

## **European Union Tax Changes**

From 1 July 2021, the new VAT rules on cross-border business-to-consumer (B2C) activities both inside and outside the European Union (EU) will come into effect.

### **What are the changes?**

For online sellers, the VAT exemption for imported consignments valued up to EUR 22 will be removed. This means all goods imported into the EU will be subject to VAT irrespective of their value.

### **Simplify declaration and payment through the Import One Stop Shop (IOSS)**

The Import One Stop Shop (IOSS) has been created to simplify the declaration and payment of VAT, covering the VAT collection for distance sales of goods imported into the EU with a value not exceeding EUR 150.

Through the IOSS, online sellers and marketplaces are responsible for the collection, declaration, and payment of EU VAT in principle to the tax authorities.

## Changes to GB VAT

**From 1 January 2021, GB VAT on goods valued up to £135 will be collected at the point of sale, and not the point of import.**

This means that overseas businesses selling goods to be imported into the UK, valued between £0 -135, will be required to charge and collect any VAT due at the time of sale. Alongside this, **Low Value Consignment Relief (LVCR) will be abolished**, meaning that VAT will be due on all sales of goods to UK consumers valued £0 - £135.\* More information is available [here](#).

### **What goods are included in these changes?**

To determine whether a sale of goods is affected by these changes, you need to consider whether the selling price of the goods exceeds £135, exclusive of VAT. This is based on the intrinsic value\*\*.

It is important to note that the £135 threshold applies to the value of the consignment, not to each individual item.

\*excludes all excise goods, and all C2C movements

\*\*the price at which the goods are sold, excluding: transport and insurance costs, unless they are included in the price and not separately indicated on the invoice

## Changes to US VAT

### **Sales/Use Tax implications for non-U.S. and U.S. e-commerce businesses selling to U.S. customers**

Sales and use taxation is operated independently by each of the 50 states and the District of Columbia. Additionally, some local sales and use taxes are administered by local municipalities and counties with their own ordinances, separate tax forms, and audits that may be conducted by third-party contingency-fee firms. States that have locally administered general sales and use taxes include Alabama, Alaska, Colorado, and Louisiana. Sales tax is usually the responsibility of the seller to charge at the time of the sale and remit to the state. Foreign companies selling into the U.S. are subject to sales tax regimes to the extent there is nexus with the state, which can be established, among other ways, through a physical contact with the state (payroll, property, agents, and inventory held under the Fulfillment by Amazon arrangement) or substantial sales exceeding economic thresholds enacted in light of the [Wayfair decision](#).

## Online sales of goods in the U.S.

Any company with remote sales in the U.S. today, including foreign companies, must be mindful of economic nexus thresholds enacted by states post-*Wayfair*. Currently 43 out of 45 states that impose a sales tax have economic nexus standards for sales and use tax, requiring remote sellers to register and remit sales tax. The complexity of compliance, as noted further below, often depends on the company's supply chain (in other words, direct sale to consumer (B2C), or wholesaler (B2B)), type of purchaser (individual, business, government, nonprofit, or other exempt entity), and whether the product is used in an exempt way by the purchaser (manufacturing, research and development, agricultural, or pollution control).

E-retailers likely established physical nexus prior to [Wayfair](#) for:

- Remote workforce
- Sales across state lines in person
- Tradeshow participation
- Inventory held in warehouses or through the Fulfillment by Amazon program

Years of nexus neglect can lead to disruptive sales tax exposures. It is prudent for retailers to quantify their historical exposures and consider mitigating historical liabilities through voluntary disclosure agreements (VDAs) before registering for sales taxes.

## Compliance and reporting

While it was anticipated by the U.S. Supreme Court that the [Wayfair decision](#) would not complicate the sales tax compliance function for many small and mid-sized businesses, the legislation and administrative guidance triggered by this ruling had an opposite chilling effect. Today, 43 states have economic nexus for sales and use tax with varying safe-harbor standards, compliance dates, and tax rates varying from 2.9% to over 12%. These state-level safe harbor provisions are in flux as states revise their gross revenue thresholds—some are increasing the threshold (for example, California, New York, and Oklahoma), others are decreasing it over time (Arizona), and other states are removing the transaction volume safe harbor (California, Iowa, Massachusetts, North Dakota, and Washington) or implementing one (Ohio). States without sales tax on the state level, such as Alaska, are permitting localities to enact *Wayfair*-like economic nexus laws.

If 43 separate tax rates sound like a lot, consider 16,000—that's the ballpark number of state and local tax rates in effect at any time. Adding to this administrative nightmare, tax rates can change on a monthly basis, generating as many as 600 to 700 changes throughout the year. Companies across industries and of all sizes have to contend with the fallout resulting from *Wayfair*, but it has been particularly onerous for middle-market companies that often do not have existing internal processes, procedures, and resources in place to address these challenges. For remote sellers that want to be in full compliance, there is justification to employ someone full-time to monitor administered sales and use tax laws. Many companies are focusing on automation to help manage sales taxes in multiple states.