

# Quarterly indirect tax update

September 2020

## Significant changes to the EU VAT rules for e-commerce transactions are coming into effect 1 July 2021.

These changes were originally due to become effective on 1 January 2021, however, due to the practical difficulties created by the lockdown measures taken to contain COVID-19, the European Commission (“the Commission”) has postponed the introduction of the new e-commerce VAT rules by 6 months.

It has been a focus of the Commission to simplify VAT obligations for companies engaging in e-commerce that carry on cross-border sales of goods or services to consumers through their own websites or online platforms. The underlying intention is to ensure that VAT on these supplies is paid correctly to the Member State of the customer, in line with the principle of taxation in the Member State of destination.

The EU e-commerce package is being introduced in two stages:

### Stage 1: Mini One Stop Shop (“MOSS”)

The first package of measures we saw implemented in 2015 and covered telecommunications, broadcasting and electronic services (“TBE”). These measures were focused around the implementation of the Mini One Stop Shop (“MOSS”) system, a simplified system to declare and pay VAT on business-to-consumer (“B2C”) supplies of TBE services in the EU.

### Stage 2: The VAT e-commerce package

The second package of measures is set to apply from 1 July 2021. The VAT e-commerce package focuses on supplies of goods to consumers in the EU and seeks to:

1. prevent VAT fraud;
2. reduce cross-border VAT compliance costs;
3. facilitate cross-border trade;
4. boost the EU’s economy; and
5. level the playing field for businesses in the EU and non-EU businesses that do not charge VAT.

### Key features of the VAT e-commerce package

- All B2C supplies of goods to consumers in the EU would in principle be taxed at their destination. Their origin, whether EU or non-EU, no longer would be relevant. This would see the indirect tax treatment of e-commerce in the EU follow the global trend of online sales being taxed at its destination or place of use and enjoyment.
- The current import exemption for low value goods entering the EU from outside the EU in consignments with a value up to €22 will be abolished. VAT at the appropriate rate will therefore be charged on all imports.
- For supplies within the EU, the distance sales regime and associated registration thresholds in each EU Member State will be abolished. Sellers will now be required to apply VAT in the Member State in which the consumer is located when EU-wide cross-border B2C sales (goods and services) exceed €10,000 per year.
- VAT reporting of sales to consumers in Member States in which the seller does not have a VAT establishment will be simplified by the use of different One Stop Shop (“OSS”) reporting systems, allowing vendors to declare and pay VAT through a single EU-wide VAT return.
- An Import OSS will also be implemented to declare and pay VAT on the supply of low value goods imported from outside the EU, as an alternative to paying import VAT upon customs clearance of those goods.
- Further regulations and rules for online marketplaces or platforms that would, in certain situations, make these entities liable for VAT on B2C sales that they facilitate.
- The MOSS will be extended from just TBE services to all types of services.

If you are an online retailer of goods, online marketplace, logistics operator or an entity that operates fully or partly online, the VAT e-commerce package will likely have significant impacts on your VAT obligations. Please be sure to get in contact with us if you wish to discuss any potential impacts to your business.



## VAT treatment of medical services provided by locum doctors

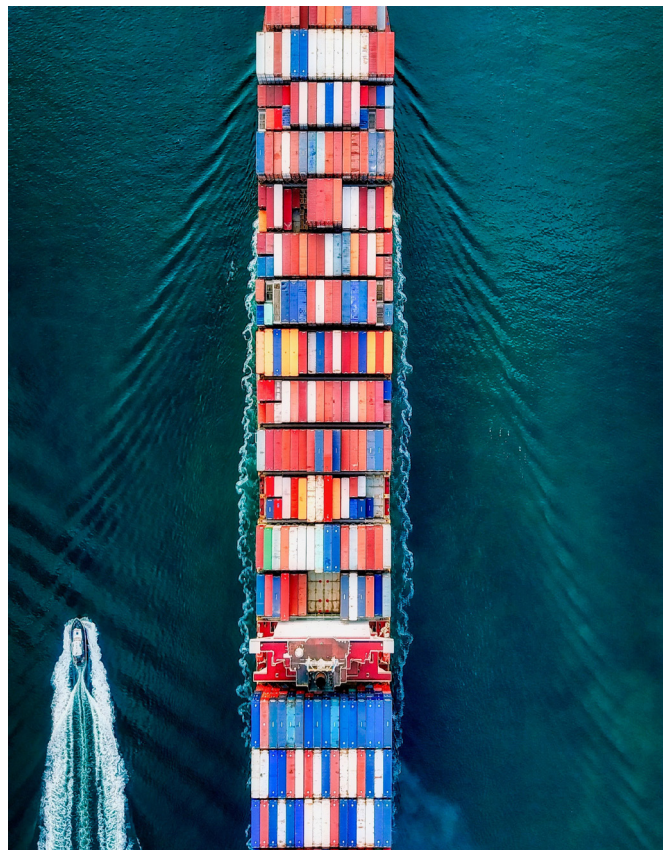
A recent determination by the Tax Appeals Commission (“TAC”) considered the VAT treatment of medical services provided by a GP through an incorporated company (the “Appellant”) [126TACD2020].

The Appellant argued that the services provided by the GP employed by the incorporated company should qualify as a VAT exempt service. Revenue on the other hand argued that the services provided was a taxable supply, on the basis that this was the supply of staff as opposed to the supply of a medical service.

The Tax Appeal Commissioner agreed with the Appellant and held that such medical services qualify as a VAT exempt service. The Tax Appeal Commissioner noted that the company who engaged the GP did not control or supervise the activities of the GP in the provision of the care provided to the patient. Another important point to note, was the fact that the doctor held professional indemnity insurance which would not have been necessary if the company was merely providing staff rather than providing medical services.

Similarly, the CJEU, in the Case C-41/00 Kugler, held that the VAT exemption is not dependent on the legal form of the taxable person supplying the medical services. Therefore, the exemption can apply where such services are supplied through incorporated entities.

Revenue is appealing the decision to the High Court and, interestingly, Revenue issued ebrief 112/20 on 17 June maintaining their view that where a locum doctor provides services to a medical practice, such services should be regarded as a supply of staff to that practice, which is subject to VAT at the standard rate.



## New Automated Import System (AIS) with effect from November 2020

The Revenue Commissioners will implement a new national import system in November 2020. This new Automated Import System (AIS) will be introduced to comply with the provisions of the Union Customs Code. AIS will ensure that businesses can import goods legally from outside the EU using the most efficient process possible.

This new system will:

- replace the existing Automated Entry Processing (AEP) and eManifest systems for imports;
- introduce changes to the import procedure impacting on those involved in the import supply chain; and
- significantly change the structure and content of the import declaration.

From November 2020, it will not be possible to import goods into Ireland from outside the EU without using AIS.

Both AIS and AEP will run in parallel for a period of time in order to finalise movements started in AEP and to allow for amendments.



### BREXIT REMINDER

Please note that Brexit will be a reality from 1 January 2021 and any trader sourcing goods from UK will need to have AIS in place. Start preparing now.

## Contact

Should you have any queries in relation to the contents of this article or would like to discuss any indirect tax issue, please feel free to contact us.



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