



KMLZ VAT NEWSLETTER

A Christmas Present for E-Commerce Businesses

1. Introduction

For many years, the EU Commission tried and failed to simplify and amend the current legislation on e-commerce. This failure was due to the resistance of (some) EU Member States. However, on 05.12.2017, the EU Finance Ministers unexpectedly approved measures proposed by the EU Commission one year ago. Some of the rules will be effective as of 01.01.2019. Most of the rules will not enter into force before 01.01.2021. Many measures will be implemented as a result of the amendment of the VAT Directive. Two regulations will supplement CIR 282/2011.

2. Amendments as of 01.01.2019

As of 01.01.2019 simplifications will be implemented for companies rendering supplies of telecommunication services, broadcasting services and electronically supplied services. The following amendments will apply:

- A threshold, such as that applying to distance sales, will be implemented. Where the revenue per year amounts to less than EUR 10.000, the place of supply is where

EU Finance Ministers adopt Simplifications for E-Commerce Businesses

On 05.12.2017 the EU Finance Ministers adopted one Directive and two Regulations. These statutes will make it easier for e-commerce businesses to comply with VAT law. The MOSS procedure will, inter alia, be expanded to include distance sales. Platforms for distance sellers will be held liable for sales carried out by external merchants. A threshold for the supply of B2C services will be implemented and a lot more is introduced...

the supplier is established. Only for amounts in excess of this will the place of supply be transferred to the customer. Taxpayers may rebut the application of the threshold.

- Taxpayers registered for MOSS can apply the invoicing rules of the state of residence. Therefore, as of 01.01.2019, German companies will no longer be required to issue invoices for MOSS-supplies to customers from abroad.
- Taxpayers with a revenue of less than EUR 100.000 per year will only need one piece of evidence to prove where the recipient of B2C telecommunication, broadcasting or electronically supplied services is established.

3. Amendments as of 01.01.2021

As of 01.01.2021 extensive simplifications for distance sales will enter into force. In particular, the following changes will occur:



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- MOSS will be extended to distance sales. However, this will only apply to a limited extent, namely to supplies of distance sales from non-EU countries. Furthermore, the EU Member States will be required to exchange more information amongst themselves.
- A supply chain will be simulated where goods not exceeding EUR 150 are transported from a non-EU country to non-taxable persons in the EU. The same applies for intra-Community distance sales, if the merchant is established outside the EU. In these cases, the platform, over which the goods were sold, will be deemed to be the seller of the goods. The platform will also be deemed to have purchased the goods from the merchant. On the other hand, the platforms must only account for VAT in the tax period when they have received the sales price from the final customer.
- The current distance sales threshold will be abolished. Instead, the threshold applicable to the supply of telecommunication, broadcasting and electronically supplied services will apply (see above).
- Distance sales from non-EU countries will be exempted from import VAT.
- MOSS registered distance sellers need no longer issue invoices to their customers.
- The VAT exemption for low value consignments will be abolished.

- MOSS will be expanded to any supply of services to non-taxable persons.
- The deadline for filing MOSS returns will be prolonged from the 20th of the following month to the last day of the following month.
- MOSS corrections can be made in the current MOSS return. They need no longer be reported in the initial MOSS return.

4. Consequences

The adopted measures are to be welcomed. They will remove existing obstacles. Nevertheless, many challenges remain. Taxpayers will have to deal with the current rules in place until 01.01.2019 or 01.01.2021. The new threshold for telecommunication, broadcasting and electronically supplied services may result in companies exceeding the threshold without noticing it. Then, they will have to register retroactively, causing significant additional costs. This is especially true because a registration for MOSS can only be made for the future. Eventually, only those distance sale operators dispatching their goods from a central warehouse within the EU will be able to register for MOSS purposes. Sellers participating by transferring stock between warehouses in various EU Member States will not be able to declare the transfer of the goods via MOSS. They will still need to register in the respective Member State. The transfer between EU Member States triggers an intra-Community acquisition in the respective EU Member State. The acquisition, in turn, requires taxpayers to register in the respective EU Member State in order to register for VAT purposes.

Additionally, the MOSS rules will be amended as follows: