

Revenue and Customs Brief 46 (2014): VAT rule change and the VAT Mini One Stop Shop - additional guidance

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Contents

1. [Purpose of this brief](#)
2. [Who needs to read this?](#)
3. [Section 1: background](#)
4. [Section 2: digital services](#)
5. [Section 3: Registration for MOSS by businesses currently below the UK VAT Registration threshold \(£81,000\)](#)
6. [Section 4: MOSS registration and use in 2015](#)
7. [Section 5: Record keeping requirements](#)
8. [Section 6: HMRC guidance](#)

Purpose of this brief

This brief provides additional guidance to UK micro and small businesses who supply digital services to non-business customers in other EU member states about:

- how to comply with the new VAT rules for digital services that come into force on 1 January 2015
- how to register for HM Revenue and Customs (HMRC) VAT Mini One Stop Shop (MOSS) and still benefit from the UK's VAT registration threshold for sales to UK customers

Who needs to read this?

UK businesses that make cross-border Business to Consumer (B2C) supplies of digital services to customers in other EU member states, particularly micro and small businesses.

If you are a UK business and:

- are unsure whether the services you supply are 'digital services' covered by the new rules please read [section 2](#)
- are currently below the UK VAT registration threshold and want to register for MOSS to account for the VAT on your cross-border supplies please read [section 3](#)
- you want to understand the timescales that apply for registering for MOSS, please read [section 4](#)
- you want to understand what records you need to keep, please read [section 5](#)

Section 1: background

What is happening?

On 1 January 2015 the VAT rules for cross-border B2C supplies of 'digital services' (i.e. broadcasting, telecoms and e-services) will change. From that date, VAT must be accounted for in the member state where the customer normally lives, rather than where the supplier of the service is established. This means that sellers of digital services will no longer be able to unfairly undercut businesses in the UK by locating themselves in another EU member state with a lower VAT rate. You can find out more about these changes at [VAT on digital services in the EU](#).

Section 2: digital services

What supplies are covered by the changes?

The changes apply to digital services. These are broadcasting, telecommunications and e-services that are electronically supplied.

It is unlikely that any small businesses supply broadcasting or telecommunications, but many will supply e-services to non-business customers in other EU member states and they will have to charge and account for VAT on their supplies.

Sales not affected by the change

Using the internet, or some electronic means of communication, just to communicate or facilitate trading does not necessarily mean that you are supplying e-services.

Using the internet for the following does not count:

- supplies of goods, where the ordering and processing are electronic
- supplies of physical books, newsletters, newspapers or journals
- services by lawyers and financial consultants who advise clients through e-mail
- booking services for entertainment events, hotel accommodation or car hire
- educational or professional courses, where the content is delivered by a teacher over the internet or an electronic network
- offline physical repair services of computer equipment
- advertising services in newspapers, on posters or on television

E-services which are covered by the change in rules

The 1 January 2015 rule change only applies to e-services that are electronically supplied.

An e-service includes things like:

- images or text, such as photos, screensavers, e-books and other digitised documents e.g. pdf files
- music, films and games, including games of chance and gambling games, and of programmes on demand
- on-line magazines
- website supply or web hosting services

- distance maintenance of programmes and equipment
- supplies of software and software updates
- advertising space on a website

What is meant by electronically supplied?

This covers e-services which are automatically delivered over the internet, or an electronic network, where there is minimal or no human intervention. In practice, this means:

Where the sale of the digital content is entirely automatic - for eg a customer clicks the 'buy now' button on a website and the:

- content downloads onto their device
- customer receives an automated e-mail containing the content

Where the sale of the digital content is essentially automatic, and the small amount of manual process involved does not change the nature of the supply from an e-service. Examples of sales that are essentially automatic are where a customer clicks a "buy now" button on the website and the seller receives a notification and clicks a button, which :

- automatically sends an e-mail containing the digital content to the customer
- produces an e-mail pre-populated with the customer's details followed by the seller attaching the digital content and clicking 'send'

All e-services that are electronically supplied in the ways outlined above are categorised as 'digital services' and are covered by the rule change.

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

Service	E-service?	Electronically supplied?	Covered by the new rules
Pdf document manually e-mailed by seller	Yes	No	No
Pdf document automatically e-mailed 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
On-line course consisting of pre-recorded videos and downloadable pdfs	Yes	Yes	Yes
On-line 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 e.g. photographs, reports, medical results	Yes	No	No

Service	E-service?	Electronically supplied?	Covered by the new rules
Link to online content or download sent by manual e-mail	Yes	Yes	Yes

Section 3: Registration for MOSS by businesses currently below the UK VAT Registration threshold (£81,000)

If you supply digital services to a customer in another EU member state, you must account for VAT to the tax authorities in that member state and at that member state's VAT rate.

So you do not have to register for VAT in every member state where you have customers, HMRC has developed a MOSS service for UK-based suppliers of digital services. You can find guidance on MOSS at [Register for and use the VAT Mini One Stop Shop](#).

Although it is a condition of registering for the MOSS that you must have a UK VAT registration number to identify the business, you will not lose your UK VAT registration threshold.

Who will this affect?

These simplified VAT registration arrangements will only be available to you if:

- you are a UK-based supplier of digital services
- you wish to use the VAT MOSS
- your UK taxable turnover is below the UK-VAT registration threshold (currently £81,000)

How will this work?

