

## Public Consultation on Modernising VAT for cross-border e-commerce

### Context and Objectives of this public consultation:

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The complications of having to deal with many different national tax systems represent a real obstacle for companies trying to trade cross-border both online and offline. Since 1 January 2015, with the entry into force of new "place of supply" rules[1], VAT on all telecommunications, broadcasting and electronic services is levied where the customer is based, rather than where the supplier is located.

In parallel, a Mini One Stop Shop has been implemented to reduce the costs and administrative burdens for businesses concerned. This should be extended to tangible goods ordered online both within and outside the EU. Instead of having to declare and pay VAT to each individual Member State where their customers are based, businesses would be able to make a single declaration and payment in their own Member State.

Currently goods ordered online from third country suppliers can in some Member States benefit from the small consignment import exemption (below a threshold of 10-22 EUR) allowing shipment free of VAT to EU private customers. This gives them a competitive advantage over EU suppliers, and market distortions have already been signalled in various Member States. While acknowledging the benefits for business of not having to register up to the distance sales thresholds for intra-EU Business to Consumer (B2C) supplies of goods (Euro 35 000 or Euro 100 000 to be determined by the Member State of destination), it is relevant that these thresholds may cause uncertainties for business and can lead to compliance challenges for Member State tax administrations. Such exceptions on imports and intra-EU distance sales may no longer be needed if VAT were to be collected through a single and simplified electronic registration and payment mechanism.

The broad issue was considered by the Commission Expert group on taxation of the Digital Economy who reported in May 2014 and made a number of recommendations in respect of modernising VAT for cross-border e-commerce[2].

Having carefully considered these issues, the Commission made a commitment in the Communication 'A Digital Single Market Strategy for Europe' (Com (2015) 192 final[3]) indicating that it will make legislative proposals in 2016 to reduce the administrative burden on businesses arising from different VAT regimes.

The Commission has prepared an inception impact assessment (see [http://ec.europa.eu/smart-regulation/roadmaps/docs/2016\\_taxud\\_002\\_ia\\_vat\\_en.pdf](http://ec.europa.eu/smart-regulation/roadmaps/docs/2016_taxud_002_ia_vat_en.pdf)) which contains more detailed information on the initiative including the options which will be considered for the impact assessment. As part of the preparatory work for these proposals, it is intended to carry out an ex-post assessment of the implementation of the 2015 changes to the place of supply rules and the accompanying simplification measure, the Mini One Stop Shop.

## Who should participate in this public consultation?

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The open public consultation will seek the views of business, the public and representative organisations on:

1. The current VAT rules for business to consumer cross-border supplies of goods and services,
2. The implementation of the 2015 changes to the VAT place of supply rules and the Mini One Stop Shop,
3. The commitment by the Commission in 'A Digital Single Market Strategy for Europe' to:
  - Extend the current single electronic registration (i.e. the Mini One Stop Shop) and payment mechanism to intra-EU and 3rd country online sales of tangible goods,
  - Introduce a common EU-wide simplification measure (i.e. a VAT threshold) to help small start-up e-commerce businesses,
  - Allow for home country controls including a single audit of cross-border businesses for VAT purposes and
  - Remove the VAT exemption for the importation of small consignments from suppliers in third countries (i.e. non EU Member States).

[1] Information relating to the initiative including guidance notes is available at [http://ec.europa.eu/taxation\\_customs/taxation/vat/how\\_vat\\_works/telecom/index\\_en.htm](http://ec.europa.eu/taxation_customs/taxation/vat/how_vat_works/telecom/index_en.htm)

[2] [http://ec.europa.eu/taxation\\_customs/taxation/gen\\_info/good\\_governance\\_matters/index\\_en.htm](http://ec.europa.eu/taxation_customs/taxation/gen_info/good_governance_matters/index_en.htm)

[3] [http://ec.europa.eu/priorities/digital-single-market/docs/dsm-communication\\_en.pdf](http://ec.europa.eu/priorities/digital-single-market/docs/dsm-communication_en.pdf)

## Section 1 - General Information

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***NB: Certain questions should be for business only (BO).***

1) Are you...

