



VAT Tax Fact Sheet

This is a fact sheet on the VAT tax in order to help answer questions and put everything in simpler terms as to what it is, what it means and what each entrepreneur has to do in order to get ready.

I also know that you may already know some of this information... my goal with this fact sheet was to get all the facts and have them in one place. This is the result of several weeks of research in order to make sure I had all of the facts and that the information is the most up-to-date.

However, with more and more information coming out as it gets closer to January 1st, some information may have changed or new information may not be on this Fact Sheet. My promise to you is that once all of the information is out and everything has been decided - I will make the necessary updates. If you'd like the updated version sent directly to your Inbox, leave your email address here
<http://www.balancedtaxservices.com/free-ebook/>.

NEW RULE: The new rule is that effective January 1, 2015, any entrepreneur that sells online digital services to the EU must charge a VAT tax.

The VAT tax is NO longer based off of where the seller is but instead based off of where the CONSUMER normally resides.

It is important to note – that there is NO threshold limit. If you sell online you MUST comply with the new rules if you plan on selling in the EU.

START DATE: It goes into effect January 1, 2015

Why New Rule is being put into Place: New rules are being put into place due to rules that were ACTUALLY put into place back in 2003 with barely any compliance because no one really knew about it.

The EU (European Commission) is targeting the digital economy because put simply – they have lost out on so much revenue over the last 10 years. The EU has estimated that it loses billions in lost VAT revenue every year and this is their FIRST step in attempting to reverse that trend.

According to the EU taxation commissioner as to the reasoning behind the rule change: “Businesses will enjoy a simplified system and more level-playing field, which should encourage cross border expansion, especially for start ups and SMEs.”

INCLUDES: Any digital service where the Service is entirely automated and involves no or minimal human intervention (which includes but of course is not limited to):

- Analytics
- Antivirus Software
- Broadcasting
- Cloud Storage
- Downloaded Apps
- E-books
- Gaming
- Music Downloads
- Online Accounting
- Online Journals
- PDF Products
- Remote Maintenance
- SAAS
- Software
- Taped Webinars
- Telecommunications
- Training Material
- Video on demand
- Web Advertising
- Web Hosting

It is important to understand what the EU considers no human intervention and minimal human intervention as well as understand what the EU considers enough human intervention in order for the service to NOT be included as a digital service....

No Human Intervention: This means where the sale of the digital content is ENTIRELY automatic - for example if I am a customer and I go to your site and I click the "Buy Now" button on your website and...

a) the content **downloads** onto my phone, tablet, computer, etc.

Or

- b) I receive an **automated** email containing the content.

In both of these cases - the VAT tax would come into play because these would constitute as an e-service due to there being no human contact.

Minimal Human Intervention: This means the sale of the digital content is mostly automatic and the small amount of manual process that is involved does NOT change the nature of the supply from an e-service. For example:

I am a customer and I click the "Buy Now" button on your site and...

- a) You (the vendor) receives notification and clicks a button, which then produces an email pre-populated with my details and containing content which is sent to me;

Or

- b) You (the vendor) receives notification and clicks a button which produces an email pre-populated with my details. Then you attach content and send me an e-mail by clicking the "Send" button.

In both of these cases - these would constitute as an e-service and the VAT tax would come into play.

So what does the EU consider Enough "Human Intervention" for the service to not be considered an e-service... Well according to their explanation:

"This is where the amount of manual process involved in the sale means that the service ceases to be an e-service. In these cases the website functions as a "shop window" for the sale **rather than** also providing the mechanism by which the sale is made. For example:

- 1) A customer clicks the "Buy Now" button on your website and my order is added to a list. Then at the end of the day you (the vendor) takes this list, manually completes an email with each customer's details, attaches the relevant content and hits "Send".

Or

- 2) A customer emails you (the vendor) with details of the products they wish to purchase. You then manually reply to email and attach the content.

This Won't Affect Me: WRONG!! This affects EVERY single entrepreneur! It especially affects the entrepreneurs that are not located in the EU but sell digital services to the EU. And everyone needs to be aware of the rule because they are requiring everyone to comply.

Okay Lisa - so what does all this mean? In a nutshell - ***IF*** you provide digital services (see list above) that is entirely automated, charge for these services, and provide these services to consumers in any of the EU countries then you **MUST** register for the VAT tax.

The guidelines go on to say that if you sell the digital services to businesses then you are considered a B2B (Business to Business) and therefore do NOT have to pay the VAT - however - and please **NOTE** this is important: The burden of proof is on YOU that your customer was a business.

According to the EU, you must have your customer provide you with their VAT number. If your customer gives you their VAT number - then the transaction is now considered a B2B (Business to Business) transaction and is not affected by this law - and therefore you do not have to charge the VAT tax.

