



Welcome

First hybrid event – in Brussels and around the globe.



Welcome

Why VAT 3.0?

The tax is broadening globally
It is being critically used in the current health crisis to support business

It is going through some radical changes – driven by:

Technology and the servitisation of the economy both in terms of impacts on business models but also on data collection and invoicing

BUT

Is subject to fraud and new solutions are needed to address the concerns

	12:15 CET	1h15	Stand-up Buffet	
Day 1	13:30 CET	15 min	Opening remarks from the Chairman of the IVA	Stephen Dale
	13:45 CET	45 min	General update on the European Commission's work programme with a focus on e-commerce	Chair: Stephen Dale Patrice Pillet
	14:30 CET	45 min	Update on the projects of the Portuguese Tax Administration	Chair: Fatima Gouveia Miguel Correia
	15:15 CET	30 min	Coffee break	
	15:45 CET	45 min	E-commerce Reform: 90 days in the game (part 1) Customs' perspective Q&A	Chair: Emmanuel Cotessat Dr. Nathalie Harksen & Manuel Sieben, AWB Rechtsanwaltsgesellschaft mbH (Germany)
18763817	16:30 CET	1 h	E-commerce Reform: Amazon approach, key lessons and what's next (part 2) Q&A	Chair: Emmanuel Cotessat Sophie Claessens, Amazon Europe (Belgium)



Dinner will take place in Restaurant La Manufacture at 20:00

Please meet in the lobby at 19:45 so we can walk there together.

	8:00 CET	30 min	Coffee	
Day 2	8:30 CET	15 min	Welcome to Day 2 and summary from Day 1	Stephen Dale
	8:45 CET	30 min	Fiscal representation in the EU – a better way for tax administrations to ensure VAT collection?	Emmanuel Cotessat, E. Cotessat Law Firm (France)
	9:15 CET	45 min	Update on OECD work on sharing economy, reporting by platforms and more Q&A	Chair: Stephen Dale Piet Battiau, OECD
	10:00 CET	30 min	Coffee break	
	10:30 CET	30 min	UEA _ VAT refund procedure, where we stand?	Chair: Raymond Feen Nils Vanhassel, Aurifer (UAE)
	11:00 CET	30 min	Update on Japanese Consumption Tax	Chair: Mojca Grobovsek Takuma Yamazaki, OPTI (Japan)
16763817	11:30 CET	45 min	Some thoughts on the historical development and perspective of European VAT: between idealism and reality, between "origin" and "destination"	Chair: Stephen Dale Donato Raponi

Coffee

	12:15 CET	30 min	Impact of the Vega decision on the business	Cabinet Bouchard & Associes (France)
	12:45 CET	1h	Stand Up Buffet	
	13:45 CET	45 min	US indirect tax developments	Chair: Stephen Dale
				George Salis, Vertex (USA)
Day 2	14:30 CET 1h		Update on Tax administrations' projects:	Chair: Stephen Dale
		1h	French VAT Refund Process for 13 th Directive	Thibauld Manson, French Tax
			LINADC Oversons Depayments and digital	Administration
			HMRC - Overseas Repayments and digital initiatives	Michael Wilton, HMRC
	15:30 CET	30 min	Technology developments in the VAT area	Damien Moras, VAT4U (Germany)
16763817	16:00 CET 30 min	20 min		Chair : Stephen Dale
			Dealing with incidences before the MS of	
		SU IIIIII	consumption. A One Stop Shop procedure?	Manuel Perez de Algaba, IVA CONSULTA (Spain)
	16:30 CET	15 min	Closing remarks	Stephen Dale

Jean-Claude Bouchard, SAS

Activities of your IVA

Collaboration with tax authorities and the Commission –

- Testing of refund systems
- Finding both technical and pragmatic solutions
- Looking at greater use of technology
- Working on policy options to help bring VAT into the Digital Age

 major contributions
- Being involved through
 - VAT Forum
 - VAT Expert Group
 - •



Activities of your IVA

- IVA prize winners
- Role of tax representatives
- Drawing on global experiences
- IVA University
- The new IVA Board
- The new IVA website will be launched soon
- IVA's financial statements
- IVA Newsletters your contribution and feedback is essential for us!
- IVA is steadily growing and expanding globally 30 new members in the last 2 years



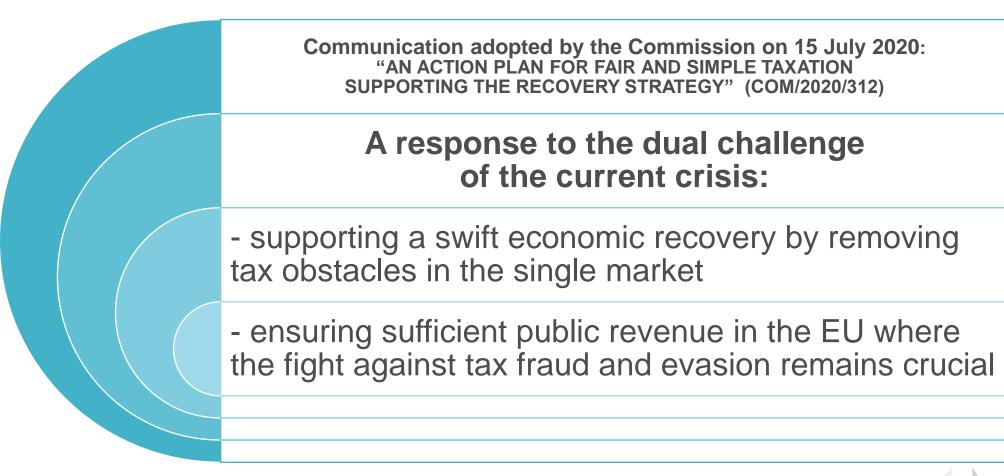


Ongoing and future EU VAT reforms

Patrice PILLET
Head of Unit
DG TAXUD – VAT Unit
European Commission

IVA Conference 21/10/2021

Tax Action Plan





Tax Action Plan - General

Set of 25 initiatives which the European Commission will take forward **between now** and **2024** to make taxation fairer, simpler and more adapted to modern technologies



Covers initiatives in the field of direct and indirect taxation

Not included: initiatives that will feature in the **European Green Deal** (Energy Tax Directive) and **Public Health Agenda** (review Tobacco and Alcohol Directive)

Contains a number of VAT policy actions



Other VAT developments under discussion in Council:

- The definitive regime
- VAT rates
- Covid-19 related issues :exemption of imports, 0 rating of vaccines, buy and donate initiative,



VAT Ecommerce implementation (01/07/2021):

- a major reform
- The aim of the initiative : avoiding erosion of revenues, avoiding distortions of competition and simplifying compliance
- First evaluation : a major operational success



1. VAT in the Digital Age package

- Study and impact assessment ongoing
- Virtual conference (27-29 Oct)
- Proposal mid 2022

This package includes a series of actions:

A. Moving towards a single VAT registration in the EU and further extending the OSS

B. Modernising VAT reporting obligations and facilitating e-invoicing

C. Adapting the VAT framework to the platform economy



A. Towards a single EU VAT registration

Even after the VAT e-commerce package, taxable persons registered in their Member State of establishment might still need additional VAT registrations in Member States where they are not established, for instance when making supplies with installation and assembly, supplying goods on board means of transport, making B2C supplies of gas and electricity.

The need for such registration could be further reduced by:

- A further extension of the OSS for B2C transactions (see also hereafter)
- A targeted use of reverse charge for B2B transactions

Proposal does not aim at replacing current VAT registration procedures applied by Member States.



Further extension of the OSS

The aim is to include all remaining B2C transactions not yet covered.

Taxable persons should then be able to report all B2C transactions in the EU through a single VAT return to be submitted in their Member State of establishment.

Whether to provide for obligatory use of the import One Stop Shop and eliminating the threshold for its use will also be examined.



B. Modernising VAT reporting obligations

Use of new technologies in order to obtain quicker and/or more detailed information on transactions is an ongoing process.

Measures taken by Member States are different, which significantly increases the burden for businesses operating cross-border.

Proposal to modernise VAT reporting obligations should:

- ensure a quicker, possibly real-time, and more detailed exchange of VAT information on intra-EU transactions
- streamline the mechanisms that can be applied for domestic transactions

Need to further expand use of e-invoicing will also be examined.



C. Adapting VAT to the platform economy

The rapid development of the platform economy raises some key questions on the VAT treatment of these transactions:

- are the persons offering goods or services on the platforms taxable persons for VAT or not?
- what is the nature of the services provided by the platforms?

There is a need for clarity and legal certainty on these issues for the actors involved.

The role platforms could have in securing collection of the tax will be examined: providing information to the tax authorities or active involvement in the collection of VAT?



2. Transforming the status of the VAT Committee

The VAT Committee is currently an advisory committee.

The aim is to turn it into a 'comitology committee' that would oversee the adoption of implementing acts by the Commission.

Since the TFEU, the attribution of implementing powers to the Commission is the standard for implementing measures in all areas of EU law (Article 291 of the TFEU).

Should enhance the efficiency of the decision-making process in the area of VAT and contribute to a more uniform application of the EU VAT legislation.

Proposal presented in Dec 2020.



3. Update VAT rules on financial services

The exemption of financial services dates back to 1977.

The modernisation will take account of the rise of the digital economy (fintech) and the increase in the outsourcing of input services by financial and insurance operators.

The update should ensure a level playing field within the Union and take into consideration the international competitiveness of EU companies.

Public consultation finished Proposal delayed to 2022/23.



4. Revise the VAT special scheme for travel agents

The current rules lead to distortions of competition between EU established and non-EU established travel agencies organising travels in the EU. Digitalisation aggravates the problem.

The aim is to simplify the scheme and to ensure a level playing field within the EU taking into consideration the competitiveness of the EU travel industry.

Evaluation published in Feb 2021

New study being launched on the travel sector

Possible proposal in 2023.



5. Greener taxation of passenger transport

Certain exemptions in the VAT Directive relate only to certain types of passenger transport. This leads to a non-taxation with VAT of international air and maritime passenger transport.

There is a need to review these exemptions in order to ensure their coherence with the goals of the European Green Deal.

The review would include simplification of VAT rules regarding the place of taxation of passenger transport services.

New study being launched on the travel sector

Proposal planned for 2023.



Dispute Resolution Mechanism

EU VAT Forum - January 2020
Recommendations on prevention and resolution of VAT double taxation disputes

- 1 Enhance dialogue between MS and taxpayers
- Upgrade existing tools and set up a complete process to prevent and solve VAT disputes
- Create an EU legal framework to prevent and solve VAT disputes

President Von der Leyen's political guidelines

An economy that works for people

Tax fairness

Make it easier for business to work across borders

Action

Impact assessment possibly leading to a legislative initiative in the form of a Commission proposal for a Council directive introducing a dispute resolution mechanism in the field of VAT.



Keep in touch



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@EU_Commission



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@EuropeanCommission



@EuropeanCommission



EUTube



European Commission



EU Spotify



Questions?





Update on the projects of the Portuguese Tax Administration

Miguel Correia – 2021 Autumn Conference



A. International Trade

Import VAT

Overview on OSS

Simplification procedure: Exports up to € 1000

eTax-free

B. National VAT management

e-Fatura

IVA Automático +: Prefilling the VAT Return

Compliance



A. International Trade



Import VAT

Article 211 of Directive 2006/112:

"[Member States may provide that] (...) the VAT due by reason of the importation need not be paid at the time of importation, on condition that it is entered as such in the VAT return to be submitted in accordance with Article 250."

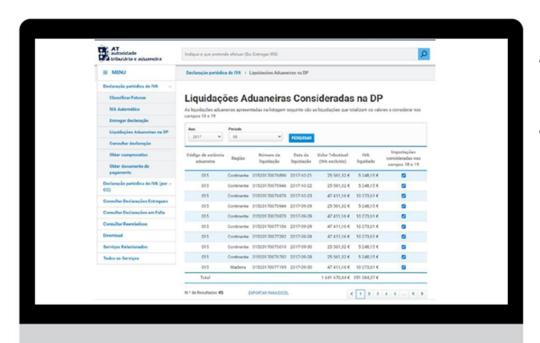


Import VAT

- Economic measure:
 - removal of financial burdens to importing businesses: the cash-flow disadvantage of having to pay import VAT upfront or, when differed, to provide a guarantee;
 - ended a fiscal disincentive to the direct importation via national ports (already eliminated in some other Member States)
- Simplification measure:
 - Removal of compliance costs to businesses and related costs to tax administrations (procedure for import VAT assessment and collection, refunds)



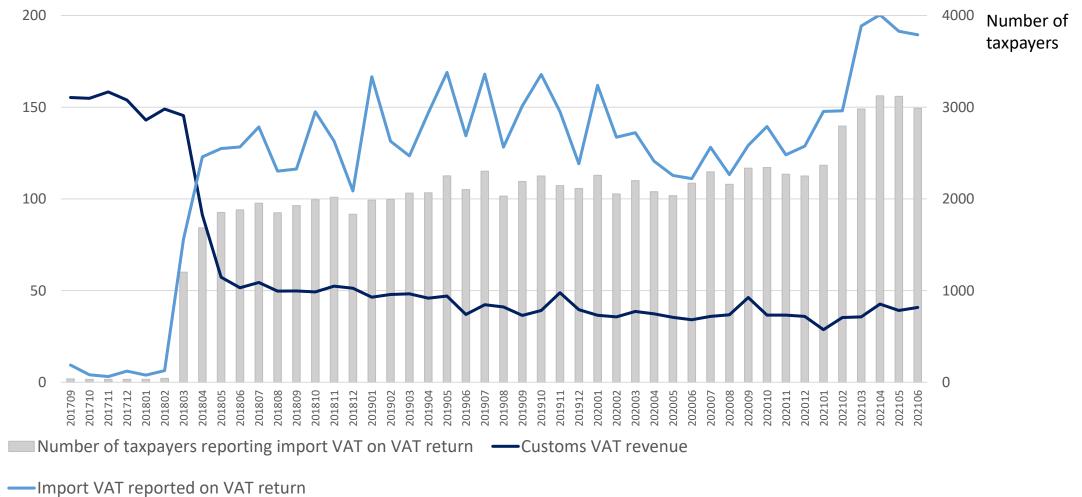
Import VAT



- Import VAT to be declared in the (monthly) VAT return
- Prefilling of the total import taxable amount and VAT in the corresponding boxes of the VAT return
 - When electronically submitting the VAT return the taxable person can consult all the import VAT related to each importation of goods in a given period and reject any whose values are not correct (based on the custom declaration in force)









Overview on OSS

First results of the e-commerce Package - Union Scheme, non-Union Scheme and Import Scheme(IOSS)

	Union	non-Union	Import
	Scheme	Scheme	Scheme (IOSS) *
Number of registered traders as of 1 September	832	25	113
2021 (PT as Member State of Identification)			

^{*}Also 17 Intermediaries registered in the Import Scheme

Number of declaration items/articles	July 2021	August 2021
Import Scheme (IOSS)	4605	22158
Special Arrangements	66603	105691
Standard VAT collection mechanism	664658	513916



Simplification procedure: Exports up to € 1000

As of 16.7.2020, by virtue of amendments to the UCC - DR brought by Commission Delegated Regulation (EU) 2020/877 of 3 April 2020:

Declared for export, where not declared using other means,

- ☐ exit from the customs territory of the Union, goods in a postal consignment
 - ✓ the value of which does not exceed EUR 1 000 which are not liable for export duty
- presentation to the <u>customs office of exit</u>, provided that the data in the transport document and/or invoice are available to and accepted by the customs authorities, goods in an express consignment
 - ✓ the value of which does not exceed EUR 1 000 and which are not liable for export duty

Articles $140^{\circ}(1)(c)(d)$, $141.^{\circ}(4)(4a.)$



Simplification procedure: Goods in an express consignment

'Customs office of exit'

the <u>customs office competent for the place where the goods are taken over under a single transport contract</u> for transport of the goods out of the customs territory of the Union by the railway companies, the postal operators, the airlines or the shipping companies <u>provided</u> that the goods are to leave the customs territory of the Union <u>by rail, post, air or sea.</u>

Article 329 (7) of the UCC – IR



Simplification procedure: Exemptions on exportation

Exemptions on exportation (article 146.º Council Directive 2006/112/EC of 28 november 2006)

the goods in question will be taken out of the customs territory of the Union

<u>Simplify procedures and update our VAT national legislation</u> → proof of the exit of goods



ensure the correct and straightforward application of exemption and prevention of any possible evasion, avoidance or abuse



Simplification procedure: Proof of export

Exchange of information between operators and tax administration

- Postal consignments information based on the CN22 or CN23 declarations (eventually part of a CP72 manifold form set for parcels)
 - Opportunity: Driven by WCO-UPU, from 1 January 2021 for international shipping postal operators are required to supply recipient postal operators with electronic advance data (EAD) detailing the contents of any mail, packets and parcels containing goods (via ITMATT and CUSITM/CUSRSP for import clearance)
 - ITMATT messaging system: the ITeM ATTribute is a UPU messaging standard used for provision of electronic customs information (i.e. an electronic CN 22/23) captured and transmitted by the origin DO to the destination DO at the time of mailing or dispatch.
 - Many postal operators are providing online shipping platforms for generating compliant labels and declarations enhancing the quality of the information available



Simplification procedure: Proof of export

Exchange of information between operators and tax administration (continuation)

 Express consignments – information based on the shipping documents used (often mirroring the CN22 or CN23) and eventually invoices or other documents accompanying the goods

All providing in an electronic form (e.g., webservice) the information necessary for tax purposes and risk analysis



eTax-free | Legal framework

Indirect exports – exemption for the supply of goods to be carried in the personal luggage of travellers, provided:

- (a) the traveller is not established within the Community;
- (b) the goods are transported out of the Community before the end of the third month following that in which the supply takes place;
- (c) the total value of the supply, including VAT, is more than €50 (in PT).

