



Focus on the
entrepreneur,
moving ahead
together

CROP

accountants & consultants

Distance Selling, Current and New Rules

- Current Rules
- New Rules
- Current State of Affairs

9 juni 2020

CROP.NL



Do you sell goods, whether or not via the Internet, to private individuals domiciled in another Member State of the European Union? And do you supply these goods directly to the private individuals¹ in question? Then, for VAT purposes, you make what are known as “**distance sales**”. There are specific VAT rules for these distance sales.

In this whitepaper we list the main points of the current distance sales rules, of the new distance sales rules with their intended start date of 1 January 2021, and the current state of affairs. If you after having read this whitepaper have any questions about your own position, or if you need help, please do not hesitate to contact your contact person at CROP, or ask one of CROP's VAT specialists directly.

Current Rules

In order to prevent private individuals from making purchases in those EU Member States where the VAT rate is lowest, separate VAT rules for distance selling have been set up.

The distance selling rules provide that the VAT is levied in the Member State where the supplier is established, until a certain threshold amount (excluding VAT) is exceeded. The heights of those threshold amounts vary per Member State². Once the price (excluding VAT) for the supply to private individuals in one and the same Member State exceeds the threshold amount applicable for that Member State, the supply takes place in the country of the private individual.

From that moment on, the supplier must invoice with the applicable VAT rate in the relevant country concerned, and declare and remit that VAT in that country.

A supplier may choose not to apply the threshold amounts and declare and remit the VAT in the Member State of his customer as from the first supply, by making a request to his tax inspector. Such a choice applies for 2 calendar years.

¹ These rules also apply to supplies to: farmers making use of the agricultural rules, traders making only exempted performances; and legal persons, not being entrepreneurs, who are not liable for VAT as a result of an intra-Community acquisition. However, an additional threshold should then be taken into account in that. We will not elaborate further on this issue here in this whitepaper.

² The threshold amounts have been published on the website of the European Commission, https://ec.europa.eu/taxation_customs/sites/taxation/files/resources/documents/taxation/vat/traders/vat_community/vat_in_ec_a_nnexi.pdf.

New Rules

With effect as from 1 January 2021, the distance selling rules will be adjusted. The aforementioned threshold amounts for distance sales will be abolished. This means that as from the first supply to a private individual in another Member State, VAT will be due in that Member State. In addition, the obligation to issue an invoice is abolished.

With the abolition of the threshold amounts, the current Mini One Stop Shop (MOSS) declaration for digital services will be extended to a more extensive One Stop Shop (OSS) declaration. The supplier will no longer have to register in the other EU Member States, but can arrange the declarations and remittances in his own country of establishment.

Furthermore, the scope of distance selling will be broadened. Under the current rules, for example, distance selling exists only if the transport is carried out by or for the account of the supplier. Under the new rules, this is extended to the situation where the supplier has had a role in the conclusion of a transport contract between a forwarding agent and the buyer in the other Member State. This is in order to avoid constructions.

Small entrepreneurs with an annual turnover of less than € 10,000 in digital services and distance selling do not have to apply the rules.

The new rules also affect distance selling where the supplier is located outside the European Union. In addition, platforms that facilitate the transactions for certain supplies will be designated as suppliers, stating the obligations for VAT. We will not discuss this issue any further here in this whitepaper.

Current State of Affairs

The new distance selling rules were originally planned to enter into force on 1 January 2021. However, in connection with the Corona crisis, the European Commission has proposed to postpone the entry into force of the new rules for six months. This will give Member States and entrepreneurs time to prepare for the new rules.

If the postponement decision will be made by the ECOFIN Council, the new distance selling rules will apply as from 1 July 2021. Until then, the current rules will continue to apply.

The postponement also means that the OSS declaration system does not have to be opened until per 1 April 2021 (instead of 1 October 2020).