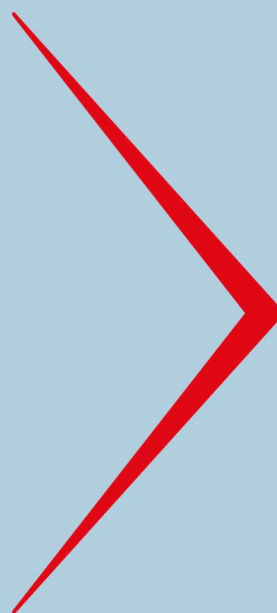


**ICAEW KNOW-HOW**  
TAX FACULTY



# E-Commerce VAT Regimes in the EU and UK

09 Jun 2021

Stephen Dale

Liam Dushynsky

# *Speakers*



Today's moderator:  
Frank Haskew- Head of Tax  
ICAEW Tax Faculty

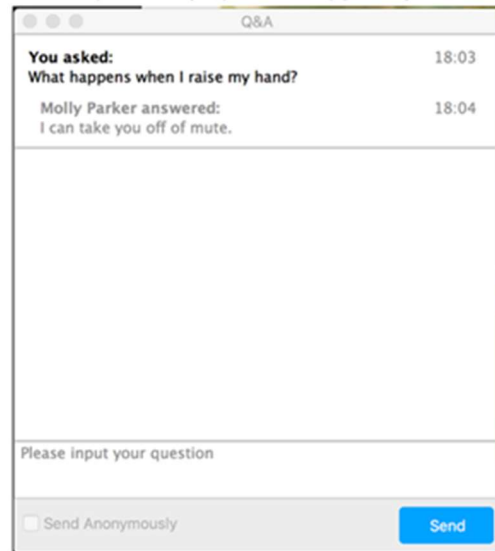


Today's Speaker:  
Stephen Dale - FCA  
[s.dale@hedeos-avocats.fr](mailto:s.dale@hedeos-avocats.fr)



Today's Speaker:  
Liam Dushynsky - FCA  
[liam.dushynsky@pkf-francisclark.co.uk](mailto:liam.dushynsky@pkf-francisclark.co.uk)

## *Ask a question*



The screenshot shows a Q&A window with the following content:

<b>You asked:</b> What happens when I raise my hand?	18:03
Molly Parker answered: I can take you off of mute.	18:04

Below the table is a large empty text area. At the bottom, there is a text input field with the placeholder text "Please input your question". To the left of the input field is a checkbox labeled "Send Anonymously". To the right is a blue "Send" button.

### **To ask a question**

Click on the **Q&A** button in the bottom toolbar to open the submit question prompt.

Type in your question and click **send**.

Note. If you wish to ask your question anonymously check the **send anonymously** box shown on the illustration to the left.

You can also upvote other delegates questions.

## *Agenda – E-Commerce VAT changes*

- Why?
- UK changes from 1 January 2021
- EU changes from 1 July 2021
- Examples
- Takeaways
- What's next
- Questions

## *The E-Commerce changes - Why*

- Global trend in e-commerce, driven by the growth in technology, retail e-commerce sales predicted to grow to \$6.388 trillion by 2024 (from \$1.336 trillion in 2014<sup>(1)</sup>).
- Countries globally (e.g. NZ, AUS, CDN, UK and EU) are trying to ensure that such sales are correctly taxed.
- In the EU current VAT losses from not taxing low value imports est. at €7bn.
- The EU changes were delayed for 6 months due to Covid – 15 days to go.

(1) Statista 2021

# *E-Commerce Changes UK*

Effective from 1 January 2021



# *E-Commerce Changes UK – 01/01/2021*

## **UK VAT registration required for:**

- Any business that operates an Online Market Place (OMP) that facilitates the sale of goods to the UK from overseas or local goods sold by an overseas seller.
- Any business that sells goods directly (without OMP involvement) to UK customers where the goods are:
  - a) Outside UK at the point of sale
  - b) Imported to the UK in consignments not exceeding £135 in value

# *E-Commerce Changes UK – 01/01/2021*

## **New arrangement details**

- Low value consignment relief <£15 removed
- Where consignment value  $\leq$  £135 (not excise goods or gifts)
- Tax point is when sold (on website) not when imported – VAT invoice required
- OMP becomes deemed supplier
- Less detailed customs declaration required
- Where value over £135 can use Postponed Import VAT
- Does not impact the Jersey and Guernsey arrangement with the UK



# *E-Commerce Changes UK – 01/01/2021*

## **What is an OMP?**

A business using a website or mobile phone app (such as a marketplace, platform or portal) to handle the sale of goods to customers which meets **all** of the following conditions:

- In any way **sets the terms and conditions** on how goods are supplied to the customer
- Is involved in any way in **authorising or facilitating customers' payments**
- Is involved in the **ordering or delivery** of the goods

A business which only provides one of the following will not be regarded as an OMP:

- a) The processing of payments in relation to the supply of goods
- b) The listing or advertising of goods
- c) The redirecting or transferring of customers to other electronic interfaces where goods are offered for sale, without any further intervention in the supply

# *E-Commerce Changes UK – 01/01/2021*

## **What is a UK customer?**

Whether the sale is to a 'UK customer' will be determined by whether the final customer's delivery address for the goods is in the UK, irrespective of the customer's billing address. (Also includes unregistered (VAT) businesses).

