

# Important changes in the taxation of e-commerce in the European Union as of 1 July 2021

**Important changes in the taxation of e-commerce entered into force in the European Union on 1 July. One of the strategic goals of the transition to the Digital Single Market of the European Union is to get closer to the situation where VAT on consumption is paid in the state where final consumption takes place. There are also hopes that these changes will lead to a decrease in fraud and the business environment of the European Union becomes more favourable and competitive for EU entrepreneurs.**

This article explains the impact of the changes from the viewpoint of companies registered in Estonia that sell goods in their online stores that are stored in a warehouse located in another Member State or that are located outside of the EU and transported into EU once the consumer has placed an order. Also, the situation where goods are sold via a platform. It's important that traders, who sell products to end consumers located in other Member States in their online store, on a selling platform or in another sales channel, understand who pays the taxes in the sales chain. Whether the seller who has possession of the goods, the dropshipper or the buyer pays the VAT on the goods sold, depends on the nature of the transaction, the location of the goods at the moment of sale and mutual agreements.



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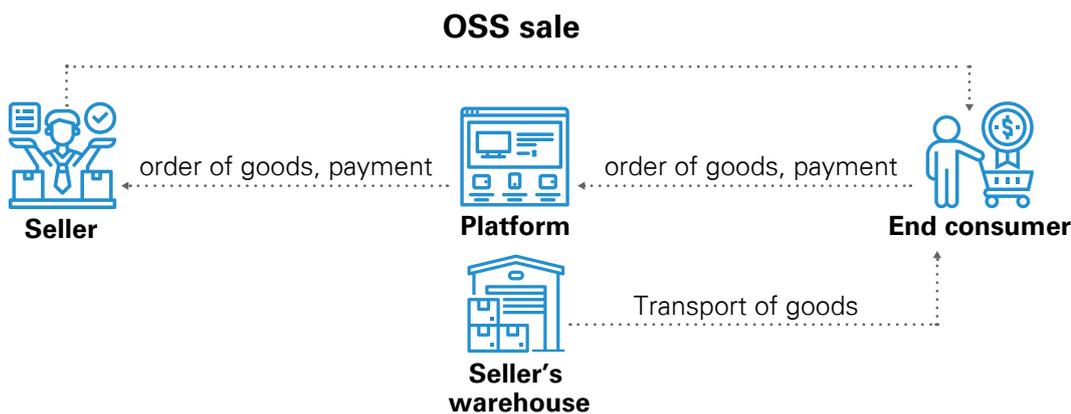


# 1. Sale of goods located in Europe and the OSS scheme

The **OSS (one-stop-shop)** special scheme allows the seller to pay VAT on all sales of goods to consumers in other Member States (B2C) via one country, i.e. in the country of its establishment, if the transaction includes delivery of the goods by or on behalf of the seller from one Member State to another, or the seller is indirectly involved in this.

## Fewer registrations

B2C sales within the EU are declared only in the country of establishment. The declaration includes a breakdown of the countries where the end consumers to whom goods were sold are located. If the goods are also stored in other countries, the VAT reporting obligation in these countries remains in force.



The seller may choose whether they want to start using the OSS scheme. The seller who opts for it can submit a request for the application of the OSS scheme in its country of establishment. Every European company can have one OSS VAT number. After joining the OSS system, it must be applied to all sales that comply with the terms and conditions of the scheme. For example, an OSS sale is also subject to declaration in Estonia if the goods are sent from interim storage (fulfilment centre) in Germany to an end consumer located in France.

If goods are stored in a warehouse of another Member State, the VAT number in the country of location of the warehouse must be retained. If there are warehouses in several countries, then VAT number must be retained in all the countries where the warehouses are located. The changes that entered into force on 1 July 2021 have no impact on the VAT accounting related to the recognition or declaration of goods delivered to the warehouses.

If goods for B2C sale are stored in another Member State, it's advisable to start using the OSS scheme, as in this case it's possible to declare all sales to end consumers in the country of one's establishment on the basis of the OSS scheme, irrespective of the country from which the goods are sent. This should reduce the need to have VAT numbers in different Member States.

