

The drop on e-commerce



October – November 2023

Welcome to the October – November 2023 edition of the drop on ecommerce, where we highlight notable updates that are happening around the world for Indirect Tax.

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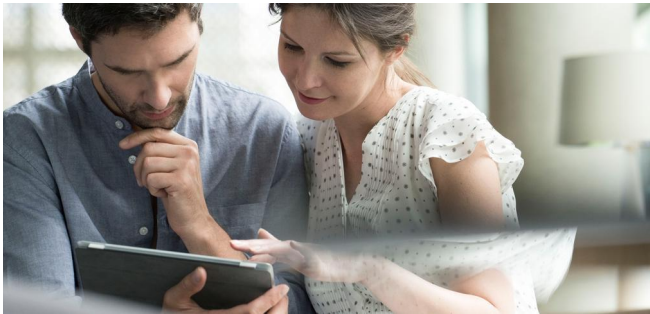
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valuable and
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Revised FAQs unveiled for Digital Platform Model Reporting Rules



The OECD has revised the frequently asked questions (FAQs) document concerning the implementation of model reporting rules for digital platforms. These rules mandate that digital platform operators report specific information to tax authorities regarding income generated by sellers through online platforms.

The update FAQ's encompass a range of topics, such as the revised definition of personal services, platform operators acting as a counterparty, indirect rental of immovable property, e-commerce service providers, ...

These FAQ's are applicable to both the original model rules and the amended rules with an extended scope.

[LINK](#) - Revised FAQ

Council of the Eurasian Economic Union releases a decision concerning e-services

The Council of the Eurasian Economic Union Commission published a decision that lists the types of cross-border electronic services (e-services) for the purpose of VAT registration and payment requirements under pending protocol.

The decision determines as a general rule that the suppliers must register for VAT and pay it in the EAEU country where the recipient of the e-service is located. The supplier must register in the EAEU country only if required by local law of that country when the recipient is a legal entity or individual entrepreneur, otherwise the recipient is responsible for VAT in accordance with the reverse charge mechanism.

The decision lists 14 services which are specifically included:



- | | | |
|---|---|--|
| 1. Providing rights to use software for any type of electronic device, databases, software updates and added functionality; | 5. Ensuring and/or maintaining presence on information networks for personal or entrepreneurial purposes; | 12. Granting access rights to electronic publications and audiovisual works; |
| 2. Providing advertising services on information networks as well as advertising space; | 6. Storing and processing information; | 13. Provision of data about potential buyers; |
| 3. Providing services for posting offers for the purchase of goods and property rights on information networks; | 7. Providing real-time computing power; | 14. Providing access to search engines; |
| 4. Providing services through information networks using information technologies and systems to establish contacts and transactions; | 8. Providing domain names and hosting services; | 15. Providing statistics maintenance services for websites. |
| | 9. Administration of websites and information systems; | |
| | 10. Offering automated services such as search systems and translation; | |

The list will be effective one month after the protocol to the 2014 Treaty on the Eurasian Economic Union comes into force.

[LINK](#) - Source

Navigating DAC 7 in Belgium: Comprehensive FAQ document published by Belgian tax authorities

In March 2021 the Council of the European Union adopted new transparency rules in the field of taxation under the Directive on administrative cooperation (DAC). These new disclosure rules for digital platforms, also known as DAC 7, needed to be implemented by all the EU Member States by 31 December 2022, entering into force on 1 January 2023.

The DAC 7 reporting obligation was already implemented in Belgian legislation at the end of 2022. However, the legislative provisions introducing the DAC 7 reporting obligation were somewhat ambiguous, leading to practical uncertainties.

To provide additional guidance and assist businesses and individuals in understanding the complexities of the DAC 7 reporting obligation, the Belgian tax authorities have released an extensive Frequently Asked Questions (FAQ) document. This FAQ acts as an informative document providing clarity on the requirements and processes associated with DAC 7.

[LINK](#) - Source



Italy

Online Platforms must disclose information with Tax Authorities

Italy has introduced a new directive which required online platforms to share information with the tax authorities, hence making DAC 7 Operational.

Platform operators in Italy (or non-EU) within the sector of e-commerce, rental, services, and transportation sectors must provide data on sales and services by 31 January 2024 which the Italian tax authorities will share with other EU countries by 29 February 2024.

The obligation of communication of information extends to various sectors, including e-commerce, real estate rental, personal services, and the rental of transportation means. Notably, exemptions are granted to large hotel accommodation providers and small advertisers, relieving them of the obligation to communicate such data.