# *E-Commerce Changes UK – 01/01/2021*

## **What is the £135 intrinsic Value?**

The price at which the goods are sold, excluding:

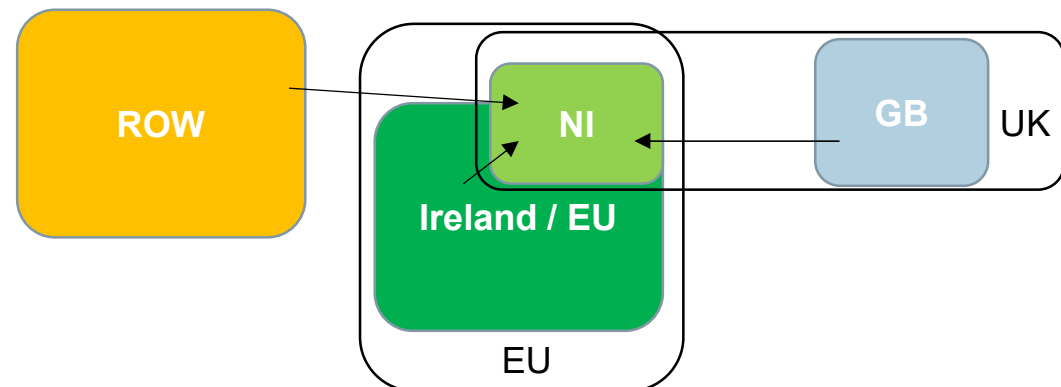
- Transport and insurance costs, unless they are included in the price and not separately indicated on the invoice
- Any other taxes and charges identifiable by the customs authorities from any relevant documents
- Note: the £135 threshold applies to the value of the consignment, not to each individual item within the consignment. You will need to know whether the goods are sent singularly to or as part of a consignment with other goods.

**Systems will need to know which rules to apply depending on order size and how they are packaged / sent**

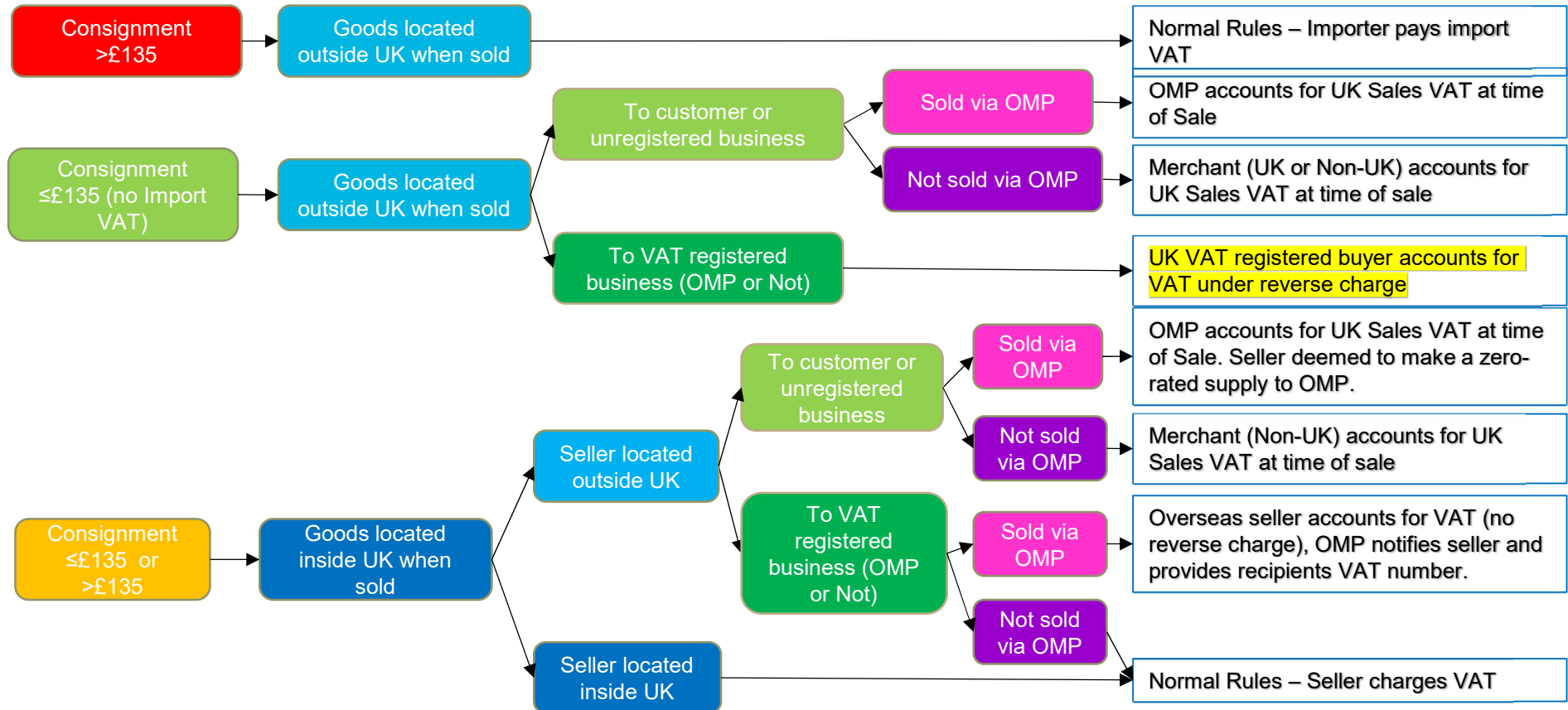
# *E-Commerce Changes UK – 01/01/2021*

## **What about Northern Ireland?**

- Where the goods are located in the EU then the distance selling threshold could still apply (£70K) alternatively EU businesses could register for UK VAT voluntarily. (NI is seen as EU)
- Goods located in the GB subject to normal UK VAT. (NI is seen as UK)
- Goods located outside the EU/UK will be subject to import VAT still, invoices not required (NI seen as EU)
- Business recipients in NI use PIVA instead of reverse charge
- OPM not liable if overseas seller and goods NI sold to NI customer.