### **The OSS scheme allows sellers to:**

- declare B2C sales that involve transport of the goods to another Member State in the country of residence (establishment) and there are no additional administrative obligations (registration, declaration, etc.) when a new market is entered;
- pay the VAT due on B2C sales four times a year in their country of establishment and the tax authorities distribute the tax amounts to the countries of the end consumers;
- reduce VAT registrations in other Member States unless goods are stored in other countries or other activities require a local tax registration in another country.

It's useful for the seller of the goods to have information on the customer's location before confirmation of the sale, if the VAT rate applicable to the sale is determined through the online store. In addition, identification whether the customer is B2C or B2B indicates whether or not the OSS scheme can be applied to the sale.

### **To do list for applying OSS scheme**

- Submit a request for application of the OSS scheme if you would like to start using it.
- Consider whether you need a registration for the taxation of B2C sales of goods only or you also provide B2C services.
- Submit a request for termination of the VAT registration in the countries where the registration was necessary because the previously effective limits were exceeded (the previous limits of distance selling – 35,000 euros and 100,000 euros – are invalid as of 1 July 2021).
- Check the prices of your products to make sure that the buyer's location and the differences in the tax rates applied in various Member States have been taken into account in the prices displayed in sales channels.
- Check whether the VAT rate applicable to your products in some states is lower than the standard rate (such goods may be, for instance, food, children's clothing, books).

### **The OSS scheme cannot be applied:**

- when goods are sold to another business (B2B), i.e. to a customer who provides their VAT number in another Member State;
- when the goods are transferred to an end consumer within the same Member State.



## 2. Sale of goods located from third countries and the IOSS scheme

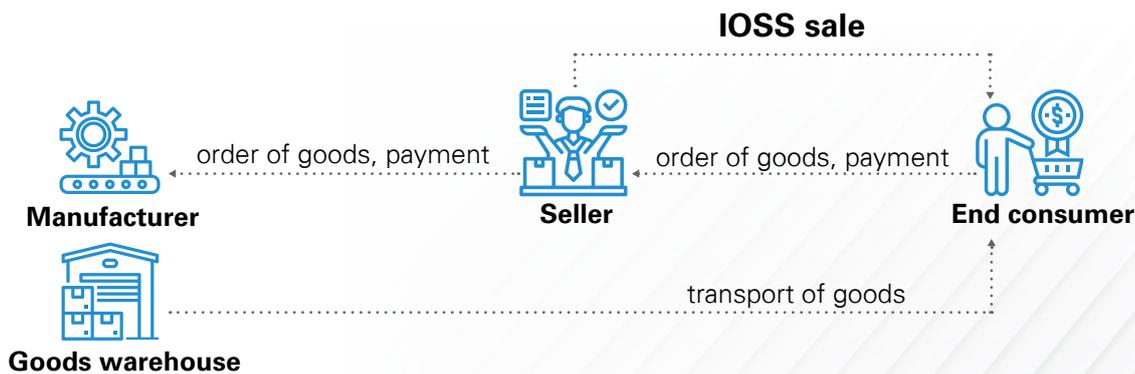
**The OSS (one-stop-shop) special scheme is a system for collecting import VAT on goods with a value not exceeding €150, which are imported from third countries to end consumers in the Community (B2C) and the goods are delivered to the buyer by or on behalf of the seller or the seller is indirectly involved in this.**

### Less administration

**If goods imported from third countries are only sold on a platform, the seller of the goods may not need a separate IOSS registration if the platform allows the seller to use its own IOSS number.**

The import of goods from third countries (e.g. China, the UK or the US) will be subject to VAT as of 1 July, irrespective of the value of the goods. Goods with a value not exceeding €150 are only subject to VAT and the previous €22 tax exemption upon the import of goods is now invalid. Customs duty must be paid in addition to VAT on the import of goods with a value exceeding €150. The IOSS scheme is not applied in the latter case.

The implementation of the IOSS scheme is also voluntary. The request for application of the IOSS scheme is submitted in the country of residence (establishment). Every European company can only have one IOSS VAT number. If the seller's IOSS number is used when goods are imported, the seller is liable for import VAT payment.



**The IOSS scheme allows sellers importing goods from third countries to:**

- sell the goods for a price that includes the taxes payable upon import, i.e. the buyer doesn't have to pay any extra fees when they receive the goods;
- shift the payment of VAT when importing goods with a value not exceeding €150 from the moment of import to the moment of sale;
- pay the import VAT in the country of establishment by submitting an IOSS declaration at the end of month following the sale, irrespective of the EU country to which the goods were transported;
- leave the tax authorities responsible for distributing the tax amounts to the country of the consumer's location;
- reduce the formalities related to the import of goods and the time required to deliver the goods to the buyer, because the IOSS number indicated on the waybill should ensure faster customs clearance of the goods;
- have more flexibility in selecting the Member States through which goods are imported.