[LINK](#) - Source

U.K. Releases Platform Operators Regulations Following DAC 7 Directive Implementation

One year after the "DAC 7 Directive" was transposed into national law in the EU, the Platform Operators Regulations in UK will come into force starting from January 1st, 2024. The Platform Operators Regulations 2023 aim to provide a framework for the regulation of digital platform operators in the UK.

In this context, platform operators must:

- Notify the UK tax and customs authorities of their status as platform operators subject to the resulting reporting obligations;
- Identify sellers
- Collect and report data related to the income generated by sellers through these platforms for the supply of tangible goods, personal services, transport, and rental of real estate.

Furthermore, to ensure the accuracy of the reported information, platform operators will also be required to verify seller information. Platform operators must be able to present records related to the measures taken to comply with the new regulations and information found during a period of 5 years. These new regulations also provide for sanctions in case of non-compliance with these new rules, especially regarding reporting delays, failure to communicate information to HMRC or to sellers required to report, etc.

These regulations are part of the OECD's model reporting rules, which were approved in 2023 as part of the BEPS. They aim, in particular, to assist tax authorities in their action plans due to the exponential increase in taxpayers generating income through electronic platform transactions.

[LINK](#) - Source

Denmark

The Tax Court has ruled unfavourably for the taxpayer in the case related to online skins



The Danish National Tax Court has determined that a trader specializing in 'skins', which are digital accessories for online computer games, qualifies as a taxable entity for VAT purposes.

The case centered on whether the Appellant met the criteria as a taxable entity due to activities involving the buying and selling of skins. The National Tax Court emphasized that the Appellant conducted a significant

number of skin sales and actively promoted themselves through advertisements on Twitter and Reddit.

Considering these circumstances, the National Tax Court concluded that the Appellant's substantial sales of skins during the relevant tax period constituted an independent economic activity.

[LINK – SOURCE](#)

CJEU: C-565/22

Right of withdrawal by the consumer in the case of distance sale

A provider of an online learning platform authorized consumers to try the platform for a period of 30 days entirely free of charge (with the option to terminate the contract at any time during this period). Once this period elapsed, the paid option of the website would become active. Additionally, the contract in question was subject to renewal if not terminated before the end of the subscription.

The Court did not follow the reasoning regarding the scope of consumers' right of withdrawal as the sale of goods and the provision of services are aligned. Due to this alignment between the sale of goods and the long-term provision of services, the Court exclusively examined one of the situations at hand: the initial conclusion of the contract.

If the consumer had received all essential information related to the contract at the time of its initial conclusion (i.e. adequately informed beforehand), no right of withdrawal could arise at a later stage.

[LINK - SOURCE](#)

CJEU: C-532/22

VAT application - Erotic Live Streaming Services
Filmed in Romania and Operated by a US Company

Case C-532/22 concerns a preliminary question regarding the interpretation of the services provided by a video chat recording studio for an internet distribution platform operator.

These services involve the production of erotic content in the form of interactive video sessions, recorded by the studio and transmitted to the operator for distribution on the platform.

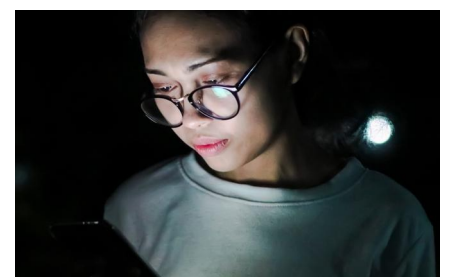
A question was asked regarding the correct criteria for the location of the provision of these services.

[LINK – SOURCE](#)

The Court asserts that the provisions of the Directive do not apply to services provided by a video chat recording studio for an internet distribution platform operator.

The court follows a reasoning whereby the connecting criterion of the provision targets services providing access to cultural, artistic, scientific, sports, educational, entertainment events, as well as related secondary services provided.

It is important to note that the services in question fall outside the scope of the provision since they do not enable customers to access videos or related ancillary services with that access.



On the contrary, these services are essential for the distribution of videos on the platform (by the operator).

The Court adds that possessing or using the tools of the video chat recording studio for the recording of digital content does not constitute actions that would imply that the studio grants access to the videos in question.

The Court confirms its initial reasoning by stating that this provision does not cover the aforementioned services.

Netherlands

E-Commerce Scheme Penalties

The Dutch Tax Authorities announced that no late payment penalties for VAT related to e-Commerce will be imposed (i.e. OSS returns). The Minister of Finance, has informed the “Tweede Kamer” about the topic of the impositions of late payment penalties on taxable persons participating in the OSS scheme.

