

## Public consultation

### Proposal for a simplified Norwegian VAT regime for e-commerce from 2020 - VAT on supplies of low value goods/small consignment

The proposal is to fulfil the Norwegian Parliament decision to abolish the exemption of VAT and other indirect taxes on low value goods sent from foreign sellers to consumers in Norway. The Ministry of Finance (MOF) proposes to do this by introducing new legislation where sellers and online marketplaces will be liable for VAT on cross-border sales of low value goods to final consumers in Norway.

The new system shall be in force as from 1<sup>st</sup> of January 2020.

A simplified system will be put in place for sellers and online marketplaces to register, declare and pay VAT on business-to-consumer (B2C) supplies of low value goods. The system will be implemented as an extension of the existing VOES-system (simplified scheme for VAT on cross border B2C sales of electronic services).

The proposed simplified VAT regime is in accordance with principles in the OECD Guidelines, especially the guidelines from 2016, and more recently, the report related to platforms from 2019. The proposal also has some similarities with the EU VAT e-commerce package that enters into force 1<sup>st</sup> of January 2021. In particular the extension of the scope of the EU MOSS scheme to encompass distance sales of low value goods imported from third countries, and the abolition of the current VAT exemption for imports of small consignments.

There are similarities with the Australian introduction of GST on low value imported goods from 1<sup>st</sup> of July 2018, and the simplified system that has been put in place for sellers and online marketplaces to register, report and pay GST.

In the following, we will present a summary of the proposal together with a more detailed explanation on how to register and use the simplified VAT system. The full consultation papers are drawn up in Norwegian, and available at [www.regjeringen.no](http://www.regjeringen.no).<sup>1</sup> The Ministry invites addressees to submit their comments and to carry out necessary submission to eventual underlying bodies. Comments can be submitted by e-mail to [postmottak@fin.dep.no](mailto:postmottak@fin.dep.no), no later than 5<sup>th</sup> of August 2019.

<sup>1</sup> <https://www.regjeringen.no/no/dokumenter/hoyring---framlegg-om-fjerning-av-fritak-fra-avgift-for-varesendingar-av-lag-verdi-350-kronersgrensa/id2653574/>

**Briefly on the Norwegian VAT system:**

Norway is not a member of the EU. Thus the comprehensive secondary legislation as regards VAT, especially the VAT directive Dir. 2006/112/EC, is not binding for Norway. Even so, the Norwegian system is largely based on the same principles as in the EU.

As regards VAT on international transactions, our system is highly influenced by the OECD work of WP9, both as regard the destination principle and as regard mechanism for the effective collection of VAT. Norway was among the first countries to introduce a simplified vendor regime for B2C transactions as regards electronic services.

**General rules:**

Foreign businesses with business activities in Norway must calculate and pay VAT to the same extent as Norwegian businesses.

VAT is payable on all goods and services unless specifically exempted, e.g. financial services, health and social services and letting of real property, or zero-rated e.g. books, newspapers etc.

Cross-border sales of goods and services are treated in accordance with the destination principle, and imports to Norway are in principle VAT liable – except for the current exemption of low value goods - through either border collection or use of the reverse charge mechanism, while exportation is zero-rated.

The VAT-rate structure is:

- 25 % - Standard VAT rate
- 15 % - Foodstuffs
- 12 % - Transportation services, hotel-services
- 0 % - Books, newspapers etc

Foreign businesses must register in the Norwegian VAT Registry when VAT liable turnover exceeds the threshold. The VAT registration threshold is NOK 50 000 (approx. EUR 5000, USD 5700) during a 12 month period.

Foreign businesses without place of business in Norway can register directly in the VAT Registry. However, if the country of establishment and Norway do not have an agreement on mutual administrative assistance, the foreign business must register through a representative.

The VOES-scheme – which will be extended and made available to VOSC-suppliers - is a simplified alternative to this ordinary registration process, and is provided to foreign businesses supplying electronic services to consumers in Norway (B2C). The VOES-scheme provides such businesses a simplified registration process, and simpler terms for charging, collecting and remitting VAT to the Norwegian tax authorities. The VOES-scheme is, broadly, an equivalent to the EU MOSS-scheme.