A seller who has joined the IOSS scheme must use the scheme for all sales that comply with the terms and conditions of the scheme.

The seller may also use the IOSS VAT number of the platform when importing goods, if this is allowed by the platform. In this case, the seller is not obliged to pay import VAT under the IOSS scheme. When selling goods on a platform, it's important to know whose IOSS number has been entered in the system, as the IOSS number indicated on the waybill of the goods shows the person who is liable for the payment of taxes.

**To do list for applying IOSS scheme**

- Submit a request for application of the IOSS scheme if you want to sell goods to buyers without any additional expenses.
- Review the price of the products.
- Check the prices of your products to make sure that the differences in the tax rates applied in various Member States have been taken into account in the prices displayed in sales channels.
- Check whether the VAT rate applicable to your products in some states is lower than the standard rate (such goods may be, for instance, books, food, children's clothing).
- Make sure that the products are not subject to excise.

**The IOSS scheme cannot be applied:**

- when goods are sold to another business (B2B), i.e. to a customer who provides their VAT number in another Member State; the import of such goods must be formalised by the usual customs procedures;
- upon the import of goods with a value exceeding €150. In this case, the customs procedures for the import of goods are similar to B2B transactions.
- upon sales of goods subject to excise (e.g. alcohol, tobacco products).

**The value not exceeding €150 does not include the VAT payable upon import or the costs of transport and insurance if they have been separately indicated on the invoice.**



# 3. Sales via a platform

When goods are sold via a platform, it's important to review the conditions and options set by the platform. Platforms also have the right to choose whether they will join the new special schemes or expect the traders to perform the obligations related to taxes. When the settings of a platform are reviewed, it's important to understand who will remain responsible for the payment of taxes in the sales chain. The platform doesn't know whether the seller of the goods has made an IOSS or OSS registration, unless the seller includes this information in the platform settings. For example, if the platform is not responsible for the payment of taxes (e.g. Shopify), the seller must enter its own VAT numbers in the system or add another person to the sales chain to whom these obligations are transferred. Some platforms (e.g. Amazon) can make the use of their IOSS number possible when selling goods located outside the EU.

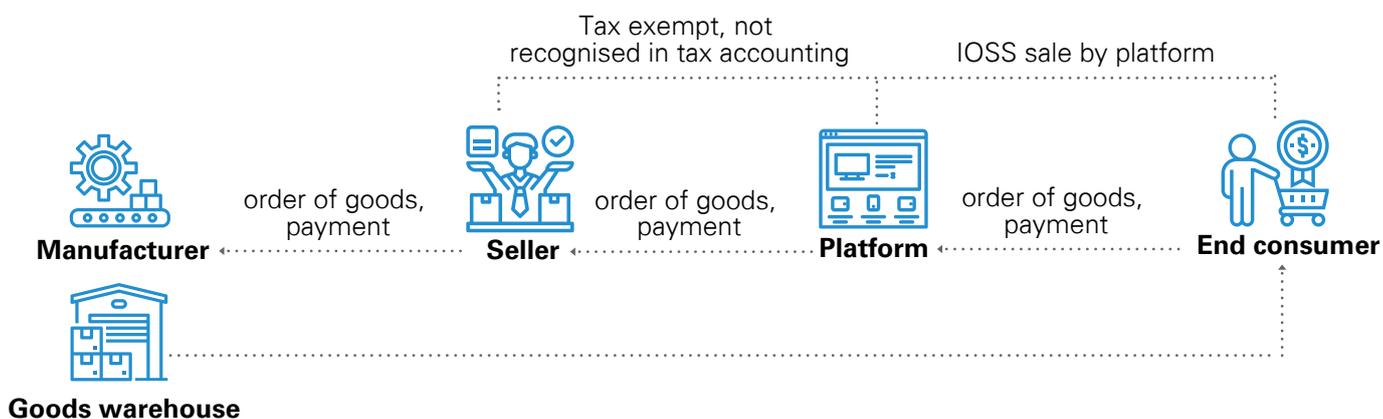
**The selling platform can collect and pay VAT on the buyer's behalf only in limited cases. The obligation of payment and collection of VAT can be transferred to a platform only if:**

- the platform facilitates the sale of a third country seller to a B2C customer; or
- goods with a value not exceeding €150 are imported from third countries directly to a B2C customer.