This exemption operates directly, i.e., verified its conditions the seller at the point of sale doesn't charge VAT.



eTax-free | General objectives

- Dematerialization and simplification of the procedures of verification and confirmation of the conditions of the exemption
- Better fraud prevention and control, through the collection of relevant information for the definition of risk criteria
- Promotion of purchase of goods in Portugal and the tourism sector, through the implementation
 of simpler and faster procedures, leading to a reduction in waiting time for travellers



eTax-free | Operation

The «e-Taxfree Portugal» system ensures:

- Communication, in real time, of the elements related to the supply of goods
- Electronic certification carried out at the customs office on leaving the EU
- Communication to the seller of the decision on the electronic communication for certification
- Definition of risk criteria for the prevention and control of fraud





The seller, after verifying the conditions, exempts the supply of goods. A deposit may be required

ele su

The seller electronically communicates, in real time, to the Tax Administration (TA) all elements of the VAT-free supply





Operation of the e-TaxFree Portugal system Moment of purchase

After registering the Electronic Communication for Certification, the seller issues and delivers to the traveller the Electronic Proof of Registration

Contract with financial intermediation company



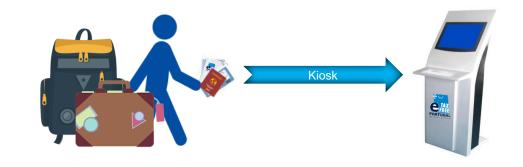
TA returns the Registration Code to the seller



Upon departure from Portugal, namely at the airport after checking in, the traveller must go to an electronic terminal (kiosk) with:

- Proof of registration;
- Identification document used in the purchase;
- The boarding pass;
- The tax-free goods and invoices.

Operation of the e-TaxFree Portugal system Time of departure









1st Scenario – green channel



Export certification

If a deposit has been given, the traveller is in a position to be reimbursed by the seller or the financial intermediary identified on the **Electronic Proof of Registration**





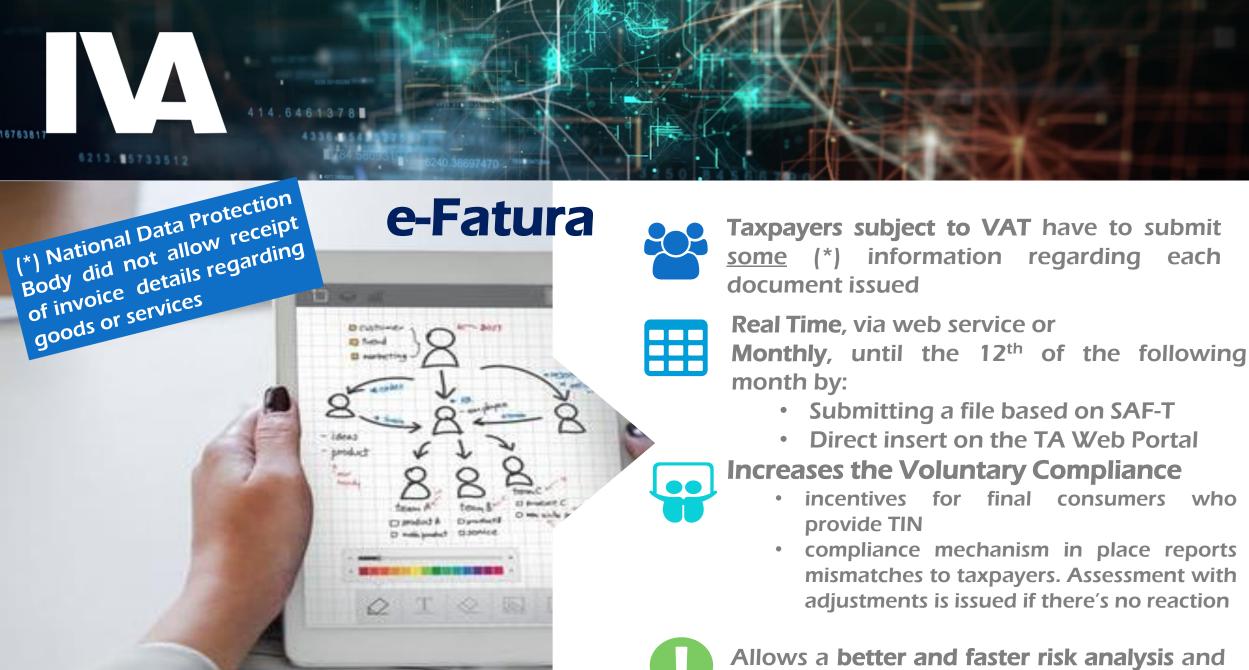
B. National VAT management



«e-Fatura»: Transaction Based Reporting







Allows a better and faster risk analysis and fraud detection



mandatory fields

Tax ID number of the issuer

Invoice or document number

Date of issue

Document type

Tax ID number of the buyer

Taxable amount of the service or goods

Applicable VAT rates

Justification for VAT exemption/non-application of the tax, if applicable

Paid VAT amount

The expression'
VAT - cash basis ",
if applicable

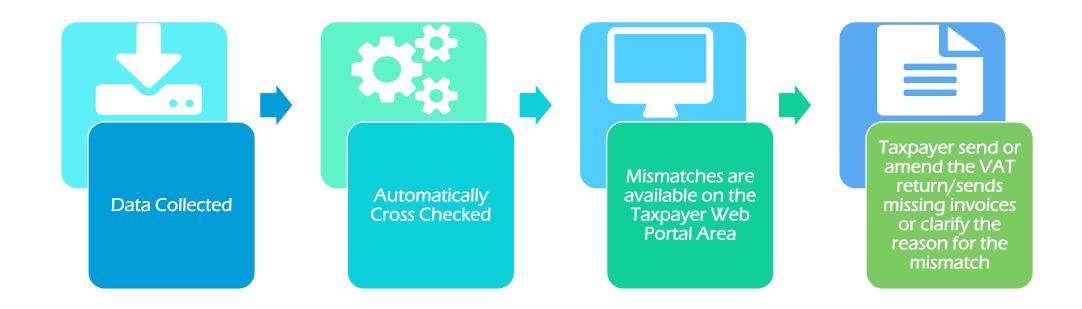
Software certificate number

Source Document ID Reference (Rectified Document ID)

Tax Country Region Unique Document Code



how is TA using the collected data?





Increase Compliance Data quality and completeness

Final
Consumers
are the key to
Cash Retail
Business
Control

Allows to give back service to taxpayers from the data collected

key success factors

Pre-file or simplify Tax Declarations

Keep it simple

Interoperability
of data with
other TA and
Government
Bodies

Speeds up the Digital
Transformation Process of the eco-system

Enhances the use of new technologies



efatura

final consumer – tax id number

15% of supported VAT in

6 Activity Sectors



373.297.638









2015











42.063.125





Automatic PIT Declaration

2016



Tax Benefit

2013



- 1 weekly draw Treasury Bonds € 35.000
- •2 semi-annual draws 3 x Treasury Bonds € 50.000

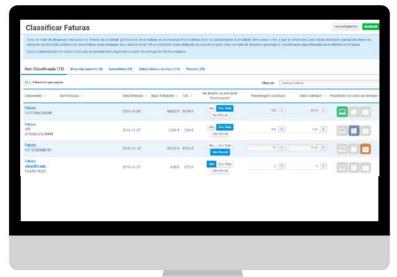


Prefilling VAT Return

2020



«IVA Automático +»: Prefilling the VAT Return



- All VAT returns are submitted electronically, some taxpayers (basically individuals without organized accounting) can resort to this functionality that prefills their return statement
- This prefilling resorts to output VAT and deductible VAT values obtained from the data contained in invoices issued on the Tax Administration web portal and also on the data submitted under the obligation to provide information on issued invoices ("e-Fatura")
- In order to correctly assess deductible VAT the taxpayer must classify invoices in which he appears as the acquirer



Compliance: ATGo

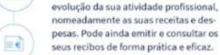




Um ponto único de acesso onde pode efetuar operações e consultar os seus dados de atividade profissional registados na Autoridade Tributária e Aduaneira.

Com a app ATGo pode consultar a







- ATGo will allow the taxpayer to manage its business on the go without the need to resort to other channels
- App (IOS or Android) in development as well as a web portal version







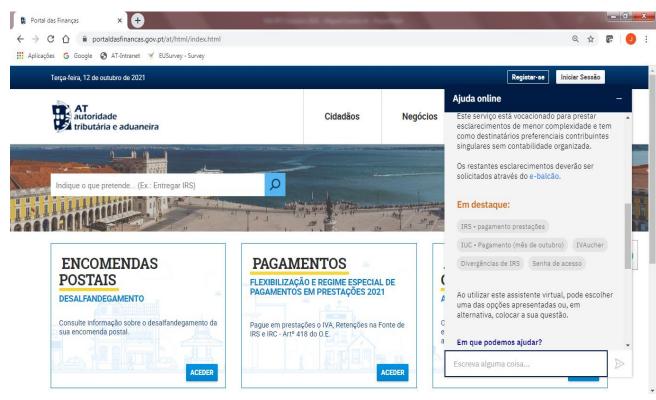








Compliance: CATia (online help)



- Online help on the tax administration's web portal
- Designed to provide clarifications of lesser complexity and primarily addressed to individual taxpayers without organized accounting
- All remaining clarifications must be requested through the "e-Counter" service



Compliance: e-Counter (Intelligent)



- The "e-Counter" service, available at the TA's web portal, has become the more sought after source of information from the TA in the past years
- Project underway to apply AI to improve efficiency of service:
 - Phase I: Intelligence in classification and streamlining of response
 - Phase II: Assisting research with a virtual assistant and optimize the Frequently Asked Questions (FAQs)



Questions?

Thank you

STRONG PARTNERS.



E-commerce Reform: 90 days in the game (part 1) Customs' perspective

RAin Dr. Nathalie Harksen, Maître en Droit StB Manuel Sieben, Dipl.-Fw. (FH), MCA

AWB Rechtsanwaltsgesellschaft mbH

AWB Steuerberatungsgesellschaft mbH

Münster - Munich - Hamburg

E-Commerce Reform

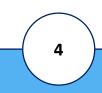


OBJECTIVE

- Simplification of taxation in ecommerce
- Avoidance of VAT registration in 28 Member States
- One registration for the entire European Union
- Extension of MOSS to OSS for e-commerce

1

No threshold for cross-border trade in e-commmerce



OSS Union
Scheme for
distance sale and
supply of services
B2C

2

No threshold for import VAT exemption anymore (22,- €)



Import
IOSS

Non IOSS:

Special Arrangement 3

OSS Non-Union Scheme for all supply of services B2C



Marketplace liable for VAT

Germany: Administrative Reg. German Fed Ministry of Finance of 1.4.2021



Import clearance in Germany from 01.07.2021 - 3 options

Goods worth more than 150,- €

IOSS

Goods worth not more than 150,- €

Sec. 18k German VAT Act

Spec Arr.

Goods worth not more than 150,- €

Sec. 21a German VAT Act













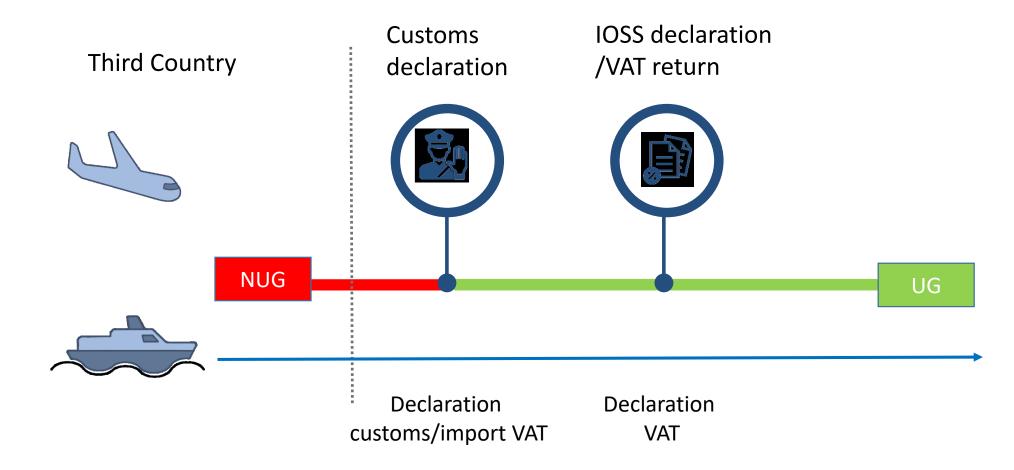
Art. 1 No. 48 UCC-DA

'intrinsic value' means

for commercial goods:
the price of the goods
themselves when sold for export
to the customs territory of the
Union, excluding transport and
insurance costs, unless they are
included in the price and not
separately indicated on the
invoice, and any other taxes and
charges as ascertainable by the
customs authorities from any
relevant document(s);



Process





customs basics

Declarant, Art. 5 No. 15 UCC; debtor Art. 77 par. 3 UCC

- "declarant" means the person lodging a customs declaration, [...] in his or her own name or the person in whose name such a declaration [...] is lodged
- The **declarant** shall be the **debtor of customs duties and import VAT**. In the event of indirect representation, the person on whose behalf the customs declaration is made shall <u>also</u> be a debtor
- The declarant shall be established in the customs territory of the Union, Art. 170 par. 2 UCC



customs basics

Customs representation, Art. 18 UCC

form	direct	indirect
meaning	in the name of and on behalf of another person	in his or her own name but on behalf of another person
Declarant	Person represented	Representative
Debtor	Person represented	Declarant and Person represented

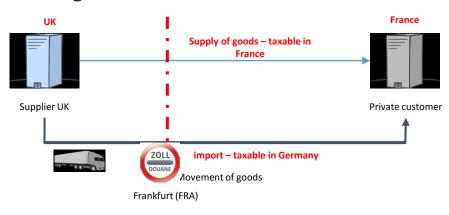
A customs representative shall be established within the customs territory of the Union.



Option 1 - Import – Goods worth more than 150,- €

Obligation to submit electronic customs declarations

Goods worth more than 150,- €







- Filing of a complete customs declaration in FRA by UK
- Due to the lack of establishment of UK, an *indirect representative* is required.
- Indirect representative becomes declarant and needs all documents and data for the case of an audit
- UK owes customs duty and import VAT (together with indirect representative)
- Alternatively direct representation of private person; PoA required, private person becomes declarant and thus tax debtor
- Supply of goods is taxable in France and liable to VAT, Sec. 3c para. 2 German VAT Act
- UK may register for VAT in France and submit VAT returns / VAT refund in Germany for import VAT



Option 2 - Import – Goods worth not more than 150,- €

IOSS

Goods worth not more than 150,- €





- Abrogation of the exemption from import VAT for goods in small consignments with a value of up to 22 euros.
- Obligation to submit electronic customs declarations
- Optional use of the IOSS (import one stop shop)





IOSS, Sec. 18k German VAT Act

- Customs: accompanying measures for consignments < EUR 22:</p>
 - Art. 104 (4) UCC-DA Exemption from entry summary declaration for certain (express) consignments.
 - Art. 106 (4) UCC-DA reduction of the entry summary declaration data set
 - Art. 143a UCC-DA specific data set (reduced by 2/3) for customs declarations for free circulation for duty-free consignments according to Art. 23, 25 Customs Exemption Regulation (< 150 or 45 EUR for gifts), if no use is made of the IOSS.
 - E.g. declaration only of the 6-digit tariff code (BUT: for import into Germany VAT 11-digit tariff code is required)
 - In Germany ATLAS-IMPOST as a special application in the ATLAS IT landscape, in particular for postal and courier services/carriers; live operation from 15.1.2022 - until then transitional solution

E-Commerce Reform

AWB[®]

IOSS

Goods worth not more than 150,-€

Sec. 18k German VAT Act





- Abrogation of the exemption from import VAT for goods in small consignments with a value of up to 22 euros.
- Obligation to submit electronic customs declarations
- Optional use of the IOSS



- **Import** taxable and tax-exempt Sec. 5 para. 1 No. 7 German VAT Act
- Supply of goods taxable and not tax-exempt, Sec. 3c Abs. 3 German VAT Act
- NO registers in Germany to IOSS, tax number: IMDE123456
- UK would need an intermediary for identification to the IOSS; gets also registered himself
- Indication of IMDE 123456 tax number in customs declaration
- Submission of monthly electronic VAT return via IOSS by NO/UK-intermediary
- Payment of VAT in Germany by NO / UK-intermediary

E-Commerce Reform



Customs problems

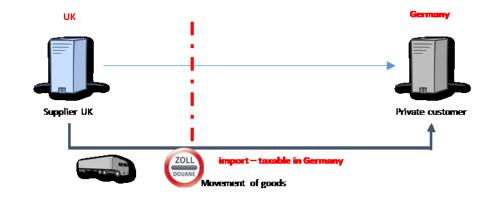
IOSS

Goods worth not more than 150,-€

Sec. 18k German VAT Act







- UK cannot be declarant due to the lack of establishment
- An indirect representation is needed which many service providers are not willing to offer → risk of audit is on the representative; In the event of an audit, the representative would need access to the accounts of UK in order to be able to actually prove the value, for example
- Alternatively direct representation of private customer? PoA needed



Option 3 - Import – Goods worth not more than 150,- €

Spec Arr.

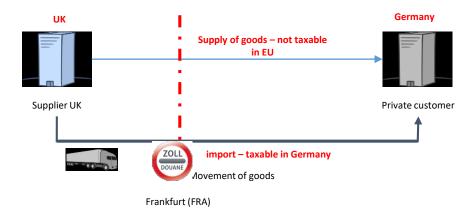
Goods worth not more than 150,- €

Sec. 21a German VAT Act





- Abrogation of the exemption from import VAT for goods in small consignments with a value of up to 22 euros.
- Obligation to submit electronic customs declarations
- Optional use of the special arrangement



- Supply of goods not taxable (place of supply UK)
- Customs declaration in the name and on behalf of the private customer
- Import taxable and not tax exempt
- Submission of monthly electronic tax return for the import VAT by carrier/person presenting the goods
- Payment of import VAT in Germany



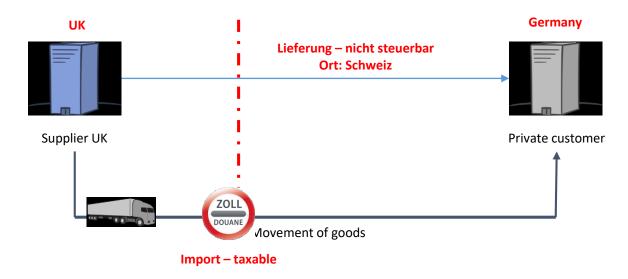
Special rules of responsibility for customs purposes

- Customs declarations for consignments up to a value of 150 Euros (or 45 Euros in the case of gifts), for which a non-tariff duty exemption applies in accordance with Art. 23 or 25 of the Duty Exemption Regulation, can only be made in the country of destination in the EU in accordance with Art. 221 (4) of the UCC-IA if the IOSS procedure is not used.
- An exception applies to consignments to companies for customs declarations for release for free circulation with tax-exempt delivery to another Member State (procedure code 42).
- Customs declarations for "normal" free circulation (procedure code 40) for goods up to a material value of 150 euros (or 45 euros) may only be made in the county of entry in accordance with Art.
 221 (4) UZK-IA if they are not intended for another Member State. The only exception is when using the Import One Stop Shop (IOSS).