#### **VOSC-Scheme – removal of the low value goods threshold**

The main element of the new Norwegian proposal is that foreign sellers and electronic interfaces will be liable to pay Norwegian VAT when selling small consignments to Norwegian consumers. If a seller uses an electronic marketplace, the marketplace will be the “deemed supplier” according to the proposed changes in our VAT legislation. In the following, we will use the term VOSC-segment (“VAT on small consignments”) for this category of supplies. The details are presented below.

The key features of the new rules for the VOSC-segment, following the removal of low value goods threshold, are:

- The liability on sales of low value goods in the VOSC-segment is shifted from the Norwegian consumer to the foreign supplier of the goods.
- Instead of the consumers paying VAT at the point of importation as now, the supplier must collect Norwegian VAT at the point of sale and report and pay the VAT to Norwegian tax authorities.
- The supplier must provide information on transport documents, import documents and the consignments, e.g. “Vendor ID” and “VAT-paid code”, showing that VAT has been paid at the point of sale (the information requirements are not finalized).

Foreign suppliers and online marketplaces with turnover above the NOK 50,000 threshold will be allowed to manage their VAT liability on sales of low value goods through the VOSC-scheme. They might also choose to register for VAT in VOSC before the turnover has reached the threshold.

The VOSC-scheme entails a simplified registration process, simpler reporting requirements, and fewer administrative burdens in general. The alternative to VOSC-registration is to establish in Norway and register according to full ordinary registration in the Norwegian VAT Registry.

A supplier with an existing registration in the VOES-scheme may use the same registration and “vendor ID” for both electronic services and low value goods.

#### **More on the term “low value goods”:**

The proposed VOSC-scheme is restricted to sales of low value goods, low value means:

- Goods valued between NOK 0 – 3,000 (EUR 0 – 300, USD 0 – 344, CNY 0 – 2350).
- The threshold is calculated exclusive of shipping and insurance costs.

The VOSC-scheme includes all goods, except:

- Tobacco products
- Alcoholic beverages
- Other restricted or illegal goods according to Norwegian law
- Foodstuffs – (any goods meant for human consumption)

The VOSC will be only for VAT. Other indirect taxes, mainly excise duties and customs duties, must be collected as today. Excise duties are outside of VOSC scope, as a consequence of the exclusion of restricted goods and foodstuffs from the VOSC, which effectively comprises goods that are due for excise duties in the B2C segment. Excise duties must be payed on all goods where excise duties are imposed, including low value goods.

As the threshold for being a low value good is proposed at NOK 3,000, MOF also proposes to adjust the “de minimis” for customs duties from NOK 350 to NOK 3,000. This means that nothing within the scope of the VOSC will be subject to customs duties. This proposal is a simplification measure for the online marketplaces.

#### **Who is liable for VAT – “Deemed supplier” – distinction between supplier and intermediary:**

If the supply of the goods is facilitated with the use of an intermediary, the intermediary shall be the “deemed supplier”.

This, effectively, means that online marketplaces facilitating the distance sales of imported goods with an electronic interface (e.g., marketplace, platform, app, portal) will according to VAT legislation be deemed to have supplied those goods themselves. The “deemed supplier” provision is according to the proposal mandatory, i.e. those who sell low value goods through an intermediary cannot themselves be registered. The supplier and intermediary cannot freely choose who shall be VAT liable for the supply.

The distinction between supplier and intermediary is based on an overall assessment of whether ‘the delivery takes place through the use of an intermediary’:

- It is not decisive whether underlying agreements between the parties classify the relationship as involving a subcontractor, intermediary, agent or commissioner etc.

- Who is contractually responsible for the supply of goods is not necessarily decisive when assessing who must be registered.
- When deciding who the supplier is pursuant to the Value Added Tax Act, an important factor is who, from the standpoint of the consumer, appears to be the seller, and who is responsible for the actual delivery, i.e. who is, directly or indirectly, responsible for facilitating the transportation of the goods to the Norwegian consumer.
- It must also be taken into consideration who is collecting, directly or indirectly, the payment from the recipient.
- However, the intermediary is not a "deemed supplier" if its involvement is limited to providing access to payment system or processing payments, or transportation services. Likewise, the intermediary is not a "deemed supplier" if it only provides advertising that makes customers aware of products and links them to a merchant's website.

