

# ***Improving access to the Digital Single Market by simplifying VAT rules in the EU***

## **AmCham EU calls for streamlined, data-driven processes to modernise VAT collection**

### **Executive summary**

The American Chamber of Commerce to the European Union (AmCham EU) welcomes the European Commission's priorities to improve access to the Digital Single Market (DSM) for consumers and businesses. One of the key initiatives to encourage cross border e-commerce is the ambitious goal of modernising the European Union's value-added tax (EU VAT) system. Simplification of VAT rules across EU Member States based on an efficient and modern method of collecting VAT from the sale of goods and services on the internet - while maintaining a level playing field for business - will help to achieve the EU's growth targets. In particular, it will facilitate the entry of small and medium-sized enterprises (SMEs) into new markets both within and outside the EU. AmCham EU believes that lean, simplified and data-driven processes will optimise liability and control in VAT collection, and that enhanced periodic reporting and payment options should help to manage expected growth.

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*AmCham EU speaks for American companies committed to Europe on trade, investment and competitiveness issues. It aims to ensure a growth-orientated business and investment climate in Europe. AmCham EU facilitates the resolution of transatlantic issues that impact business and plays a role in creating better understanding of EU and US positions on business matters. Aggregate US investment in Europe totalled €2 trillion in 2014 and directly supports more than 4.3 million jobs in Europe.*

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## **Introduction**

The American Chamber of Commerce to the European Union (AmCham EU) supports the European Commission's plans to reduce the administrative burden on business arising from different value-added tax (VAT) regimes and to modernise VAT for cross-border e-commerce as part of the Digital Single Market (DSM) Strategy. AmCham EU has been very active on this front and in 2015 it participated in workshops organised by the Commission and Deloitte, including the Fiscalis 2020 seminar in Dublin. It also submitted a response to the [Commission's public consultation on modernising VAT for cross-border e-commerce](#), outlining key issues the AmCham EU members believe the Commission should consider in developing a VAT legislation that anticipates economic scenarios beyond 2020. AmCham EU looks forward to further contributing to the development of more streamlined, data-driven processes to modernise VAT collection in the EU and has outlined several recommendations to help drive this forward.

## **Modernising VAT for cross-border e-commerce**

Within the framework of the DSM, the Commission announced in early 2015 its intention to simplify the collection of VAT across EU Member States, develop an efficient and modern method of collecting VAT from the sale of goods and services on the internet, and maintain a level playing field for business. This means that the same rules should apply for intra-EU sales and imports.

A revised VAT system should abolish the established *De Minimis* threshold that exempts small consignments below a 10-22€ value from VAT and offers simplified border procedures. The Commission's Directorate-General for Taxation and Customs Union (DG TAXUD) has proposed a number of options based around the extension of the so-called Mini One Stop Shop (MOSS), also known as the single electronic registration and payment mechanism, for sales of tangible goods.

For imports, the Commission has looked at a number of VAT payment options, such as:

- a) the vendor collection model;
- b) the intermediary collection model; and
- c) the traditional customs collection model.

AmCham EU welcomes the Commission's ambition to modernise the EU's VAT system and to simplify collection of VAT across EU Member States. AmCham EU supports initiatives such as the simplification of VAT rules, review of cross-border contract rules and other measures that also make it easier for small and medium-sized enterprises (SMEs) – a future growth segment and important stakeholders in the EU economy – to trade on a cross-border basis, and beyond. AmCham EU recognises the Commission's efforts to actively involve key stakeholders in open discussions on the future VAT framework, and believe that to achieve the Commission's policy objectives of simplicity, certainty and a level playing field, the modernisation of VAT should follow a number of core principles as laid out below.

In this context, two key factors affect future opportunities for business and growth in Europe. The first is the solid rise of e-commerce both within the EU and in international trade. The second is the role the EU plays as a model for legislation and standards around the world, including for taxation. Both are particularly important in view of the long legislative deployment phases and expected decades of

validity. In addition, recent studies<sup>1</sup> have revealed the high costs of VAT collection, particularly for low value consignments<sup>2</sup>, which in itself calls for more efficient processes.

### **Recommendations to modernise and enhance VAT collection policies on imported low-value consignments**

1. *VAT rules should be simplified to minimise the administrative burden on the various actors involved in the cross-border shipment of goods*

A new VAT collection process should be lean and data-driven without negatively impacting the speed of delivery. Specifically, data requirements should be limited and supply chain operators should act automatically via direct representation. VAT should not be reported on a shipment-by-shipment basis, and periodic reporting and payment should be allowed. There should be options to apply only the standard VAT rate applicable in individual Member States to imports of consignments for private individuals, as this would contribute to simplified accounting for the third country supplier.