Any penalties which have already been issued will be reversed and any objections to already imposed late payment penalties will automatically be declared valid. Companies will be informed in advance as soon as the regular penalty regime resumes.

[LINK](#) - [SOURCE](#)



Norway

New e-commerce rules from 1 January 2024

In 2020, special e-commerce regulations were introduced, compelling non established-sellers, including marketplaces, to register and account for local VAT on goods with a value below NOK 3,000.

This obligation applies if the total sales made in Norway within any 12 month period exceed NOK 50,000.

A simplified registration and reporting scheme, known as ‘VOEC’ (VAT on E-commerce), is in place for non-established sellers.

Starting from January 1, 2024, suppliers registered under the VOEC scheme must digitally provide their VOEC number to the entity responsible for the shipment of goods.

Additionally, the temporary customs declaration exemption for consignments valued below NOK 350 will disappear.

Businesses affected by these changes are required to register and report the VAT due through the newly established portal.

[LINK](#) - [SOURCE](#)

Hungary

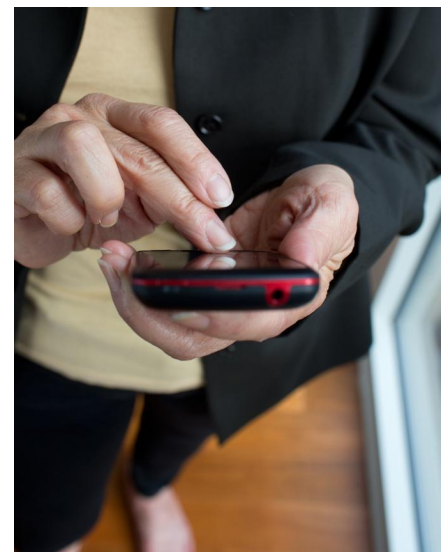
VAT rules for e-commerce platforms explained

The Hungarian National Tax and Customs Administration has published Information Booklet No. 98, which outlines VAT regulations for 2023.

This booklet specifically addresses e-commerce platforms, both those within and outside the EU, including:

- Changes to regulations governing intra-community sales.
- One-stop-shop extension and establishment of the import one-stop shop (IOSS) system.
- Taxation procedures for intra-community transactions.
- Instructions for conducting trade via digital platforms.
- Mandatory specifications for invoice registration.
- Process for deducting input Value Added Tax within the One-Stop-Shop (OSS) framework.

[LINK](#) - [SOURCE](#)





Belgian draft law proposal will impose joint liability of platforms

The Belgian Parliament has adapted a law proposal introducing new tax regulations targeting taxpayers who facilitate the delivery of goods through electronic interfaces such as marketplaces, platforms, portals, or similar means. The legislation holds these taxpayers jointly responsible with the supplier for the payment of applicable taxes on deliveries that occur within Belgium.

According to the draft law, taxpayers are obligated to fulfill tax obligations alongside the supplier if they are found to be acting in bad faith or have committed an error or negligence concerning specific deliveries. The affected deliveries include.

The new regulations aim to enhance tax compliance in the realm of electronic commerce and provide a framework for holding facilitators accountable for ensuring that their suppliers meet their VAT obligations.

[LINK – SOURCE](#)

Swedish bill to combat cross-border VAT Fraud in e-commerce

The Swedish Parliament accepted a bill for consideration to implement EU Directives focused on introducing new requirements for payment service providers to combat VAT fraud in cross-border e-commerce.

The bill would implement the following provisions:

- Providers who conduct more than 26 cross-border payments to the same recipient within a quarter must report this;
- Providers need to retain this payment data for 3 calendar years;
- The Tax Agency must transmit this data to the EU commission
- The Tax Agency will have the authority to impose documentation and reporting fees on providers that fail to meet their obligations;

This legislation will enter into effect on 1 January 2024.

[LINK - SOURCE](#)



European Parliament Supports update on EU VAT regime

In response to the ever-increasing digitisation of the economy, on 8 December 2022 the European Commission published its long-awaited proposals to revamp the EU's VAT system. The package has three main objectives:

1. Modernising VAT reporting obligations;
2. Addressing the challenges of the platform economy;
3. Avoiding the need for multiple VAT registrations by introducing Single VAT Registration.

The European Parliament voted in November 2023 in favour of the VIDA proposal, however they opted to propose a one-year delay.

The proposal and amendments will now be reviewed by the European Council in order to be adopted with unanimity.