## 3.1. Tax liability transferred to a platform – goods from third countries

A platform that permits the use of its IOSS number shares this number with the traders. In this case, the IOSS number of the platform will be noted on the accompanying documents of the goods. Using the IOSS number of a platform places the platform into the transaction between the seller of goods (owner of goods) and the buyer. The ownership of the goods is not legally transferred to the platform and the platform is not the seller of the goods. The liability of the platform is only deemed to be limited to the declaration of the sale of goods and the payment of VAT on the sale price. The platform is responsible for paying VAT on a transaction between the seller of the goods and the end consumer.

None of the principles described in this article apply to a platform upon the sale of goods if the goods are located outside the EU, as we then have a contract between two companies and the place where the contact is taxed is outside the EU. It is possible to transfer tax liabilities to the platform of a non-Community person if goods stored in the EU are sold. In this case, the platform applies the OSS scheme upon taxation. However, it's important for the seller of the goods to know that in such situations, the actual seller of the goods is liable for the payment of VAT jointly with the platform and it's possible to collect VAT from the seller if the platform fails to pay it.



### **3.2. The platform provides a sales channel and services**

A platform may also offer sales opportunities to traders without assuming the seller's tax liabilities and limit its activities to providing advertising, intermediation and other services. This situation is more common if several platforms or agents participate in the distribution chain and some of them act on someone else's behalf. The seller and the buyer of the goods may both use an agent. Therefore, it's important that the sales invoices (issuing invoices is mandatory in B2B transactions) and the terms and conditions of sale are consistent and accurate. If the dropshipper between the possessor and the owner of the goods sells the goods on their own behalf, it's deemed to be the dropshipper of the goods who must pay VAT on the resale price of the goods. The VAT liability does not transfer to the person operating between the seller and the buyer of the goods if the person:

- doesn't set or change the sale price or other conditions of sale of the goods;
- isn't involved in authorising the charge in respect of the payment made; and
- isn't involved in ordering or delivering the goods.

The application of the new schemes is easier for companies whose delivery chain has a similar structure irrespective of which sales channels are used. Traders who sell on different platforms must understand the options available by the platform as well as the possible risks. The seller of the goods must collect and keep information on where the customers are located and in which country the goods are located at the moment of sale. The buyer becomes obliged to pay VAT if goods are delivered to the Community, but neither the seller nor the platform pays the import VAT (e.g. DDU – Delivery Duty Unpaid). This extra fee upon the receipt of goods may be an unpleasant surprise to the buyer. The buyer may refuse to accept the goods, which brings about additional expenses and loss of customers. Therefore, it's important to be careful when new sales channels are built, and different sales channels are used.





### Tax liabilities when applying the new schemes compared to the usual procedure

	Import of goods		B2C sales to another Member State	
	IOSS	Ordinary import	OSS	Sales without special scheme
<b>VAT payment</b>	The buyer pays VAT to the seller as part of the sale price of goods. The seller submits the IOSS declaration and pays the import VAT to the budget in the country of its establishment	The VAT payable upon import must be paid on the basis of an import declaration in the state where the goods are imported (by the seller or the buyer, as agreed)	Buyer pays VAT to the seller as part of the sale price. The seller submits the OSS declaration and pays VAT to the budget in the country of its establishment	Buyer pays VAT to the seller as part of the sale price. VAT is paid with the submission of the tax return in every country where the liability arises
<b>Time of taxable event</b>	Receipt of the payment or confirmation of the commitment for payment or payment authorisation notice by the seller	Generally, before the goods are released by customs	Receipt of the payment or confirmation of the commitment for payment or payment authorisation notice by the seller	The deadlines and requirements for submission of reports in different countries are different
<b>Tax return</b>	Monthly	Import declaration for each consignment	Quarterly	Different deadlines in different countries
<b>Due date for payment of tax</b>	Last day of the next month	Before import	Last day of the month following the quarter	Different deadlines in different countries
<b>Document retention period</b>	10 years	7 years in Estonia	10 years	Different deadlines in different countries