E-Commerce Reform



Customs problems



- How does the carrier get the power of attorney from the private person for the customs representation?
 - Art. 63d para. 2 VAT Implem. Reg. only valid for VAT representation
- **Returns:** what happens to the customs declaration if the private individual does not accept the goods? Request for invalidation of the customs declaration within 90 days and re-export of the goods, Art. 148 par. 3 UCC-DA.
- If the import VAT has already been paid, an application for a repayment must be made, Art. 116 UCC
 - in Germany import VAT will be deleted from the deferment account of the carrier IF carrier can prove that the goods are not delivered
 - Import VAT is considered as not being arisen





AWB Rechtsanwaltsgesellschaft mbH AWB Steuerberatungsgesellschaft mbH

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Consulting in transborder goods traffic

IN ONE PIECE





Since its founding in the year of 2005, AWB Steuerberatungsgesellschaft mbH (AWB Tax) provides assistance, in particular, in customs-, preferential law-, excise and VAT-specific issues in transborder goods traffic.



In the year of 2008, AWB Wolffgang & Harksen Rechtsanwaltsgesellschaft mbH (AWB Law) was founded. Since 5 December 2014, it has been operating under the company name "AWB Rechtsanwaltsgesellschaft mbH". It advises, in particular, in export control- and foreign trade law-related issues.

OUR **TEAM**

- We employ lawyers, tax consultants and economists at our locations in Münster, Munich and Hamburg. In addition to that, former officials of the German customs or tax authorities and practitioners from the private sector are part of our team. We employ a total of around 35 consultants at our locations.
- The consultants of AWB distinguish themselves by their expert knowledge, their experience and their commitment in the matters of our consulting fields.
- Our consultants also work as authors in all sorts of specialist publications, as lecturers of AWA AUSSENWIRTSCHAFTS-AKADEMIE GmbH, assistant professors at universities or colleges, for example, in courses of study arranged by customs or tax authorities.



IVA Conference Brussels

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COOPERATIONS





AWB Consulting GmbH was founded in the year of 2013. The highly practice-oriented approach supports companies in the internal implementation of customs and export control regulations with a focus on the areas of organisation, project management and customs IT projects.



AWA AUSSENWIRTSCHAFTS-AKADEMIE GmbH is the leading provider of seminars, in-house trainings and distance learning in the fields of customs, export control, VAT and excise law.



HLB Schumacher GmbH has been among the most important consulting firms in auditing and tax consultancy in the region of Münster for more than 90 years.



Audicon GmbH is the leading provider of software solutions, methodological and specialized know-how, and of services involving audits, risk and compliance. Moreover, Audicon GmbH is the sole distributor of the IDEA audit software.



Being an independently acting organisation, the International VAT Association represents the interests of businesses and tax consultancies in the field of value-added tax. It also functions as an expert forum and lobby at institutions of national and international public administration and legislation.

OUR

CONSULTING AREAS







- Analysis and improvement of organisation and processes
- Application for authorisations
- Assistance in issues of day-to-day business
- Improvement of master data quality, esp. in the fields of tariff classification and customs-specific goods descriptions
- Development of internal control and risk management systems
- Conduct of objection, refund or court proceedings
- Preparation for and assistance in customs audits
- Reports/opinions on sophisticated legal matters
- Assistance in criminal and fine proceedings



ORIGIN & PREFERENCES

- Analysis and improvement of organisation and processes
- Application for authorisations/registrations
- Assistance in issues of day-to-day business
- Review and improvement of goods traffic in consideration of all current free trade agreements
- Review and support in the creation of preferential calculations
- Verification and assistance with the issuance of evidence
- Development of internal control and risk management systems
- Conduct of objection, refund or court proceedings
- Preparation for and assistance in preference audits
- Reports/opinions on sophisticated legal matters
- Assistance in criminal and fine proceedings

OUR

CONSULTING AREAS









EXPORT CONTROLS

- Analysis and improvement of organisation and processes
- Support in appointing export managers or export control officers
- Assistance in issues of day-to-day business
- Support in the classification of single goods
- Development of an internal control and risk management system (internal compliance program = ICP)
- Conduct of appeal or court proceedings
- Preparation for and assistance in foreign trade audits
- Reports/opinions on sophisticated legal matters
- Assistance in criminal and fine proceedings

PROHIBITIONS AND RESTRICTIONS

- Analysis and improvement of organisation and processes
- Application for required approvals, authorisations etc.
- Assistance in issues of day-to-day business
- Support in the classification of goods and their submission to specified prohibitions and restrictions
- Development of an internal control and risk management system
- Conduct of appeal or court proceedings
- Preparation for and assistance in customs/foreign trade audits
- Reports/opinions on sophisticated legal matters
- Assistance in criminal and fine proceedings

INTERNATIONAL COMMERCE

Incoterms®
Transport Law
German Supply Chain Due Diligence Law
(Lieferkettensorgfaltspflichtengesetz (LkSG))

- Analysis and improvement of organisation and processes
- Assistance in issues of day-to-day business
- Assistance in choosing the correct Incoterms[®] and contractual terms
- Development of internal control and risk management systems
- Preparation for and assistance in audits by official authorities
- Contract design
- Reports/opinions on sophisticated legal matters
- Assistance in fine proceedings

OUR

CONSULTING AREAS







- Analysis and improvement of organisation and processes
- Assistance in issues of day-to-day business
- Development of internal control and risk management systems
- Conduct of objection, refund or court proceedings
- Preparation for and assistance in special value-added tax audits
- Reports/opinions on sophisticated legal matters
- Assistance in criminal and fine proceedings
- Value-added tax in special fields:
 - E-commerce and online trade
 - Transborder transactions in EU or with non-EU reference
 - Interface between VAT and customs law
 - Verification management
 - Registration within national boundaries and abroad



EXCISE

- Analysis and improvement of organisation and processes
- Application for permissions or tax relief
- Assistance in issues of day-to-day business
- Determination of taxable objects and entry in master databases
- Development of internal control and risk management systems
- Representation in objection, refund or court proceedings
- Preparation for and assistance in excise audits
- Reports/opinions on sophisticated legal matters
- Assistance in criminal and fine proceedings

OUR **SERVICES**







On the Agenda

- Recap of legislation and Impact on Amazon
- Amazon profile & OSS approach
- UOSS/IOSS first experiences 3 Months On
- Next Steps
- Q&A (25 mins)



EU Ecommerce VAT Reforms

What has changed and key impacts for Amazon?

Extension of the OSS single VAT return for x-border intra-EU distance sales of goods

Removal of 22€ **import VAT** relief Introduction of optional Import **OSS** scheme

Online
Marketplaces
become 3P VAT
collectors in
certain cases



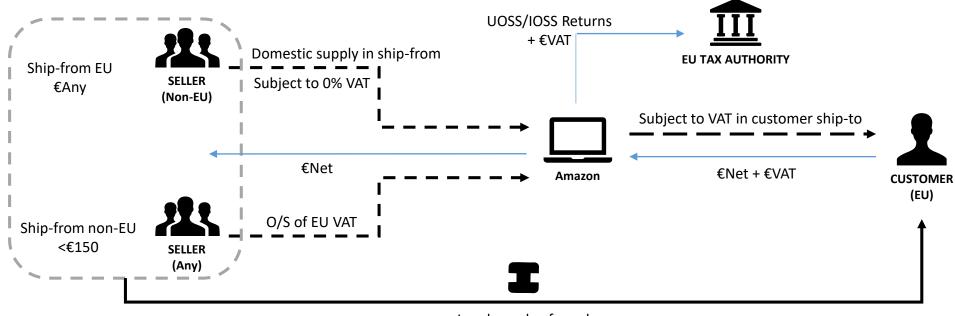
EU Ecommerce VAT Reforms Amazon UOSS & IOSS approach

- For imported low value shipments (<150 EUR), Amazon has elected to opt into the application of IOSS scheme across both its Retail activities and in its role as an electronic interface (EI) acting as deemed reseller (DR)
- For 3P intra-EU and domestic e-commerce shipments, Amazon has also opted into the UOSS scheme in its role as EI acting as DR (Amazon as Marketplace)
- For our intra-EU Retail activities (Amazon as Seller of Record), we are currently leveraging our existing VAT registration across EU27 and have not opted for the UOSS scheme



Marketplace VAT Deemed Reseller mechanism How does it work in practice?

- Amazon is deemed to be the supplier of goods sold to EU consumers where:
 - The goods are supplied from within the EU by non-EU established selling partners; or
 - The goods are imported distance sales with a consignment value ≤€150.
- This is facilitated through the creation of a deemed supply to and by Amazon:



Legal supply of goods



UOSS and IOSS experiences 3 Months On

- Various initial teething problems but generally smooth transition from a VAT clearance perspective at point of sale (UOSS + IOSS).
- However mixed IOSS customs performance at import clearance leading to double taxation issues
 - Mixed bag of root causes: Carrier readiness in particular postal channel, Customs authorities readiness across declaration types varies, P&R and Excise products inconsistencies, ...
 - Consequences: <u>Delivery delays</u>, packages sometimes blocked at customs and structural double taxation issues
- Complaints on additional customs presentation for IOSS packages (particularly in postal channel)



UOSS and IOSS experiences 3 Months On

- Misalignment between VAT IOSS scope and new customs competent office rules leading to non-IOSS eligible shipments < 150 EUR (B2B, Excisable products ...) requiring direct clearance in final delivery country leading to capability issues with import logistics partners and brokers
- Early signals and anecdotal evidence suggesting IOSS misuse and abuse
 - Impact: new level playing field concerns for compliant marketplaces and online merchants and resulting in missing VAT for Governments
- Low and slow adoption of UOSS by EU Selling Partners
 - Root causes: Benefits not well understood + limited simplification benefits due to multi-country inventory storage before point of sale not being covered by current single VAT ID concept and extended UOSS scheme



Next steps: 'Quick Fix' incremental improvement needs

- IOSS VAT recovery mechanism needed to mitigate double taxation issues, particularly in a Deemed Reseller context
- Improve 'Green lane' status for IOSS flagged parcels to avoid blockages at external borders and delivery delays
- Resolve misalignment between VAT IOSS scope and new customs competent office rules to re-enable centralized clearance for non-IOSS eligible low value shipments
- More transparency needed in additional customs presentation fees charged by in particular designated postal operators on IOSS shipments (+ cost capping to proven cost)
- Security of IOSS VAT ID and end-to-end integrity of IOSS needs to be strengthened



Longer-term VAT reforms On The Horizon

EC VAT in the Digital Age initiative > Fiscalis Seminar 27-29 Oct 2021

- Extension of Single VAT ID concept: Union-OSS should be further extended to cover multi-country inventory storage
 - Particularly important for the many small and medium-sized independent businesses selling omni-channel and storing in multiple countries to grow their sales in the EU consumer market
 - Want to know more? Check out <u>Simplify VAT (simplify-vat.eu)</u>
- Mandating IOSS to address new level playing field concerns between EU and non-EU players and to help mitigate new VAT gap drivers
- Possible extension of IOSS program to consignments > 150 EUR but needing careful consideration on interaction with EU customs law to avoid unwanted knock-on effects, especially in an omnichannel context!

EC proposals expected in Q3/2022!





What is it about?

- Definition(s) and scope for VAT
- The short view: The VAT directive and EU applications
- The new French rules as of 2022
- The long view



- Article 214-1: « Member States shall take the measures necessary to ensure that [the taxable persons carrying out VATable transactions] are identified by means of an individual number. »
- Article 204:
 - « Where [...] the person liable for payment of VAT is a taxable person who is not established in the MS in which the VAT is due, MS may allow that person to appoint a tax representative as the person liable for payment of the VAT. »
 - When the person is established in a country without a mutual assistance agreement, « MS may take measures to provide that the person liable for payment of VAT is to be a tax representative appointed by the non-established person ».
- Article 205:
 - MS may provide that a person other than the person liable for payment of VAT is to be held jointly and severally liable for payment of VAT.



- All MS accept the « voluntary » appointment of a fiscal representative by EU suppliers, except:
 - France, Germany (except one specific case) and Luxembourg



- Non EU suppliers <u>must</u> appoint a fiscal representative in all MS, except in:
 - Germany, Luxembourg (but bank guarantee may be required), Latvia, Netherlands (except distance sellers), Slovakia (except application of regime 4200 for import followed by exempt IC supply).

- Non EU suppliers are exempted if they are established in a country with which a mutual assistance agreement has been signed, in all MS except:
 - Austria, Bulgaria, Estonia, Greece, Lithuania
 - Denmark exempts business based in Norway, Iceland, Isle of Man, Faroe Islands and the UK
 - Poland exempts businesses based in Norway and UK
 - Sweden exempts businesses based in Norway, Iceland, Aland Islands, Faroe Islands and Greenland
 - Croatia, Hungary, Slovenia and Slovakia exempts telecommunication, broadcasting and electronic services to nontaxable persons in the EU
 - Croatia and Slovenia exempt passenger transport companies.



Focus on Belgium (1)

Types of registration:

- Direct VAT registration (only for EU businesses)
- BE VAT registration with appointed tax representative (optional for EU businesses, mandatory for non-EU businesses) called: individual tax representative
- Use of global VAT numbers using simplified tax representation (BE 0796.5 or 0796.6) called: global tax representative

Liability

- Takes the place of the principal for rights *and* obligations
- Several liability with principal for VAT payment, interests and fines

Guarantees

- 10% of the annual VAT due as the VAT balance payable from the VAT return (change in 2021)
- The taxable person payer provides a bank guarantee in favour of the Belgian State. The tax representative will then provide a personal guarantee for the same amount so that the tax authorities cannot hold him accountable for a claim that is higher than the bank guarantee.



Focus on Belgium (2)

- Focus on the simplified tax representation:
 - Transactions carried out in Belgium are within the scope of global VAT numbers
 - The taxpayer does not have an individual VAT number (with or without tax representative) and is not obliged to obtain one
- Scope of BE 0796.5:
 - Import of goods with a view to subsequent supply of the same goods (no change to the goods, not put into a fiscal warehouse)
- Scope of BE 0796.6
 - Placing of goods in a VAT warehouse scheme after import, IC acquisition, local purchase in Belgium, domestic consignment of goods
 - Removal of goods from a VAT warehouse (for any reason)



Focus on Italy (1)

- Italian Tax Representative
 - Must fulfill the relevant Italian VAT obligations (invoicing, registrations, returns, VAT payments...) and exercise the related rights (deduction of VAT, application of VAT Refund)
 - Details of tax representative have to be stated on the invoices (sales and purchases)
 - Jointly liable with the represented company towards the Italian administration
 - Appointed before the first transaction is performed



Focus on Italy (2)

- Focus on the "Light" fiscal representation in Italy (fiscal representation with limited liability)
 - For performing active or passive transactions which are VAT exempted or not subjected to VAT:
 - Intracommunity acquisitions (zero rated) or Import of goods placed in a VAT warehouse followed by a supply in warehouse
 - Import followed by an intracommunity transfer or IC supply (regime 42.00)
 - Removal of goods from a VAT warehouse to be sold abroad (IC supply or exportation)
 - The Italian VAT warehouse manager
 - can be the «light» fiscal representative
 - The responsibility of the «light» fiscal representative is only limited to the issue of the invoices (without VAT) and the fulfilment of the EC listings/intrastat declarations
 - Open to EU and non-EU operators



Focus on Spain

- Compulsory fiscal representation for non-EU companies (for VAT returns and 13th directive)
- Voluntary representation for EU companies but no responsibility beyond the managing of the tax compliance and correspondence with tax authorities
- Fiscal representative can act on behalf of the importer for regime 4200 / Must provide its VAT number and be declared as consignee and file the recapitulative statement.



Focus on The Netherlands (1)

- 4 types of fiscal representatives
 - VAT Fiscal representation with a limited license (LFR)
 - VAT Fiscal representation with a general license (GFR)
 - VAT Fiscal representation "intermediary" for e-commerce transactions by non-EU traders (July 1, 2021 rules)
 - Fiscal representation for excise duties (distance sellers into the Netherlands)
- Fiscal reps must have a licence/accreditation
- The fiscal representative is responsible (and jointly liable) for the VAT (or excise) obligations of the foreign entity
- A foreign company can have multiple LFR's in the Netherlands. A foreign company can have (only) one GFR (next to several LFR's).
- For LFR, GFR and fiscal representation for excises a deposit has to be placed with the authorities.



Focus on The Netherlands (2)

• LFR:

- The LFR uses its own import VAT deferment code number and own VAT ID no. for the VAT filings in relation to the transaction of his client(s). All transactions of all clients are included into one VAT return/ EC Sales list of the fiscal representative. The foreign entity does not have to register for VAT in the Netherlands.
- Limitation: the LFR can only report imports and subsequent supplies. If the foreign entrepreneur performs other transactions (IC acquisitions in Holland and subsequent supplies), registration for VAT purposes will be required. LFR procedure can be combined with a direct VAT registration
- Unlimited liability

GFR

- the foreign entrepreneur will be granted its own VAT number and its own import VAT deferment license. The GFR can report all transactions relevant for Dutch VAT and is not limited to imports and their subsequent supplies.
- limited, per year equal to the deposit set with the authorities.



Focus on Germany

- Fiskal Vertreter
 - Not compulsory even for non-EU companies without mutual assistance agreement
 - Not even possible
 - Except one exceptional voluntary case: When an EU foreign company carried out only tax-exempt transactions and cannot deduct any input VAT. Even in this case it is not liable to pay the VAT.
- Different philosophy: Is this better or worse than the other MS?



Focus on France (1)

Main rules maintained

- Fiscal representative acts on behalf and in the name of the foreign company but is deemed to be itself the taxpayer (no change)
- Unlimited liability (no change)

Why new rules in 2022?

