

# AmCham EU's response to the public consultation on modernising VAT for cross-border e-commerce

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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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**CONSULTATION RESPONSE**

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17 December 2015

**Section 1 - General Information**

***NB: Certain questions should be for business only (BO).***

**1) Are you...**

- Business  
 Business Association  
 Member of the public  
 Other

**2) Please enter your name:**

American Chamber of Commerce to the European Union (AmCham EU)

**3) Please enter your e-mail address:**

eje@amchameu.eu

**4) Please indicate the country of your head office:**

- |  |   |
|--|---|
| <input type="checkbox"/> Austria         | <input checked="" type="checkbox"/> Belgium |
| <input type="checkbox"/> Bulgaria        | <input type="checkbox"/> Croatia            |
| <input type="checkbox"/> Cyprus          | <input type="checkbox"/> Czech Republic     |
| <input type="checkbox"/> Denmark         | <input type="checkbox"/> Estonia            |
| <input type="checkbox"/> Finland         | <input type="checkbox"/> France             |
| <input type="checkbox"/> Germany         | <input type="checkbox"/> Greece             |
| <input type="checkbox"/> Hungary         | <input type="checkbox"/> Iceland            |
| <input type="checkbox"/> Ireland         | <input type="checkbox"/> Italy              |
| <input type="checkbox"/> Latvia          | <input type="checkbox"/> Lichtenstein       |
| <input type="checkbox"/> Lithuania       | <input type="checkbox"/> Luxembourg         |
| <input type="checkbox"/> Malta           | <input type="checkbox"/> Norway             |
| <input type="checkbox"/> Poland          | <input type="checkbox"/> Portugal           |
| <input type="checkbox"/> Romania         | <input type="checkbox"/> Slovakia           |
| <input type="checkbox"/> Slovenia        | <input type="checkbox"/> Spain              |
| <input type="checkbox"/> Sweden          | <input type="checkbox"/> Switzerland        |
| <input type="checkbox"/> The Netherlands | <input type="checkbox"/> United Kingdom     |
| <input type="checkbox"/> United States   | <input type="checkbox"/> Japan              |
| <input type="checkbox"/> China           | <input type="checkbox"/> Russia             |
| <input type="checkbox"/> Other           |   |

**5) Do you agree with the publication of your contribution on the Commission's website?**

- Yes, your contribution may be published under the name you indicate  
 Yes, your contribution may be published but should be kept anonymous (without name and contact details)  
 No, you do not want your contribution to be published. Your contribution will not be published, but it may be used internally within the Commission

**6) (BO) Please indicate the types of Business to Consumer (B2C) e-commerce supplies you make? (Multiple answers possible)**

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- Telecommunications
- Broadcasting
- Electronically Supplied Services
- Distance Sales of Goods
- Other supplies of Goods or Services

**7) (BO) Please indicate whether you supply goods, services or both?**

- Goods
- Services
- Both

**8) (BO) What is your worldwide annual turnover (Euro)?**

- Greater than 5 million
- Between 1 million and 5 million
- Between 100,000 and 1 million
- Between 35,000 and 100,000
- Between 10,000 and 35,000
- Between 1,000 and 10,000
- Less than 1,000

**9) (BO) What is your annual B2C cross-border turnover (Euro)? For EU business – sales to other Member States; for non EU business – sales to EU**

- Greater than 5 million
- Between 1 million and 5 million
- Between 100,000 and 1 million
- Between 35,000 and 100,000
- Between 10,000 and 35,000
- Between 1,000 and 10,000
- Less than 1,000
- No cross-border sales

**10) (BO) How many EU Member States do you make B2C supplies to?**

- None
- Between 1 and 3
- Between 4 and 10
- Greater than 11

**11) To what extent are VAT obligations a factor in deciding to make supplies in other Member States or not?**

- High factor
- Medium factor
- Low Factor
- No Opinion

**12) (BO) For supplies not reported under the current Mini One Stop Shop, please rate the difficulties in accounting for VAT in other Member States**

- Very Difficult
- Difficult
- Easy

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- Very Easy  
 No opinion

**13) (BO) For supplies not reported under the current Mini One Stop Shop, please indicate the burdens that you face in accounting for VAT in other Member States (multiple answers possible)**

- Registering for VAT  
 Declaring VAT  
 Understanding the rules in other Member States e.g. invoicing rules  
 Dealing with different languages  
 Controls and audits  
 Other

If Other, please specify:

**Please rate the difficulty of the burdens faced above (scale of 1 – 5 with 5 representing the most difficult).**

- |   |    |                          |    |                          |    |                                     |    |                          |    |                          |
|---|----|--------------------------|----|--------------------------|----|-------------------------------------|----|--------------------------|----|--------------------------|
| Registering for VAT   | 1. | <input type="checkbox"/> | 2. | <input type="checkbox"/> | 3. | <input checked="" type="checkbox"/> | 4. | <input type="checkbox"/> | 5. | <input type="checkbox"/> |
| Declaring VAT   | 1. | <input type="checkbox"/> | 2. | <input type="checkbox"/> | 3. | <input checked="" type="checkbox"/> | 4. | <input type="checkbox"/> | 5. | <input type="checkbox"/> |
| Understanding the rules in other Member States e.g. invoicing rules | 1. | <input type="checkbox"/> | 2. | <input type="checkbox"/> | 3. | <input type="checkbox"/>            | 4. | <input type="checkbox"/> | 5. | <input type="checkbox"/> |
| Dealing with different languages                                    | 1. | <input type="checkbox"/> | 2. | <input type="checkbox"/> | 3. | <input type="checkbox"/>            | 4. | <input type="checkbox"/> | 5. | <input type="checkbox"/> |
| Controls and audits   | 1. | <input type="checkbox"/> | 2. | <input type="checkbox"/> | 3. | <input type="checkbox"/>            | 4. | <input type="checkbox"/> | 5. | <input type="checkbox"/> |
| Other   | 1. | <input type="checkbox"/> | 2. | <input type="checkbox"/> | 3. | <input type="checkbox"/>            | 4. | <input type="checkbox"/> | 5. | <input type="checkbox"/> |

**14) (BO) Do any of the following issues apply to your business in respect of the current distance sales thresholds for goods in the EU? (Multiple answers possible)**

- Not aware of the requirement to register in the other Member State when the threshold is exceeded  
 Received queries from tax administrations in other Member States on levels of sales in those Member States  
 Exceeded the threshold and needed to revisit sales  
 Non-harmonized thresholds are confusing  
 Disadvantaged by a supplier in another Member State applying lower VAT rates  
 Other

If Other, please specify:

**Please rate the difficulty of the issues faced above (scale of 1 – 5 with 5 representing the most difficult).**

- |  |    |                          |    |                          |    |                          |    |                          |    |                                     |
|--|----|--------------------------|----|--------------------------|----|--------------------------|----|--------------------------|----|-------------------------------------|
| Not aware of the requirement to register in the other Member State when the threshold is exceeded          | 1. | <input type="checkbox"/> | 2. | <input type="checkbox"/> | 3. | <input type="checkbox"/> | 4. | <input type="checkbox"/> | 5. | <input type="checkbox"/>            |
| Received queries from tax administrations in other Member States on levels of sales in those Member States | 1. | <input type="checkbox"/> | 2. | <input type="checkbox"/> | 3. | <input type="checkbox"/> | 4. | <input type="checkbox"/> | 5. | <input type="checkbox"/>            |
| Exceeded the threshold and needed to revisit sales   | 1. | <input type="checkbox"/> | 2. | <input type="checkbox"/> | 3. | <input type="checkbox"/> | 4. | <input type="checkbox"/> | 5. | <input type="checkbox"/>            |
| Non-harmonized thresholds are confusing  | 1. | <input type="checkbox"/> | 2. | <input type="checkbox"/> | 3. | <input type="checkbox"/> | 4. | <input type="checkbox"/> | 5. | <input type="checkbox"/>            |
| Disadvantaged by a supplier in another Member State applying lower VAT rates                               | 1. | <input type="checkbox"/> | 2. | <input type="checkbox"/> | 3. | <input type="checkbox"/> | 4. | <input type="checkbox"/> | 5. | <input checked="" type="checkbox"/> |

Other

1.  2.  3.  4.  5.

1.  2.  3.  4.  5.

**Section 2 – 2015 VAT Place of Supply Rules and the current Mini-One Stop Shop**

**This part of the questionnaire is for business affected by the 2015 changes to the VAT place of supply rules for business to consumer supplies of telecommunications, broadcasting and electronically supplied services.**

**15) Have you or your members been affected by the changes to the place of supply rules for B2C supplies of telecommunications, broadcasting and electronically supplied services?**

- Yes  
 No

**16) Please indicate how you became aware of the changes to these rules (multiple answers allowed)**

- Tax administration in your Member State  
 European Commission  
 Representative organization  
 Tax practitioner  
 Other

If Other, please specify:

**17) How satisfied were you for the information provided ensured that you understood the implications for your business of the 2015 changes to the VAT place of supply rules?**

- Very Satisfied  
 Satisfied  
 Unsatisfied  
 Very unsatisfied  
 No opinion

**18) (BO) What types of evidence do you typically use to identify the place where the recipient of the service is based? Under the VAT Implementing Regulation, two pieces of non-contradictory evidence are required.**

- The billing address of the customer  
 The IP address of the device used by the customer or any other method of geolocation  
 Bank details of the customer  
 The location of the customer's fixed land line  
 Other commercially relevant information

(BO) If you use other commercially available information as a criterion for identification of your customer, please describe what type of information you use? For AmCham EU's members, flexibility of the supporting information is a key component of the new regime.

