The mini-One Stop Shop for VAT - the start of something big!

Algirdas Šemeta writes about how the European Commission is simplifying EU VAT systems to aid intra-EU trade

The strength of the single market, and the ease with which businesses can operate cross-border, are among the key determinants in how quickly the EU will return to economic growth. Yet, there is no denying that the complexity of the current EU VAT system is still an obstacle to intra-EU trade. Whether in dealing with tax administrations in different languages, or trying to understand the diverse national VAT obligations, businesses face too many deterrents against cross-border expansion, and too many costs and difficulties when they do operate elsewhere in the EU.

An important first step in addressing this problem has already been taken, however. Following a proposal from the Commission, member states agreed to a mini-One Stop Shop for certain enterprises. This will allow e-services, broadcasting and telecommunications businesses to declare and pay all the VAT they owe across the EU in their own member state, rather than having to do this in each and every member state in which they have customers. So, the tax authority in the member state where the business is established will receive the VAT declaration and payment for activities in the other member states, and will be responsible for forwarding it accordingly. Thus, the administrative burden of VAT will be significantly reduced for businesses.

The use of a One Stop Shop is not entirely new. Since 2004 businesses established outside the EU could nominate a member state through which they would declare and pay VAT due throughout the whole EU on their B2C supplies of e-services. However, by May 2011 there were just less than 750 businesses using this e-commerce scheme. This limited take-up can be explained with two reasons.

Firstly, the current rules for e-services mean that VAT is charged at the rate applicable in the member state of the supplier. With the standard rate of VAT being anywhere from 15% to (currently) 27%, compliant non-EU businesses have generally found it more profitable to establish in a member state with a low standard rate and to charge this rate to all private individuals for the e-services they supply in Europe. The e-commerce scheme would mean an end to this, as the businesses would be charged the VAT rate of the customers' country eg. 25% VAT in Denmark compared to 15% VAT in Luxembourg.

Secondly, there is no effective way of ensuring compliance. If a business located in California, for example, provides e-services to a private individual in Slovakia and does not register for the e-commerce scheme and pay Slovak VAT what can the national tax authorities do realistically? The Commission is addressing this issue and has asked member states for a mandate to negotiate with third countries on this issue from a collective position of power. For the time being, though, compliance depends on the willingness of suppliers in third countries to assume their legal obligations.

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At least from 1 January 2015, the first reason for not using the e-commerce scheme which is mentioned above disappears. From this date, all B2C supplies of e-services will be taxed at the place where the customer is resident. This is irrespective of whether it is an EU or non-EU business. So a customer living in Copenhagen will be charged 25% VAT, regardless of whether the supplier is from Denmark, Luxembourg or the USA.

Furthermore this will help prevent the distortion of competition within the single market. No longer can the supplier's location influence the amount of VAT the customer pays. And any VAT rate advantages from setting up in a particular member state will be removed. This creates a fairer and more level playing field between competing businesses in the single market.

However, as the e-commerce scheme currently in place is only for non-EU businesses supplying directly to EU customers, there is a need to expand it for e-services being supplied cross-border within the EU. Hence, the start of a mini-One Stop Shop for e-services, broadcasting and telecommunications.

This promising start should be seen as just that – a starting point, far from the finishing line which we intend to reach. There are many businesses trading in the EU that will not be able to benefit from this simplification. Those selling goods to private individuals across borders, for instance, are not included in the mini-One Stop Shop.

Imagine that a Belgian resident decides to compare the online prices being offered by e-commerce traders elsewhere to those being offered in Belgium. A similar product is being sold over the internet from a UK company and the order is placed. The trader, having annual sales in Belgium below €35,000, can simply charge the UK VAT. He may find though that this sale pushes him over the €35,000 threshold, thereby requiring him to register for VAT in Belgium and charge the Belgian rate. In this case the supplier, assuming he is compliant and knowledgeable of VAT rules, may tell his potential customer that the administrative burden is simply too high for him to make the sale.