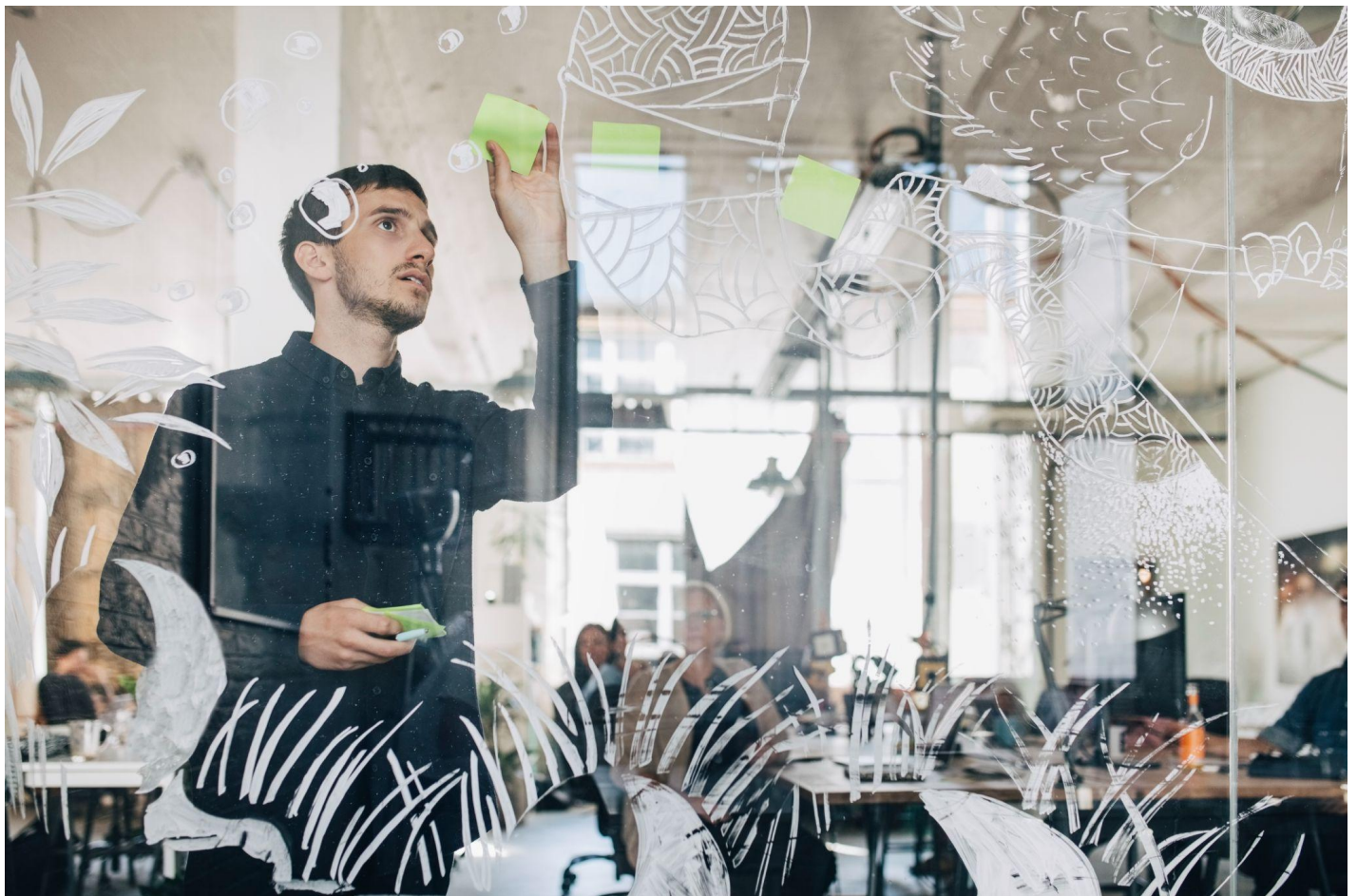
The MEP's adopted a second proposal, fully endorsing the Commission proposal regarding changes to the VAT directive, it contains amongst other:

1. The possibility for sellers and marketplaces to use the IOSS for consignments above the €150 limit.
2. Special and optional adjustments for e-commerce will also be expanded for shipments over €150.

The MEP's approved a third legislative proposal in order to improve cooperation between all actors involved in the fight against VAT fraud as well as the improvement of the VIES VAT number validation functionality.

[LINK –](#)

Source European Parliament



Japan

Clarification of the definition of Importer of Record

As from 1st of October 2023, foreign companies that import into Japan without a sales transaction, but use a separate local company to act as importer of record, need to assess their supply chains because this arrangement is generally no longer permitted under Japanese Customs related laws and regulations.

