

Proposal to simplify VAT rules for e-commerce (imports)

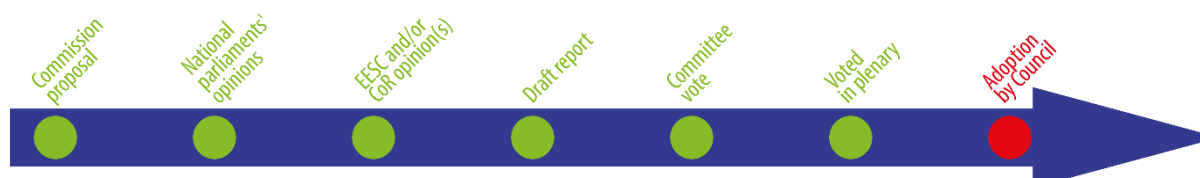
OVERVIEW

The rise of e-commerce has required changes to the system of value-added tax (VAT) to ensure that the rules allow for smooth and fraud-proof transactions between customers and sellers. The major overhaul of the VAT rules for e-commerce in 2021 introduced a series of important simplifications for businesses, such as the creation of an import one-stop shop (IOSS). The IOSS allows businesses to declare and remit VAT on all their business-to-consumer (B2C) distance sales of imported goods across the EU (i.e. goods bought online and dispatched/transported from a third country to a customer in the EU) through one single VAT return, rather than in each country where they make a sale. However, at the moment, the IOSS operates with a threshold, whereby the distance-selling of imported goods with a value above €150 cannot be declared in the IOSS.

Having assessed that the €150 threshold constitutes a burden to businesses, the Commission proposed on 17 May 2023 to further expand the IOSS by removing the threshold entirely. This change would open the use of the IOSS to a wider range of businesses, which would benefit from lower compliance costs. The proposal is subject to a special legislative procedure, requiring unanimous support in the Council, following consultation of the European Parliament and the European Economic and Social Committee. Negotiations in the Council are on-going.

Proposal amending Directive 2006/112/EC as regards VAT rules relating to taxable persons who facilitate distance sales of imported goods and the application of the special scheme for distance sales of goods imported from third territories or third countries and special arrangements for declaration and payment of import VAT

<i>Committee responsible:</i>	Economic and Monetary Affairs (ECON)	COM(2023) 262
<i>Rapporteur:</i>	Olivier Chastel (Renew, Belgium)	17.5.2023
<i>Shadow rapporteurs:</i>	Lídia Pereira (EPP, Portugal) Aurore Lalucq (S&D, France) Mikuláš Peksa (Greens/EFA, Czechia) Andželika Anna Moździanowska (ECR, Poland) Chris Macmanus (The Left, Ireland)	2023/0158(CNS) Consultation procedure (CNS) – Parliament adopts a non-binding opinion.
<i>Next steps expected:</i>	Adoption by Council.	



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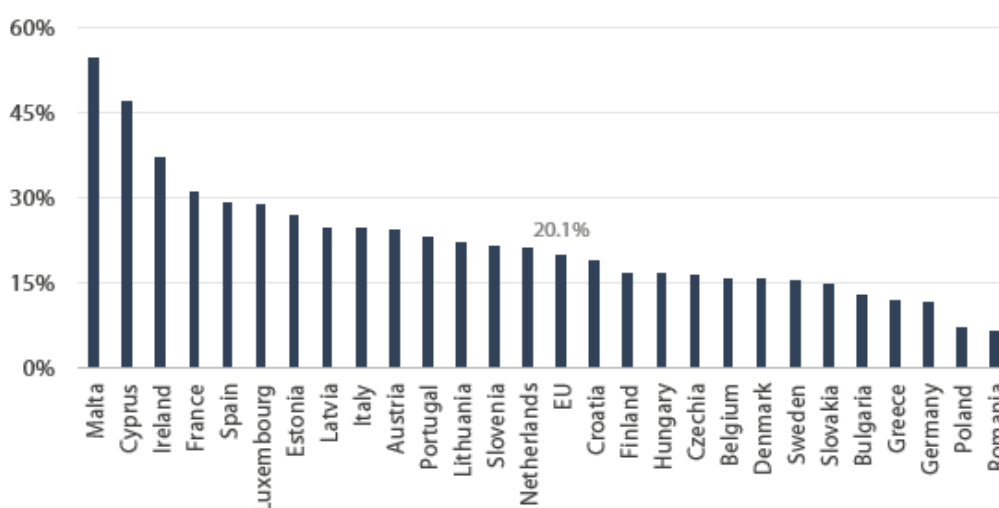