It is to prevent such scenarios that I would like to see the One Stop Shop system enlarged to cover more businesses. Indeed these problems are more acute for SMEs, which is particularly worrying. The importance of the role of SMEs in creating jobs and growth in Europe should not be underestimated, we must do all we can to create the right business environment for them.

In the Communication on the future of VAT, which I presented last December, the Commission said that from 2015 onwards there should be a managed broadening of the One Stop Shop over time. Obviously, it's a good idea to wait to see the success of the mini One Stop Shop before embarking on an expansion; and this we will do. We will also take into account member states' questions on the importance of a wider One Stop Shop if we move towards a system of taxation at destination.

If VAT is to be charged at the rate set by the member state where the customer is located, there needs to be some simple way for the supplier to fulfil his VAT obligations. For B2B supplies of services, that is generally achieved today through the reverse charge. In this case, the customer charges himself the VAT and then may deduct it according to the normal rules on the right to deduct. For the cross border supply of goods, the customer also charges himself VAT (an EU acquisition). The result is the same in that VAT is declared and accounted for by the customer.

For B2C supplies of goods or services, such solutions are not possible. I doubt that there would be any appetite for making private individuals responsible for collecting and paying VAT. Nor do I think this would be efficient from a revenue perspective. Instead, a far better solution is the setting up of a One Stop Shop.

All B2C businesses could then complete a single VAT return, detailing sales in each member state and paying the corresponding VAT to their own authorities. Clearly that is simpler than having to register and fulfil VAT obligations in every member state. Moreover, other measures could make it even simpler.

For instance, member states have different standard rates, different reduced rates and even sometimes zero-rates, all applied to a vast array of differing goods and services. Therefore, a solution is needed to ensure that businesses aren't overwhelmed trying to figure out what VAT rate to apply to their sale. For this reason, the Commission has proposed setting up an EU web portal on EU and national VAT rules, including clear and binding information on the list of goods and services not covered by the standard rates in each member state.

Turning now to B2B supplies, it would be better for the single market to have a VAT system in which supplies within a member state and supplies cross border could be taxed in a similar way. Within a destination system of VAT, there seem to be two obvious solutions.

A first option is to treat local supplies in the same way as cross border supplies. This would mean, in effect, applying a general 'reverse charge'. There are advantages for businesses here, in that they can avoid having to charge and reclaim VAT, thereby reducing their administrative burden. Such a system would also put an end to carrousel fraud. However, it might create other types of fraud. Moreover, the loss of the fractionated system of VAT, whereby the vast majority of VAT is collected and paid by the largest and more reliable businesses, is lost. VAT in effect becomes more like a sales tax and certain member states fear a resulting loss in tax revenues.

A second option would be to treat cross border supplies in the same way as local supplies. This means that the supplier would charge, collect and pay the VAT. This is easier to do when the business is established in the member state where the tax is due, but not so easy elsewhere. If such an option was to be taken forward, a One Stop Shop would clearly be necessary to avoid to high administrative burden for businesses.

The One Stop Shop has many merits. It can bring substantial simplification and cost reductions for both businesses and member states. But for it to work in practice, member states must trust each other to collect the VAT on their behalf. It needs to be asked whether that degree of confidence between the member states currently exists.

All these elements will have to be discussed during the review of the destination system of VAT. That will, undoubtedly, be an interesting and challenging debate. Of course, other solutions may also be examined in order to assess best way forward, and the Commission will discuss these in detail with member states and businesses. Indeed, a VAT expert group is being formalised specifically to take such discussions with businesses forward.

Several steps, both on a legislative and operational level, will need to be taken in the coming years to ensure the smooth functioning of the mini-One Stop Shop from 1 January 2015. This is a key VAT priority for two reasons. Firstly, the mini-One Stop Shop must be in place on time. Otherwise, businesses will have a hard time fulfilling their VAT obligations, through no fault of their own. Secondly, the success or failure will be a decisive factor for a possible extension of the mechanism over time and, more generally, for the overall design of the future EU VAT system. ■

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