Briefing Paper: More EU VAT changes on the way….

The European Commission has announced a further batch of changes to the EU VAT system. UK businesses should be aware of these proposed changes even though some of them will only be implemented after the UK has left the European Union. The Commission considers that these changes will simplify the compliance burden for affected business and ensure the free movement of goods and services so that individuals and businesses can seamlessly buy and sell goods and services in the digital economy under conditions of fair competition.

What's the issue?

The European Commission has announced that there are to be a number of major changes introduced to the EU VAT system. These changes are intended to:

- simplify the VAT system so as to encourage greater participation in cross-border e-commerce
- level the playing field for suppliers established within the EU and
- increase the tax yield to Member States.

In April 2016 the EU Commission published its Action Plan for VAT. The Commission recognised that the current VAT obligations imposed on businesses within the EU discourage them from engaging in cross-border e-commerce. Simplifying VAT obligations should encourage businesses to access and participate in the single market. The cost to business of VAT compliance has been estimated at approximately €8,000 for each Member State in which a business makes supplies. A significant cost.

The Commission has also recognised that the current system is not neutral. EU businesses are at a clear competitive disadvantage to non-EU businesses that can make certain supplies on a VAT-free basis into the EU. With VAT rates as high as 27% in some Member States there is substantial distortion of competition if VAT is not applied.

In addition to the complexity of the VAT system, the EU operates an exemption for the importation of small consignments. The operation of Low Value Consignment Relief means that Member States lose valuable tax revenues estimated to be in the region of €5 billion per annum.

The proposed changes to the VAT system set out below are intended to address these main concerns. The changes are to be phased in over a number of years to enable both businesses and Member States to make the necessary changes.

What will change?

- The existing Mini One-Stop-Shop (MOSS) is to be extended to intra-community distance sales of goods and services and to distance sales of goods from non-EU countries
- Introduction of global declaration and payment of import VAT for importers of goods destined for final consumers
- Removal of intra-community distance selling thresholds (either €35,000 or €100,000)
- Removal of the existing Low Value Consignment Relief (LVCR)
- Introduction of a community-wide turnover threshold for distance sales and an easement in the rules for identification of customers
- Allowing businesses to apply 'home' country rules in relation to matters such as invoicing and record keeping
- Greater co-ordination between Member States when auditing businesses

Timetable for change

The proposed amendments will be introduced in two phases.

The first tranche of changes will come into effect on 1 January 2018. The principal amendments will include:

- the introduction of a threshold of €10,000 below which the place of supply of digital/electronic services will remain in the supplier's Member State. This should mean that UK micro businesses supplying such services can do so without the need to register for either VAT or the MOSS
- the introduction of 'home' state rules in connection with invoicing requirements. This should simplify matters for businesses that are currently required to

understand and apply the rules in the Member State of destination

- Making available the non-Union MOSS scheme to taxable persons not established in the Community but who have an EU VAT registration. This should prevent such businesses from being required to have multiple VAT registrations
- The introduction of 'home' state rules on record keeping. Currently, businesses are required to keep records for a period of 10 years. This is in excess of most individual Member State's record keeping requirements
- Extending the MOSS return submission deadline from 20 days following the end of the tax period to 30 days
- Relaxing the error correction rule so that errors on one MOSS return can be corrected on a subsequent MOSS return

The second tranche of changes will come into effect on 1 January 2021. The principal amendments will include:

- extension of the place of supply rules for electronic services to the supply of other services and to distance sales of goods by suppliers established both within and outside the EU

This is, perhaps, the most significant change. Since 1 January 2015, the supply of digital / electronic services has been governed by a special set of place of supply rules. In essence, from that date, B2C supplies of such services have been deemed to take place in the Member State where the customer is established and has required suppliers to either register for VAT in the customer's Member State or to account for VAT by using either the Union or the non-Union MOSS schemes. From 1 January 2021 these rules are to be extended to the B2C supply of all services as well as to intra community distance sales of goods.

The term 'intra-community distance sales' is to be defined as '***sales of goods which are dispatched or transported by the supplier or directly or indirectly on his behalf, from a Member State other than that in which dispatch or transport of the goods ends***'. In other words, the supply of goods to consumers based in a different Member State to that from which the goods are transported or despatched will be caught by the distance selling rule.

Suppliers established outside the EU who import goods from third territories or third countries and sell them to consumers will be required to use the non-Union MOSS scheme. Such businesses may be required to appoint a tax representative established in the EU who will be obliged to account for VAT on the supplier's behalf. However, in certain circumstances, where the supplier meets certain conditions, this requirement may be waived.

These new 'distance' sale rules for goods arriving from outside the EU will apply to supplies of a value not exceeding €150. The importation of such goods under the new scheme will qualify for a new VAT exemption on importation.

Conclusion

It is conceivable that the UK will have left the EU before the second tranche of changes have been formally adopted. However, the 2018 changes will directly impact UK businesses and should provide some simplification and cost savings.

As far as the 2021 changes are concerned, it should be assumed that the UK will be regarded by the rest of the EU as a 'third country' and, as a result, UK businesses supplying services directly to consumers established within the EU will need to consider their EU VAT obligations very carefully.

In particular, UK businesses will need to:

- Register for the non-Union MOSS scheme;
- If necessary, appoint a tax representative established within the EU and
- Comply with reporting obligations in the Member State of identification

Britain's exit from the European Union and the consequent exit from the single market (and possibly the customs union) is likely to cause significant changes to UK businesses' VAT accounting obligations. Affected businesses need to get to grips with these changes as soon as possible.

Under the terms of the new VAT rules, the UK will be obliged to publish draft legislation by the end of December 2017. It is anticipated that these new rules (to implement the 2018 changes) will be available in the Autumn of 2017. In the meantime, businesses should, where possible, identify how the new rules are to affect them and to take appropriate steps now to implement any changes to their accounting systems.

Further information

Please feel free to get in contact if you would like further information. At Grant Thornton, we have a national team of VAT & Customs specialists who can help to unravel the complexities. We also have an international network of indirect tax specialists both within the European Union and internationally.

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