If you **cannot** tell if your customer is a business - meaning you aren't able to provide the proof - and you sell your digital products in the EU - then ALL of your sales will be VAT taxed and you will be responsible for paying that tax to the EU every Quarter.

If you sell digital services both to consumers (B2C) and to Businesses (B2B) then as long as you are able to show proof for the ones that are Businesses - you only have to charge the VAT tax on the products that are sold to the consumers. However....

Yes - there is More... You **MUST** list **ALL** of the EU sales transactions including the ones that are businesses and provide the proof that they were businesses. This must be turned in when you file the VAT Quarterly tax.

Alright now - don't panic on me just yet...

All of the above being said - during the Q&A that was held via Twitter by the HMRC gave some more information that was NOT included in any of the material that I found during my research... I am including this information because **IF the EU stands by it** - then it may make things slightly easier on a lot of entrepreneurs.

The below examples are what are considered enough Human interaction where according to the HMRC - the service would then NOT fall under the new VAT tax.

- 1) Live Webinars - even if you offer a free PDF download - because there is human interaction with the live webinar.
- 2) Virtual Classrooms that combine live webinars, videos, pdfs and human intervention.
- 3) E-course that contains recorded videos and PDFs but is opened only at specific times but does have live interaction.
- 4) If you offer coaching with an online course. Per the HMRC the inclusion of the live coaching means that this is not an e-service.
- 5) Per the HRMC's live Twitter chat - interaction within a Facebook group counts as human intervention. What I take this to mean is that if you sell an e-course which also gives the customer access to a Facebook group that you have for your clients only where they can ask Questions, etc. and there is live interaction from you and them - then the e-course no longer counts as an e-service and would not be subject to the new VAT Tax.

Now - I know what you are thinking... Well Lisa - this is just great!! (NOT!!) So what in the hell are my choices in regards to all of this?!?!

There are a few choices that you have – and please forgive me for being blunt here...

- 1) **Do Nothing!** Yes, you read right. You could decide to do nothing. However, I do NOT recommend that this be one of your choices. Please remember we are talking about a government that thinks that everyone should know the rules and regulations even though they did NOT specifically tell anyone about them.

Also remember - that this gives the state apparatus of 28 countries the right to take an interest in your business activities. And you have no idea how any of them will approach this.

- 2) **Register for the VAT!** If you choose this option - you of course have 2 choices for this...
 - a. You register for VAT with every single EU member state (28 countries total) which means you will have to keep up with the

different VAT tax that is charged and make sure the correct amount is charged. This means keep up with and understand the detail of potentially 28 EU tax authorities.

And again – remember this is no longer based on where you as the seller is located. This is based off of where the consumer normally resides.

OR...

- b. You register with MOSS (Mini One Stop Shop) – this is a new system where you can register and it is supposed to reduce the burden as it will allow you to register only 1 time with the EU and declare all of your EU VAT with just one member state's tax authority. The member state (country you register in) will then distribute all the EU VAT due to each of the EU Countries.

3) **Change How you Offer your Services:**

What I mean by this is - if you sell an e-course, taped webinar, etc. then add a Facebook group for those people where there is live interaction between you and your customers where they are able to ask questions, etc.

4) **Stop Selling Digital Services to the EU!**

Yes, once again you read right. This is also an option and I am sure it is an option that most have contemplated but do NOT want to do. But I am being very honest with you as to all of your choices because unfortunately, decisions have to be made.

That being said - for those of you that may decide to do this - you will probably run into some issues... Because you have to make sure you know without a doubt that your customer is not in any of the EU countries. Otherwise this won't work and you take the chance of owing the EU a VAT tax and the chance of getting into some serious trouble if you haven't registered.

5) **Sell through a Digital Platform, Store or Market Place:**

What I mean by this is do not sell any of your digital services via your website but instead include them only on a digital platform, store or marketplace.

If you do this, then the business that manages the platform will be responsible for accounting to the EU for the VAT on the B2C (Business

to Consumer) supply and you will only be making a business to business supply.

It is important to understand that **I am not talking about a 3rd Party payment provider like PayPal**. PayPal just provides a payment mechanism it does not take part in the supply of the services so therefore, they are NOT responsible for accounting for the VAT. I am talking about the 3rd party platforms where the order is placed, payments are processed and delivery made through its website.