If their current IOR will no longer be qualified to be IOR under the revised definition, the non-resident entities will be required to be the IOR moving forward, which will entail substantial administrative procedures.

[LINK](#) – SOURCE



Malaysia Set to Introduce Sales Tax on Low-Value Goods Imports

Starting from January 1, 2024, Malaysia is set to implement a sales tax on the import of low value goods:

Sellers of Low-Value Goods (LVG) must register for sales tax if their total LVG sales over a 12-month period exceed RM500,000. The total sales value can be calculated using either the Historical Method or the Future Method.

A 10% sales tax will be applied to all low-value goods, sold for less than MYR500 and imported to Malaysia by land, sea or air. Sales tax would be applicable to Low-Value Goods (LVG) sold by either a registered seller or a seller meeting the registration criteria. The tax is calculated based on the sale value per piece or unit.

The guidance includes examples to demonstrate how the sales tax is calculated. Additionally, online marketplaces must determine who is responsible for charging sales tax on low-value goods.

[LINK](#) – SOURCE

Japan

Shift of remittance obligation from non-resident digital service providers to platform operators

On August 31, 2023, the Ministry of Economy, Trade and Industry (METI) submitted its tax reform request for 2024 to the Ministry of Finance, which includes a review of consumption taxation for cross-border service provision.

Currently, platform operators are not required to collect consumption tax on the sale of digital B2C services through their platforms. The reform request encompasses two main aspects: (1) introducing a new regulation where platform operators are responsible for paying compensation tax on behalf of non-resident service providers, and (2) a review of the tax exemption rules for small and medium-sized enterprises.

The specifics of these new rules are anticipated to be disclosed in the forthcoming tax reform proposal (December 2023).



India

Delhi Government grants GST registration exemption for intra-state supplies by vendors operating through e-commerce operators.

The Lieutenant Governor of Delhi has identified individuals who are engaged in the supply of goods through an electronic commerce operator and are required to collect tax at the source.

With this exemption, these individuals are no longer obliged to get a registration under the DGST Act, provided that their total turnover in the previous financial year and the current financial year does not exceed the limit.

There are certain conditions that should be followed to get this exemption.

This exemption will be effective from 1st of October 2023.

[LINK](#) - SOURCE

Uganda

Implementation - Digital Services Tax

The Ugandan tax authorities published a public notice on 20 October 2023 in order to implement a 5% digital services tax (DST).

The tax will be effective as of 1 July 2023. Non-residents earning income from digital services provided to customers in Uganda must register. However, taxpayers already registered for the value added tax (VAT) digital services rules don't need to register separately for the DST as the authorities will register them automatically. Taxpayers who do not register may face a 15% withholding tax.

[LINK](#) - SOURCE



Zambia

Taxation Strategy for Digital Imports

In its 2024 Budget, Zambia announced plans to further expand the tax base and collect more revenue from non-resident suppliers.

New rules would put in place a legal framework and strategies to implement the taxation of cross-border electronic services. However, there is no effective date nor implementation timeline yet.

Additionally, Zambia will join the Global Forum on Tax Transparency to combat tax evasion.

[LINK](#) - SOURCE



Mexico

Registered Foreign Digital Service Providers & VAT obligations

Mexico's tax administration has published a list of 198 foreign digital service providers who are registered for tax purposes in Mexico as of 31 October 2023.

The Mexican digital services tax rules require foreign residents and companies without a permanent establishment in Mexico to register if they provide digital services to recipients located in Mexico.

The tax administration publishes a list of foreign residents providing digital services that are registered in Mexico.

Non-registered digital service providers who do not appoint a legal representative or who do not provide a Mexican domicile can have their internet access temporarily blocked. This is also the case when the foreign resident fails to file three consecutive tax returns or two quarterly information returns.

[LINK](#) – LIST

Brazil

VAT Implementation

The Brazilian Senate approved a 10-year plan for the introduction of VAT on November 8, 2024. Two new indirect tax systems will replace (and consequently eliminate) four types of consumption taxes that were already in place at the federal and state levels by early 2026, namely the CBS (federal consumption tax) and the IBS (tax for States and municipalities). An alignment with the logic of destination-based taxation will finally be implemented.

Additional exemptions have been introduced by the Senate, which could result in increasing the VAT rate to a maximum of 27.5%. This high rate can be justified by the relatively low tax burden on individuals at the personal income tax level.

[LINK](#) - SOURCE



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Although PwC continuously monitors the evolving regulatory landscape it cannot be excluded that all relevant information is reflected in this bi-monthly newsletter. Hence, you should not act upon the information contained in the weekly e-commerce updates without obtaining specific professional advice from your PwC contact.