VAT on digital services: Changes to MOSS

Indirect Tax | Tax voice



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Jayne Simpson outlines the changes to MOSS (the mini one stop shop scheme) from 1 January 2019.

In Brief

Coming into effect on 1 January 2019, HMRC has published legislation making two changes to the VAT mini one stop shop ('VAT MOSS') scheme:

- A new annual threshold of £8,818 for the total value of supplies of digital services to EU non-business customers in a calendar year, below which a supplier need not register for VAT MOSS. The current position is a nil threshold in each country so all transactions, however minor in value, must be reported in a VAT return (via VAT MOSS or a local VAT registration). The change may create an opportunity for VAT savings and administrative simplification. If you are eligible to deregister from VAT MOSS and have to retain the UK VAT registration, you would charge UK VAT on sales of digital services to EU private consumers; and
- Businesses not established in the EU, but registered for VAT locally in a member state for other purposes, will be allowed to use the VAT MOSS scheme where they have sales of digital services to EU non-business customers. The current position is that non-EU businesses holding a local VAT registration are excluded from using VAT MOSS and must register for local VAT in each member state where they supply digital services to EU consumers, possibly requiring VAT registration in each of the 28 member states. The change may create an opportunity to implement a more efficient, cost effective VAT registration position in the EU.

What is the VAT MOSS scheme?

The VAT MOSS scheme is an EU wide administrative simplification for businesses. It allows them to register for EU VAT in a single member state of their choosing, and submit a single, quarterly, online VAT return with accompanying payment to the local tax authority where they have registered, to report the VAT charged on supplies of electronic, telecommunication and broadcasting services (‘digital services’) to EU consumers.

There are two types of VAT MOSS registration:

1. Union VAT MOSS – single EU wide VAT registration for businesses based in the EU, currently including the UK. For a UK VAT MOSS registration this includes businesses:

    - based in the UK, or a non-EU business with a fixed establishment in the UK;
    - registered for UK VAT (this includes businesses who trade below the VAT registration threshold – currently £85,000 – though they can submit nil

returns for UK sales); and,
- supplying digital services to private consumers where the place of supply is in another EU member state.

2. Non-Union VAT MOSS – single EU VAT registration in one member state for non-EU businesses that:

    - are based outside the EU;
    - have no fixed or business establishments in the EU; and,
    - supply digital services to private consumers in the EU.

For UK VAT MOSS registrations, the payment of EU VAT is made to HMRC, who in turn distribute the VAT received to the member states' tax authorities declared in the VAT return. The VAT MOSS scheme can simplify VAT administration, saving businesses, if they choose, from having to register for VAT in each member state where they sell digital services to EU consumers, which could mean registering and submitting local VAT returns in all 28 (at the time of writing) member states. Businesses still have the choice to register locally instead of using the VAT MOSS scheme, if they so choose.

As the UK is currently a member state, it was required to make the changes to the VAT MOSS scheme as set out in Council Directive (EU) 2017/2455. The position on Union VAT MOSS for UK businesses may need to be revisited when the UK leaves the European Union on 29 March 2019, depending on whether or not there is a deal agreed between the UK and the EU.

What are digital services for the VAT MOSS scheme?

HMRC publish a detailed list of electronic, telecommunication and broadcasting services that are digital services for the purposes of MOSS when sold to EU consumers, including:

- audio and audio-visual content
- live streaming
- internet based telephone services
- access to the internet
- supplies of music, films, games, online magazines, software and updates
- website supply or web hosting services
- advertising space on a website

What are the impacts of the new changes?

New EU wide threshold for Union MOSS

The scheme's threshold in the EU is €10,000, but it has been set at a fixed sterling value of £8,818 in the UK to avoid currency fluctuations.

The new £8,818 threshold for total supplies of digital services by a UK business to EU private consumers (rather than per country threshold) in a calendar year means that businesses supplying digital services below the threshold can decide if they want to deregister from Union MOSS. Businesses still have the choice to remain registered for Union MOSS if that better suits their circumstances. Note that this position could change depending on whether any deal is agreed between the UK and the EU when the UK leaves the EU on 29 March 2019.

If the UK business' total taxable turnover is also below the current UK VAT registration threshold of £85,000, it can de-register from both UK and Union MOSS VAT. This may be attractive to micro-businesses who have been impacted by the nil threshold for VAT reporting for sales of digital services in the EU to private consumers who might otherwise not needed to register for VAT.

If the UK business deregisters from Union MOSS but must remain registered for UK VAT, it should charge UK VAT on its sales of digital supplies to EU private consumers, rather than the VAT rate in its EU consumer's country. It must monitor its EU sales income for digital sales, in case it has to re-register in the future.

Before making any changes to your VAT registration position, we recommend taking professional advice.

Non-union MOSS

The new rules ease the entry requirements for non-EU businesses who are currently registered for VAT in the EU for other purposes than the supply of digital services. Up to the end of 2018, the holding of a local VAT registration in the EU has prevented these businesses from using the VAT Non-Union MOSS scheme, so they have had to register locally in member states where they sell digital services to private consumers, potentially in up to another 27 member states.

Non-EU businesses can review their EU VAT registration position and for those member states where the only supplies are those of digital services to private consumers, there is an opportunity to deregister from local VAT and re-register for the Non-Union VAT MOSS scheme. Before making any changes to your VAT registration position, we recommend taking professional advice.

Legislative References and HMRC Guidance

COUNCIL DIRECTIVE (EU) 2017/2455 of 5 December 2017 amending Directive 2006/112/EC and Directive 2009/132/EC

- Union MOSS

The Value Added Tax (Special Accounting Schemes) (Supplies of Electronic, Telecommunication and Broadcasting Services) Order 2018

Tax information and technical notes

- Non-Union MOSS

The Value Added Tax (Place of Supply of Services) (Supplies of Electronic, Telecommunication and Broadcasting Services) Order 2018

Tax information and technical notes

- HMRC guidance