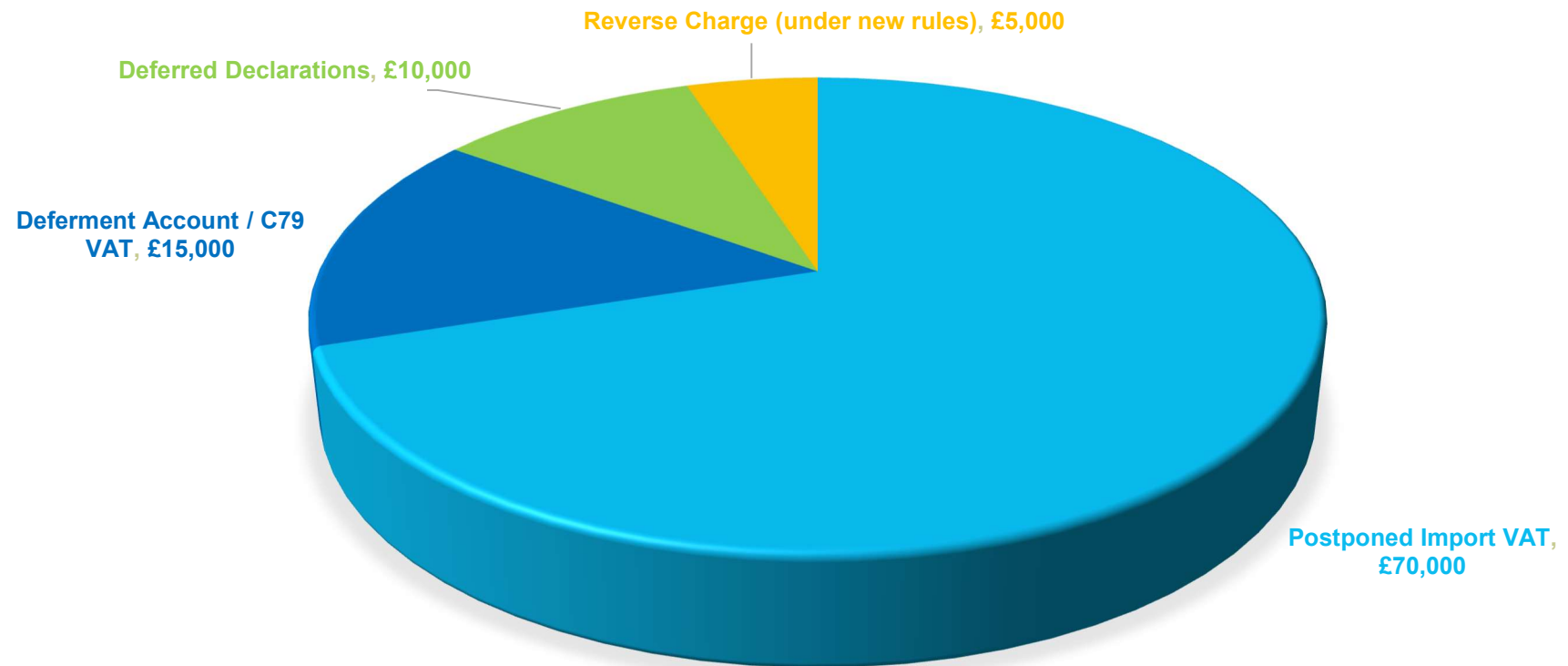


# E-Commerce Changes UK – 01/01/2021



# *E-Commerce Changes UK – 01/01/2021*

Monthly reconciliation of total import VAT



# ***E-Commerce Changes – B2C Sales UK to EU 01/01/2021 – 30/06/2021 (no distance selling)***

Treatment depends on who is Importer of Record – which is determined by the Member state of importation – article 201

## **Customer**

- Customer needs to pay import taxes (less appealing)
- Generally no requirement for supplier to register in EU –depends upon the Member state
- Supplier could pay some elements on behalf of customer but often incurred handling charges

## **Supplier**

- Supplier needed to VAT register in local country and account for import VAT and local sales VAT (significant costs and ongoing compliance)
- Many had issues finding customs representation to clear goods as supplier not established in the EU

# *E-Commerce Changes EU*

Effective from 1 July 2021





## *The EU E-Commerce changes – some abbreviations*

- **IOSS** – Import one stop shop - The ‘import scheme’ means the special scheme for distance sales of goods imported from third territories or third countries provided for in Section 4 of Chapter 6 of Title XII of the VAT Directive
- **Union OSS** - The ‘Union scheme’ means the special scheme for intra-Community distance sales of goods, for supplies of goods within a Member State facilitated by electronic interfaces and for services supplied by taxable persons established within the Community but not in the Member State of consumption provided for in Section 3 of Chapter 6 of Title XII of the VAT Directive
- **Non-Union OSS** - The ‘non-Union scheme’ means the special scheme for services supplied by taxable persons not established within the Community provided for in Section 2 of Chapter 6 of Title XII of the VAT Directive
- **MS** – Member state of the EU
- **MSE** – Member state of establishment
- **MSI** – Member state of identification
- **PoS** – Point of sale
- **TBE** – Telecommunication, Broadcasting and Electronic (Services)

## ***The EU E-Commerce changes – VAT low value exemptions abolished***

Entry into force postponed due to COVID-19 ✓

Implementing legislation ✓

Explanatory notes – customs guidance – VAT OSS guide ✓

The information and communication package ✓

# The EU E-Commerce changes

## before

Different VAT e-commerce rules for EU and non-EU traders

Complicated and burdensome VAT obligations depending on EU Member State

VAT exemption on imported goods lead to inappropriate customs declarations, distorting the market and creating unfair competition

No accountability for electronic interfaces, such as platforms or marketplaces

## benefit



› Fairer taxation



› Simplified process



› Greater price transparency



› Greater VAT compliance

## after

- › Equal taxation for all businesses in and outside the EU
- › Simpler VAT rules and processes

- › Easy for all businesses to declare and pay their VAT on cross-border deliveries to customers via the OSS and/or the IOSS
- › Users deal with only one national tax authority

- › VAT is paid in the Member State of the buyer
- › The IOSS can be used to declare and pay this VAT

- › The electronic interface is responsible for ensuring VAT is collected on their platforms
- › Less VAT fraud

# *The EU E-Commerce changes - Overview*

There are major changes to EU rules which will affect

- Distance sales of goods imported from third countries (eg UK), except excise goods (B2C)
- Intra-EU distance sales of goods (B2C) – including excise goods
- Certain supplies of goods from outside the EU by ‘deemed suppliers’
- Certain domestic sales of goods by deemed suppliers (B2C)
- Reporting of supplies of goods and services to consumers (B2C)

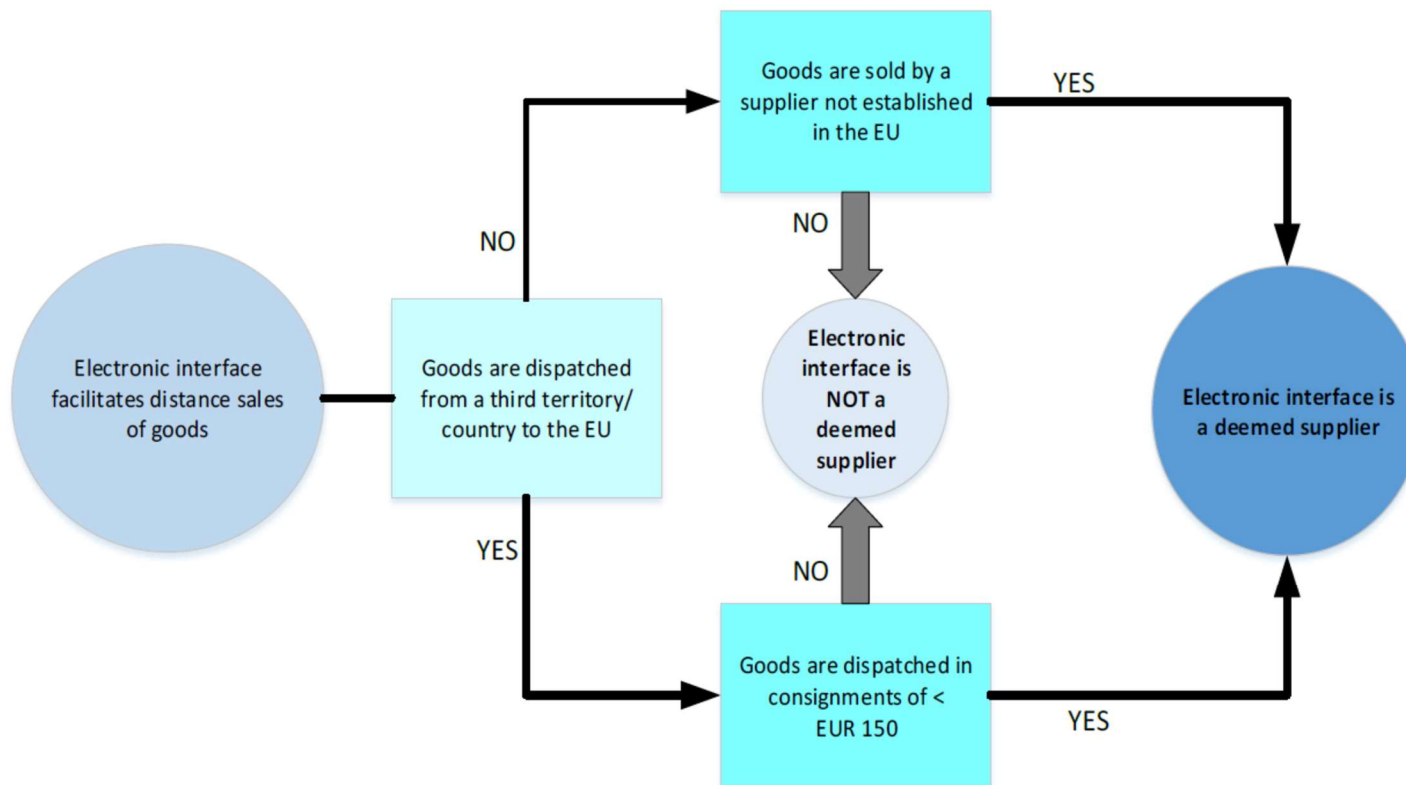
“**Deemed suppliers**” are defined as any taxable person who ‘facilitates’ (similar to the UK definition) distance sales of goods through the use of an electronic interface eg online marketplace, platform, portal, website, online shop

Such a business will be a “**deemed supplier**” where it:

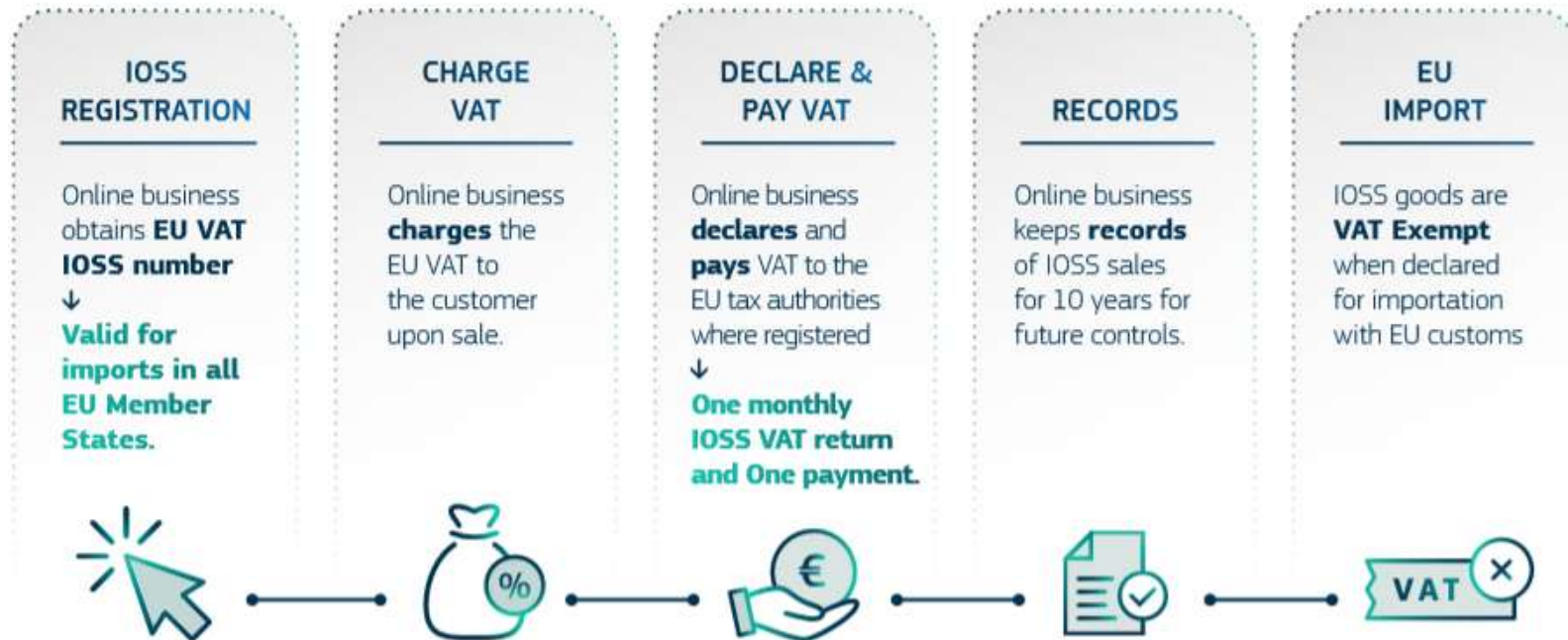
- Facilitates distance sales of goods imported from outside the EU ( $\leq$ €150 in value), or
- Facilitates a supply of goods within the EU for a non-EU established underlying supplier – regardless of the value

# *The EU E-Commerce changes – Deemed supplier*

Figure 1: Supplies of goods covered by the deemed supplier provision



# *The EU E-Commerce changes - IOSS*



# *The EU E-Commerce changes – IOSS – not compulsory*

- Used by businesses to declare distance sales of goods imported from a third territory or third country to customers **where the destination is within the EU**.
- Determined by where goods are located at point / time of sale
- Only covers low value goods, i.e. goods in consignments of an intrinsic value not exceeding €150
- Does not apply to goods subject to excise duties. Only “B2C” <sup>(1)</sup>
- Monthly returns
- Customs declarations required but can be simplified - H7

If conditions are not met (e.g. supply of goods has an intrinsic value of > €150) the normal import procedures would apply

(1) Art 14.4.2.a - (a) the supply of goods is carried out for a taxable person, or a non-taxable legal person, whose intra-Community acquisitions of goods are not subject to VAT pursuant to Article 3(1) or for any other non-taxable person;

# *The EU E-Commerce changes – IOSS - Intermediaries*

If the business is established outside the EU (e.g. United Kingdom), but in a third country with which the EU has concluded an agreement on mutual assistance for the recovery of VAT <sup>(1)</sup> the business can choose its MSI and **there is no need to appoint an intermediary to be able to use the import scheme.**

However, if such a person makes distance sales of imported goods from other third countries/territories, the business has to appoint an intermediary in order to use the IOSS.

E.g. if a non-EU business is established only in Norway, no intermediary is required. But if the business is established in Norway and China, then an intermediary is required (because no mutual assistance agreement concluded between EU and China).

(1) The EU Council will, by Decision, determine which countries will be considered in the same manner as Norway. The Decision to be adopted before 30<sup>th</sup> June



## *The EU E-Commerce changes – IOSS - Intermediaries*

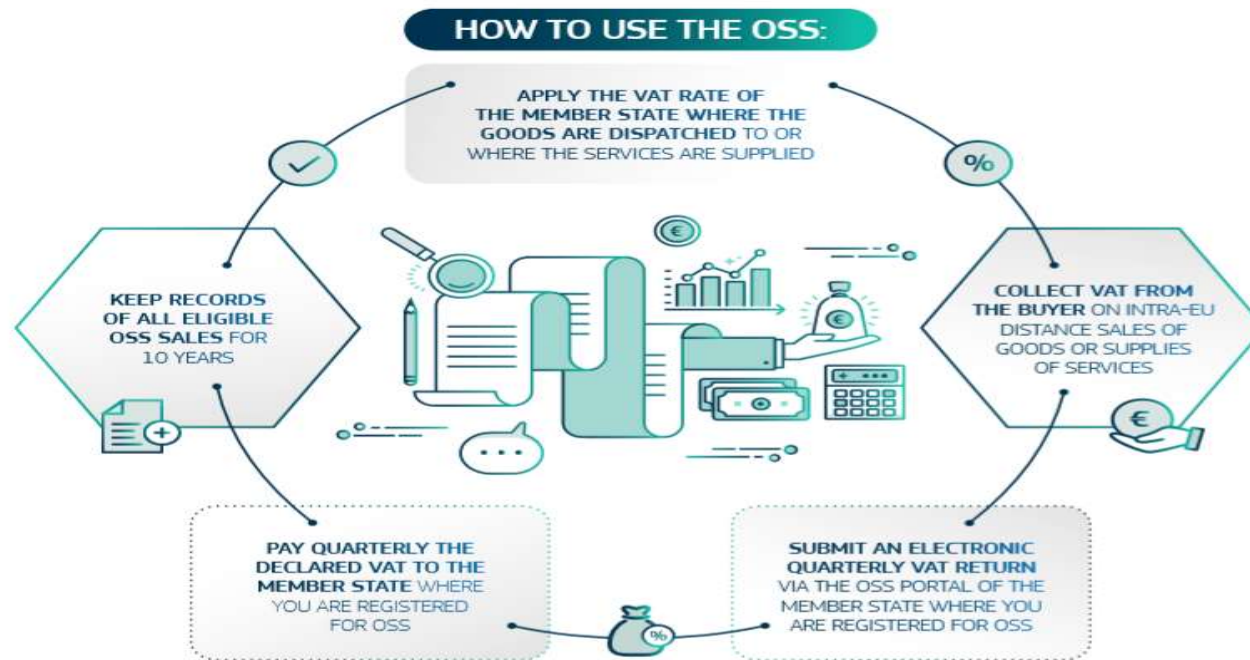
- An intermediary has to be a taxable person established in the EU.
- The MSI of the business will be the MSI of the intermediary
- An intermediary first registers in the Member State in which he is established (Member State of identification) to be able to act as intermediary.
- That Member State of identification will allocate an individual identification number, which is not a VAT number, to the intermediary to be able to act as such (using the format INxxxxyyyyyyz).
- The intermediary then registers the taxable person(s) he represents for the import scheme in this same Member State. The Member State of identification will allocate an individual IOSS VAT identification number to the intermediary for each taxable person he represents (using the format IMxxxxyyyyyyz).
- Each MS will lay down detailed provisions as to how the intermediary regime will be applied.

## *The EU E-Commerce changes – OSS – Non-Union scheme – not compulsory*

- Used to declare all types of cross border services (B2C) to EU consumers where “place of supply” is within an EU MS
- Used by businesses which have neither a business nor fixed establishment in the EU
- No threshold
- Quarterly returns (Calendar)

Expansion of current OSS (original One Stop Shop introduced in 2003) which currently only includes supplies of TBE services to consumers (B2C).

# *The EU E-Commerce changes - OSS*



## *The EU E-Commerce changes – OSS – Union scheme – not compulsory*

- Includes all types of intra-EU services (including TBE services) supplied B2C, where the “place of supply” is within an EU Member State
- Can be used by established businesses for B2C services and distance sales of goods
- Can be used by non EU established businesses for B2C distance sales of goods only
- Can be used by deemed suppliers for intra EU distance sale of goods, and certain domestic supplies
  - Includes intra-EU distance sales of goods (where goods located in EU at point of sale)
  - Includes certain domestic supplies of goods facilitated by a “deemed supplier” (generally an online marketplace e.g. Amazon, eBay, Shopify)

## *The EU E-Commerce changes – OSS – Union scheme*

- €10,000 (excl. VAT) threshold, but which only applies to TBE services and intra-EU distance sales of goods. Threshold does not apply to any other services nor distance sales of imported goods
- Threshold only applies to suppliers who are established or, in the absence of an establishment, have their permanent address or usually reside in only one Member State **i.e. does not apply to non-EU or EU with more than one establishment**
- Quarterly returns

## *The EU E-Commerce changes – Special Arrangement – not compulsory*

Designed in particular for postal operators (PO), express carriers or customs agents for Imports when IOSS not used by sellers/deemed suppliers

Currently two arrangements

(1) Collect the VAT from the customer and pay it to the competent authorities on a monthly basis. **For goods of an intrinsic value of no more than €150.** PO gets a cash flow advantage to compensate for extra admin tasks.

**NB – POs may apply standard rated VAT to all goods** under special arrangements (regardless of whether the goods are liable to reduced rates, exemptions etc) - **if the MS has opted** (e.g. France) - simplification for PO's removing the need to determine liability of goods. This can be detrimental to sellers profits.

(2) Using the standard customs procedures, customer will pay the VAT at the appropriate rate to postal operators or couriers or directly to the competent authorities (as is the case currently). **For goods of any value.**

# *The EU E-Commerce changes – Record keeping*

## **Business Records**

Must maintain general information for effectively 11<sup>(1)</sup> years, such as:

- Member state of consumption of the supply
- Type of supply
- Date of supply
- VAT payable

Must make information available electronically. This obligation applies also to platforms ‘facilitating’ or otherwise a supply (and this includes services) where the place of supply is in the EU

## **Invoicing**

For all schemes (Non Union, Union and Import scheme) there is no obligation to issue an invoice. If the supplier chooses to issue an invoice, it must comply with the invoicing rules of the MSI

(1) Article 242a 2. – 2<sup>nd</sup> para Those records must be kept for a period of 10 years from the end of the year during which the transaction was carried out

## *The EU E-Commerce changes – EU Guidance*

VAT E-  
Commerce  
Explanatory  
Notes

Guide to  
the VAT  
One-Stop-  
Shop  
(including  
IOSS)