If you make taxable supplies of digital services to customers in other EU member states, and your UK taxable turnover is below the UK VAT registration threshold, you may use the VAT MOSS to account for the VAT due in other EU member states but you do not need to account for and pay VAT on sales to your UK customers.

In these circumstances, you must:

- apply for UK VAT registration (see below)
- restrict any VAT refund claims you submit to HMRC to amounts directly attributable to your cross-border EU sales activities on which you will be accounting for VAT through MOSS (see Reclaiming VAT on your expenses and purchases below)

Applying for VAT Registration

You must apply for UK [VAT registration](#).

When you are prompted to search for the correct business activity, you should select:

- search by business activity and then enter digital services in the following text box
- you will then be directed to select the business activity entitled supplies of digital services (below UK VAT threshold) under MOSS arrangements

Only follow this procedure:

- if you supply digital services to customers in other EU member states
- you wish to use the MOSS to account for VAT on those supplies
- your UK taxable turnover is below the VAT threshold

If these conditions do not apply, you should choose the Business Activity that best describes your business.

Following this process will ensure that HMRC can deal with your VAT registration application quickly.

Reclaiming VAT on your expenses and purchases

As you will not be charging VAT on your UK sales, any VAT you reclaim on your business expenses and purchases (see completing VAT returns below) must be either wholly attributable to your cross-border digital service supplies accounted for through MOSS, or only that proportion which is attributable to those sales.

For example, you might purchase a computer which you use to make all of your sales. If 60% of your sales are UK sales, and 40% of your sales are to customers in other EU member states, you would be able to recover 40% of the VAT charged on the purchase of the computer.

Please see further guidance on [Reclaiming VAT](#).

You may also reclaim VAT on any business expenses incurred in other EU member states, provided these are directly related to your cross-border sales of digital services. To do this, you will need to complete a cross-border VAT refund application. There is guidance at [VAT: refunds for UK businesses buying from other EU countries](#).

Completing VAT returns

UK VAT return

You will need to complete a UK VAT return each quarter even if you are not charging VAT on your UK sales.

Unless you wish to reclaim VAT on business expenses or purchases in relation to your EU sales, you should enter '0' in every box on the return. If you do wish to reclaim VAT in relation to EU sales, you should complete boxes 4, 5 and 7.

You can find further guidance on completing the UK VAT return at [VAT Returns](#).

VAT MOSS Return

You must declare any supplies of digital services to EU customers on the VAT MOSS return. You can view the guidance at [Register for and use the VAT Mini One Stop Shop](#).

VAT MOSS return periods are calendar quarters (e.g. the first return period runs from 1 January to 31 March). Provided - when you registered for VAT – you selected the Business Activity entitled Supplies of digital services (below UK VAT threshold) under MOSS arrangements, HMRC will ensure that your UK VAT return period is aligned with the VAT MOSS return period, so you can complete both the UK return and the MOSS return at the same time.

What if my UK turnover exceeds the VAT registration threshold?

It is important that you monitor your UK taxable turnover. If you exceed the VAT registration threshold (currently £81,000), you will need to start accounting for VAT on UK sales. There is information about how to calculate taxable turnover at [Calculate VAT taxable turnover](#).

If you do not start to account for UK VAT at the right time, HMRC may assess any additional tax due.

Section 4: MOSS registration and use in 2015

MOSS registration in 2015

You can register for MOSS now, as this HMRC service is open and ready to use. You don't have to do it by 31 December 2014. Instead, you can wait until you sell your first digital service cross-border before applying to register. From 1 January, provided you notify HMRC and submit your VAT MOSS registration application by the 10th day of the month following your first digital service sale, the registration will be back-dated to the date of the first cross-border digital services sale. For example, if you sell your first cross-border digital service on 8 January 2015, you have until 10 February 2015 to submit your MOSS registration application to HMRC.

EU member states' VAT requirements

UK businesses registered for MOSS can find detailed information about the VAT requirements in every EU state, including the VAT rates and VAT invoicing requirements on the [European Commission's](#) website.

Section 5: Record keeping requirements

Collecting and storing information about customer location

MOSS registered businesses are required to collect and to keep in their records two pieces of evidence of where each customer normally lives. This helps demonstrate, if asked by the tax authorities, that the business has charged the correct rate of VAT to the customer. For many micro and small businesses this requirement can sometimes present a challenge. So, if you

use a payment service provider to obtain payment for your digital service, HMRC suggests the following two step approach:

Step 1

When the customer places their order ask them to confirm either:

- the EU member state they usually live in
- their billing address

Step 2

When the customer pays for the product using the payment service provider, arrange for that provider to transmit the following two pieces of evidence to you:

- the customer's billing address
- the country code of the customer's bank or registered credit card

For confidentiality the payment service provider can remove the house number and street name from the billing address.

If the information on the EU member state where the customer is normally resident tallies, that will be sufficient to define the customer's location and you can record the details in your accounting records. However, if the information does not tally, you do not need to cancel the sale, but you must contact the customer and ask them to reconcile the discrepancy between the two sources of information.

What about Data Protection?

As you have to keep customer records electronically you will need to register as a data controller with the [Information Commissioner's Office \(ICO\)](#), if you are not already registered. The current cost is £35 per year. The requirement to register is based on your place of business, and not the location of your customers; so you (as a UK business) will only have to register with the ICO in the UK, and not with the equivalent registrar in any other member state.

Section 6: HMRC guidance

HMRC is currently reviewing all its 2015 and MOSS guidance and all the material in this Revenue and Customs brief will be incorporated in that revised guidance.

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