- a Business
- a Business Association
- a Member of the public
- Other

2) Please enter your name:

European Express Association

3) Please enter your e-mail address:

customs@euroexpress.org

4) Please indicate the country of your head office:

- Austria
- Belgium
- Bulgaria
- Croatia
- Cyprus
- Czech Republic
- Denmark
- Estonia
- Finland
- France
- Germany
- Greece
- Hungary
- Iceland
- Ireland
- Italy
- Latvia
- Liechtenstein
- Lithuania
- Luxembourg
- Malta
- Norway
- Poland
- Portugal
- Romania
- Slovakia
- Slovenia
- Spain
- Sweden
- Switzerland
- The Netherlands
- United Kingdom
- United States
- Japan
- China
- Russia
- Other

If Other, please specify:

5) Do you agree with the publication of your contribution on the Commission's website?

- Yes, your contribution may be published under the name you indicate
- Yes, your contribution may be published but should be kept anonymous (without name and contact details)
- No, you do not want your contribution to be published. Your contribution will not be published, but it may be used internally within the Commission

6) (BO) Please indicate the types of Business to Consumer (B2C) e-commerce supplies you make? (Multiple answers possible)

- Telecommunications
- Broadcasting
- Electronically Supplied Services
- Distance Sales of Goods
- Other supplies of Goods or Services

7) (BO) Please indicate whether you supply goods, services or both?

- Goods
- Services
- Both

8) (BO) What is your worldwide annual turnover (Euro)?

- Greater than 5 million
- Between 1 million and 5 million
- Between 100,000 and 1 million
- Between 35,000 and 100,000
- Between 10,000 and 35,000
- Between 1,000 and 10,000
- Less than 1,000

9) (BO) What is your annual B2C cross-border turnover (Euro)? For EU business – sales to other Member States; for non EU business – sales to EU

- Greater than 5 million
- Between 1 million and 5 million
- Between 100,000 and 1 million
- Between 35,000 and 100,000
- Between 10,000 and 35,000
- Between 1,000 and 10,000
- Less than 1,000
- No cross-border sales

10) (BO) How many EU Member States do you make B2C supplies to?

- None
- Between 1 and 3
- Between 4 and 10
- Greater than 11

11) To what extent are VAT obligations a factor in deciding to make supplies in other Member States or not?

- High factor
- Medium factor
- Low Factor
- No Opinion

12) (BO) For supplies not reported under the current Mini One Stop Shop, please rate the difficulties in accounting for VAT in other Member States

- Very Difficult
- Difficult
- Easy
- Very Easy
- No opinion

13) (BO) For supplies not reported under the current Mini One Stop Shop, please indicate the burdens that you face in accounting for VAT in other Member States (multiple answers possible)

- Registering for VAT
- Declaring VAT
- Understanding the rules in other Member States e.g. invoicing rules
- Dealing with different languages
- Controls and audits
- Other

Please rate the difficulty of the burdens faced above (scale of 1 – 5 with 5 representing the most difficult).

	1	2	3	4	5
Registering for VAT	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Declaring VAT	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Understanding the rules in other Member States e.g. invoicing rules	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Dealing with different languages	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Controls and audits	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Other	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

14) (BO) Do any of the following issues apply to your business in respect of the current distance sales thresholds for goods in the EU? (Multiple answers possible)

- Not aware of the requirement to register in the other Member State when the threshold is exceeded
- Received queries from tax administrations in other Member States on levels of sales in those Member States
- Exceeded the threshold and needed to revisit sales
- Non-harmonised thresholds are confusing
- Disadvantaged by a supplier in another Member State applying lower VAT rates
- Other

Please rate the difficulty of the issues faced above (scale of 1 – 5 with 5 representing the most difficult).