- E-commerce triggers more fiscal representations
- Fight against fraud
- Ensure tax and economic morality, sufficient technical means, financial strength
- Overall: Better organize the fiscal representation, clean-up



Focus on France (1)

- Tax morality: must not have committed serious and repeated offenses
 - What does 'repeated' mean?
 - What does 'serious' mean?
 - What is the scope of the 'moral' obligation?
- Human and technical means
 - For Professional fiscal representatives
 - For business in-sourcing the fiscal representation
- Financial strength
 - Financial guarantee of 25% of amount linked to the obligations of the tax rep
 - Provided by a financial institution to the tax rep (not to the tax authorities)
 - If amount not calculable, to be determined at a level given by the tax authorities
 - Additional open issues



The long view

- Fiscal representation was poised to disappear ...
 it will be everywhere
 - E-commerce intermediaries
 - Excise duties
 - Green and energy taxes
 - IPT and life insurance
 - Direct taxes
- Will take importance if the concept of permanent establishment weakens



The long view

- A supply chain concept according to Wikipedia (in French only): "La représentation fiscale d'une organisation dans un pays donné (A) permet à cette organisation de passer commande depuis un autre pays (B) auprès d'un fournisseur situé dans un troisième pays (C) et de faire livrer et dédouaner le matériel objet de la commande directement dans le pays (A) dans lequel est installée la représentation fiscale. En l'absence de représentation fiscale, les biens doivent être reçus et dédouanés dans le pays de l'organisation passant commande. »
- This is the mighty, almost magic, power of a VAT/GST number







OECD UPDATE

IVA AUTUMN 2021 CONFERENCE





✓ Reminder: the OECD's work in the area of VAT

✓ Focus on the sharing and gig economy: the OECD's 2021 Report

✓ Focus on capacity building: the regional VAT Digital Toolkits

✓ Looking ahead: what comes next?



The OECD's work on VAT policy and administration

International standard-setting and capacity building

- Global Forum on VAT
- World Bank Group
- Regional Networks
 - Development banks: ADB, IDB
 - Tax administrations: ATAF, CIAT, PITAA, SGATAR

• Guidance on policy des

 Guidance on policy design and administration targeted at digital
 trade

International VAT/GST Guidelines

Partnerships Inclusive
Internation

International Standards

Inclusive. Consensus-based. Focus on digital economy and international trade

- Project design & management
- Technical assistance on specific aspects
- Primarily on e-commerce...
- ... and on broader VAT policy as requested

Country level capacity building

Guidance, data, multilateral training

- E-learning
- Technical workshops
- Regional VAT Digital Toolkits
- Consumption Tax Trends





Consensus based standards and practical implementation guidance





₩)OECD

International VAT/GST Guidelines Council Recommendation C(2016)120

www.oecd.org/tax/consumption/internation al-vat-gst-guidelines.pdf







The Role of Digital Platforms in the Collection of VAT/GST on Online Sales

https://www.oecd-ilibrary.org/taxation/the-roleof-digital-platforms-in-the-collection-of-vat-gston-online-sales_e0e2dd2d-en



Mechanisms for the Effective Collection of VAT/GST

http://www.oecd.org/tax/taxpolicy/mechanisms-for-the-effectivecollection-of-VAT-GST.pdf



⊗» OECD

The Impact of the Growth of the Sharing and Gig Economy on VAT/GST Policy and Administration

https://www.oecd.org/tax/consumption/the-impact-of-the-growth-of-the-sharing-and-gig-economy-on-vat-gst-policy-and-administration-51825505-en.htm



New report on VAT policy and administration aspects



The Impact of the Growth of the Sharing and Gig Economy on VAT/GST Policy and Administration





- Released in April 2021
- Sharing of labour (e.g. "ride sharing") and/or assets (e.g. accommodation) facilitated by digital platforms
- Sharing/gig economy growth creates challenges for VAT policy and administration
 - Base erosion
 - Competitive distortion
 - New taxpayer population Often with limited turnover and often facing compliance challenges
- But also **opportunities**, incl. formalizing parts of the economy
- **Objectives** of the report:
 - Support tax authorities' monitoring and analysis of the sharing/gig economy
 - Identify and analyse potential policy options. Key focus on digital platforms
 - Assist tax authorities in seeking trade off between neutrality, revenue, efficiency of administration and compliance



Recommended process for policy decision making

Acquire a good understanding of the size and growth of the sharing/gig economy

- To support evidence-based decision making proactive and/or reactive
- Build a framework / methodology for monitoring / data collection

Assess the need (if any) for policy action (the "WHY"?)

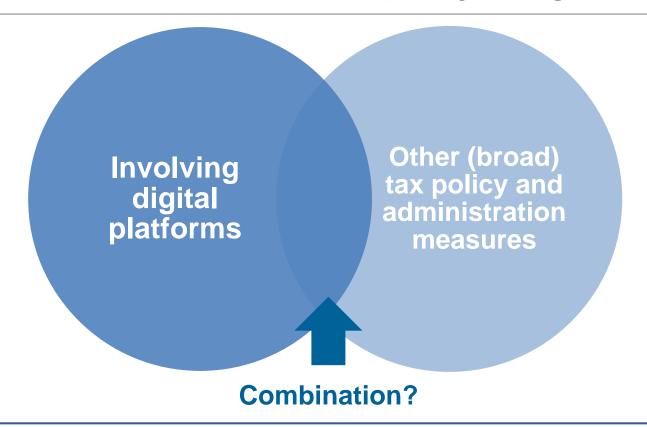
- Policy motivations may vary: not necessarily aim to make (all) sharing/gig economy activities subject to VAT/GST
- A clear understanding of the policy objective is critical for determining the appropriate policy responses (type and design)

Design and implement the appropriate policy response (the "HOW"?)

- A range of policy options. No one-size-fits-all solution, but platforms are likely to play a role
- No obvious need to diverge from normal VAT/GST rules Test application of normal rules and address any policy / administration issues / gap.
- Mindful of national specifics and (possible) need for a trade-offs (neutrality, revenue, efficiency)



VAT policy design: the "how" question



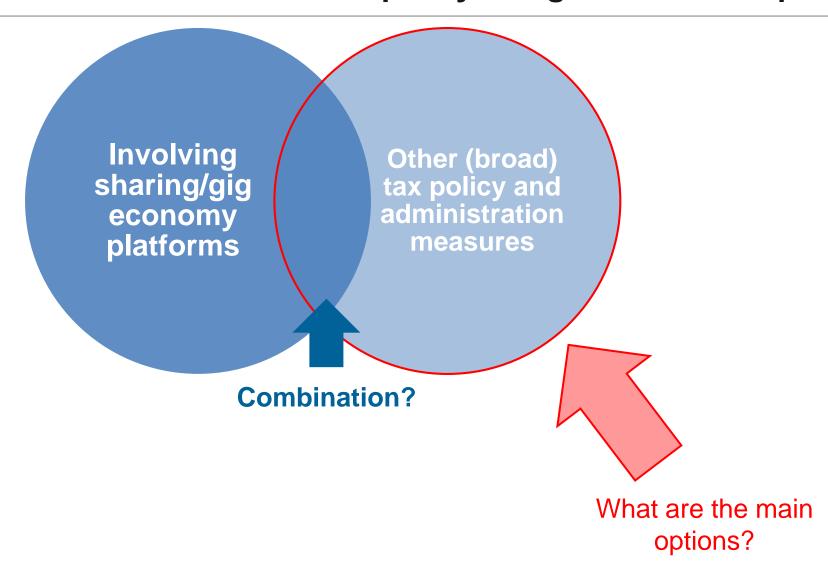
No one-size-fits-all solution

A hybrid/incremental approach could be a possible answer

In light of specific sector/business model + policy objective + national circumstances



VAT policy design: the "how" question







Policy and administration options : overview

In principle, no good justification to treat sharing/gig economy differently from traditional economy. But need to consider measures to facilitate compliance/administration

Thresholds

Presumptive tax schemes

Third-party collection and/or reporting obligations

Registration, accounting and reporting facilitation

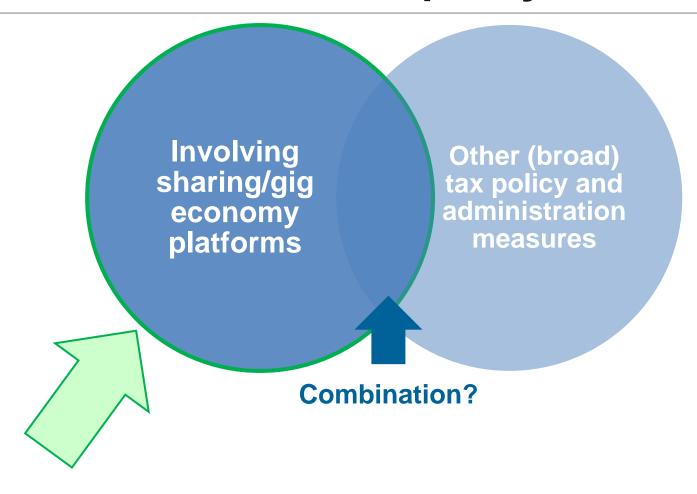
IT solutions

Educational tools



The 2021 OECD Sharing/Gig Economy Report

VAT policy: the "how" question



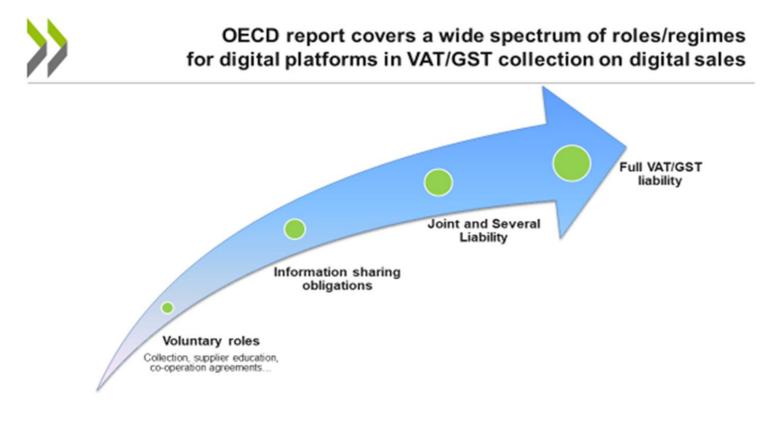
Which role(s) of sharing/gig economy platforms?



The 2021 OECD Sharing/Gig Economy Report

A wide spectrum of possible roles for sharing/gig economy platforms







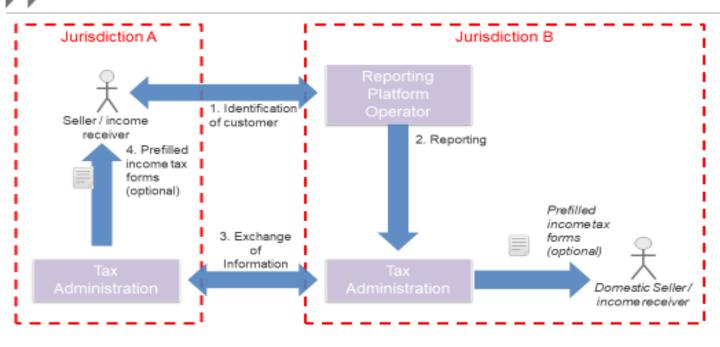
The 2021 OECD Sharing/Gig Economy Report

Leverage the Model Reporting Rules for Platform Operators (cf. DAC 7)





The reporting and exchange framework



Relevance for VAT purposes? Mainly in typical sharing/gig economy context, which often involves purely "domestic" supplies



VAT Digital Toolkits Project



Released April 2021

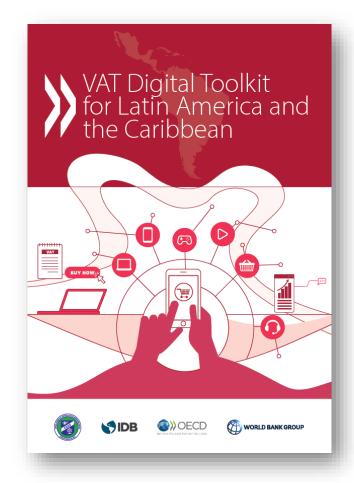
VAT Digital Toolkit for LAC

Highlights and main content

Detailed manual covering all aspects of a successful VAT strategy targeted at e-commerce

Based on OECD guidance and international "best practices"

The toolkit is available at http://oe.cd/vat-digital-toolkit-lac











VAT Digital Toolkit builds on the four core pillars of the OECD policy framework for the application of VAT to digital trade

 Create an effective legal basis for the right to levy VAT on inbound international online sales (substantive jurisdiction)

Introduce a "place of taxation" rule for online sales of services and digital products by non-resident sellers and platforms by reference to the usual residence of the customer

- Implement an efficient and effective collection mechanism
 Require non-resident online suppliers to register and account for the VAT on "remote" online sales through a simplified registration and collection mechanism ideally through an online portal
- Leverage the power of digital platforms to enhance VAT collection
 Require digital platform operators, which dominate global digital trade, to collect and remit the VAT on sales carried out through their platform(s)
- Facilitate compliance and strengthen enforcement through modern, data-driven risk management and administrative cooperation

Implement a modern risk-based compliance strategy and robust administrative cooperation



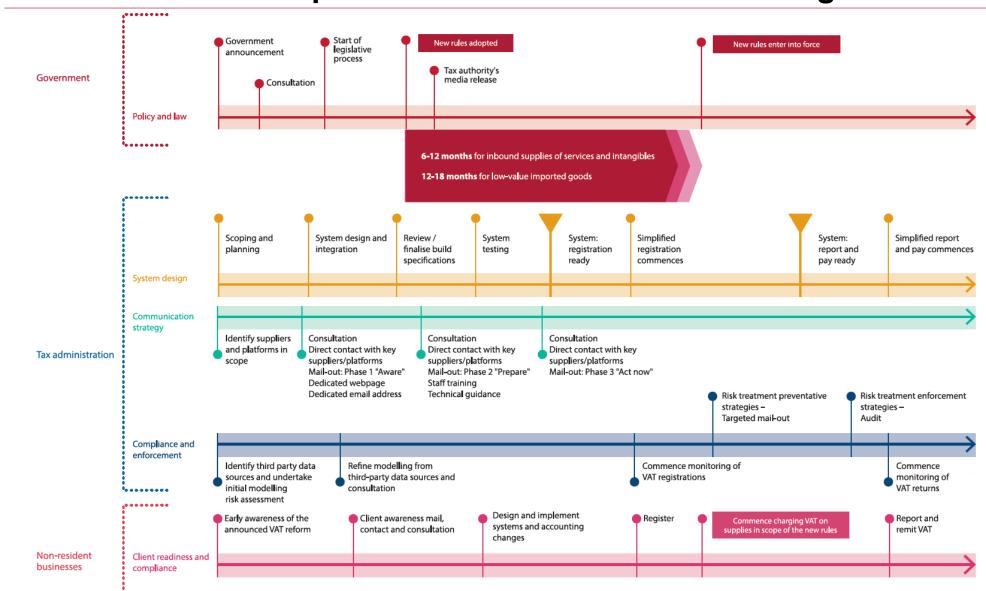






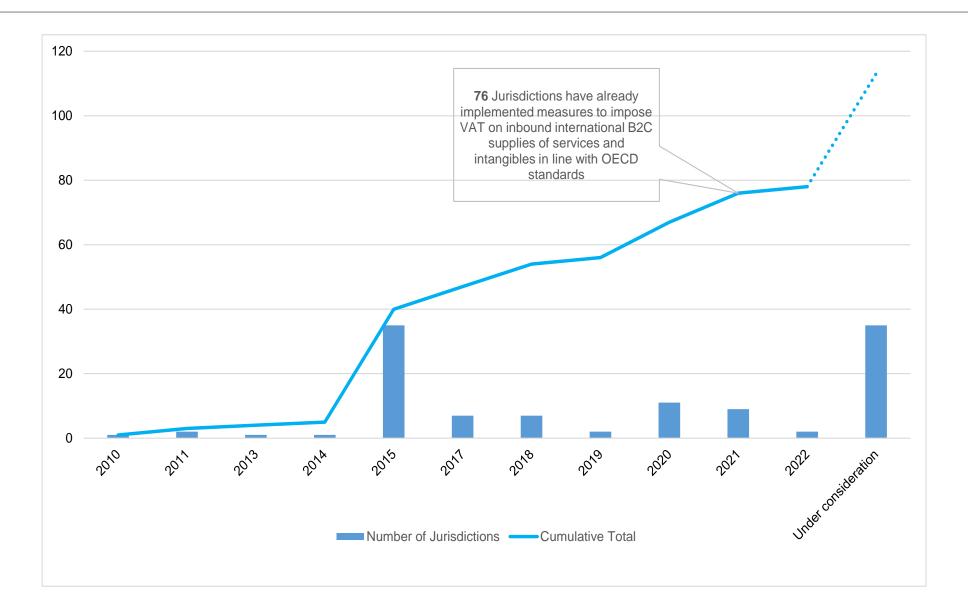
VAT Digital Toolkit for LAC

Indicative implementation timeline for "VAT Digital" reform





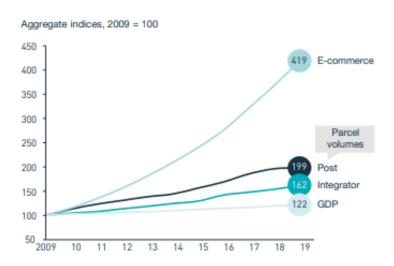
Growing number of jurisdictions that have implemented the OECD policy framework for online trade in services and digital products ...





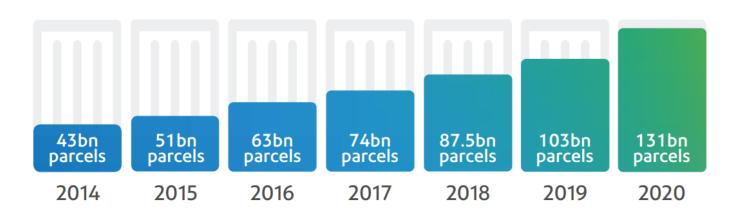
As volume of parcels from online sales keeps growing... reforms are increasingly focusing on low-value imported goods (too)

■ 14. HISTORICAL VOLUME



Source IPC Report 2020

E-commerce is fuelling the demand for delivery: the volume of parcels delivered has more than quadrupled since 2009, rising much faster than economic growth





Source: Pitney Bowes Shipping Index 2021

Cross border represents 20% of global eCommerce (IPC Report)



Extending the regime for services to international supplies of low-value imported goods

Services and Intangibles

VAT collection from non-resident supplier (vendor collection)

Simplified registration and collection regime

Full liability regime for digital platforms

Low-value imported goods

Reassigning the responsibility for VAT collection on imports of low-value goods to non-resident suppliers (vendor collection)

Extension of simplified registration and collection regime

Extension of full liability regime for digital platforms



What comes next?

- Capacity building Consistency in implementation
 - VAT Digital Toolkits for Asia Pacific and for Africa
 - Bilateral and multilateral technical assistance

- Global framework to facilitate the exchange of information on VAT
 - Link with Model Reporting Rules for Platform Operators

- ✓ Use of technology to enhance and facilitate compliance and administration
 - Link with Tax Administration 3.0 project



Contact details



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Aurifer Middle East tax

VAT Refunds in the GCC

Aurifer Middle East tax

VAT Refunds in the GCC





Agenda

- 1. Status of VAT Implementation in the GCC
- 2. Legal Framework
- 3. Importance of GCC VAT refunds
- 4. Common scenarios
- 5. Country-specific Requirements
- 6. Main Takeaways

Status of VAT Implementation in the GCC

Poll question

HAS VAT BEEN IMPLEMENTED IN ALL GCC STATES?

