

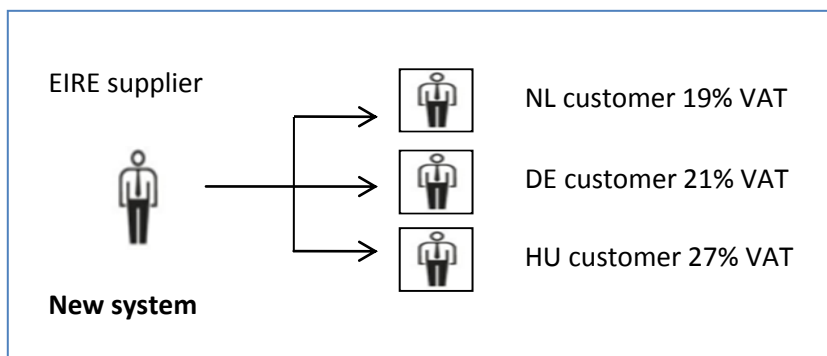
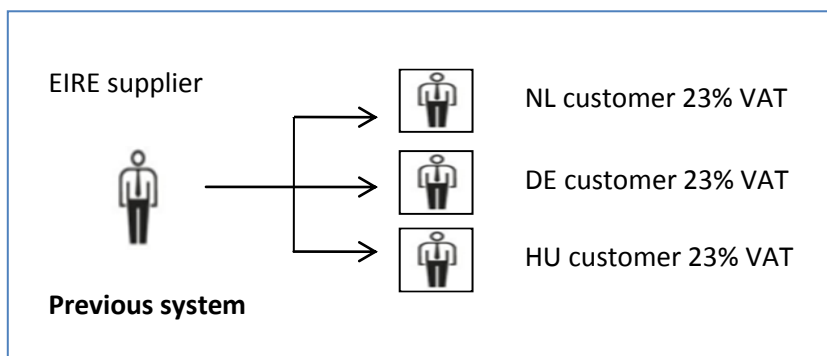


**CHAMBERS  
IRELAND**  
IN BUSINESS FOR BUSINESS

## EU VAT changes to the place of supply of telecommunications, broadcasting and electronic services that entered into force in 2015

### What is the issue?

From 01 January 2015 business-to-customer sales of digital services (telecommunications, broadcasting and electronically supplied services) will incur VAT at the place where the private customers has his/her permanent address or usually resides. This is a change to the previous system where VAT was charged according to the country where the seller was based.



### Example:

When webhosting is supplied to a private customer living in Hamburg, German VAT must be charged irrespective of whether the supplier is based in Germany, in another EU member state or outside the EU.

Examples of activities affected:

- App developers
- Webhosting providers

- Distance learning
- Online games
- Software
- Online publications (newspapers, newsletters, e-books).

### **Why is this being done?**

The change in rules is part of an effort by the European Commission (EC) to create a more transparent European VAT system. The EC points out that VAT fundamentally is a tax on consumption, and should as much as possible be applied in the place where a good or service is consumed.

The rule change is additionally a result of pressure from some EU member states to tackle the problem of companies establishing their EU seat in a low VAT country to minimise their tax burden. Other member states consequently lose VAT revenue. Moreover, a service provider established outside the EU could sell directly to a customer, VAT excluded.

### **Why is it potentially problematic?**

Despite the logic that underpins this amendment, it creates complications. VAT rates range from 15% to 27% across the EU and this will of course impact the business' profit margins, but the problems are probably more administrative than financial.

### **Irish businesses selling digital services must now adapt pricing strategies, internal systems, contracts and tax compliance procedures.**

- 1. Pricing strategy:** Businesses must consider whether they need to adapt their pricing strategies. Differing VAT rates will impact on margins unless an adequate pricing structure is developed in advance.
- 2. Systems:** For every transaction regardless of the pricing strategy, the seller must determine where their customers are established or usually reside in order to determine the place of supply of the provided services and the applicable VAT rate. Two separate corroborating pieces of evidence are required for the identification of the customer's location (billing address, IP address, bank details, phone code, etc.)

From quote to payment, systems must recognise the customer's country and apply the correct rate of VAT. Systems must also be configured and maintained to ensure the correct amount of tax is paid to each country of residence, but the MOSS helps here (see point 4 below).

- 3. Contracts:** Businesses should review and where possible renegotiate their contracts (with suppliers, service providers, channel partners and retailers) to ensure that each party's VAT accounting responsibilities are clearly defined.

- 4. Tax return compliance:** The only ways to comply are either to register for VAT in each country in which a business sells its services or to register for a Mini One Stop Shop scheme (VAT MOSS), which has been set up by Revenue. The MOSS scheme requires businesses to submit a quarterly return and VAT payment to Revenue, which then sends the appropriate information and payment to each relevant member state's tax authority. This mitigates the burden somewhat, but the business must still be fully informed on the location of its clients.

### **Why digital services?**

Digital services is the area highlighted by member states as particularly problematic. The EC has clarified that it relates only to automated services with 'very little human intervention'. So, selling software online would be included, but designing software for a client would be exempt. For now, there are no plans to extend the scope to other services or other business-to-consumer areas.

### **Is there a threshold for small traders?**

The new rules apply to all traders of digital services with no minimum threshold applied. Although the Commission originally had proposed that businesses with sales less than €100,000 p.a. would be exempt from the rule, this was rejected by member states as they believed such an exemption would exclude a large proportion of the businesses concerned and thus impact negatively on tax revenue.

### **Next steps**

The EC will evaluate the MOSS in 2015 and will consider whether the switch to country of destination is problematic or indeed beneficial to member states.

### **Further information**

More information on VAT and the rule changes can be found at [http://ec.europa.eu/taxation\\_customs/taxation/vat/how\\_vat\\_works/telecom/index\\_en.htm](http://ec.europa.eu/taxation_customs/taxation/vat/how_vat_works/telecom/index_en.htm)