

TAX & LEGAL

READY - SET - GO: OSS PROCEDURE IS COMING!



With the Annual Tax Act 2020, the foundations were laid in Germany for implementing the VAT e-commerce package (Digitalpaket) adopted by the EU, introducing changes to distance selling and establishing the One-Stop-Shop (OSS). The OSS procedure is intended to enable entrepreneurs who carry out cross-border supplies or services to fulfill their VAT declaration obligations via a one-stop shop.

WHO CAN USE THE OSS PROCEDURE?

1. Entrepreneurs from Germany who provide certain services to non-business customers (B2C) in the EU

Entrepreneurs providing digital services could already use the Mini-One-Stop-Shop (MOSS) procedure. Their registration to the MOSS will be continued in the OSS.

However, the scope of application is extended by the VAT e-commerce package to further services if they are provided to non-entrepreneurs and the place of the supply is within the EU territory. Thus, entrepreneurs established in Germany can use the OSS procedure if, for example, they supply occasional cross-border passenger transport services by motor vehicle to non-entrepreneurs, supply services connected to immovable property, carrying out catering, brokerage or event services or perform cultural and entertainment services. Additionally, work on movable property and its appraisal or rent out means of transport on a long-term basis also fall under this regulation.

2. Entrepreneurs from other EU Member States who provide certain services to non-business customers (B2C) in the EU

Entrepreneurs from other EU member states providing electronic services could already use the MOSS procedure in their country. For them, too, the scope of application is extended by OSS. Participation in the OSS procedure is possible via the respective EU Member State of establishment, but not via the German Federal Central Tax Office.

3. Entrepreneurs from third countries providing certain cross-border services to non-business customers (B2C) in the EU

Entrepreneurs established outside the EU can - if they provide corresponding services to non-entrepreneurs established in the EU - register for the OSS procedure in **one** EU member state and report their transactions for **all** EU member states there. The entrepreneur must notify his participation in the OSS procedure **before** the beginning of the taxable period from which OSS is to be used.

Services for which the OSS procedure can be used are, again, digital services, occasional international passenger transportation by motor vehicle to non-entrepreneurs, real estate, restaurant, brokerage or event services or cultural and entertainment services, work on movable property and its appraisal, and long-term leasing of means of transport.

4. Entrepreneurs from Germany who make distance sales to customers (B2C) in the EU

The regulations on distance selling that will apply from July 1, 2021 replace the previous regulations. Entrepreneurs who ship their goods (e.g. online trade) are therefore particularly affected. It should be noted that the supply thresholds for distance sale order transactions will cease to apply as of July 1, 2021 and will be replaced by a de minimis threshold in the amount of 10 000 EUR (cumulative for all EU countries).

ABOUT BDO

With over 1,900 employees across 27 different offices, BDO is one of the leading companies for auditing and audit-related services, tax and business law consulting, and advisory in Germany.

BDO AG Wirtschaftsprüfungsgesellschaft is a founding member of BDO International (established in 1963). With more than 91,000 employees across 167 countries, it is currently the only globally active auditing and consulting organisation with European roots.

www.bdo.de

CONTACT

BDO AG
Wirtschaftsprüfungsgesellschaft



PETRA PINKEPANK

Senior Manager
Value Added Tax
Phone: + 49 211 1371-293
vat@bdo.de

5. Entrepreneurs from Germany who support supplies by means of their electronic interface (electronic trading platforms)

The digital package not only redefines the liability of so-called marketplace operators, but also (fictitiously) includes these operators in a supply chain. The scope of application is also extended to such entrepreneurs who support the conclusion of the sale/purchase transaction through an electronic platform. Intermediary platforms in particular will therefore be treated as suppliers in the VAT sense in the future, obliged to report relevant supplies. The use of the OSS procedure is also open to these entrepreneurs.

6. Entrepreneurs from third countries exporting distance sales to buyers (B2C) in the EU, where the shipments do not exceed a material value of 150 EUR

Entrepreneurs from third countries who carry out distance sales in the B2C area to customers in the EU can also use the OSS procedure to report their sales. The import of goods with a material value not exceeding 150 EUR is zero-rated if the output supply is reported in the OSS and the conditions for zero-rating are met.

Participation in the OSS can only be chosen uniformly for all EU Member States, whereby participation in OSS takes place via **one** EU Member State. If a third-country trader does not make use of the OSS procedure, the import VAT can be processed via special service providers (e.g. a parcel service provider).

WHAT IS OSS AND WHAT ARE THE REQUIREMENTS?

By participating in the One-Stop-Shop procedure, entrepreneurs can handle their declaration obligations for the EU Member States concerned in the state in which they are established. In Germany, this is done via the Federal Central Tax Office (BZSt).

If entrepreneurs meet the requirements for participation in the OSS procedure with their supplies of goods or services, they can register accordingly with the Federal Central Tax Office (BZSt). The obligation to register in other EU Member States for this kind of supplies is thus eliminated, and with it the effort required for the declaration in the respective countries. The associated financial and administrative relief for entrepreneurs also extends to

- ▶ mail order companies no longer having to monitor the exceeding of supply thresholds per country and
- ▶ further obligations in other EU Member States associated with an existing registration obligation are no longer applicable (e.g. after deregistration in Lithuania, the obligation to report invoices to the ISAF register is no longer applicable).

It should be noted that the decision to participate in the OSS must be made uniformly for all EU countries in which the entrepreneur carries out taxable transactions ("all or none").

It should also be noted that the OSS procedure cannot be used for

- ▶ the supply of new vehicles,
- ▶ the supply of an item that is assembled or installed with or without trial commissioning by or on behalf of the supplier,
- ▶ for the supply of an item to which the margin scheme according to § 25a German VAT act is applied, and
- ▶ for the supply of goods subject to excise duty.

As with the previous MOSS procedure, the tax period is a quarter. The deadline for submitting tax returns via OSS expires at the end of the month following the quarter of the tax period. In the tax return, the entrepreneur has to calculate the tax himself and pay the calculated tax by the last day of the deadline.

CAN INPUT VAT REFUNDS BE CLAIMED USING OSS PROCEDURES?

It is not possible to apply for the refund of input VAT amounts from other countries via the OSS procedure. In this case, a corresponding application is required in the input VAT refund procedure, which is also handled by the Federal Central Tax Office (BZSt).

However, should a VAT registration in another EU Member State still be in place (due to other reasons) the general procedure is to be used.

ACTING WITH FORESIGHT: PREPARE FOR OSS!

The use of the OSS in Germany requires registration with the Federal Central Tax Office (BZSt). The registration application can be submitted **as early as April 2021** with effect from the start date of July 1, 2021. Although registration at a later date is possible, however, it will only take effect for taxation periods after registration. The application is submitted via the BZSt online portal. Entrepreneurs who already use the Mini-One-Stop-Shop do not have to register again.

In addition to registering with the BZSt, entrepreneurs should - if they have not already done so - adapt their ERP system so that sales can be determined separately according to individual countries (if necessary, set up new accounts or separate tax keys).

It is also worthwhile to check now whether deregistration in other EU Member States is possible or whether registration must (still) be maintained for other reasons. If necessary, deregistration in other EU Member States can already be initiated now.

We will be happy to support you in your preparations for OSS.