

Brexit Alert: New VAT rules for goods sold via online marketplaces

Who should read this Brexit Alert?

This Brexit Alert is relevant for:

- all online marketplaces (irrespective of where they are established) that facilitate the sale of goods to UK consumer customers; and,
- businesses that sell through online marketplaces.

Introduction

The transition period with the EU ends on 31 December 2020. From 1 January 2021 there will be significant changes to the UK VAT treatment of goods sold to UK customers via an online marketplace (OMP).

What is changing?

- the EU distance selling rules will no longer apply to business to consumer (B2C) cross-border sales of goods between the EU and UK
- low value consignment relief, which currently exempts consignments of goods up to £15 from UK import VAT, will be abolished
- the collection of VAT on imports of goods from outside the UK in consignments not exceeding £135 in value will move from the point of importation to the point of sale
- where an OMP is involved in facilitating the sale, it will be responsible for collecting and accounting for the VAT
- for sales of goods by overseas sellers made via an OMP, where the goods are already in the UK at the point of sale, the responsibility for accounting for VAT will move from the overseas seller to the OMP that facilitates the sale.

What is an OMP?

An OMP is any electronic interface (website or mobile application) such as a marketplace, platform, portal or similar that facilitates the sale of goods to customers. OMPs may also sell their own goods on

the OMP, but for those sales they are treated for VAT purposes as a direct seller rather than an OMP.

Imports of goods from outside the UK in consignments not exceeding £135

A new UK VAT registration obligation will arise for B2C sales of goods that are outside the UK at the time of sale and imported in consignments valued at up to £135. The seller will therefore need to:

- register for VAT in the UK (if not already registered)
- charge UK VAT on sales to customers at the point of sale.

The impact of the new rules on an OMP is that if it is involved in facilitating a B2C sale, it will be deemed, for VAT purposes, to be making the supply to the UK consumer, which will be deemed to take place in the UK with UK VAT chargeable accordingly.

For goods that are located overseas at the point of sale, the new arrangements will apply irrespective of where the OMP or the business selling the goods is established. This means that any business that operates an OMP facilitating sales of goods to UK customers will have to register for UK VAT (if not already registered) and account for VAT to HMRC.

In the case of business to business (B2B) sales, the OMP will need to obtain the customer's valid UK VAT registration number and issue an invoice including a reference to 'reverse charge' in order for the reverse charge to apply to a sale.

If the business customer is not VAT registered or does not provide the OMP with a valid UK VAT registration number, the OMP should treat the supply as a B2C sale and account for UK VAT.

For more detail on the new rules see our Brexit Alert on [New VAT rules for imports in consignments up to £135](#).

Goods in the UK at the point of sale - sold by an overseas seller through an OMP (e.g. overseas businesses selling via Amazon, eBay etc)

New rules will also apply to sales of goods of any value where the:

- goods are owned by a seller who is based outside the UK
- goods are located in the UK at the point of sale
- goods are sold to a customer in the UK through an online marketplace
- supply is not to a VAT registered business.

UK VAT will be due at the time the sale of goods takes place, as it is now, but the significant change is that the sale will be deemed to have been made by the OMP. The OMP will therefore be liable to account for UK VAT at the point of sale. For VAT purposes the seller, operating through the OMP, will no longer be making a supply to consumers in the UK.

When a sale is made, the overseas seller will be deemed to make a zero-rated supply of the goods to the OMP. The overseas seller will therefore be eligible to register for VAT in the UK and reclaim any import VAT incurred in the course of importing the goods, subject to the normal rules for VAT deduction. The overseas seller should show the value of its sales on its VAT return (Box 6) but will not be responsible for declaring VAT on those deemed sales made through the OMP.

OMP liability will not apply to B2B sales where the goods are in the UK at the point of sale. The business recipient will need to provide a valid UK VAT registration number to show that the supply is a B2B

sale. If this is not provided the sale should be treated as a B2C transaction. Where a valid VAT registration number is provided the supply will be from the overseas seller, rather than the OMP, to the business recipient and will follow existing VAT rules. There will be no VAT reverse charge applied to this transaction.

The OMP must notify the overseas seller that they should account for VAT on a particular sale where a business customer provides a valid UK VAT registration number. The OMP should provide the overseas seller with the UK VAT registration number.

Critical information for OMPs and sellers

The new rules are very complex. Both OMPs and businesses who sell through OMPs need to ensure they understand which sales they are responsible for accounting for UK VAT on. The following information will be critical in order to determine the correct VAT treatment of sales:

- the location of the goods at the time of the transaction, i.e. whether the goods are within the UK or not
- if goods are outside the UK, whether the intrinsic value (excluding VAT) of the consignment is less than £135
- if goods are within the UK, whether the seller is a business established in the UK or not
- whether or not business customers are registered for UK VAT
- the appropriate rate of VAT applying to the goods, e.g. standard, reduced or zero rate.

Communication between OMPs and the businesses who sell through them will be key to getting the VAT treatment right.

For further information and guidance about the new UK VAT rules for online marketplaces, please contact us on:



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