Introduction

The importance of a well-functioning and fraud-proof VAT system for public budgets cannot be understated. Every year, about [€1 trillion](#) is collected in the EU Member States in VAT revenue alone, making it one of the most important revenue raisers across the EU. VAT is generally lauded for its stabilising role in tax collection: for example, despite the pandemic lockdowns lasting for several months, overall VAT revenue decreased by +/- 7% in 2020, compared with pre-pandemic times. Moreover, a (small) part of the VAT collected by the EU Member States is allocated automatically to the EU budget as an own resource, with [€22 billion](#) worth of VAT revenue paid into the EU budget in 2023 alone.

At the same time, the rise of e-commerce has required the VAT system to adapt and modernise. The proposal discussed in this briefing focuses mostly on e-commerce sales from third-countries. These represent a considerable share of overall online purchases in the EU. In 2023, one-fifth of EU e-shoppers bought or ordered goods from a non-EU seller (see Figure 1). One study [estimated](#) that online e-commerce with goods being dispatched from countries outside the EU was worth around €29 billion in the EU in 2020.

Figure 1 – Origin of seller: Non-EU (% of EU individuals who purchased online in 2023*)



*in the three months preceding the survey.

Data source: [Eurostat](#).

In the VAT Directive, e-commerce trade between a business and a private customer is referred to as the '**distance sale of goods**'.¹

Context

As a general principle – in cross-border e-commerce, the VAT arises in the country where the goods finally arrive after dispatch or transport, rather than the country where the dispatch or transport begins. To ensure that a business supplying e-commerce goods abroad declares and remits the VAT due in the other Member State(s), businesses were required to register for VAT in each Member State to which they were supplying.

However, **registering for VAT abroad** can be a lengthy and costly procedure. The registration process itself generally requires the provision and filing of numerous documents (possibly in a language the business registrant does not speak) with the local authorities. Once registered, the business has to start complying with the national VAT laws of that Member State regarding invoicing, reporting, filing and payment. This has been considered a real barrier to cross-border trade in the single market.

To remove the need for companies to hold multiple VAT registrations, in 2015 the EU introduced the mini one-stop shop (MOSS), an online portal allowing sellers to declare and pay VAT on all sales across the EU in a single VAT return. The scope of this portal was restricted at first to EU B2C supplies of telecommunications, broadcasting and electronic services.

As the VAT registration issue continued to be a headache for businesses, in particular with the continued rise of e-commerce, the European Commission proposed **a major overhaul of the rules** in 2017 (see next section). Following negotiations, that proposal was [adopted](#) by the Council in December 2017.

Existing situation

VAT and e-commerce reform

In July 2021, a major reform of the VAT rules applicable to e-commerce came into effect across the EU. The reform introduced major simplification measures for businesses as well as strengthening the fight against VAT fraud.²

One-stop shop (OSS)

A **one-stop shop (OSS)** dedicated to intra-EU e-commerce sales was set-up (with goods being dispatched/transported from one Member State to another Member State). e-Commerce traders could use the OSS to declare all their sales across the EU and remit the VAT through a single VAT return, rather than registering for VAT in each country where sales were made. The VAT collected in the OSS is afterwards allocated to the right countries.

Low-value consignment goods

Before July 2021, VAT was not charged on goods imported into the EU if their value did not exceed €22 (these were referred to as 'low-value consignment goods'). This was considered a competitive disadvantage for EU traders, who could not offer a VAT exemption on the same goods. In July 2021, this €22 threshold was removed, ensuring that all distance sales of goods imported into the EU would be subject to VAT, without exception. The exemption had been deemed a source of fraudulent practice, with traders deliberately valuing their goods below €22 to benefit from the VAT exemption ('under-valuation').

Import one-stop shop (IOSS)

A key development of the 2021 reform was the setting up of an **import one-stop shop (IOSS)**, dedicated to e-commerce trade where goods are **dispatched/transported from a third country and imported into the EU**. The IOSS is particularly important for traders established in third countries, although there are (relatively rare) situations where an EU-established trader can make use of it (see Table 1). Under the IOSS, non-EU suppliers choose one Member State in which they will be officially registered ('the Member State of identification'), thus gaining access to the EU single market.³ The IOSS works according to the same principle as the OSS: it allows traders to declare and remit VAT in one country for all their sales across the EU in one single VAT return, avoiding the need to register for VAT in each country where they make a sale.

