

MINI ONE STOP SHOP (MOSS) -

NEW VAT RULES FROM 1ST JANUARY 2015



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THE NOTION OF “E-COMMERCE” when commonly used covers various types of economic activity, including supplies of goods or services carried out over electronic systems such as the internet. On 1st January 2015, not all of those activities will be covered by the VAT changes that will enter into force. In particular the following activities are not covered by these changes:

1. the supply of goods (including distance selling) where use is made of electronic systems only to place the order
2. the supply of services other than telecommunications, broadcasting and electronic services.

These types of transactions are not included in the arrangements for the mini One Stop Shop (MOSS).

The scope of the 2015 VAT changes is limited and only covers telecommunications, broadcasting and electronic services. These changes related to VAT place of supply of services will affect all businesses that supply digital services to consumers private individuals. Currently, the place of taxation for digital services supplies is determined by the location of the supplier of the services. However, from 1st January 2015, the place of taxation will be determined by the location of the consumer, which is a significant change in the system.

When providing digital services in the circumstances below, businesses can presume the location of the consumer, and therefore the place of taxation is as follows:

- if the service is provided through a telephone box, a telephone kiosk, a wi-fi hot spot, an internet café, a restaurant or a hotel lobby, the consumer location will be the place where the services are provided
- if the service is supplied on board transport travelling between different countries in the EU (for example, by boat or train), the consumer location will be the place of departure for the journey
- if the service is supplied through an individual consumer's telephone landline, the consumer location will be the place where the landline is located
- if the service is supplied through a mobile phone, the consumer location will be the country code of the SIM card

- if a broadcasting service is supplied through a decoder, the consumer location will be the postal address where the decoder is sent or installed.

To keep the administrative burden on businesses to a minimum, businesses can apply the above consumer location guidelines without needing to collect and keep any supporting evidence. If they think that the above bullets do not properly determine where the consumer is located, businesses can select the correct location but for this they will need to obtain and keep three pieces of non-contradictory commercial evidence if providing broadcasting or telecommunications services or two pieces of non-contradictory commercial evidence if providing digital services, so they can support their view.

VAT MINI ONE STOP SHOP (VAT MOSS)

One-time VAT registration (“mini one-stop shop” – MOSS) is a simplified procedure which for now allows non-EU businesses supplying electronic services (the scheme does not currently apply to telecommunications or broadcasting services) to consumers in the EU to register for VAT in one EU country, regardless of how many other EU countries they are supplying. That country collects and distributes VAT on behalf of all the other countries – charged at the applicable national rate depending where the customer belongs. To save EU businesses having to register for VAT in every EU Member State where they supply digital services, they may also opt to use the VAT MOSS online service. This will be available from 1 January 2015, but businesses will be able to register to use it from October 2014.

There will be two versions of VAT MOSS online service:

1. 'Union' VAT MOSS online service for EU businesses – registration will be made in the Member State where business is established (usually the principal place of business or head office)
2. 'Non-Union' VAT MOSS online service for non-EU businesses without any fixed establishments in EU – this online service can be used in any Member State of businesses choice

Using the VAT MOSS online service means businesses can submit a single calendar quarterly VAT MOSS return and payment

»» EU BUSINESSES SUPPLYING TELECOMMUNICATIONS, BROADCASTING AND ELECTRONIC SERVICES:

	Current rules	New rules from 1st January 2015
Business in another EU country	No VAT charged. Customer must account for the tax (reverse charge mechanism).	No VAT charged. Customer must account for the tax (reverse charge mechanism).
Consumer in another EU country	When supplying a consumer in the EU, they must charge VAT in the EU country where the business is based, no matter where the customer belongs	Must charge VAT in the EU country where the customer belongs (not where the business is based).
Business or consumer outside the EU	No EU VAT charged. - But if the service is effectively used & enjoyed in an EU country, that country can decide to levy VAT.	No EU VAT charged. - But if the service is effectively used & enjoyed in an EU country, that country can decide to levy VAT.

»» NON-EU BUSINESSES SUPPLYING:

	Current rules	New rules from 1st January 2015
Business in EU	No VAT charged. Customer must account for the tax (reverse charge mechanism).	No VAT charged. Customer must account for the tax (reverse charge mechanism).
Consumer in EU - telecoms or broadcasting services	Must charge VAT in the EU country where the service is effectively used and enjoyed.	Must charge VAT in the EU country where the customer belongs (not where the business is based).
Consumer in EU - electronic services	Must charge VAT in the EU country where the customer belongs (not where the business is based).	Must charge VAT in the EU country where the customer belongs (not where the business is based).

covering all their EU digital service supplies. For example, businesses registered for the VAT MOSS online service in Croatia will be able to account for the VAT due on their B2C digital service sales in any other Member States where they do not have an establishment by submitting a single VAT MOSS return and any related payment to the Croatian Tax Authority. The Croatian Tax Authority will send an electronic copy of the appropriate part of their VAT MOSS return and the related VAT payment to each relevant Member State's tax authority on the businesses' behalf. The VAT rate used will be that of each Member State of Consumption at the time the service was supplied. All non-EU businesses supplying B2C digital services to EU customers which

have a fixed establishment in the EU will be able to register and to use the 'Union' VAT MOSS online service.

Businesses supplying B2C digital services to EU consumers which are not registered for VAT (because they are under the VAT threshold) will need to take action now as they will need to register for VAT because of the new rules. By opting to use VAT MOSS, this kind of businesses will not have to register for VAT into every EU MS where they supply consumers with digital services because they will be able to make VAT declarations and payments, in respect of all of their EU supplies of digital services, to a single elected Member State on a calendar quarterly return.

»» LEGISLATION NOW – AND AFTER 2015 (SALES TO FINAL CONSUMERS – OVERVIEW)

Services supplied by/to	EU consumer in EU country 1		EU consumer in EU country 2		Non-EU consumer ⁽³⁾	
	CURRENT RULES	RULES FROM 2015	CURRENT RULES	RULES FROM 2015	CURRENT RULES	RULES FROM 2015
EU supplier (EU country 1)	Taxable in EU country 1	Taxable in EU country 1	Taxable in EU country 1	Taxable in EU country 2 ⁽¹⁾	No EU VAT	No EU VAT
EU supplier (EU country 2)	Taxable in EU country 2	Taxable in EU country 1 ⁽¹⁾	Taxable in EU country 2	Taxable in EU country 2	No EU VAT	No EU VAT
Non-EU supplier - telecoms or broadcasting services	Taxable in EU country 1 ⁽²⁾	Taxable in EU country 1 ⁽¹⁾	Taxable in EU country 2 ⁽²⁾	Taxable in EU country 2 ⁽¹⁾	No EU VAT	No EU VAT
Non-EU supplier - electronic services	Taxable in EU country 1 ⁽¹⁾	Taxable in EU country 1 ⁽¹⁾	Taxable in EU country 2 ⁽¹⁾	Taxable in EU country 2 ⁽¹⁾	No EU VAT	No EU VAT

⁽¹⁾ One-time registration (MOSS) available. ⁽²⁾ Taxable in country of effective use & enjoyment, if this is not the country where the customer belongs. ⁽³⁾ Unless used in a country that applies the effective use & enjoyment rules.