1. Yes

2. Some GCC States have implemented, but not all

3. No

4. Not sure



"Not sure..."

GCC VAT REFUNDS

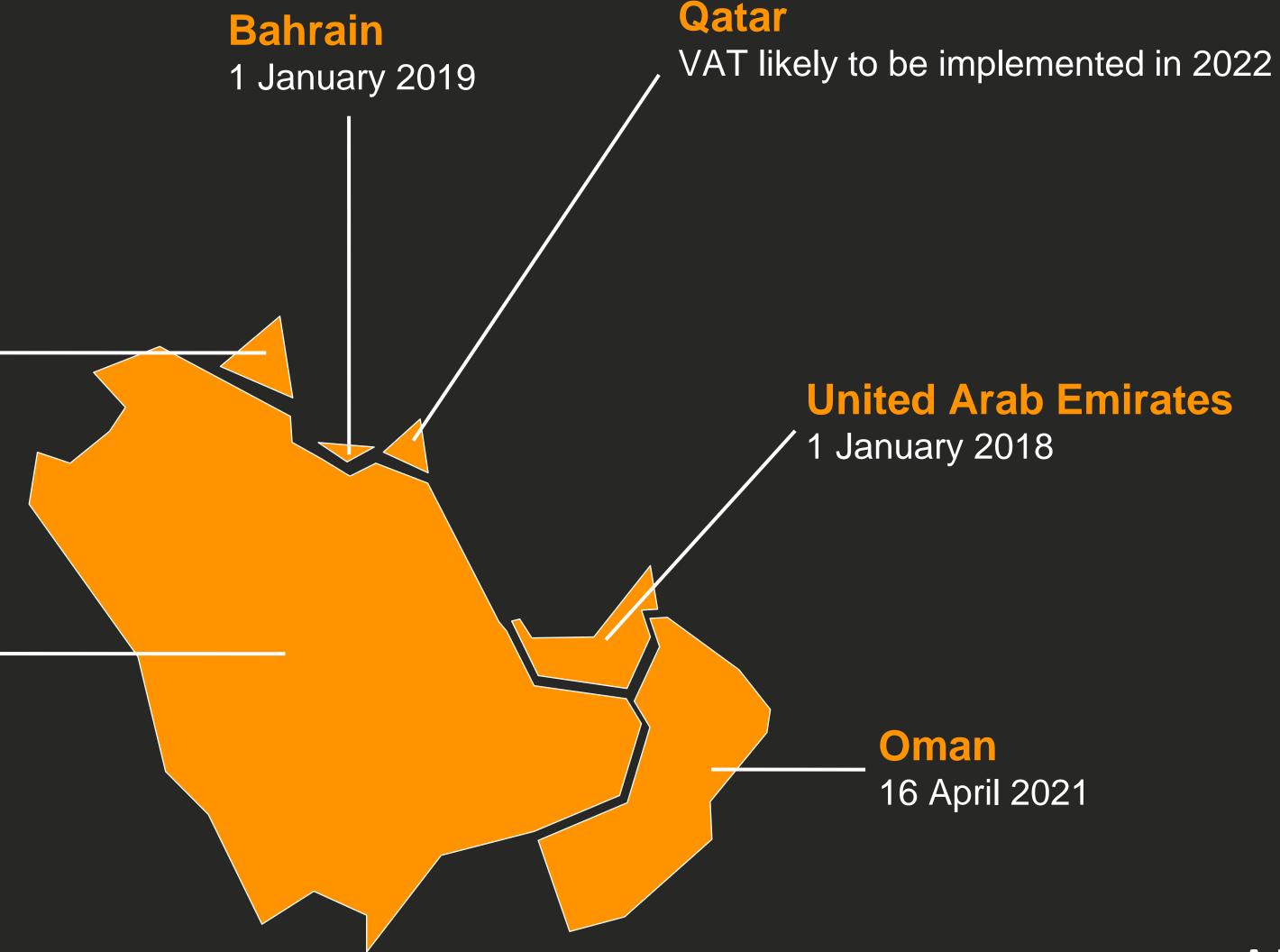
Status of VAT Implementation in the GCC

Kuwait

VAT implementation subject to ongoing political discussions

Kingdom of Saudi Arabia

1 January 2018



GCC VAT REFUNDS

AURIFER

GCC VAT AGREEMENT

- Common VAT Agreement of the States of the Gulf Cooperation Council
 - Sets out a legal framework for the implementation of VAT in the GCC
 - Allows for policy decisions in terms of application of VAT exemptions/zero rate
 - Heavily inspired by EU VAT system

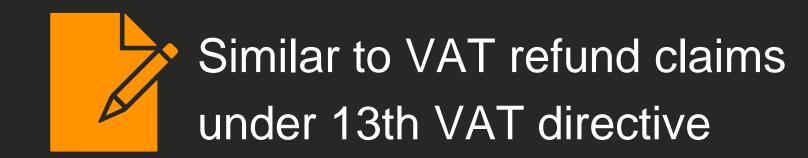
INTERPRETATION

Difference between member states in terms of interpretation of legal value:

Hahrain - ΠΔΗ - ()man	GCC VAT agreement fully implemented in national legislation (≈ EU directive)
I Kinddom of Saudi Arabia	National legislation supplements GCC VAT agreement (≈ EU regulations)

GCC VAT REFUNDS

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ELIGIBILITY FOR REFUND

Article 67 of the GCC Agreement - Tax Refunds for Non-Residents in the GCC Territory

- Must be a non-resident => excluding residents of other GCC member states
- No liability to register for VAT purposes in the GCC Member State in which VAT is incurred
- Country of residence has implemented a VAT system (or a similar tax) and nonresident is VAT registered

GCC VAT REFUNDS

AURIFER

Importance of GCC VAT refunds

Importance of GCC VAT refunds

RELEVANCE

- The GCC has historically been a regional business hub which attracts foreign investment.
 - Non-residents are likely to incur local VAT when conducting business activities in the GCC

- ► GCC VAT rules (more) likely to lead to local VAT being due (as opposed to similar situations under EU VAT rules)
 - Place of supply rules <> Conditions to apply zero rate

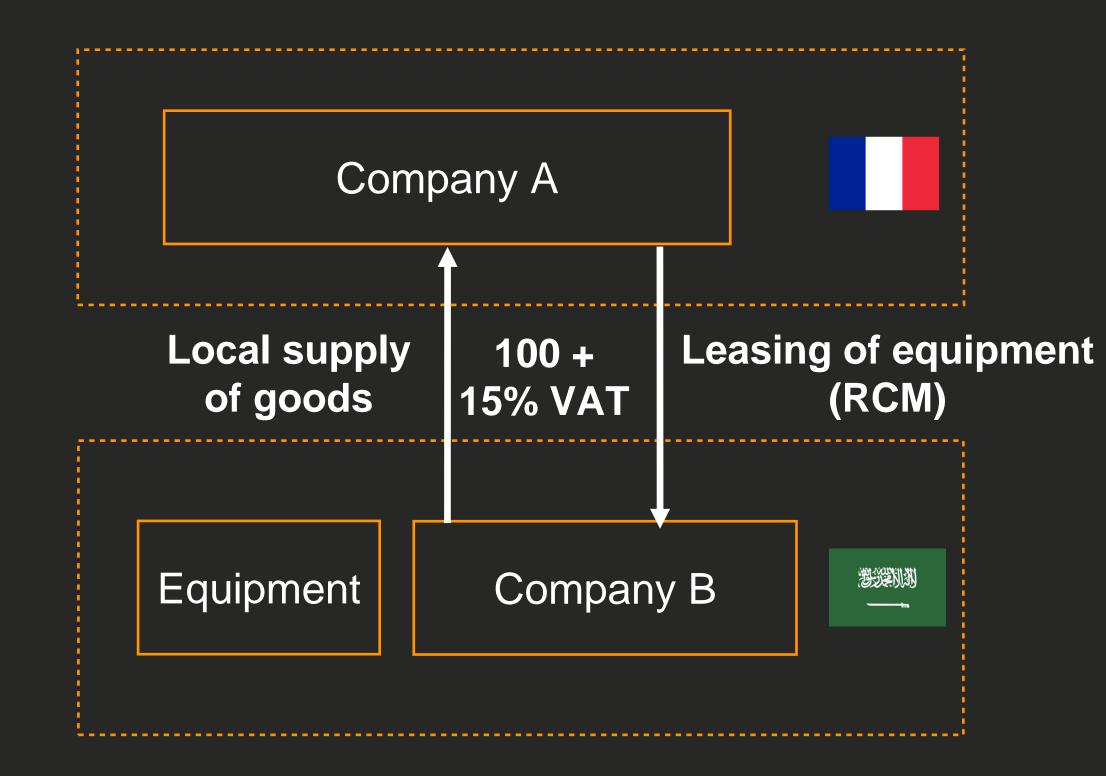
Importance of GCC VAT refunds

RELEVANCE

- Increase in VAT rate in KSA (5% => 15%) and Bahrain (5% => 10%)
 - Businesses will now incur higher amounts of local VAT
- Some GCC member states have not implemented a VAT refund mechanism or are not processing refunds
 - VAT constitutes a final cost until relevant procedures are put in place

LOCAL SUPPLY OF GOODS TO NON-RESIDENT

- A French company (Company A) purchases equipment from a KSA company (Company B) and leases equipment back to Company B.
- Equipment located in the KSA at the time of the sale => sale subject to local KSA VAT (15%)
- Rent of equipment is subject to RCM => Company A not obliged to register for VAT in KSA
- Company A can apply for a VAT refund



Poll question

DO YOU THINK LOCAL VAT IS APPLICABLE WHEN A UAE COMPANY RENDERS SERVICES TO A NON-RESIDENT BUSINESS?

1. No - never

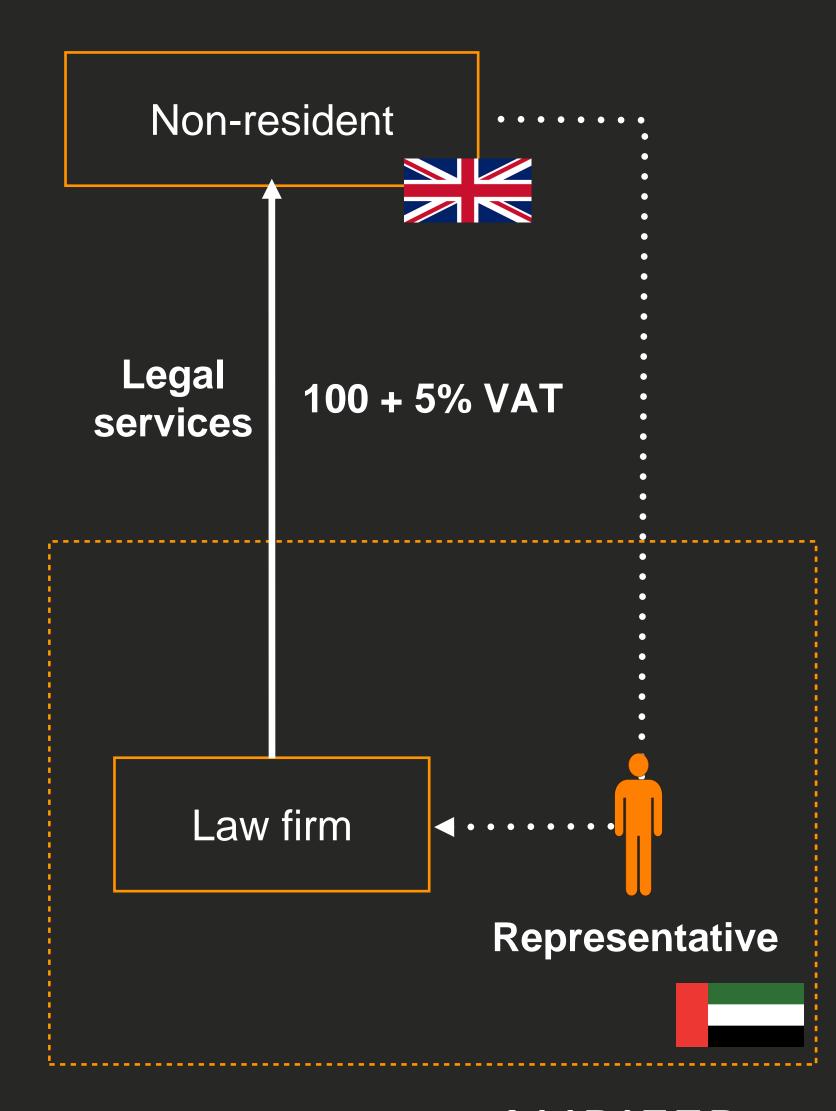
2. Yes - always

"The answer may be shocking..."

3. It depends, local VAT may be applicable depending on the circumstances.

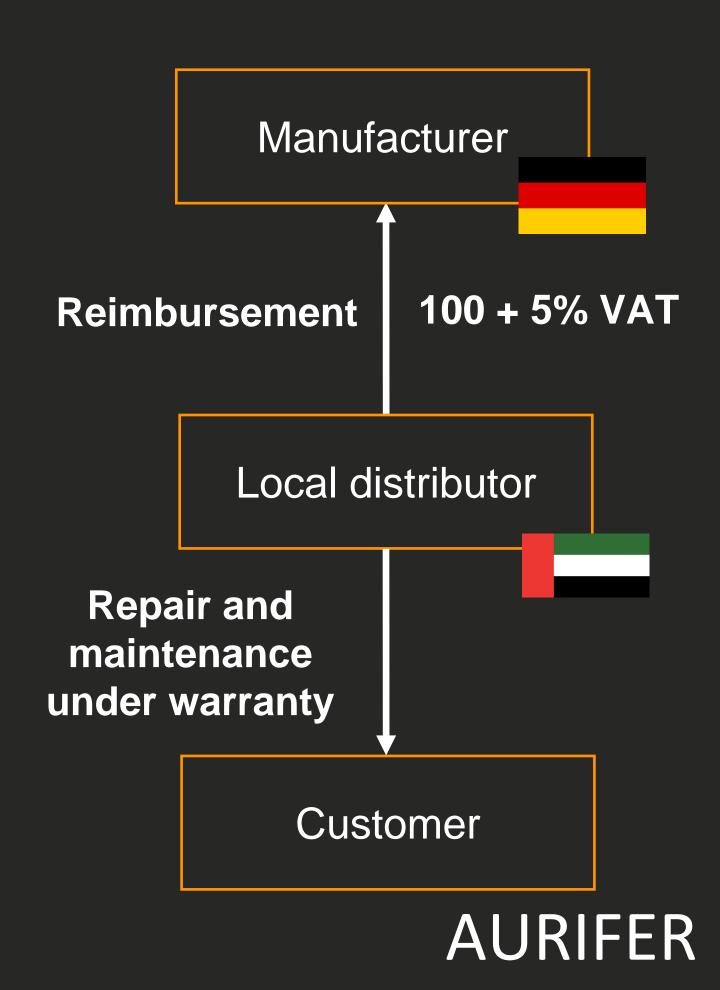
EXPORT OF SERVICES - UAE

- Services supplied to a non-resident recipient
- Place of supply = UAE
- Supply can be zero rated provided certain conditions are met
- Recipient has a "temporary presence" in the UAE
 - Short term (< 1 month) <u>AND</u> connected to the supply
 - Long term (≥ 1 month) (even if not connected to the supply)
- Service subject to VAT (5%)



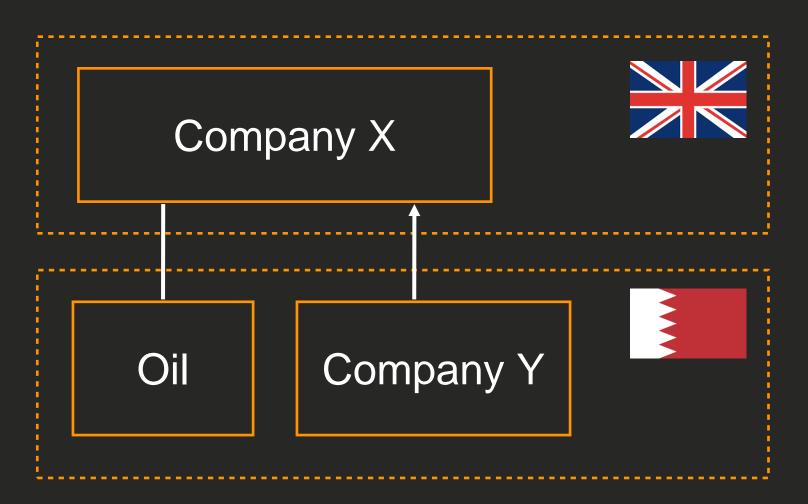
SERVICES RELATED TO MOVABLE ASSETS

- German car manufacturer operates in the UAE through a local Distributor
- The manufacturer sells cars to Distributor
- Distributor imports cars and sells cars to local customers whilst also providing (warranty) repair and maintenance services.
- Distributor seeks reimbursement from manufacturer for services => subject to local UAE VAT (5%)
- German manufacturer can apply for a VAT refund



SERVICES RELATED TO MOVABLE ASSETS

- A UK trading company (Company X) purchases oil locally in Bahrain.
- Company X engages a Bahraini local company (Company Y) to conduct cargo inspection and oil testing before shipping.
- Inspection and testing services are related to tangible assets in Bahrain => do not qualify for 0%.
- Company Y charges Company X for its services => subject to local Bahraini VAT (5%)
- Company X can apply for a VAT business refund in Bahrain.