In addition, the VAT is collected at the point of sale ('at the checkout'), i.e. when the customer buys the good online, rather than at the point of importation. In this way, customers are not faced with unexpected additional payments when the goods enter the EU market ('paying at the door').⁴ With VAT already declared in the IOSS, the goods can also go through customs quicker, allowing for a smoother delivery process. The IOSS also allows greater competition on the EU market, offering consumers a wider range of products, and lower prices.

Table 1 – Use of the IOSS

B2C distance sales of goods dispatched from a third-country and imported into the EU	Example	Prevalence
Seller is established in a third country	A Canadian furniture-maker sells chairs online to individuals across the EU. The stock is located in Canada. The furniture-maker can register for VAT in one Member State and declare the VAT on its EU sales in one go, through the IOSS.	Very common.
Seller is established in the EU	A customer located in France buys clothes online from a Spanish fashion enterprise. However, the company's clothes are stocked in Morocco. When the clothes are transported from Morocco to France, the Spanish company can declare the VAT through the IOSS.	In this type of sale, it is only the goods that are located in a third country, while the seller is established in the EU. However, according to a study accompanying the Commission's proposal, this situation is 'relatively rare' .

An important restriction is that the IOSS scheme is limited to imported goods with an intrinsic value **not exceeding €150**.⁵ Consequently, if the Canadian furniture-maker or the Spanish fashion enterprise from the examples in Table 1 sell goods with a value above €150, they cannot use the IOSS. This threshold is not a coincidence, as it aligns with the current customs rules, where consignments with a value of up to €150 benefit from a customs duty exemption.

The IOSS can also be used by **electronic interfaces** (such as online marketplaces, portals or platforms) that facilitate the online sales of goods that are dispatched/transported from third-countries into the EU. For the purposes of VAT, these interfaces are known as the **'deemed supplier'**. In other words, they are deemed to be the supplier of the goods (even though they only act as an intermediary). They are therefore responsible for charging and declaring the VAT (and not the seller). However, the €150 threshold also applies here: if the goods' value exceeds €150, the electronic interface will not be able to declare the VAT in the IOSS. The objective behind the deemed supplier rule was that such a measure would not only lower compliance costs for businesses, allowing for greater competition and consumer choice on the EU market, it would also allow for a more focused allocation of resources in tax authorities in the EU. By making electronic interfaces the 'deemed supplier', the handling of VAT would be concentrated in the hands of a smaller number of (usually large) platforms, which usually have dedicated and experienced accounting departments, lowering the likelihood of fraud. This would allow tax authorities to free up resources for other activities.

It is important to stress that use of the IOSS is not compulsory for businesses or electronic interfaces who are acting as deemed suppliers. Traders and deemed suppliers may choose to register for VAT in each Member State to which goods are dispatched or transported if they so wish.⁶

The reform also introduced **'special arrangements'**. These can apply when the seller or the deemed supplier decide not to make use of the IOSS, and thus defer the collection of VAT to postal operators, express carriers or customs agents. These will collect the VAT from the buyer upon delivery of the goods. As a simplification, postal operators and other couriers can pay the VAT collected on a monthly basis.

To sum up, while the 2021 reform was a major advance in the field of e-commerce, the reform left the following **restrictions** intact, all centring around a €150 threshold.

Table 2 – VAT limitations of distance-selling of imported goods into the EU

Restriction	Comment
IOSS threshold	The IOSS can only be used for distance sales of goods imported into the EU of a value not exceeding €150. Once a seller makes distance sales of imported goods with a value above €150 across the EU, they need to register for VAT in each Member State in which the higher-value goods are delivered. ⁷ One study suggests this makes up around <u>10 to 20 %</u> of the total value of e-commerce distance sales into the EU.
Deemed supplier rule threshold	The deemed supplier rule is applicable for distance sales of goods imported into the EU with a value not exceeding €150. In other words, an electronic interface cannot make use of the IOSS if the value of the goods is higher than €150.
Special arrangements threshold	Under certain conditions, special arrangements allow postal operators, express carriers, customs agents and other operators to fill in the customs import declarations on behalf of the customer to declare and remit the VAT collected on those imports on a monthly basis. However, this is restricted to imports with a value not exceeding €150.