**19) (BO) Have you experienced any of the following problems in determining the place of establishment of your customers?**

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- The payment service provider does not provide you with the customer's location
- Difficulty in obtaining two pieces of evidence
- The evidence is contradictory
- Other

If Other, please specify:

**Please rate the difficulty of the problems raised above (scale of 1 – 5 with 5 representing the most difficult).**

- |  |                             |                             |                             |                             |                             |
|--|-----------------------------|-----------------------------|-----------------------------|-----------------------------|-----------------------------|
| The payment service provider does not provide you with the customer's location | 1. <input type="checkbox"/> | 2. <input type="checkbox"/> | 3. <input type="checkbox"/> | 4. <input type="checkbox"/> | 5. <input type="checkbox"/> |
| Difficulty in obtaining two pieces of evidence                                 | 1. <input type="checkbox"/> | 2. <input type="checkbox"/> | 3. <input type="checkbox"/> | 4. <input type="checkbox"/> | 5. <input type="checkbox"/> |
| The evidence is contradictory  | 1. <input type="checkbox"/> | 2. <input type="checkbox"/> | 3. <input type="checkbox"/> | 4. <input type="checkbox"/> | 5. <input type="checkbox"/> |
| Other  | 1. <input type="checkbox"/> | 2. <input type="checkbox"/> | 3. <input type="checkbox"/> | 4. <input type="checkbox"/> | 5. <input type="checkbox"/> |

**20) (BO) Do you use the Mini One Stop Shop to account for VAT due in other EU Member States?**

- Yes
- No

**21) (BO) If no, please indicate the reason below why you do not use the system?**

- You also supply goods
- You have existing registrations in other Member States
- You are waiting to see whether the system is working
- Other

If Other, please elaborate:

**22) (BO) If yes, please indicate your level of satisfaction with the use of the system provided in your Member State?**

- Very Satisfied
- Satisfied
- Unsatisfied
- Very unsatisfied
- No opinion

**23) Do you agree that the current Mini One Stop Shop is a significant simplification to the alternative of requiring a business to register and account for VAT in each Member State to which B2C telecommunications, broadcasting and electronically supplied services are provided to?**

- Strongly agree
- Agree
- Disagree
- Strongly Disagree
- No opinion

**24) Have you experienced any problems with the current functioning of the Mini One Stop Shop?**

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- Yes  
 No

**If yes, what are the main problems you have experienced (multiple answers possible)**

- Design or operation of national portals  
 Access to information on rules in other MSs  
 No common rules on invoicing  
 Currency conversions  
 Storage of records  
 No single audit by the Member State of Identification  
 No minimum turnover threshold for MOSS registration  
 Other

If Other, please elaborate: The practicalities of the regime de facto exclude most non-EU headquartered taxpayers with transactions within the EU.

**Please rate the difficulty of the problems raised above (scale 1-5 with 5 representing the most difficult).**

- |   |    |                          |    |                          |    |                                     |    |                                     |    |                          |
|---|----|--------------------------|----|--------------------------|----|-------------------------------------|----|-------------------------------------|----|--------------------------|
| Design or operation of national portals               | 1. | <input type="checkbox"/> | 2. | <input type="checkbox"/> | 3. | <input type="checkbox"/>            | 4. | <input type="checkbox"/>            | 5. | <input type="checkbox"/> |
| Access to information on rules in other MSs           | 1. | <input type="checkbox"/> | 2. | <input type="checkbox"/> | 3. | <input type="checkbox"/>            | 4. | <input type="checkbox"/>            | 5. | <input type="checkbox"/> |
| No common rules on invoicing                          | 1. | <input type="checkbox"/> | 2. | <input type="checkbox"/> | 3. | <input type="checkbox"/>            | 4. | <input checked="" type="checkbox"/> | 5. | <input type="checkbox"/> |
| Currency conversions                                  | 1. | <input type="checkbox"/> | 2. | <input type="checkbox"/> | 3. | <input type="checkbox"/>            | 4. | <input type="checkbox"/>            | 5. | <input type="checkbox"/> |
| Storage of records                                    | 1. | <input type="checkbox"/> | 2. | <input type="checkbox"/> | 3. | <input checked="" type="checkbox"/> | 4. | <input type="checkbox"/>            | 5. | <input type="checkbox"/> |
| No single audit by the Member State of Identification | 1. | <input type="checkbox"/> | 2. | <input type="checkbox"/> | 3. | <input type="checkbox"/>            | 4. | <input checked="" type="checkbox"/> | 5. | <input type="checkbox"/> |
| No minimum turnover threshold for MOSS registration   | 1. | <input type="checkbox"/> | 2. | <input type="checkbox"/> | 3. | <input type="checkbox"/>            | 4. | <input type="checkbox"/>            | 5. | <input type="checkbox"/> |
| Other   | 1. | <input type="checkbox"/> | 2. | <input type="checkbox"/> | 3. | <input type="checkbox"/>            | 4. | <input checked="" type="checkbox"/> | 5. | <input type="checkbox"/> |