**Simplified customs clearance for the VOSC-segment – “Trusted operator”:**

The threshold for the VOSC-segment – goods valued between NOK 0-3,000 – is aligned with the threshold for the use of existing simplified customs clearance procedures.

This means that suppliers in the VOSC-segment have the option to use shipping agents/couriers/transporters, which have authorization and access to these simplified customs procedures (“trusted operators”). This will normally provide the most efficient way of shipping goods to Norwegian consumers. There are for the time being five big couriers, including Norwegian Mail, who have such authorization, but other traders could apply. The Norwegian Customs administration handles applications and provides authorization if the criterias are met.

The simplified procedures allows the operators to handle customs clearance on behalf of the final consumer, and clear goods in the VOSC-segment in bulk, which significantly speeds up the clearance process.

**VOSC-scheme – details:**

The VOSC-scheme is an extension of the VOES-scheme, and shares the same requirements and administrative provisions that are described below. These regimes are simplified vendor registration for the effective collection of VAT for traders not established in the jurisdiction of Taxation.

**How to register:**

The simplified registration, reporting and payment-process take place through a Norwegian Tax Administration web page.

After initial registration, the supplier is assigned an identification number and password.

The duty to register arises when the total value of deliveries to recipients in Norway exceeds NOK 50,000 during a period of 12 months. Suppliers who otherwise meet the requirements can nonetheless be registered in the simplified registration system before this amount limit is exceeded.

**Reporting and payment:**

VAT must be declared and paid by the same deadlines as apply to the already existing VOES system for electronic services, i.e. quarterly, with a deadline for the submission of returns and payment 20 days after the end of the period:

Reporting period VAT declaration and payment due by:

<b>Reporting period</b>	<b>VAT declaration and payment due by</b>
1 July to 30 September	20 October
1 October to 31 December	20 January
1 January to 31 March	20 April
1 April to 30 June	20 July

**Corrections:**

Corrections to VAT declarations including refunds related to return of goods, can be made by filing a new VAT declaration.

**VAT deductions:**

VOSC-suppliers are not entitled to VAT deductions. However, Norway has, similar to other countries, a general refund scheme for traders not established in Norway if these suppliers have VAT expenses in Norway related to their business activity here.

**Documentation and compliance requirements:**

A VOSC-registration carries far fewer documentation requirements than an ordinary VAT registration. In the simplified registration system, the supplier must keep a list of transactions that concerns the sale of low value goods to Norwegian private individuals. The list of transactions must be sufficiently detailed for it to be compared with the VAT return and thereby function as a means of control.

According to the Regulation to the VAT Act Section 15-10-1, the transaction record shall at least contain the following information

- a) documentation reference
- b) date of sale
- c) name and residential address of customer
- d) currency
- e) fee, inclusive of value added tax, where the amount is given in Norwegian kroner
- f) and value added tax (levied on sales price including fees).

The list of transactions must be stored for 5 years and, at the Norwegian tax authorities' request, it must be made available electronically within three weeks.

**Administrative provisions:**

As regards compliance with the regulations, suppliers in the simplified registration system will be subject to most of the general administrative provisions that apply for ordinary VAT registration. Among other things, this means that the suppliers will have a general duty to disclose information that has a bearing on VAT control and that the VAT authorities can obtain information about the suppliers from third parties.

It also means that the VAT authorities can stipulate VAT by discretionary judgement and otherwise impose sanctions such as additional tax or penal sanctions if a supplier provides incorrect or incomplete information or fails to submit a VAT return.

**Deletion from the simplified registration system**

A supplier will be deleted from the simplified registration system when the enterprise ceases trading or when the conditions for using the simplified registration system are no longer met. A supplier will also be deleted if it repeatedly fails to fulfil its obligations pursuant to the Value Added Tax Act and the Tax Administration Act.

Deleted suppliers who still engage in activities that are liable for VAT are obliged to register in the Norwegian VAT Registry.