New developments

Half a year after the introduction of the new rules on VAT and e-commerce, the European Commission published the [preliminary results](#), welcoming the 'successful implementation' of the new framework. In the space of 6 months, the EU Member States' tax authorities had collected €2 billion in VAT revenue on imports not exceeding €150. More than half was collected through the new IOSS. Separately, the Commission estimated that €270 million in VAT had been collected thanks to the expanded role of the IOSS in its fight against VAT fraud.

In December 2022, the European Commission tabled a proposal to bring VAT further into the digital age ('[VAT in the digital age](#)'). Aside from a number of other provisions, the European Commission proposed to make use of the IOSS obligatory for electronic interfaces. Current rules leave it up to the electronic interfaces to decide whether to make use of the IOSS. The proposal is currently being discussed in the Council, where it will require unanimous support for its adoption ([2022/0407\(CNS\)](#)).

As part of its overhaul of EU customs policy, in May 2023 the European Commission proposed to [remove the €150 customs duty exemption](#). This proposal is also currently being discussed in the Council.

Preparation of the proposal

In March 2022, the Council [invited](#) the Commission 'to study further the impact of the possibility to make the use of the IOSS mandatory and to investigate more in depth, in close cooperation with the customs authorities and after an evaluation of the current system, the possible removal of the €150 threshold for the use of the IOSS'.

The [study](#) accompanying the 'VAT in the digital age' initiative considered that the removal of the €150 threshold for IOSS would have 'a meaningful impact' on administrative costs for businesses. However, if this were to be combined with the removal of the €150 customs duty exemption, there could be a 'significant' impact on levels of fraud, as the 'threshold effect' of the €150 would disappear, reducing traders' incentive to under-value their goods (see box).

A [public consultation](#) was launched in preparation for the 'VAT in the digital age' initiative. It included questions on possible changes to the IOSS. The majority of respondents agreed that the introduction of the IOSS had been a major simplification, especially for SMEs, but argued that local VAT registrations remained an issue for some business segments. More than 75 % of respondents also supported the removal of the €150 threshold in the IOSS.

What is under-valuation?

Under-valuation is a fraudulent practice whereby traders declare a value of imported goods to customs that is lower than the actual value of the goods. As customs duties are calculated based on the value of the goods, under-valuation of the goods inevitably lowers the import tax. In addition, under-valuation of the goods also lead to a lower VAT charge, as VAT is calculated based on the value of the goods plus the customs duty.

The current €150 threshold for customs duty exemption creates an incentive for traders to value their goods falsely to the custom authorities below the €150 threshold. This leads to lost customs duty and lower VAT revenue.

The changes the proposal would bring

The proposed [directive](#) puts forward three changes, addressing the restrictions listed in Table 2 (above).

- First, the Commission proposes to **remove the €150 threshold** for the IOSS (Article 369l). As a result, all distance sales of imported goods, regardless of value, would be eligible for the IOSS.
- Following on from the above, the Commission proposes to **extend the deemed supplier rule** (Article 14a) to all distance sales of imported goods, including those above a value of €150, that are facilitated by an electronic interface.
- Following on from the above, the Commission proposes to extend the application of the **'special arrangements'** (Article 369y), by removing the €150 threshold.

The Commission expects the proposal to increase VAT revenue. As the expanded IOSS will reduce the number of local VAT registrations, it will allow the authorities more time and resources to focus on the fight against fraud or provide compliance support for honest traders. The extension of the deemed supplier rule would also concentrate the compliance effort on a smaller number of taxpayers, who are usually swift and compliant in following the VAT rules. In addition, the removal of the €150 threshold would reduce the administrative burden for businesses, including for EU businesses making distance sales of imported goods into the EU.

The changes would come into effect by 1 March 2028.

The proposed directive is also interlinked with two other on-going initiatives.

- VAT in the digital age: the use of the IOSS would become mandatory for electronic interfaces.
- The customs reform: a key part of the European Commission's customs reform is the removal of the €150 duty exemption threshold. The Commission has noted that the proposal to remove the €150 threshold for IOSS is 'not dependent' on the proposal for the removal of the customs duty exemption. Nevertheless, the Commission argues that if both were to be implemented it would 'maximise the benefits'.