	1	2	3	4	5
Not aware of the requirement to register in the other Member State when the threshold is exceeded	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Received queries from tax administrations in other Member States on levels of sales in those Member States	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Exceeded the threshold and needed to revisit sales	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Non-harmonised thresholds are confusing	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Disadvantaged by a supplier in another Member State applying lower VAT rates	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

## Section 2 – 2015 VAT Place of Supply Rules and the current Mini-One Stop Shop

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**This part of the questionnaire is for business affected by the 2015 changes to the VAT place of supply rules for business to consumer supplies of telecommunications, broadcasting and electronically supplied services.**

15) Have you or your members been affected by the changes to the place of supply rules for B2C supplies of telecommunications, broadcasting and electronically supplied services?

- Yes
- No

16) Please indicate how you became aware of the changes to these rules (multiple answers allowed)

- Tax administration in your Member State
- European Commission
- Representative organisation
- Tax practitioner
- Other

17) How satisfied were you for the information provided ensured that you understood the implications for your business of the 2015 changes to the VAT place of supply rules?

- Very Satisfied
- Satisfied
- Unsatisfied
- Very unsatisfied
- No opinion

18) (BO) What types of evidence do you typically use to identify the place where the recipient of the service is based? Under the VAT Implementing Regulation, two pieces of non-contradictory evidence are required.

- The billing address of the customer
- The IP address of the device used by the customer or any other method of geolocation
- Bank details of the customer
- The location of the customer's fixed land line
- Other commercially relevant information



19) (BO) Have you experienced any of the following problems in determining the place of establishment of your customers?

- The payment service provider does not provide you with the customer's location
- Difficulty in obtaining two pieces of evidence
- The evidence is contradictory
- Other

Please rate the difficulty of the problems raised above (scale of 1 – 5 with 5 representing the most difficult).

	1	2	3	4	5
The payment service provider does not provide you with the customer's location	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Difficulty in obtaining two pieces of evidence	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The evidence is contradictory	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

20) (BO) Do you use the Mini One Stop Shop to account for VAT due in other EU Member States?

- Yes
- No

21) (BO) If no, please indicate the reason below why you do not use the system?

- You also supply goods
- You have existing registrations in other Member States
- You are waiting to see whether the system is working
- Other

22) (BO) If yes, please indicate your level of satisfaction with the use of the system provided in your Member State?

- Very Satisfied
- Satisfied
- Unsatisfied
- Very unsatisfied
- No opinion

23) Do you agree that the current Mini One Stop Shop is a significant simplification to the alternative of requiring a business to register and account for VAT in each Member State to which B2C telecommunications, broadcasting and electronically supplied services are provided to?

- Strongly agree
- Agree
- Disagree
- Strongly disagree
- No opinion

24) Have you experienced any problems with the current functioning of the Mini One Stop Shop?

- Yes
- No

If yes, what are the main problems you have experienced (multiple answers possible)

- Design or operation of national portals
- Access to information on rules in other MSs
- No common rules on invoicing
- Currency conversions
- Storage of records
- No single audit by the Member State of Identification
- No minimum turnover threshold for MOSS registration
- Other

Please rate the difficulty of the problems raised above (scale 1-5 with 5 representing the most difficult).

	1	2	3	4	5
Design or operation of national portals	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Access to information on rules in other MSs	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
No common rules on invoicing	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Currency conversions	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Storage of records	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
No single audit by the Member State of Identification	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
No minimum turnover threshold for MOSS registration	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

## Section 3 – Future Policy Options

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25) Please indicate your level of agreement with the objective of the Commission to minimise burdens attached to cross-border e-commerce arising from different VAT regimes:

- Strongly agree
- Agree
- Disagree
- Strongly disagree
- No opinion

26) Please indicate your level of agreement with the objective of the Commission to ensure that all business selling to consumers in a Member State should be charging the same VAT rate with no exemption applying to imports of small consignments.