UNITED ARAB EMIRATES

Material conditions

- No place of establishment / fixed establishment in UAE
- Not a taxable person (in the UAE)
- Registered as an establishment in the jurisdiction where it is established
- Country of residence provides refunds of VAT to UAE entities in similar circumstances (List of countries with reciprocal agreements)

Formal conditions

- Submission of online application through FTA portal from 1 March to 31 August
- Sending original hard copies of supporting documents and invoices to the FTA within one month (30 September)
- Period of each refund claim = 12 months
- Minimum amount of each claim = AED 2,000
- FTA will process the request within 4 months of submission and issue a refund within 10 business days of approval

GCC VAT REFUNDS AURIFER

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UNITED ARAB EMIRATES

- 1. Austria
- 2. Bahrain
- 3. Belgium
- 4. Denmark
- 5. Finland
- 6. France
- 7. Germany
- 8. Iceland
- 9. Isle of Man
- 10. Korea
- 11. Kuwait
- 12. Lebanon in certain circumstances
- 13. Luxembourg
- 14. Namibia only for business goods that are exported

- 15. Netherlands
- 16. New Zealand
- 17. Norway
- 18. Oman
- 19. Qatar
- 20. Saudi Arabia
- 21. South Africa only for expenses relating to goods exported from a designated UAE port within 90 days and does not apply to services.
- 22. Sweden
- 23. Switzerland
- 24. UK
- 25. Zimbabwe

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UNITED ARAB EMIRATES

- Formalistic approach
 - Supporting documents:
 - Originals
 - Attestation
 - Hard copy
 - Copies of all invoices (can also be submitted electronically)
 - Manual entry of all invoices in online portal (no batch upload possible)

UNITED ARAB EMIRATES

- FTA has started reviewing refunds for calendar year 2018 and 2019.
 - Requests for additional information or documents
- Refund procedure seems to be up and running, but it remains unclear whether refunds have been fully processed

KINGDOM OF SAUDI ARABIA



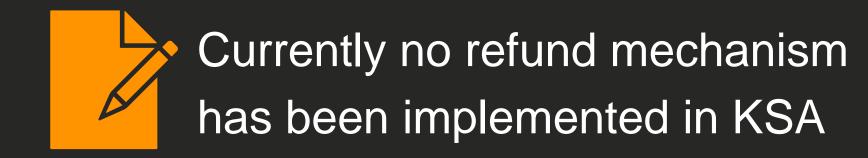
Currently there is no procedure or mechanism in place to submit a VAT refund claim to ZATCA



Submission of manual refund applications (holding claims) to ZATCA to preserve the right and entitlement to the VAT refund



Due to lack of formal procedure, refund requests are currently not being processed. Unclear whether ZATCA will process refund applications retroactively once the formal procedure has been implemented.



KINGDOM OF SAUDI ARABIA

Material conditions

- Carry on economic activities outside KSA
- Established in a country with a transaction tax system similar to KSA VAT
- Registered for that tax in the country where it is established
- That country allows similar mechanism to provide VAT refunds to KSA residents (reciprocity)

Formal conditions

- Submission of an application to ZATCA
- Period of each refund claim = 12 months
- Minimum amount of each claim = SAR 1,000
- VAT Refund submission deadline = 6 months from the end of the calendar year when the VAT was due.
- Processing time: payment will be made within 60 days from the approval date.
- Submission of supporting documents and relevant tax invoices

KINGDOM OF BAHRAIN

Material conditions

- No taxable supplies in Bahrain
- Registered for VAT or other similar tax in the country of residence
- VAT incurred by non-resident for the purposes of his business activity
- The country of residence has a process to refund VAT to persons registered for VAT in Bahrain (reciprocity)

Formal conditions

- Submission of a form + supporting documents to the NBR (registration@nbr.gov.bh) within 3 months from the end of the year during with VAT was due (by March 31)
- Period of each refund claim = 12 months
- Minimum amount of each claim = BHD 200
- Refund application has not been already submitted for the same calendar year
- NBR will process the request within 3 months from the date of submission of the application

OMAN

Material conditions

- Not registered for VAT (or required to register) in Oman or in any of the implementing GCC States
- Does not have place of residence in Oman
- Registered for VAT in the country of residence
- VAT incurred in Oman is for the purposes of economic activity, and VAT is deductible in Oman
- Condition of reciprocity must be met in the country of residence

Formal conditions

- Submission of a form + supporting documents to the OTA within 6 months from the end of the following periods, for invoices with dates within these periods:
 - ► 1 January 30 June in each tax year
 - ► 1 July 31 December in each tax year
- Minimum amount of each claim = OMR 100
- OTA will process the request within 60 days from the date of receipt of the application
- OTA will process the payment within 30 days of notification

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Main Takeaways

Main Takeaways

CONCLUSION



Consider eligibility of your clients and whether they should submit a refund application



Timely preparation required to meet strict formal requirements



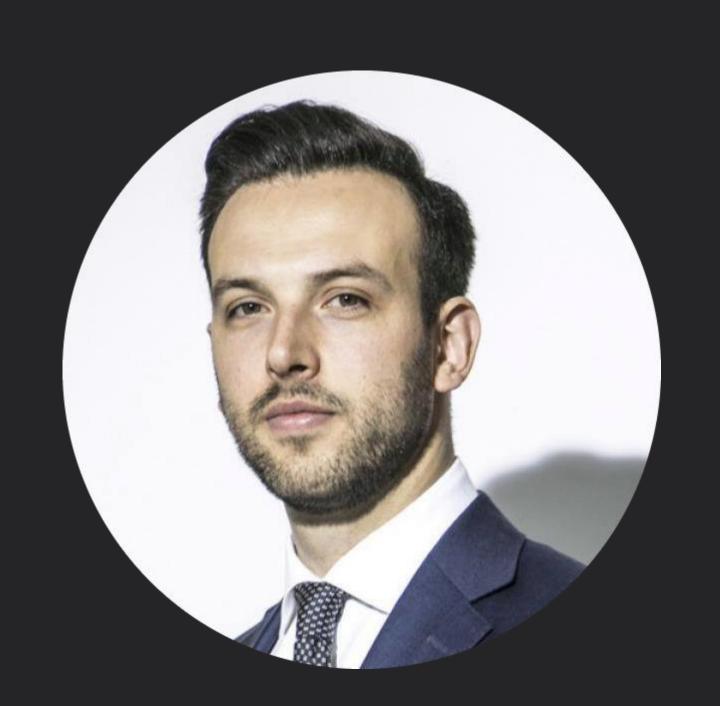
No principle of neutrality in GCC VAT system



Reciprocity - Potential role for foreign governments, businesses & VAT advisors

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Questions?



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UPDATE ON JAPANESE CONSUMPTION TAX("JCT")

22nd Oct 2021 in Brussels OPTI Inc.

SPEAKERS



- OPTI Inc.
- Headquartered in Tokyo
- History of c.11 years
- More than 400 clients
- We support;
 European VAT Refund & Compliances
 Japanese VAT Refund & Compliances



Akatsuki (Aki) Fuchigami Co-founder



Takuma Yamazaki Co-founder

AGENDA





1. BRIEF



2. UPDATE



3. BUSINESS OPPORTUNITY

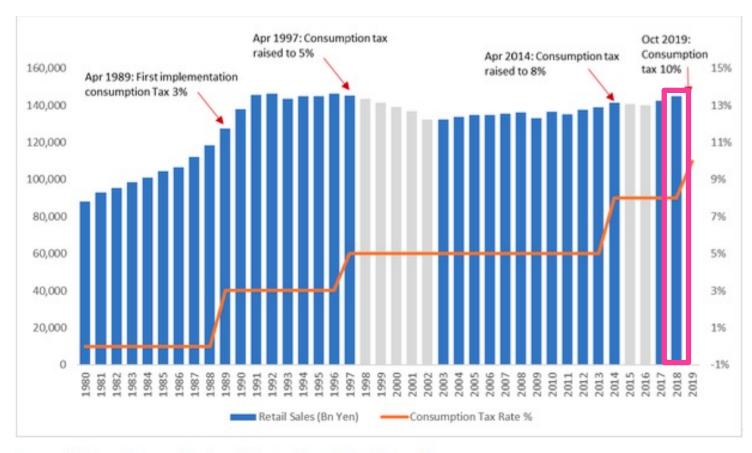


1. BRIEF

JCT RATE



- Introduced in 1989 as 3%
- Then 5% in 1997, 8% in 2014
- 10% from 1st Oct 2019



Source: Ministry of Economy Trade and Industry, Moodie Davitt Report

8% or 10%



- 1. Standard rate: 10%
- 2. Reduced rate: 8%
 - ✓ Food
 - ✓ Non-alcoholic beverages
 - Take-out/Take-away food
 - ✓ Food delivery
 - X Eat-out/Dining-out (e.g. restaurant)
 - X Alcoholic beverages
- 3. No tax: 0% (e.g. wheelchairs, nursing-care goods)

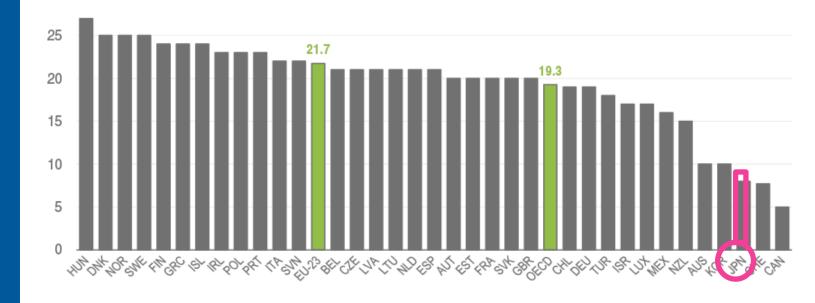
But 10% STILL LOW



Compared to EU countries,
 10% looks still low

In 2018, standard VAT rates ranged from 27% in Hungary to less than 10% in Japan, Switzerland and Canada

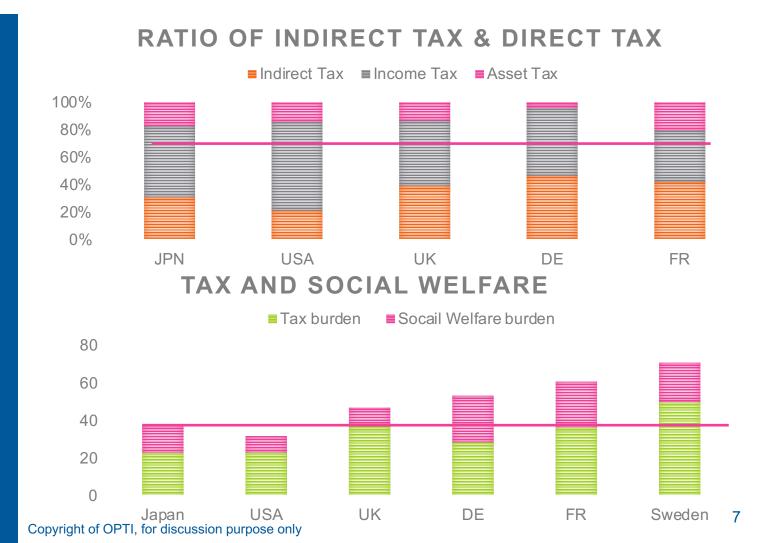
Standard VAT rates (%), 2018



ROOM to INCREASE?

OPTÍTAX × IT = PERFORMANCE

- Historically, direct tax rather than indirect tax
- As getting elder, more social costs needed
- Given above, JCT rate may be hiked again?

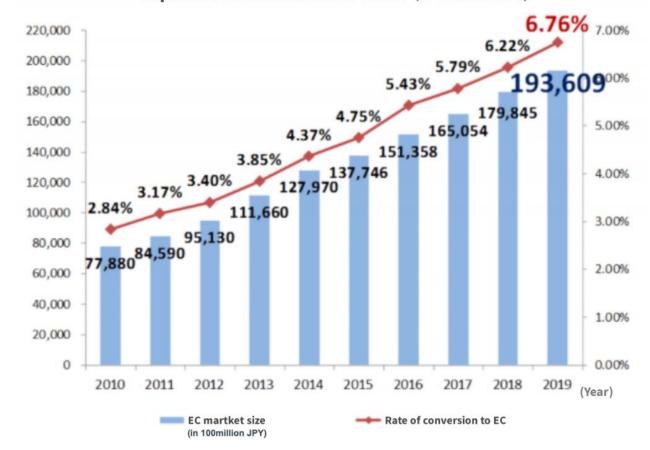


MORE TAXABLE ACTIVITIES

- Still low in EC space
- Amazon's world #4 by sales
- More room to grow









2. UPDATE

REGISTRATION REQUIREMENT



1. 10M yen p.a.

Sales in Japan

2. In one accounting year

10 M yen p.a. in one accounting year

3. Year after next

Once hit 10M yen in year X, obligation starts from year X+2



^{*}HQs: Foreign company's HQs who has tax activities in Japan

JCT FILING



1. Tax Agent

Non-resident must appoint Tax Agent in Japan

2. Frequency

Once in a year

3. Deadline

Two months from fiscal year ends



VOLUNTARY REGISTRATION



1. Suitable for claim import JCT

- In one accounting year
- 2. Prepare for new invoice system
 - See next page
- 3. Better for customs
 - Otherwise bad impression



^{*}HQs: Foreign company's HQs who has tax activities in Japan

INVOICE METHOD



1. Introduced in 2023

2. Invoice without eligible number NOT qualified as input-JCT

3. Registration required



JCT REFUND



- 1. Registration and filing required
 - 6th Directive only, no 13th Directive
- 2. Accounting year basis
 - Refundable for 1 year
- 3. Most expenses are refundable
 - Any items if business purpose







Food, Restaurant

Hotel





Travel B to B



CHANCE FOR JCT REFUND

All expenses can be refundable



3. BUSINESS OPPORTUNIY

BUSINESS OPPORTUNITY #1



1. Target company

Doing (to do) e-commerce in Japan

2. Why?

- Easy to reach 10M yen
- Advantage for voluntary registration

3. Registration

Better to start earlier



BUSINESS OPPORTUNITY #2



1. Target company

Travelling to 2020 Tokyo Olympic Games held in 2021

2. Why?

- Non-resident can get refund
- All business expenses applied

3. Registration

Must completed by Dec 2021*

*terms and conditions apply



OPTI, the ONLY ANSWER



1. Support your client

Easy registration and returns

2. Support your operation

Knowledgeable staffs in English

3. Understanding of VAT

Only IVA member from Japan







We support;

European VAT Refund & Compliances; and Japanese VAT Refund & Compliances

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VAT IN THE EUROPEAN UNION

WHY VAT IN EUROPE?

- > years 60 : 2 main options: Sales tax and VAT
 - > Sales tax:
 - > tax collection: last consumption stage
 - **Risks: poor available control intruments**
 - > VAT:
 - > tax collection: different stages on added value
 - > Risks are spread out : fragmented payment mechanism
 - Control instument : self-monitoring mechanism (right of deduction: proof, forms..;)
 - Budgetary advantage for public authorities: tax collected sooner



VAT IN THE EUROPEAN UNION

- **EU** objectives :
 - Development of EU trade
 - To ensure neutrality and to avoid distorsions of competition in EU intra-community trade
 - ✓ Both tax systems can fulfill these objectives
 - ✓ VAT choosen for 'domestic reasons' (strong french input) and political reason (EU VAT 'FEDERAL' SYSTEM AS A DREAM)
 - 2d directive: the Community VAT system must have the same economic effects as a single tax collected at the end of the economic circuit!!!!!



Internal Market

- Definition: EU Internal Market should work as a domestic market (EU VAT territory!) = full harmonization = federal tax system (considered as an embryo of a future federal Union)
- Definitive Regime (origin based principle) as a the final objective is theoretically consistent with the broad objective!
- Place of taxation and place of tax collection = identical
- Objective pursued for half a century!
- But conditions for implementation: never existed



Internal Market

- Long journey: several unsuccessful attempts.
- > Several strategic decisions:
 - abandon of the origin-based system objective
 - the development of the One Stop Shop concept: the place of taxation remains unchanged (B2B) but the tax collection place is disconnected
 - one single place for tax declaration, reporting and payment: the maximum we hope for!!!!



Is the existing EU VAT system still relevant nowadays?

The facts:

- Controls instruments?
 - Digital! (invoicing, reporting)
 - Payment tracing
- Reverse charge, split payment: denaturation of the EU VAT
- Present system complicated =patchwork
- > 70% of EU trade = intra-group trade!



POSSIBLE REFORM?

- > The way choosen by the EU Commission:
 - > **To keep** the present system and to adapt it to technological developments
 - ✓ But its competence (compliance) in this field is quite limited!
 - √ Tax collection remains a national competence
 - ✓ Experience shows the difficulty to make important progress in this field
- ➤ The reasons for having choosen the VAT system are no more relevant!
- Need for a global reflection



VAT OR NOT VAT? This is the question for the future!!

Thank you!





Vega International Car Transport and Logistic - Trading 6mbH C-235/18

Is the Court being too 'legalistic' and ignoring 'economic reality'?

Jean-Claude BOUCHARD – past president



Vega Transport - background

The parent company located in Austria engages in the transport of vehicles from the factory directly to the customer, that service being provided via several subsidiaries whose registered offices are in different Member states.

Vega international organises and manages the supply of fuel cards to its subsidiaries.

The vehicles transported in one country are refuelled, using personal cards issued to drivers.

All the transactions carried out by means of fuel cards are centralised by the parent company in Austria, which receives invoices from the fuel suppliers establishing... the purchase of fuel with the VAT and, on a regular basis, the fuel is invoiced to the different subsidiaries in accordance with the quantities bought plus a surcharge of 2%.

A claim is lodged by the parent company in order to obtain the refund of the VAT suffered in the country where the transport actually took place (in the present instance, Poland)



Question referred to the CJEU

« Does the concept referred to in article 135 -1 b of directive 2006/112 is to be interpreted as meaning that,... the provision of fuel cards by a parent company to its subsidiaries, enabling the subsidiaries to refuel the vehicles they transport, may be classified:

- as a service granting credit which is exempt from VAT as referred to in that provision,
- or as a complex transaction, the main objective which is the supply of fuel and thus a supply of goods as defined in article 14-1 of that directive in respect of which it is possible to recover the VAT paid in Poland? »

No AG's Opinion

It is to be noted that the judgement has been delivered without any conclusions of an advocate general.

It implies that the Court has considered that the case was in itself obvious because of either its simplicity or because the Court has already judged the matter.

In the present case, indeed there was a precedent on the same subject ie the :AUTO-LEASE HOLLAND BV case C-185/01 as of February 6, 2003.



AUTO-LEASE case

It is a similar situation where a leasing company leases a car to a lessee and offers a fuel service by which the client buys the fuel at filling stations, the invoice being sent to the leasing company which in its turn includes it in the leasing contract and charges regularly the client with the rent and the fuel bought plus a surcharge; the leasing company paying the VAT in its country of establishment on the total invoiced to the client (ie.on the rent plus the fuel).

In that particular case, the leasing company was established in Holland and the fuel was bought in Germany.

Was the Dutch company entitled to the eight directive refund of the VAT suffered on the purchase of the fuel in Germany?



