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Hillmans Guide to VAT rules for supplies of digital services to consumers in the EU

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Introduction

UK businesses selling digital products and services to consumers in the EU must account for the EU VAT due based on the country of the consumer.

From the 1st January 2021, it is possible to register for a Non-Union VAT MOSS (mini one stop shop) scheme in an EU member state (of your choice), which enables you to report all of your EU VAT sales in a single VAT return.

A common option is to register in the Republic of Ireland due to the English language benefits.

Under the Non-Union VAT MOSS, UK businesses must record for each country the total sales made and VAT collected in that EU country, along with the rate of VAT that has been applied. Note that the rate of VAT depends on the rate that applies in the EU country where supplies are made and not the EU country of registration.

The Digital Services Threshold (which was £8,818) is no longer available to UK suppliers of B2C Digital Services from 1st January 2021. This means as soon as a digital service is provided to an EU consumer, the UK business will need to account for the EU VAT (either by the Non-Union VAT MOSS) or direct with the relevant EU country.

Alternatives?

The alternative to using the Non-Union VAT MOSS scheme, is to register for VAT in each EU member state where you supply digital services to consumers. Depending on your business setup, this could be a very complex, and expensive option.

Do I also need to register for UK VAT?

Please note sales to UK customers of digital services still fall under the UK VAT system, and it is only mandatory to register for UK VAT when the total of your taxable sales reaches the VAT registration threshold (£85,000 for a 12-month period ending in 2021/22).

It is therefore possible for a business to be registered for the Non-Union VAT MOSS scheme, but not for UK VAT.

What sales are affected?

The new rules apply to digital products such as e-books and PDFs, delivered via email through an automated system, but not manually emailed as this involves 'personal input'.

This includes e-books, e-courses, PDF products, recorded training videos on MP3, music and audio downloads, software.

The rules only apply to digital products sold as B2C (Business to Consumer). B2B (Business to Business) sales are not affected.

Below are further examples from the HMRC website:

Examples of electronic supplies and whether or not they're 'digital services'

Service	e-service	Electronically supplied	Covered by these rules
PDF document manually emailed by seller	Yes	No	No
PDF document automatically emailed by seller's system	Yes	Yes	Yes
PDF document automatically downloaded from site	Yes	Yes	Yes
Stock photographs available for automatic download	Yes	Yes	Yes
Live webinar	No	No	No
Online course consisting of pre-recorded videos and downloadable PDFs	Yes	Yes	Yes
Online course consisting of pre-recorded videos and downloadable PDFs plus support from a live tutor	Yes	No	No
Individually commissioned content sent in digital form, for example, photographs, reports, medical results	Yes	No	No
Link to online content or download sent by manual email	Yes	Yes	Yes

The rules apply to businesses worldwide, not just the UK.

Online Market Places

As mentioned, the alternative to using the Non-Union VAT MOSS scheme, is to register directly for VAT in each EU country you sell to. Depending on your business, this could be a very complex, and expensive option.

Another option for UK businesses is to adapt their digital products and services and to sell via an online marketplace, where the platform delivers the e-products for you. This sale then becomes a B2B (Business to Business) transaction, and the marketplace/platform deals with the EU VAT issues.

Examples of online marketplace/platforms include Amazon, OnlyFans and Lynda.com (amongst many others).

Further Advice

We have many clients selling digital services to EU consumers. Whilst we don't offer a Non-Union VAT MOSS service ourselves, we can refer you to a company who offers this service. Please get in touch if you would like further information.

You can also read more on the HMRC website here: <https://www.gov.uk/guidance/the-vat-rules-if-you-supply-digital-services-to-private-consumers>