**Section 3 – Future Policy Options**

**25) Please indicate your level of agreement with the objective of the Commission to minimise burdens attached to cross-border e-commerce arising from different VAT regimes:**

- Strongly agree  
 Agree  
 Disagree  
 Strongly Disagree  
 No opinion

**26) Please indicate your level of agreement with the objective of the Commission to ensure that all business selling to consumers in a Member State should be charging the same VAT rate with no exemption applying to imports of small consignments.**

- Strongly agree  
 Agree  
 Disagree  
 Strongly Disagree  
 No opinion

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**27) Do you agree on the need to improve the current Mini One Stop Shop and to set up a single electronic registration and payment mechanism for B2C supplies of tangible goods as well as services (Intra-EU and from 3rd countries)?**

- Strongly agree
- Agree
- Disagree
- Strongly Disagree
- No opinion

**28) Do you agree that business using the future single electronic registration and payment system should apply home country VAT rules (i.e. a business uses the rules applicable in their own Member States rather than the rules applicable in the Member States of their customers e.g. invoicing rules)? Note that the VAT rates or exemptions of the Member State of the consumer will still be applied.**

- Strongly agree
- Agree
- Disagree
- Strongly Disagree
- No opinion

**29) Do you agree that business using the future single electronic registration and payment system should be subject to a single audit from the tax authority in their own Member State? Note that the existing administrative cooperation arrangements will continue to apply.**

- Strongly agree
- Agree
- Disagree
- Strongly Disagree
- No opinion

**30) Do you agree that all supplies from non-EU countries should be subject to the same VAT treatment as intra-EU supplies?**

- Strongly agree
- Agree
- Disagree
- Strongly Disagree
- No opinion

**31) Do you think that there should be a cross-border VAT threshold i.e. no VAT would be applied up to a certain amount of cross-border supplies?**

- Strongly agree
- Agree
- Disagree
- Strongly Disagree
- No opinion

**32) What is the appropriate level of such a threshold in terms of cross-border sales?**

- Greater than 5 million
- Between 1 million and 5 million
- Between 100,000 and 1 million



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- Between 35,000 and 100,000
- Between 10,000 and 35,000
- Between 1,000 and 10,000
- Less than 1,000
- No threshold is necessary

**33) What are the benefits of cross-border thresholds? (multiple answers possible)**

- No benefits
- Eases access to the single market for business
- Easier management for tax administrations
- Other

If Other, please elaborate:

**34) Are there any risks with having cross-border thresholds? (multiple answers possible)**

- No risks
- Uncertainty on whether a business will exceed the annual threshold
- Creates distortions particularly where there are high VAT rates
- Other

If Other, please elaborate: Introducing a threshold for the sales of goods would be seen as a conceptual change in the design of a destination-focused VAT system. There are currently no thresholds for the e-services. Should a threshold be introduced, it will have to be an EU-wide one, applicable both for goods and services and as low as possible to mitigate distortion of competition.

**35) Do you agree that any threshold needs to be harmonised across the EU and should apply to both goods and services?**

- Strongly agree
- Agree
- Disagree
- Strongly Disagree
- No opinion

**Section 4 – Other issues:**

**36) Are there any other issues that you wish to address which have not been covered in Sections 1 to 3?**

AmCham EU wants to thank the EU Commission for launching this consultation and for offering stakeholders an opportunity to provide input on the policy developments and challenges that should be dealt with to make the EU VAT system more successful whilst reducing the burden imposed on taxpayers.

Global businesses active in Europe are facing increasing complexity in complying with the VAT framework throughout the EU, especially because of the lack of effective harmonisation in day-to-day practices. VAT modernisation should continue to facilitate trade keeping established import processes as simple as possible without endangering an effective collection of VAT. A separation of VAT accounting from customs clearance processes could have a positive impact minimising administrative

burdens for imports while avoiding distortions for EU-based companies. The removal or changes to the small consignment exemption is to be assessed against that backdrop and should come hand in hand with effective facilitation as it would otherwise lead to an incremental cost increase on low-value shipments destined to the EU.

AmCham EU likes to emphasise the EU's role serving as a model for other trade blocks and economies taking fast growing international e-commerce into account. A well-founded and outbalanced "future-proved" VAT-system not only bears the lowest risk of retaliation measures of trade partners but as well offers good chances for application of similar systems leading to positive export conditions for EU-companies.