- Strongly agree
- Agree
- Disagree
- Strongly disagree
- No opinion

27) Do you agree on the need to improve the current Mini One Stop Shop and to set up a single electronic registration and payment mechanism for B2C supplies of tangible goods as well as services (Intra-EU and from 3rd countries)?

- Strongly agree
- Agree
- Disagree
- Strongly disagree
- No opinion

28) Do you agree that business using the future single electronic registration and payment system should apply home country VAT rules (i.e. a business uses the rules applicable in their own Member States rather than the rules applicable in the Member States of their customers e.g. invoicing rules)? Note that the VAT rates or exemptions of the Member State of the consumer will still be applied.

- Strongly agree
- Agree
- Disagree
- Strongly disagree
- No opinion

29) Do you agree that business using the future single electronic registration and payment system should be subject to a single audit from the tax authority in their own Member State? Note that the existing administrative cooperation arrangements will continue to apply.

- Strongly agree
- Agree
- Disagree
- Strongly disagree
- No opinion

30) Do you agree that all supplies from non-EU countries should be subject to the same VAT treatment as intra-EU supplies?

- Strongly agree
- Agree
- Disagree
- Strongly disagree
- No opinion

31) Do you think that there should be a cross-border VAT threshold i.e. no VAT would be applied up to a certain amount of cross-border supplies?

- Strongly agree
- Agree
- Disagree
- Strongly disagree
- No opinion

32) What is the appropriate level of such a threshold in terms of cross-border sales?

- Greater than EUR 100,000
- Between EUR 50,000 and EUR 100,000
- Between EUR 10,000 and EUR 50,000
- Between EUR 5,000 and EUR 10,000
- Between EUR 1,000 and EUR 5,000
- Less than EUR 1,000
- No threshold is necessary

33) What are the benefits of cross-border thresholds? (multiple answers possible)

- No benefits
- Eases access to the single market for business
- Easier management for tax administrations
- Other

34) Are there any risks with having cross-border thresholds? (multiple answers possible)

- No risks
- Uncertainty on whether a business will exceed the annual threshold
- Creates distortions particularly where there are high VAT rates
- Other

35) Do you agree that any threshold needs to be harmonised across the EU and should apply to both goods and services?

- Strongly agree
- Agree
- Disagree
- Strongly disagree
- No opinion

## Section 4 – Other issues:

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**36) Are there any other issues that you wish to address which have not been covered in Sections 1 to 3?**

GENERAL COMMENT: Please see our general comment, submitted separately by email.

SPECIFIC COMMENTS:

Regarding questions 26 and 30, we note that the de minimis exemption for collection of VAT on low-value consignments is internationally acknowledged as a way to reach an ideal balance between the overall costs of assessing and collecting VAT (see The International Chamber of Commerce Customs Guideline #11 and the Revised Kyoto Convention (RKC), by the World Customs Organization, as well as the Cross Border Research Associates study discussed below in our general comment). The EEA understands that the Commission intends to eliminate the VAT de minimis exemption, and therefore reminds the Commission that for efficiency and cost-effectiveness, it is essential that a simple and efficient collection process is put in place before removal.

Regarding question 28, we generally agree but note that it depends upon the country of registration.

Regarding questions 31, we find the question imprecise. Does the threshold referenced operate as a threshold below which sellers do not have to declare and pay VAT on their shipments as long as their total sales do not exceed the threshold, or is it a uniform threshold for intra-EU supplies below which no registration is needed? If it is the latter, then the EEA is in favour of any measure that would help small companies increase their sales across borders in the EU, in line with the Commission's objective to facilitate and increase e-commerce.

Regarding question 32, as stated above, if the threshold is for registration, allowing small businesses to easily ship across borders, then the EEA welcomes a high uniform threshold across the EU.

Regarding question 35, the answer depends on the level of the threshold. If a high threshold is established, then we strongly agree that any threshold needs to be harmonised across the EU and should apply to both goods and services.

**Contact**

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