



## VAT: Commission proposals - measures to support e-commerce and online businesses in the EU

Earlier this month we provided an update on the Commission's proposals concerning supporting e-commerce and online business in the EU. In the run up and after the ECOFIN meeting on Friday 16 June, a variety of documents have been published / made publicly available.

### 2018 and 2021 changes

New docs - Progress [report](#) and latest legislative [text](#)

The main proposal sets out the required changes to the VAT Directive and Directive 2009/132/EC on the exemption from Value Added Tax on the final importation of certain goods. The Report acknowledges that there is general support for the changes. The Report notes that there was a suggestion to split the measures to fast track certain measures but most delegations opposed this idea. The draft legislative changes maintain the original start dates of 2018 and 2021.

The Report goes on to highlight four issues which need to be resolved, as well as introducing further amendments that widens the potential future scope of the changes:

	What is it?	State of play
<b>€10,000 threshold</b>	This is the introduction of a new threshold for telecommunication, broadcasting & electronic services from 2018 and a harmonised threshold for distance sales of goods from 2021.	2 Member States do not agree on the threshold for services and 1 Member State has a political reservation on the lowering of the threshold for goods.
<b>Home country rules for invoicing and record keeping</b>	This simplification aims at eliminating the burden of different rules in 28 Member States.	No agreement has been reached on record keeping. Some Member States are of the view that 10 years is not really simplification. On invoicing 1 Member State has a political reservation and another is in favour of minimum harmonisation rules.
<b>Extension of MOSS</b>	The extension of the MOSS system to goods and all services.	1 Member State has a political reservation.
<b>The Small Imports Scheme (LVCR)</b>	The elimination of LVCR along with a special scheme for distance sales from non EU countries for goods ≤ €150.	1 Member State has a political reservation on the elimination of LVCR & 3 have political / scrutiny reservations on the new MOSS type scheme.
<b>Extension of the scope to online platforms and fulfilment houses</b>	This was not in the original scope but there is agreement supporting making these bodies liable for the collecting of VAT.	There is broad agreement.

This widening of the scope involves deeming online platforms and fulfilment houses to be making the supply for goods of a value of less than €150, thus making them liable for the VAT on the goods. This is done by the insertion of a new Article 14a in the VAT Directive.

As expected the provisional ECOFIN outcome [document](#) has been released in which the Council took note of progress regarding work on a package of proposals regarding VAT on electronic commerce.

### Same reduced VAT rate for e-books and books on physical means of support

New docs - General approach [document](#) and latest legislative [text](#)

The approach document suggests that agreement among the Member States has pretty much been reached on this change. It notes that 4 Member States expressed concern around the latest text and equal treatment. The Commission then presented its opinion, which it has followed up in writing (not publicly available). One of the tweaks from the earlier version is that Members States choosing to apply a lower rate to e-books must apply the same rate applicable to books made available on physical means of support. The next step was to get agreement on the general approach at the ECOFIN meeting on Friday 16 June before final adoption.

However, the outcome [document](#) from the ECOFIN meeting (see page 4) states 'Despite progress made on the proposal, the Council was unable to reach an agreement at this stage.'

### VAT Fraud - 'Reverse Charge' Mechanism

Another item debated by the Council is the proposed anti-fraud mechanism for a general reverse charge. Under the proposed Directive, Member States that wish to apply the reverse charge mechanism would be able to do so under certain conditions. The mechanism would apply to all domestic supplies of goods and services above an invoice threshold of €10,000.

However, the provisional ECOFIN outcome [document](#) states (page 5) that 'Despite progress made on the proposal, the Council was unable to reach an agreement at this stage.'

For further information contact your normal adviser or [Mike Camburn](#) by email or on 44 (0)20 7694 8686.

### KPMG's view

Certainly in terms of VAT changes, once items are put forward for agreement it is rare that it is not obtained. For the reduced rate for e-books, the approach document had noted some reservations but it was still a little surprising that agreement was not reached. This measure has wide support, there is no longer the issue of rate shopping under the new place of supply rules and the measure is not mandatory. Presumably the Working Party and Commission will go away to resolve the remaining issues which prevented agreement.

The various 2018 and 2021 changes are far more complex and there have been concerns about the lack of publicly documented progress and the looming deadline for the first changes. Whilst some progress has been made, the report notes 4 outstanding issues and then to complicate matters further widens the scope of the changes.

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