

Our position

The 2021 VAT reform for e-commerce

Delivering a successful implementation for consumers and business



AmCham EU speaks for American companies committed to Europe on trade, investment and competitiveness issues. It aims to ensure a growth-orientated business and investment climate in Europe. AmCham EU facilitates the resolution of transatlantic issues that impact business and plays a role in creating better understanding of EU and US positions on business matters. Aggregate US investment in Europe totalled more than €2 trillion in 2018, directly supports more than 4.8 million jobs in Europe, and generates billions of euros annually in income, trade and research and development.

Executive summary

The rise of e-commerce is requiring supply chain actors to adapt and innovate in new and different ways, responding to demands from online marketplaces, businesses, traditional retailers and consumers.

The EU has responded to this challenge with its VAT e-commerce package, adopted by the Council on 5 December 2017 and a priority under the Digital Single Market Strategy. Designed to level the playing field for EU businesses, shipments imported into the EU with a value below €22 will be subject to VAT from 1 January 2021 and will require individual customs declarations.¹ A new optional simplification measure, the Import One Stop System (IOSS) for low-value shipments between €0-150, would allow 'deemed suppliers' to collect and remit VAT at the point of sale, moving the collection process away from the border and enhancing the customer experience.

The new VAT e-commerce rules will affect national authorities, economic operators and consumers. It comes with major process and IT changes and leads to a re-design of supply chains. However, a number of outstanding issues discussed below need to be resolved before 2021 if the new rules are to be a success.

Key Issues

Differences in customs and VAT legislation

The new VAT rules were intended to create a level playing field and a more seamless end-to-end experience for businesses and consumers. However, for these changes to work smoothly in practice both for business and the relevant authorities, the VAT and customs legislation must be aligned. Among the issues to be resolved and incorporated into the new legislation include: the definition of intrinsic value; the definition of a consignment; and the liability for VAT collection and remittance under the IOSS.

The functioning of the IOSS

The IOSS vendor collection model proposed by the EU is an optional simplification. At present, it is not clear that the incentives of the IOSS are sufficient for operators to sign up, creating uncertainty for businesses and consumers. For operators to sign up, it is crucial that the below mentioned green lane status is guaranteed end-to-end. In the event that operators do not sign up, the so-called 'special arrangement' will become the default, placing the burden of VAT collection and remittance on postal and courier operators and rendering the IOSS futile. Ensuring an end-to-end green lane status, which is also a key factor in the success of the new rules on imports of low value goods that Australia recently introduced, would guarantee EU consumers cost transparency in all online purchases and could also yield significant economic benefits for Member States.²

Ensuring an end-to-end green lane status

A key pillar of the new rules is the intention to establish a green lane for goods under the IOSS, reducing the needs for customs checks and allowing authorities to focus on safety and security. However, concerns remain

¹ The sharp increase in the number of customs declarations will place a significant burden on national authorities and economic operators. To address this, the EU has agreed a minimal or 'super-reduced' dataset to clear low-value goods. European Commission, 'New form of customs declaration for low value consignments,' https://ec.europa.eu/taxation_customs/news/new-form-customs-declaration-low-value-consignments_en, accessed 22 October 2019.

² In its first nine months of operation, tax collection on low value goods from Australia's Goods Sales Tax (GST) far exceeded expectations, yielding some AUS\$70 million more than the initial AUS\$180 million forecasts. This was possible in large part thanks to the model's mandatory and simplified registration process. 'GST on low value goods measure continues to exceed expectations – ATO considers it a very successful initiative,' Australian Taxation Office, 4 July 2019, <https://www.ato.gov.au/Media-centre/Articles/GST-on-low-value-goods-measure-continues-to-exceed-expectations/>.

that valuation checks will continue at the border, holding up the flow of goods and restricting the resources of customs authorities that will already be strained by increased volumes. A mindset change on the part of customs will be essential to deliver the envisaged benefits of a green lane for businesses and consumers.

As background, in future certain customs processes need to follow the VAT process, as VAT is charged upfront, before the goods cross the border. This is the case when it comes to low-value shipments between €0-150 and the planned application of the IOSS going forward, to ensure a proper VAT collection by marketplaces under the deemed supplier regime at the point of sale. In VAT, which is a self-declaration tax reported and paid by businesses to the tax authorities through their VAT returns on a monthly or quarterly basis, tax authorities do post checks on a risk management basis – rather than real time transactional checks as is common in the customs area when goods cross the border.

Clearly, when it comes to safety and security, the need for transactional and real-time checks will always remain. However, to ensure an end-to-end green lane status when it comes to low-value shipments between €0-150, valuation checks by customs should be done in future based on a risk management approach with post checks away from the border. This is what happens in Australia and this is a key reason why the new rules have been a success in that country.

Readiness for 2021

The readiness of EU Member States to implement the new rules on time in 2021 is increasingly in question. With the deadline approaching rapidly, there are informal proposals for transition periods and the potential for patchwork implementation if Member States cannot meet the proposed timeline – a scenario that would create significant issues for industry and which we strongly caution against.

The European Council has instructed the European Commission to complete an assessment by the end of 2019 of the EU's readiness to implement the legislative and IT changes necessary to meet the 2021 deadline. We urge the EU to publish the findings from this report as soon as it is available, to provide more certainty and transparency to the process. A dialogue with business and other relevant stakeholders in the event that the timelines cannot be met would be essential in that case.

Recommendations and next steps

The new VAT rules for e-commerce could have a significant impact on industry and consumers both within and beyond EU borders. If implemented correctly, they could help modernise e-commerce and deliver substantial benefits for Member States and their businesses and consumers.

To ensure the success of the new VAT on e-commerce package, AmCham EU recommends:

- Aligning the VAT and customs legislation to provide certainty for relevant authorities and eliminate confusion for operators over liability;
- Making the IOSS model work smoothly in practice including by ensuring an end-to-end green lane status and simplifying the registration process for all operators; and
- Communicating to all stakeholders the outcome of the European Commission's assessment of the readiness to implement the new legislation by 2021, as early as possible.

The US business community stands ready to discuss these issues in more detail in the coming weeks and months. We look forward to helping to deliver a successful implementation of the new rules and to ensure the best possible outcome for all stakeholders.