2. *Import VAT accounting should be separate from the customs clearance of imported goods, and simplified by moving away from a shipment-to-shipment transactional basis approach towards periodic reporting and payment*

In order for this to function efficiently, risk-based customs formalities at entry, including customs clearance, need to be as simple as possible. If not, any advantage in time and cost gained by moving tax collection 'upstream' would be lost. In some cases, time and costs may actually be increased if businesses have to complete additional formalities on top of customs ones. A key example of this is the proposal introduced by the Union Customs Code (UCC), which asks that all imports be classified before entry in the EU using a 6 digit Harmonised System (HS) tariff code in addition to the good's description. If such a proposal would be implemented, there would be no benefits gained in terms of border formalities as importers would have to employ skilled staff to classify imports in addition to completing VAT or Goods and Services Tax (GST) returns.

VAT collection and payment are not the primary responsibilities of the customs declarant. Therefore, responsibility for the accounting and payment of customs duty and import VAT for shipments destined to the EU should be split. This way the customs declarant bears no complex administrative burden. From the customs perspective, this solution would mean that low-value shipments imported into the EU would be subject only to security and safety declarations. Their customs clearance would not require declaration in writing but rather other 'softer' forms, allowing for rapid customs clearance, while the import VAT would be accounted for and paid by the third-country vendor or its representative through the amended MOSS. In general, the use of an adapted MOSS system for imported goods should not be limited to goods below 150€, as such limitation will not be introduced for intra-EU goods and would therefore create an unlevel playing field.

Periodic reporting and payment of VAT will also enable customs officials to focus their efforts on monitoring shipments for safety and security purposes, as they would no longer have to act as an agent

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<sup>1</sup> [Import VAT and duty de-minimis in the European Union – Where should they be and what will be the impact?](#) (Cross-Border Research Association, 2014)

<sup>2</sup> [Assessment of the application and impact of the VAT exemption for importation of small consignments \(Ernst & Young, 2015\)](#)

for the tax administration, collecting VAT. This would free up ever-shrinking customs resources to focus on key customs priorities.

3. *Regulations on VAT-related liability and control should be optimised to balance the need for information and the need to facilitate movement of goods, recognising established partnerships models such as Authorised Economic Operators (AEOs).*

AEOs have a record of compliance with customs requirements, a satisfactory system of managing commercial and, where appropriate, transport records allowing for appropriate customs controls, proven financial solvency, high and security and safety standards. Rules for liability and control should therefore be optimised to balance the need for tax information and the need to facilitate expedited shipments. Audits of transactions per account and proof of tax payments would also be easier given the wealth of data and systems available to monitor the physical movement of goods and account history.

4. *'Overcorrecting' perceived distortions should be avoided, as this can create protectionist measures that may harm consumers and could lead to third-country retaliation.*

Reducing or cancelling small consignment relief without effective facilitation will lead to an incremental cost increase on low-value shipments destined to the EU. This would result in a higher price for customers, create a reverse distortion effect and have negative impact on international trade<sup>1</sup>. In addition, the simpler the system of collection of VAT/GST on supplies from third countries, the lower the risk of retaliation from other trade blocs that could negatively impact future trade agreements and potentially lead to a competitive disadvantage for European exporters.

## **Conclusion**

AmCham EU remains committed to facilitating the creation of a harmonised common market that serves as a role model for other trade blocs. In order to achieve this effectively, new policy to modernise the EU's VAT system will need to be adopted. AmCham EU recognises that while this will not happen suddenly, it is important to make steady progress towards reaching a more efficient system. As the cost of collecting VAT on low-value shipments is high relative to the amount collected, it is essential that simplifications provide lower costs and optimise available benefits. All measures towards modernisation of the EU's VAT system must reflect the reality of an economic environment changing rapidly with the rise of e-commerce, both intra-EU and worldwide. In addition, AmCham EU encourages the Commission to pursue a level playing field for all operators involved, avoiding any preferential treatment for goods processed under United Postal Union (UPU) obligations or otherwise.

AmCham EU's members therefore encourage the Commission to create an effective solution that will favour trade and ensure a reliable method of VAT collection on low-value consignments within and destined to the EU. AmCham EU welcomes further cooperation and discussion on this subject.