Customs  
Guidance

Taxes in  
Europe  
Database  
(TEDB)  
VAT rates

Explanatory  
Notes on  
TBE services



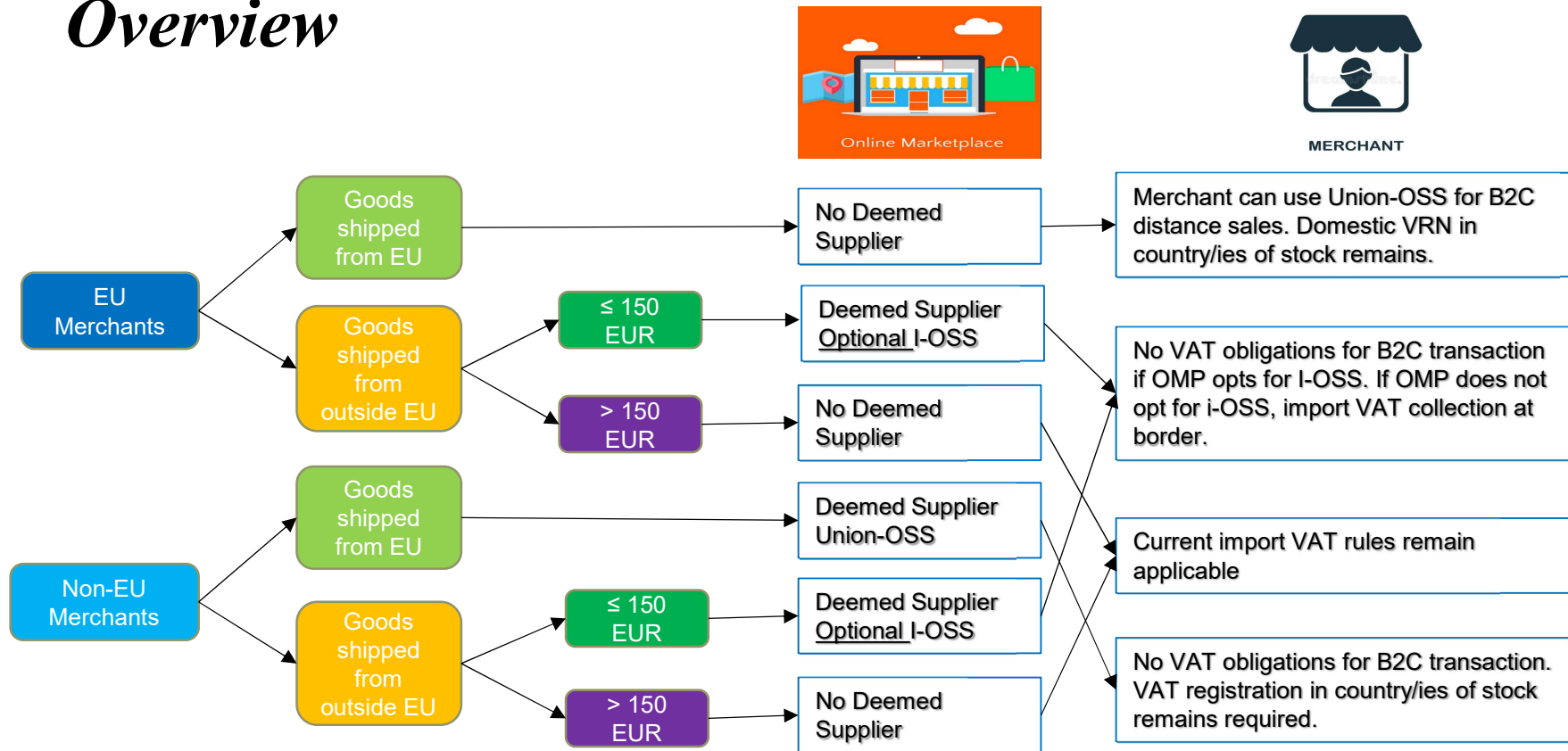
# *The EU E-commerce Changes – Northern Ireland*

## **What about Northern Ireland?**

- 13<sup>th</sup> May 2021 Policy Paper – “Further guidance will be made available before 1 July 2021”...
- The supply of TBE services EU to NI do not count towards EU threshold of £8,818 for Union OSS
- UK IOSS / Union OSS portals hopefully / unlikely to be available by 1 July 2021. XI indicator needed and might need NI intermediary for IOSS.
- GB unregistered business will need VAT registration to register for NI IOSS. Can still not charge VAT on domestic UK sales.
- GB businesses selling to NI which have an IOSS number can use this to pay UK VAT. If they are not compulsory required to register for UK VAT they can not pay the UK VAT.
- OMP liability will not apply to GB to NI transaction. We assume just normal sales VAT by seller.
- However, OMP liability (Union OSS) will apply when the goods are located in NI and sold by GB to EU.