AUTO-LEASE case — question referred

« Where a lessee fills up a leased car in the name and at the expense of the lessor at filling stations,

is there a supply of fuel by the lessor to the lessee and must tax be paid on the supply at the place of supply, within the meaning of article 8 1-b of the 6th directive,

or

is the onward supply included in the lessor's supply of a service that is taxable other article 9 of the directive? »



Relevant legislation

« Supply of goods shall mean the transfer of the right to dispose of tangible property as owner »

But, surprisingly in the judgement, the parties involved skip, in the same text, paragraph 2 - c of the disposition which stipulates very clearly the following;

- « 2) in addition to the transaction referred to in paragraph 1, each of the following shall be regarded as a supply of goods;
- c) the transfer of goods pursuant to a contract under which commission is payable on purchase or sale. »
- All the reasoning of the court will only bear on the first paragraph of article 5 (or 14) of the directive.
- Very straightforwardly, the court declares in paragraph 33 of the ruling :
- « in order to answer the question referred, it is necessary to determine to whom, whether the lessor or lessee, the oil companies transferred the right to dispose of the fuel as owner »



The Court's reasoning

From that point onwards the reasoning of the court goes astray, - completely off the rails and opens open doors leading to nowhere!



The Court's reasoning

It is clear for the court that there is no transfer of the right to dispose of the fuel as an owner from the stations to the lessor.

« It is common ground that the lessee is empowered to dispose of the fuel as if he were the owner of that property (§34)... Auto Lease does not at any time have the right to decide in what way the fuel must be used or to what end. »

35) « the arguments to the effect that the fuel is supplied to Auto Lease, since the lessee purchases the fuel in the name and at the expense of that company, which advances the cost of that property, cannot be accepted.....

Accordingly, the fuel management agreement is not a contract for the supply of fuel, but rather a contract to finance its purchase.

Auto Lease does not purchase the fuel in order subsequently to resell it to the lessee; the lessee purchases the fuel, having a free choice as to its quality and quantity, as well as the time of purchase.

Auto Lease acts, in fact, as a supplier of credit vis-a-vis the lessee. »



The Commissionaire approach

The commissionaire acts in his own name, on behalf of someone who has given him the instructions to buy or to sell on his behalf.

The commissionaire never acquires the ownership of the goods for which he intervenes.

Acting vis-a-vis the seller (or the buyer whichever the case) he is responsible for the payment due, thus having to make the necessary arrangements with the client, he is acting on behalf of, in order to be able to pay on time.

He may advance the payment: that is inherent to his obligations.

When making advance payments that does not turn him into someone indulged in professional banking; the commissionaire remains within the bounds of his profession: acting in his own name on behalf of someone giving him orders to buy or sell on his behalf, following the contractual arrangements made between the two of them:

- -- the client giving the orders
- -- the Commissionaire bound by contract,

Receiving a commission for the execution of his action

This description fits very well with article 5-4-c of the sixth directive (article 14-2-c directive 2006/112) whose application would have lead court the court to a different conclusion.



Conclusion

Having considered that there is no transfer of the right to dispose of the goods as owner between the oil stations and the lessor, it was not necessary to analyse the second question concerning the territorial aspect.

The contractual arrangement was deemed to be financial in nature exempt from VAT!

Coming back to the Vega international Case, following a mechanic movement, the court came to the same conclusion; Vega international is delivering a financial operation, VAT exempt ... under article 135 -1 b of directive 2006/112.

Turning the mistake into a blunder, let us quote §38 of the ruling :

« ...it should be noted that Vega International confines itself to providing its subsidiary by means of fuel cards with a simple instrument enabling it to purchase that fuel, thereby playing no more than an intermediary role in the purchase transaction concerning that product ... »

That is exactly what we are saying.





Update on US State Tax Policy

Assessing the Post- Covid Fiscal & Regulatory Conditions impacting Indirect Taxation

George L. Salis • Autumn 2021 Conference

Speaker: George L. Salis - Chief Tax Office, Vertex, Inc.

- **George L. Salis Principal Economist & Tax Policy Advisor**
- Chief Tax Office, Vertex, Inc.

Economist, lawyer, and tax professional with extensive experience in US & international tax compliance, tax & trade policy, tax planning & controversy, fiscal regulation, & tax economics advisory.

At Vertex, he is responsible for the regulatory & impact analysis of economic, legal, financial, trade, and global fiscal & tax development issues, as well as tracking and analyzing the rapid change in tax policies and regulations, and inter-governmental organizations, and tax administrations around the world.





National & State Economic Conditions impacting Fiscal Policy & Taxation

US National Economic & Regional Update

- According to Fed Reserve, Brookings & IMF, US recovery & growth expectations were downgraded, as it slowed due to the C-19 Delta variant but then expanding through 2022 -2023.
- The Federal Reserve expects the U.S. economy to grow faster by 2022, with *inflation gradually rising* (now at 5.3) mainly due to "supply challenges" caused by C19 crisis: 1) Supply- chain & inbound/ outbound seaport/ ships "bottlenecks," 2) Production shortages, 3) Warehousing & container scarcity, 4) labor supply shrinkage (truck- drivers, longshoremen, packers, seamen, etc.)
- Forecast query watch Is inflation only transitory (temporary 6- 10 months), or sustained (Long-term)?
- Fed Chairman Powell stated on Sept. 27th warned that the causes of the recent rise in inflation may last longer than anticipated. Fed officials forecast that inflation will decline over the next 12 months, to just 2.2% by the end of 2022. Fed still plans to keep interest rates at a range of 0% to 0.25% for an extended period, as the pandemic lessens, the labor market grows, and supply- lines and inflation diminishes, stimulating recovery and accelerated growth.



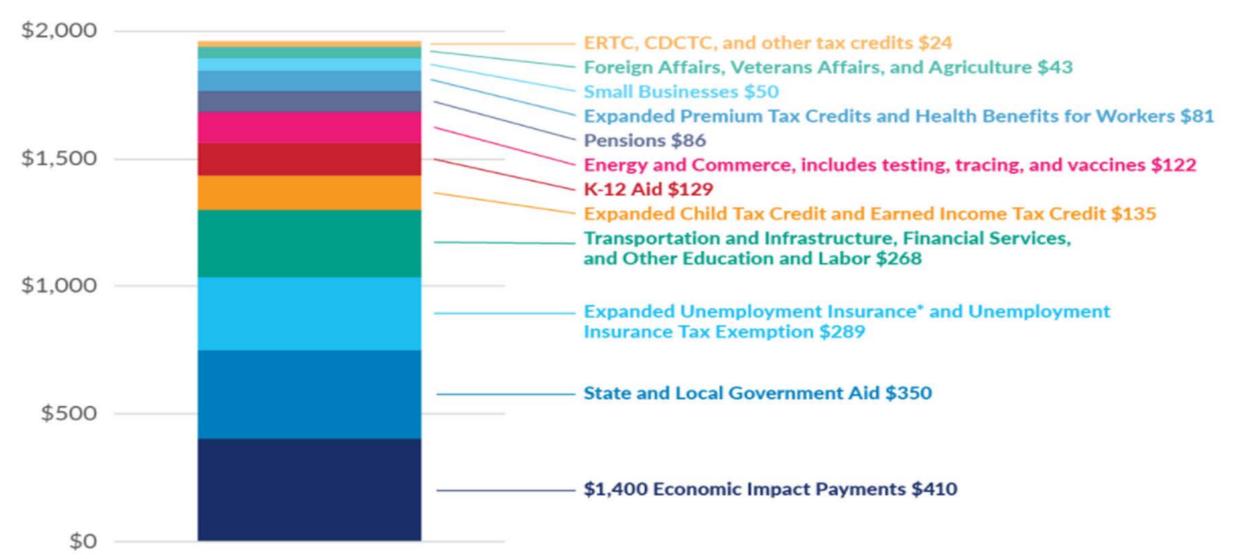
Outlook on States Fiscal Condition for Q3-Q4 – FY 2021

- Robust Tax Revenue Growth in 1st Quarter 2021, but Tax Instability & Fiscal Uncertainties Continue- State and local tax revenue from major revenue sources rose by more than 10% in 1stQ- 2021, from the same period last year, according to reports from the Urban Institute & NCSL.
- Increase of state and local tax revenue from personal income, corporate income, sales and property taxes was resilient in 1st Q- 2021 than the 2.5% average annual year-over-year growth rate for the previous 4 Quarters
- Variation in economic performance across states due to the C-19, produced uneven impacts on state and local government revenues, and economic recovery is imbalanced.
 State government tax revenues from major sources showed year-over-year growth of 12.3% in 1st Q- 2021.
- **ARPA Funds** While many states are "flushed with cash," due to ARPA relief, they are slow in expending it, given the present economic recovery uncertainties and debt- risk and ongoing Delta variant situation, and the possibility of higher inflation and economic decline.



What's in the \$1.9 Trillion American Rescue Plan Act?

Topline summary of relief in Billions of Dollars



Note: *Subject to change pending estimate of Senate version of unemployment insurance expansion. Source: Joint Committee on Taxation and Committee for a Responsible Federal Budget

US Post- Pandemic Global Bottlenecks & GSC Disruptions

- Crisis within A Crisis Adverse Impact of the Global Trade & Supply- Chain Quandary
- The Pandemic's unexpected & sudden decline, created the economic downturn & recession- although at first, it disrupted both Demand & Supply, incrementally became a "Supply" catastrophe –
- Global Scarcity is creating shifts in regional price mechanisms & and scalation in price Inflation in most products and services, across various sectors.
- Forecast Question Whether inflation is only transitory (temporary 6- 10 months), or sustained (Long-term)?
- The Federal Reserve expects the U.S. economy to grow faster by 2022, with *inflation gradually rising (now at 5.3)* mainly due to "supply challenges" caused by C19 crisis:
 - 1) Supply- chain & inbound/ outbound seaport/ ships "bottlenecks,"
 - 2) Production & Manufacturing shortages Labor, parts, tools, and plants closing or downsizing
 - 3) Warehousing & container scarcity, rising cost of "chassis"
 - 4) labor- supply shrinkage (truck- drivers, longshoremen, packers, seamen, etc.)





2021 - State Tax Policy & Emerging Tax Trends

2021 - State Tax Policy & Emerging Tax Trends

- E-commerce retail sales continues to increase exponentially, due first to the
 personal distance economy, and will rise faster in a post-Covid digital economy.
 Accordingly, marketplace facilitators and remote- seller collections have also
 multiplied; however, this remains a fraction of the total tax revenue collection
 necessary for launching and sustaining budget recovery.
- 2. As in past recessions, states will probably enact, or expand gross receipt and consumption taxes to sustain expenditures and boost revenue, while also cautiously widening the sales tax base, to include digital products and services.
- 3. Digital taxation of goods, services, data transfers, streaming & ads, is emerging in various forms, & will be the next timely- "fiscal frontier" for states, as they ensue economic recovery and overhaul budget deficiencies.





9.6% of U.S. GDP or \$2.1 trillion in 2019





6.5% average annual growth from 2005 to 2019



Outpaced overall U.S. economic growth of 1.8%



Emerging State Tax Policy Issues for 2021 & 2022

- Digital Advertising Tax (advertising, data transmission & ancillary services situs analytics)
- Digital Goods & Services Tax (goods delivered via internet, registration fees for virtual education, social media& data, *streaming & up/downloads eBooks & virtual materials), SaaS, Computing & Cloud Services
- ** Streaming and other digital services will eventually collide with cable companies over infrastructure tax payments to municipalities and States
- Expanding Sales Tax on Professional & Personal Services -
- Gross Receipts Tax, Franchise Taxes, & Fees (beverage, food, transportation & warehousing, environmental)
- Evolving Marketplace Facilitator Regulations Revising Thresholds: Dollars v. Quantity?



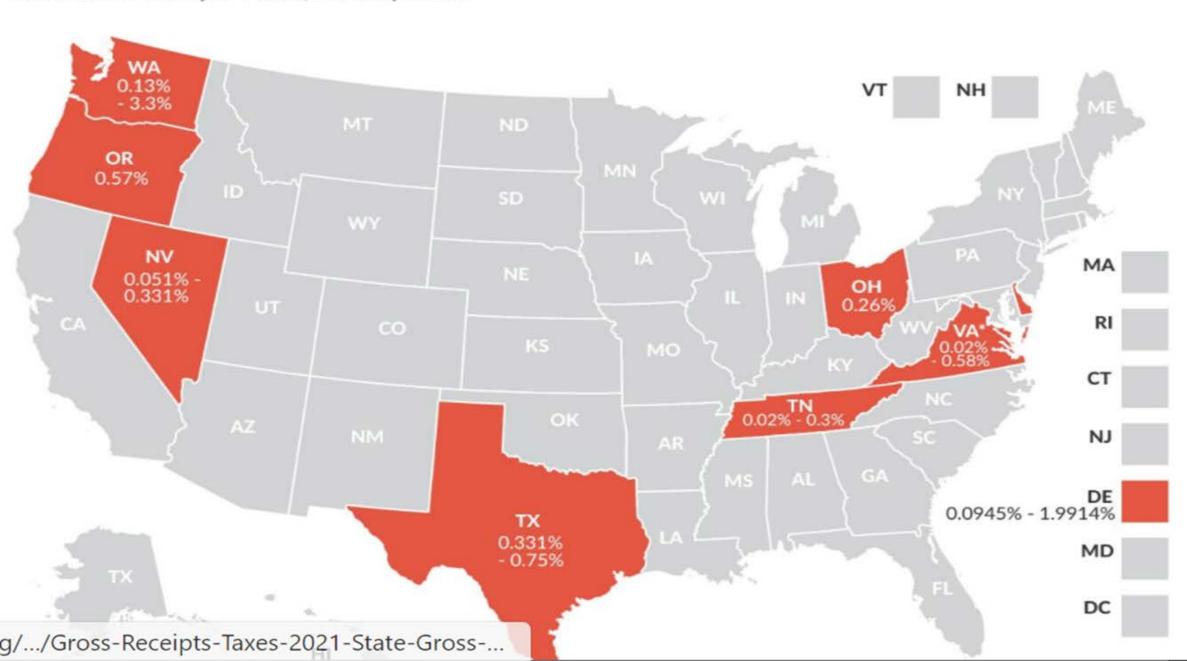
NM's enhanced Marketplace Facilitator Trend Emerging?

- The New Mexico Taxation & Revenue Department is prompting remote-sellers and marketplace facilitators that the state converted to destination-based sourcing and local tax collection duties—a major shift in policy under its gross receipts tax.
- The department has released statements and guidance documents in the last month to orient businesses to new tax collection duties that began on July 1. One feature requires businesses to pay the gross receipts tax based on the rate where goods or services are delivered.
- "The so-called destination sourcing method was mandated by legislation adopted in 2019 and 2020," the department said in a statement. "The 2019 legislation also allowed the state to begin taxing internet-based sales by out-of-state businesses." Additionally, the state directs businesses to pay both the 5.125% statewide tax, plus the local-option gross receipts tax.
- Replacing the traditional sales tax, NM now charges a gross receipts tax on businesses "for the privilege of doing business in the state." It is similar to a sales tax since in that most situations, businesses include the tax to the sales price of goods & services to be passed to the end- consumer.

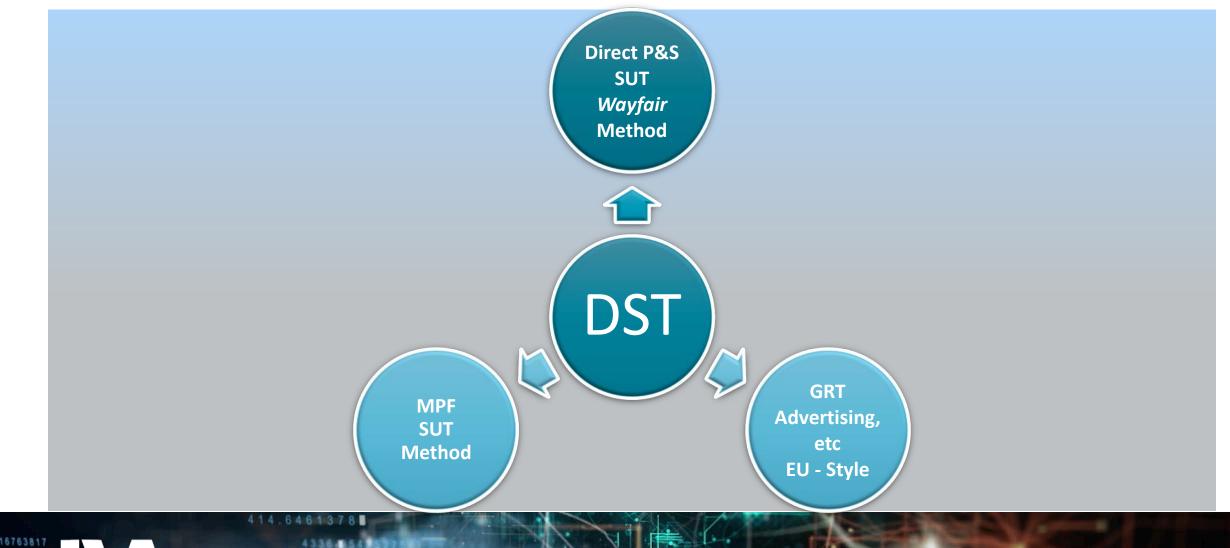


Does Your State Have a Gross Receipts Tax?

State Gross Receipts Taxes, January 2021



Current Proposed Models for US State DST



2021: Emerging U.S. State Digital Tax Trends

- 1. Aside from budget necessity, it is timely and convenient for states to tax the [profitable] digital consumption of goods and services, and related transactions, as this is the fiscal direction of the global economy.
- Presently, only about 30 states add sales tax some form of digital goods and services. This presents a timely fiscal opportunity for states to expand or to legislate new digital transaction taxes, encompassing a wider range of digital goods and services.
- 3. To- date, several states are proposing taxes on the revenue of digital ads, sale of personal data, and/ or on activities of Social Media (SM) companies: (CT, IN, NE, NY, OR, and WA).
- CT SM provider annual gross revenue resulting from advertising services
- IN SM provider annual gross revenue resulting from advertising services
- NE LB 989 has been introduced expanding the state's sales tax to include digital advertising, etc.
- NY/WV Companies annual gross income resulting from advertising services, extending the state's sales & use tax to sales of digital advertising and personal data,
- OR Gross receipts tax on the privilege of engaging in the business of selling taxable personal information at retail in Oregon
- WA Extend the business and occupation (B&O) tax to "every person engaging within this state in the business of making sales of personal data or exchanging personal data for consideration.



