can submit one separate VAT return for several services and distance sales for different countries in the country where he is registered. The country of registration then remits the VAT received to the EU-countries where VAT is due.

Via the OSS portal, a supplier will submit a VAT return for the supply of (digital) services to consumers in other EU-countries and for distance sales. The declaration submitted via the OSS portal is separate from the normal VAT return.

In addition, an Import One Stop Shop ("IOSS") will be introduced. When a supplier chooses to use the IOSS, only VAT is due in the country of arrival of the goods (where the consumer received the goods). The actual import of the goods into the EU is exempt from VAT.

Suppliers are free to choose whether they want to use the OSS and/ or the IOSS. When an entrepreneur supplies goods to consumers in other

EU-countries and does not use the OSS, he will have to register separately for VAT purposes in each EU-country.

If an entrepreneur chooses not to use the IOSS, he may be liable for VAT in the country of import and the country where the consumer lives. In addition, it is also possible that the consumer is responsible for the payment of VAT. In the latter case, VAT will often be collected by postal or courier companies. The new VAT rules provide for a special arrangement for postal and courier companies, they can pay the VAT to be collected afterwards per month via their VAT-return.

By using the IOSS, a consumer will no longer be surprised by VAT when receiving his package, in addition, the import process has been simplified and this can be handled faster.

The following page provides a schematic overview of the OSS and the IOSS.

Simplification of the VAT return

| One Stop Shop | |
|---|---|
| Suppliers established <u>outside</u> the EU | <ul style="list-style-type: none">• Supply of (TBE) services to consumers in the EU• Supply of goods to consumers in the EU, for example: supply to Germany after import in the Netherlands. |
| Suppliers established <u>in</u> the EU | <ul style="list-style-type: none">• Supply of (TBE) services to consumers who reside in a different Member State.• Supply of goods to consumers in another Member State (distance sales) |

| Import One Stop Shop | |
|---|--|
| Suppliers established <u>outside</u> the EU | Import of goods delivered to consumers in the EU. A legal representative in the EU-country of registration is mandatory. |
| Suppliers established <u>in</u> the EU | Import of goods delivered to consumers in the EU. A legal representative is not necessary. |





Impact for you

Impact for you

If your company is active in (cross-border) trading or e-commerce, the changes to the VAT rules will have a major impact on your company.

It is expected that entrepreneurs will have to adjust their ERP systems and business processes (administration, invoicing). It is also important that you register in time for the OSS and the IOSS, so that your application is processed by the tax authorities on time, and you are sure that your company can use the OSS and the IOSS as of the commencement date.

Although the new VAT rules for e-commerce will lead to a simplification of the rules, the following questions / points for attention will arise within an e-commerce company:

- How do I determine that my customer is a consumer or VAT entrepreneur?
- How do I determine and document where my customer is located.
- How do I determine which VAT rates apply in all EU countries.
- How do I set up my systems so that my customer sees the right price.
- How does the declaration process go and how do I register for the

OSS or the I-OSS?

- Do I qualify as a platform and am I liable for the VAT on a transaction?

The advisors of VanLoman have extensive experience with the current VAT rules for e-commerce. In addition, they have studied the new rules and are ready to support you in this. It also remains important to have a clear view of the historical VAT position, so that unexpected risks do not suddenly arise. Even more now, since there is more cooperation within the EU on this point. It is not inconceivable that questions will arise from various tax authorities. Being well prepared for these questions not only ensures that things can be settled faster, but almost always with more success.



Conclusions

In conclusion

This document shows the radical changes in the VAT rules for e-commerce from 1 July 2021. This can have far-reaching consequences for you as an entrepreneur. We advise you to map what the consequences are for your business well ahead of time.

VanLoman is happy to help you identify the consequences for you as an entrepreneur. In addition, we are happy to fulfill the role of sparring partner to think together with you about the correct structure of your VAT administration from 1 July 2021.

We are also happy to assist you in the process of registering for the OSS and / or the IOSS. This is possible in the Netherlands from April 1, 2021.

If you have any questions regarding this document, you can always contact Maarten Prevoo or Guusje Mulders. They are the specialists in the VAT rules for e-commerce within VanLoman.

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