Legislative process

As part of its [overall initiative](#) to strengthen, simplify and digitalise EU customs policy, the Commission put forward its [legislative proposal](#) relating to VAT rules for distance sales of imported goods on 17 May 2023. It falls under a special legislative procedure requiring unanimous support in the Council, following consultation of the European Parliament and the European Economic and Social Committee ([2023/0158 \(CNS\)](#)).

In Parliament, the proposal was assigned to the Economic and Monetary Affairs Committee (ECON – rapporteur: Olivier Chastel, Renew, Belgium). Following a simplified procedure, the European Parliament adopted its (non-binding) [report](#) without amendments in November 2023.

At the time of writing, negotiations in the Council remain on-going, alongside [negotiations](#) on the broader customs reform package.

EUROPEAN PARLIAMENT SUPPORTING ANALYSIS

Baert P. [Establishing an EU customs data hub and an EU customs authority](#), EPRS, European Parliament, July 2024.

Baert P., [VAT in the digital age](#), EPRS, European Parliament, November 2023.

OTHER SOURCES

European Commission, [EU Customs Reform](#), webpage, May 2023.

European Commission, [Communication](#) on Customs reform: Taking the Customs Union to the next level, May 2023.

European Commission, [Proposal for a Council Directive amending Directive 2006/112/EC](#) as regards VAT rules relating to taxable persons who facilitate distance sales of imported goods and the application of the special scheme for distance sales of goods imported from third territories or third countries and special arrangements for declaration and payment of import VAT, May 2023.

European Commission, [Proposal for a Council Regulation amending Regulation \(EEC\) No 2658/87](#) as regards the introduction of a simplified tariff treatment for the distance sales of goods and Regulation (EC) No 1186/2009 as regards the elimination of the customs duty relief threshold, May 2023.

European Commission, [Proposal for a Regulation of the European Parliament and the Council establishing the Union Customs Code and the European Union Customs Authority, and repealing Regulation \(EU\) No 952/2013](#), May 2023.

European Parliament, [VAT rules relating to taxable persons who facilitate distance sales of imported goods and the application of the special scheme for distance sales of goods imported from third territories or third countries and special arrangements for declaration and payment of import VAT](#), [Legislative Observatory](#), OEIL.

Luchetta G. et.al. [VAT in the Digital Age Final Report Volume 3 – Single Place of VAT Registration and Import One Stop Shop](#), Study prepared for the European Commission, March 2022.

ENDNOTES

- ¹ While distance-selling may also refer to transactions made by mail order or telephone (or any other business to consumer (B2C) transaction where there is no face-to-face contact between the business and customer), this paper will use e-commerce, online selling and distance sale of goods interchangeably for the sake of simplicity. In more detail, distance sale of goods also implies that the supply is made by or on behalf of the supplier, including instances where the supplier intervenes indirectly in the transport or dispatch of the goods. Goods subject to excise duties, new means of transport and goods supplied with assembly or installation are excluded from the distance sales regime. While the distance sales regime is in most cases targeted towards transactions where the customers are private individuals, there may also be (very rare) occasions, dependent on certain conditions, where the customers are for instance farmers subject to the common flat-rate scheme, companies subject to the special VAT scheme for small enterprises, non-taxable legal persons or taxable persons who carry out only supplies of goods or services in respect of which VAT is not deductible. For the sake of simplicity, these rare situations are not addressed here.
- ² Please note that this is a brief overview of the changes introduced by the VAT-e-commerce package. For more detail see the European Commission webpage on [VAT on e-Commerce – One Stop Shop](#).
- ³ The trader will appoint an intermediary in that Member State (usually an accountancy company) who will be responsible for filing the IOSS VAT returns and paying the VAT due.
- ⁴ 3.4 % of EU e-shoppers [reported](#)* facing higher costs than expected when ordering online in 2023 (*in the three months preceding the survey).
- ⁵ The intrinsic value of a product is its value excluding insurance or freight costs. This document refers to this as 'the value'.
- ⁶ It is likely that some (non-)EU traders did not sign up to the (I)OSS as they had either already grown familiar with the additional obligations ('sunk cost'), or were not aware of the new rules. Local VAT registrations are also helpful to recover local input VAT more quickly.
- ⁷ Another option is to have the customer pay VAT when they collect their package at customs (i.e. making the customer the importer). In practice, businesses will try avoid this in order not to 'surprise' customers with unexpected costs.

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