Register through each EU State:

If you decide that you are going to register with the VAT but you are not going to use the MOSS and instead only register with each of the EU countries that you sell too - it is important to note that the burden of proof is on you as to where the customer resides and the EU requires that you collect this proof... It is also important to know that you must prove customers location and that you must have 2 pieces of non-contradictory evidence - below is what the EU considers acceptable:

- a. the billing address of the customer;
- b. the Internet Protocol (IP) address of the device used by the customer or any method of geolocation;
- c. bank details such as the location of the bank account used for payment or the billing address of the customer held by that bank;
- d. the Mobile Country Code (MCC) of the International Mobile Subscriber Identity (IMSI) stored on the Subscriber Identity Module (SIM) card used by the customer;
- e. the location of the customer's fixed land line through which the service is supplied to him;
- f. other commercially relevant information.

Now here is where the "fun" part comes in... once you determine the customer's location, you then have to make sure you are charging the correct VAT rate.

You are also required. **Let me repeat** - you are also required to keep these 2 non-contradictory pieces of evidence of each of your customers as part of

your VAT MOSS records and these records MUST be kept for a period of 10 years from December 31st of the year during which the transaction was carried out.

The other information that must be kept includes the transaction time and date, the VAT rate charged, the foreign exchange rate used (if applicable).

This is the EU-wide requirement and is not negotiable.

Register Using MOSS:

What exactly is MOSS? MOSS means Mini One Stop Shop. And it was introduced to ease the administration burden on the merchants which are affected by the 2015 Directive.

MOSS allows a merchant to identify **One** tax authority in the EU as its Member State of Identification or (MSI). For the EU businesses this will typically be their local tax authority. However, according to the directive - a non-EU business is free to choose any member state as their MSI.

Once an MSI has been selected then all VAT collected on sales in the EU is declared via a web portal with the MSI. Then the MSI distributes the correct VAT to each EU member state in which the business recorded their B2C (Business to Consumer) digital sales.

Even though this does not go into effect until January 1st, EU is now allowing the MOSS web portals to start accepting businesses.

The whole benefit of MOSS is that a business (eMerchant) meaning you can file 4 returns per year to cover all of your EU sales. The MSI (Member State of Identification) - the country that you register in will then distribute the VAT due on the sales across the EU.

CONSEQUENCES of Complying with the rule:

Okay - now on to the Nitty Gritty: You don't want to stop selling your digital services to the EU. Now what?

Well first you need to decide how you are going to operate your business based on the above information... and then you need to decide if you will register in each individual country or register for MOSS and which country do you want to use as your MSI.

It is important for you to understand that any EU member state - meaning any of the 28 countries can audit your business if you have sales in its

jurisdiction. So complying with these rules as well as making sure you are keeping the necessary records is very important.

It is also important to understand that not complying could cost you greatly. As the penalty is based on which EU country the tax law was broken. For majority of the countries, the penalty includes twice the amount of VAT unpaid WITHOUT any upper capping limit in Denmark and Belgium, and 50% of the VAT due in Spain. While other EU member countries have upper limit monetary fines of up to \$155,600.00.

PLEASE NOTE: Once you register with a MOSS - no matter where you are located - and this includes the businesses in the U.S. you will be required to submit quarterly returns to the MSI that you chose to register in.

I don't like this anymore than anyone else does! Trust me on this... however, with all of the research I have done, if you provide a service that ends up in the realm of having to register for VAT then in my opinion if you are outside of the EU, MOSS is your best choice, the one with less of a headache.

GOOD NEWS: I do have some good news... I know that a lot of you online entrepreneurs have **no desire** to fool with registering for the VAT MOSS or much less having to file a quarterly return on top of the yearly returns that are required for the U.S. as well as some of the other countries.

This is why I am now going to be offering a VAT service where I will help you get registered for MOSS and/or file the quarterly return for your business with the VAT. This will allow you to be able to concentrate on the important things.

I will also be offering my services as to answering questions - because even though I am taking part of the burden off of you - you will still need to make sure you are charging the right amount of the VAT tax. Where I come in on this - is I can help you register for the MOSS of your choice - and when I do I will let you know the rate/rates and therefore you have that information and can make sure you are charging accordingly.

I can also let you know what information needs to be kept and help you keep up with that information and then file your quarterly VAT return.

Visit my website at <http://www.balancedtaxservices.com/>

The Other Good News: If you have questions as to any of this, I am offering a 1 hour free consultation to answer questions to the best of my ability in order to help all of you. No Strings attached!! That being said, if I don't know an answer - I will do my best to find the answer and then let you know.

This is too important to ignore! And I want to help you the best I can!

You can click on this link to fill out a form for a free consultation:

<http://www.balancedtaxservices.com/free-consultation/>

Also - if you want to have up-to-date information on the VAT not only between now and January 1st but also anytime after that - then join my group Financially Balanced. Not only will you be kept up-to-date with the VAT tax but you will also be able to get questions answered as to accounting and tax as well as receive tips.

The link to the group is:

<https://www.facebook.com/groups/347085812136749/>