Maryland Digital Tax Legislation Update 2021

Proposed and Enacted Digital Tax Regulations

*HB732 - Digital Advertisement Gross Revenue Tax

**SB787 - Expansion of Digital Products Sales Tax



Federal and State Challenges

US Chamber of Commerce, et al. vs. Comptroller Franchot (Federal) Feb '21



Comcast and Verizon, et al. vs. Comptroller Franchot (State) Apr '21

** SB787 – Also delays the state's digital advertising gross revenue tax by one year and retroactively amends the state's digital product sales tax provisions

Potential Legal Challenges to US DSTs – State & Federal

- 1. <u>Impractical & Inadequate Models –</u> States are subject to Constitutional restraints & Limitations Unlike most European countries, which are unitary in political- structure & character, although subject to EU law in matter of VAT and Trade, States are subgovernmental jurisdictions subject to federal commerce restrictions; both legal & economic
- 2. Potential Federal Preemption (PITFA) The Permanent Internet Tax Freedom Act (114 P.L. 125) Passed in 2016 under the Trade Facilitation & Trade Enforcement Act (2015), could potentially be invoked by the federal government to preempt the current state digital taxes
- **3. PITFA** prohibits "new" state & local taxes of *internet access* and multiple other discriminatory taxes on electronic commerce note that it does not prohibit states from imposing sales taxes on transactions on the Internet.



Key Take-aways & SUMMARY

- ✓ US States experienced Robust Tax Revenue Growth in 1st Quarter 2021, but Tax Instability & Fiscal Uncertainties remain, particularly, given the rising inflation, and GSC challenges, and adjusting regional & national economies
- ✓ Increase of state and local tax revenue is expected to continue into 2022 as states raise sales rates or expand the sales tax base, along with other emerging taxes
- ✓ As the economy has become more digital, with e-commerce transactions involving more sales of intangible goods and products such as software and streaming services, state tax systems are trying to keep- up.
- ✓ Consequences of OECD/20 The MTC & COST have stated that the MD state digital services taxes, and those proposed in other states, are "highly questionable" with the adoption of a comprehensive overhaul of the international corporate tax system finalized last week, creating a dilemma for the US states & Congress, as unilateral DST systems will be banished, and it may include those by US states.
- ✓ Several new types of state indirect & excise taxation are emerging, including many hybrids & gross-receipt regimes, as States look to balance their budgets & move from recovery to economic growth & expansion.
- ✓ Remote- sellers' regulations & marketplace providers, must be informed of these jurisdictional changes, and when any or several may apply to their US inbound transactions, to keep compliant & accurate reporting





Thank YOU!

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13th going on 8th

Towards and Beyond digitalization of the VAT Refund Process for non-EU countries in France

Thibauld MANSON – October 22, 2021



Disclaimer



Facts & Figures

The (long) way towards digitalization

- January 1, 2010 : 8th Directive
- July 1, 2017: International Organisations
- July 1, 2021 : 13th Directive
- 2nd Semester 2021 : Diplomatic Missions



Figures-it-out

- 8th Directive :
 - 2019 : ca. 126,000 claims / 1.383 B€
 - 2020 : ca. 117,200 claims / 1.425 B€
- 13th Directive (excl. IO&DM):
 - 2019 : ca. 5,200 claims / 106.3 M€
 - 2020 : ca. 4,300 claims / 85.2 M€



The « opportunities »

- Brexit
 - UK claims 2019 : ca. 4,450 claims / 110 M€
 - UK claims 2020 : ca. 3,350 claims / 92.5 M€
- COVID
 - Development of teleworking
 - Health protection issues
 - Deadline extension in 2020
- E-invoicing



13th Directive Digitalization

• 2020 deadline extension: « the straw that broke the paper's back »

- New legislation was needed to allow dematerliazation
 - October 2020 April 2021 : Preliminary works
 - April 27, 2021: Decree 2021-507 allowing dematerialization
 - May 2021: Exchanges with VAT professionals
 - July 1, 2021: Mandatory dematerialization implemented



High expectations

Fight against VAT Refund fraud

Improving QoS toward non-EU businesses

Strengthening efficiency of the process



What next?

• Directive 86/560/EEC vs. 2008/9/EC – VAT neutrality outside EU

Tax representation under the 13th Directive

VAT identification of non-EU businesses (state of ID / state of refund)



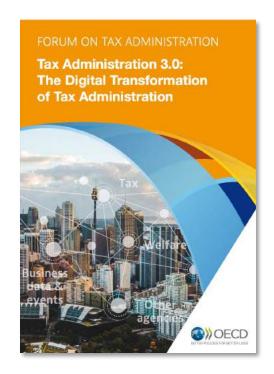




Damien MORAS, VAT4U • Autumn 2021 Conference



The OECD paper discussion



TITLE

"Tax Administration 3.0: The Digital Transformation of Tax Administration"

PUBLICATION DATE

8 December 2020

AUTHORS

Rex Arendsen and Peter Green from the FTA Secretariat

ACCESS

https://www.oecd.org/tax/forum-on-tax-administration/publications-and-products/tax-administration-3-0-the-digital-transformation-of-tax-administration.htm



The evolution of cars as an analogy



Past 1.0 (manual)





Today 2.0 (technology assistance)

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Future 3.0 (technology driven)





Today's situation



Paper driven processes with high level figures

Replaced by electronic systems not always -> e.g. 13th dir. VAT refund ©



Benefits of 2.0



Better verification of reporting through third parties

- Data not only from VAT but from other sources
- Cross-checking of VAT declarations of Seller vs. Buyer



More reliable reporting systems

- E-invoicing and digital documents
- Online cash registers
- VAT rules in accounting softwares



Improved detection of compliance issues

- Smart checks using big data
- Improved risk monitoring software



Better service to tax payers

- e-filing
- Online self-service
- Supporting tools (e.g. chat bot in Spain)



Reaching the limits



Reliance on voluntary compliance



Technology burden



Tax is a downstream activity



Tax as stand-alone activity



Concept of 3.0



Holistic system

to reduce the burden of managing different systems



Real time

Moving taxation closer to taxable events and to significantly



Compliance by design Instead of voluntary compliance





Source: OECD- The Journey to Tax Administration 3.0

Core "blocks" to reach this goal



Digital identity

Digital Identity

Secured unique identification of taxpayers



Source: OECD- The Journey to Tax Administration 3.0

Added core value

Prerequisite to connect to systems and make tax a more seamless process.

Architecture

1 secured identity, no multi-logins, compatibility of different systems, delegations.

Journey from 2.0 to 3.0

Moving from a "multi-login" so "single-login" requires cooperation between governments (also public-private), anticipate technology evolution (e.g. blockchain).

Example

Singapore: National Digital Identity (NDI) Singpass + CorpPass with direct APIs interfaces for direct VAT/GST filing.



Challenge: single-login to all services in one country does not yet mean a single-login for VAT filing in multiple jurisdictions.



Touch Points

Ease the engagement of tax payers with Tax Admin process, including real-time interface and automated support



Source: OECD- The Journey to Tax Administration 3.0

Touch points

Added core value

Resolve friction where it arises (e.g. due to lack of understanding, technical issues, etc.).

Architecture

Real-time support with embedded machine learning capable to tackle changes in requirements; connectivity with other systems (bank, ERP, accounting, other governmental portals).

Journey from 2.0 to 3.0

Tax Auth. portals replaced Tax office counters for both filing and help centres but integration between portals and tax payers systems should increase, including pre-filing of tax returns.

Example

Norway (loans) and Kenya (mobile payments) mentioned in the document.

Italy: launched for over two million quarterly-filing resident taxpayers an optional pre-filled VAT returns service!



Challenge: ideally, digital initiatives should be launched in cooperation with other countries.



Data management

Data management

Standardizing formats, improving data management



Source: OECD- The Journey to Tax Administration 3.0

Added core value

Improve data quality, real-time availability and create trust in order to increase efficiency and reduce costs.

Architecture

Ensure robust security mechanisms, consolidate multi-sources data received from cloud into unified data storage.

Journey from 2.0 to 3.0

Consider the international context and allow tax payers to chose their preferred systems.

Example

Australia: Single Touch payroll (STP)



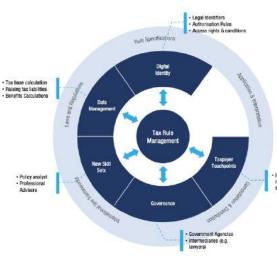
Challenge: the more data is centrally gathered, the higher the security risk will be.



Tax rules management

Tax rules management

Automated rules with automated actions



Source: OECD- The Journey to Tax Administration 3.0

Added core value

Tax administration provides technical rules to be injected in tax payers' systems to facilitate automation.

Architecture

Provide clear specifications of tax rules, framework for the approval of software, use much more APIs.

Journey from 2.0 to 3.0

Implement system-independent tax rules, cooperation with developers, use Artificial Intelligence in case of uncertainty.

Example

Spain: Virtual Assistant for VAT powered by Artificial intelligence.



Challenge: technology is binary (0-1) whereas tax law is currently non-binary and too often subject to interpretation.



New skill sets

New skill sets

Planning of the new skills requirements Added core value Translate a business-model into a system modelling in order to successfully run IT transformation projects. Architecture · Law & Policy experts · Behavioural analysts · Tax technical experts Programmers, architects, designers, data scientists, strategists required. Tax professional role will remain key to provide · Comms experts inputs and assess outputs and play the role of an "orchestrator". Working "agile" helps to adapt quickly to changes. Journey from 2.0 to 3.0 Recruiting should focus on a mix of skills including IT experts being able to "digest" tax topics and vice-versa. Usage of Tax professionals
 Platform & System external resources will be more and more common, and culture of change should be implemented. Example Finland: replacement of its 70 years old legacy system with new COTS software. Source: OECD- The Journey to Tax Administration 3.0



Challenge: shortage in IT human ressouces in many countries can be a limit as well as fast changing technologies.



Governance framework

Governance framework

Guide the development, ensure connectivity between blocks and actors



Source: OECD- The Journey to Tax Administration 3.0

Added core value

Bringing organisations from private and public sector to partner in the management of change.

Architecture

Provide governance structure to enrich cooperation, define priorities, provide reassurance in the system including security.

Journey from 2.0 to 3.0

Define strategies, Lead the transformation, develop strategic toolkits to facilitate cooperation, pilot specific projects that require to be managed internationally (e.g. digital identity)

Example

Russia: Tax Monitoring (cooperative compliance) that runs in parallel of the existing system – Remote access by Tax Auth. to tax payer systems



Challenge: global agreements are always more difficult.



Last thought?

How real is this to happen?

Tax our role in this new environment?

VAT Experts?





Dealing with incidences before the MS of consumption.

A one stop shop procedure?

Manuel Pérez de Algaba. Autumn 2021 conference



What really matters



- ☐ Fighting against tax fraud is a, or better "the", main concern for the EU tax administrations and institutions.
- ☐ This explains:
 - The focus in data and data treatment,
 - As a result:
 - The way in which cooperation among the tax administrations of member states (MS) is regulated, and
 - The priorities of the existing initiatives at legislative and technology levels (i.e. "VAT in the digital Age package", "Fiscalis").
- In this scenario, guarantying legal certainty to taxpayers is not a concern.



Data, data, data

The importance of data

- \Box Data is a key issue for the management of taxes in a technologically driven scenario.
- ☐ Real time obtention of accurate data is the objective and it explains:
 - The exception to data protection rules as far as the use of private data by tax authorities is concerned.
 - The override of the confidentiality between client and adviser principle (DAC6).
 - The inflation of reporting obligations:
 - At member states level (e-invoicing, real time reporting).
 - At EU level (OSS reports, recapitulative, intrastate).
 - Why the scope of formal obligations is extended to third parties not taking part in the taxable event, namely:
 - Electronic interfaces (OSS underlying transactions).
 - Payment services providers (amendment to VAT Directive in force since 2024:new section 2 bis in Chapter 4 of Title XI. "Central Electronic System of Payment" – CESOP).



Cooperation?

- ☐ Council Regulation (EU) No 904/2010 on administrative cooperation and combating fraud in the field of value added tax. Scope (article 1):
 - 1. This Regulation lays down the conditions under which the competent authorities in the Member States responsible for the application of the laws on VAT are to cooperate with each other and with the Commission to ensure compliance with those laws.
 - To that end, it lays down rules and procedures to enable the competent authorities of the Member States to cooperate and to exchange with each other any information ...In particular, it lays down rules and procedures for Member States to collect and exchange such information by electronic means.
 - 2. This Regulation lays down the conditions under which the authorities referred to in paragraph 1 are to assist in the protection of VAT revenue in all the Member States.

- ☐ Aspects covered:
 - Request for information/investigation.
 - Exchange of information without previous request:
 - Automatic.
 - Spontaneous.
 - Storage and exchange of specific information (ICO, e-commerce, VAT numbers, business coordinates, import exemptions, vehicle inmatriculations).
 - Notification request. Optional by the competent tax administration. If so national law for notification of similar acts applies.
 - Mutual agreements for physical presence/participation in tax inspections. Same faculties if allowed by local regulations
 - Mutual agreement for joint tax controls.
 - Public access: VIES/e-invoicing

- Eurofisc. Network for quick information exchange, data treatment and analysis on intracommunity fraud and coordination of follow-up actions.
- E-commerce special schemes:
 - Information exchange referred to:
 - ✓ Registration.

- ✓ Declarations.
- ✓ Transport from another MS.
- ✓ Payments.
- ✓ MS bank accounts.
- Control of transactions and taxable subjects.
- Statistical information.
- Implementing powers to the Commission.
- Information related to special VAT refund to non-established (Directive 2008/9).

- Relations with third countries.
- Conditions applicable for the exchange of information:
 - Electronic means by systems developed by Commission and MS on the basis of network CCN/CSI.
 - Language. Mutual agreement. Translation to official language of required MS if motivated.
 - Limits (article 54). If precluded by internal law for internal tax audits under similar circumstances.
 - Possible uses:
 - ✓ Tax assessment (not only VAT).
 - ✓ Tax collection.
 - ✓ Taxable base assessment.
 - ✓ Court procedures on the application of penalties.

- ✓ Other if allowed by local law.
- ✓ Other MS.
- Storage: Application of the rights in the data protection directive conditioned by the consecution of the objectives of administrative cooperation.
- Implementing acts to be adopted by the Commission following procedure of Regulation 182/2011.
- Developed as regards the e-commerce special schemes by Commission Implementing Regulation 2020/194 where technical specifications for websites of tax administrations and a standard form for requesting and providing OSS data exchange are provided.



It

Now the focus is in technology

- ☐ Action plan for fair and simple taxation: VAT in the digital age package:
 - Single VAT registration.
 - Further extending the OSS.
 - Modernising VAT reporting obligations and facilitating e-invoicing.
 - Adapting the VAT framework to the platform economy.
- ☐ Fiscalis 2021-2027. Supporting member states, specially, in their fighting against tax fraud:
 - Promoting administrative cooperation.
 - Supporting officers's formation.
 - Creating and maintaining European electronic systems.
- ☐ 1st Work program:
 - Interoperable IT systems (70% of the program).
 - Information systems supporting administration of taxes and overview of taxable

Now the focus is in technology

entities's financial flows (providing a platform to review and monitor modern and emerging solutions, such as blockchain, artificial inteligence, data analytics, etc).

Headings:

- Grants (15,1 Mill.), eligible tax authorities of MS or third countries.
- o Procurement (95,5 Mill.), 150 specific contracts for IT capacity-building activities for comon components of the European electronic systems for taxation
- Other (0,2 Mill.).



The taxpayer

The taxpayer in the EU scenario for cooperation and technology

- ☐ Besides paying taxes, the basic role of the taxpayer (and the third parties which may be included in within the scope of the formal obligations) is to be a data provider).
- ☐ This role is to be carried-out through the corresponding web site of the tax administration of one or, depending of the circumstances, several MS.
- In most cases, this leads to:
 - Having to comply with different IT standards affecting the reporting process, namely:
 - The structure of the tax files to be reported.
 - The electronic certificates to be used.
 - The required payment process.
 - The possibility to automate the reporting process.
 - Dealing with different tax administrations and, as result:
 - Different languages.
 - Different regulations for:

The taxpayer in the EU scenario for cooperation and technology

✓ Notifications,

- ✓ Penalties regime,
- ✓ Managing incidences,
- ✓ Tax reviews,
- ✓ Claims...
- Cooperation and evolution of technology within the EU is mainly focussed in issues affecting tax administrations and the reduction of the VAT gap. Meanwhile collateral benefits could be derived therefrom for taxpayers (i.e. introduction of technical standards for OSS reports, single registration or an extended OSS), the foreseen new scenario is not likely to eliminate most of the problems mentioned above since they arise from the lack of armonized VAT procedures at EU level.
- ☐ At procedure level the existing harmonization are scanty, namely:

The taxpayer role in the EU scenario for cooperation and technology

6213. \$5733512

- Special VAT refund to non-established of Directive 2008/9 regulates a refund procedure. In practice internal rules governing tax reviews or notification procedures may prevail and so would give rise to a diversity of scenarios.
- Notifications from tax authorities of other MS if within the scope of Council Regulation (EU) No 904/2010 on administrative cooperation must comply with the regulations of the required MS. This would apply to:
 - Information requests within the scope of the special OSS schemes. Would not affect the procedure applicable such aspects of regulation of tax inspection, penalties regime, claims.
 - Optional for any case that it is so decided by the tax authorities of a MS.
 No impact in the lapsing period resulting from the internal regulations (see ECJ C-186/20 (HYDINA SK) Judgment International Exchange of Information; Time Limits).



Now the taxpayer

Guarantying legal certainty to taxpayers in a multinational scenario

- □ VAT compliance for companies operating within the EU evolves towards an OSS scenario. However, almost, no attention is paid to the problems arising when dealing with incidences occurring after the VAT returns have been filed when different MS are involved.
- Cooperation and technology cannot go only in one direction. Actions to guaranty legal certainty to taxpayers when engaged in a multinational scenario must be adopted.
- Ideally, there should be a specific EU harmonized process covering all or, al least, some of those issues involved when dealing with the tax administration for intra EU scenarios (language, notification standards, collection process, tax review procedure, administrative claims, application of penalties).
- ☐ Given the utopia, interim lines of action are possible:

Guarantying legal certainty to taxpayers in a multinational scenario

6213. \$5733512

- **Thesaurus.** Creation and maintenance of a public database of legal procedures and technical standards related to the managing of taxes in the EU which facilitates the development of IA tools.
- OSS Notification. In all cases, notifications should be made through the tax administration of the MS of establishment according to its local regulations and using its official language or, at least a common language for this purposes.
- Chart of the EU taxpayer rights. Minimum rights granted to the taxpayer established in one MS when dealing with the tax authorities of another MS as a result of its business activity within the EU.
- **Subsidiary principle**. A taxpayer cannot have a lower protection in another MS that the one resulting from the regulations in the MS of establishment.



Thanks!





Save the date for the next IVA Conference in Edinburgh: 12 and 13 May 2022