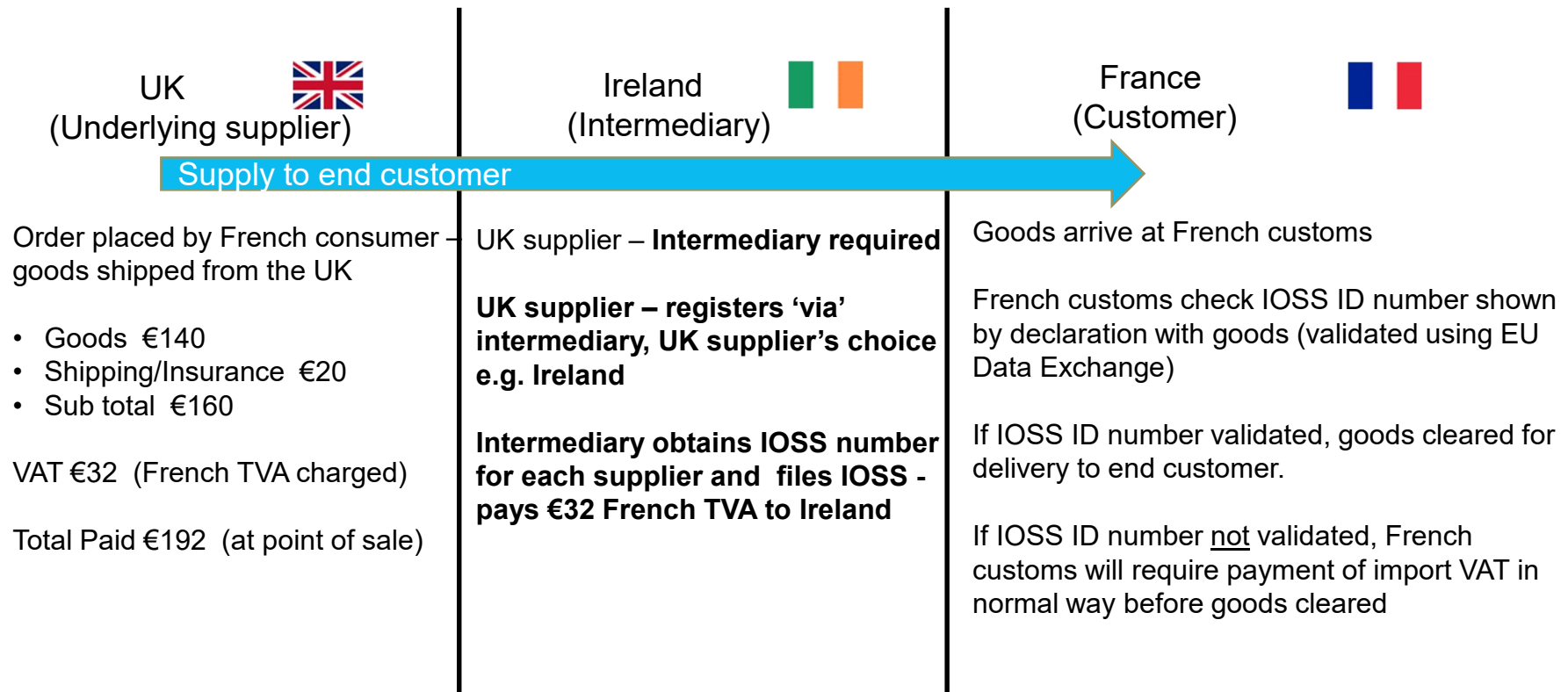
# E-Commerce Changes EU – 01/07/2021

## Overview



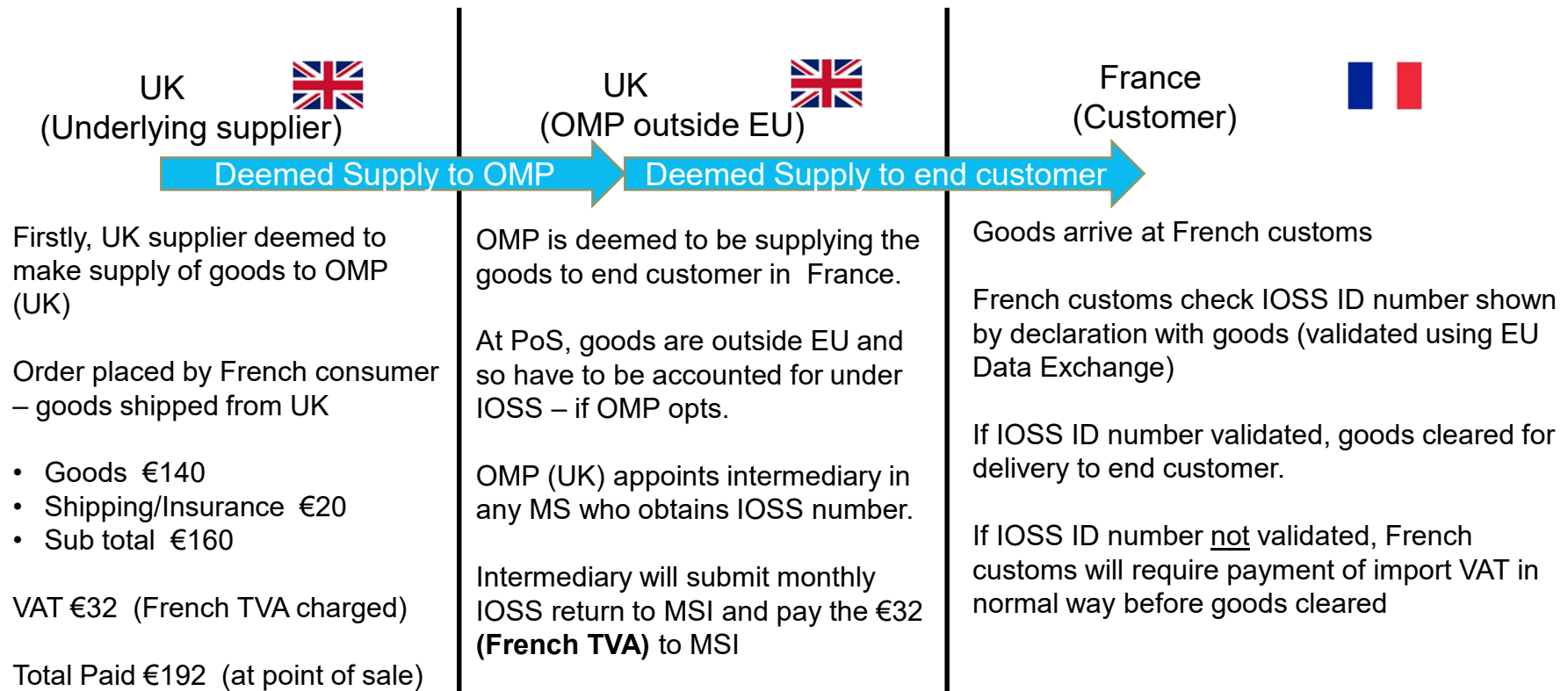
# Import Scheme– Scenario 1

*Goods and supplier outside EU. Goods direct to consumer (No OMP / Deemed Supplier)*



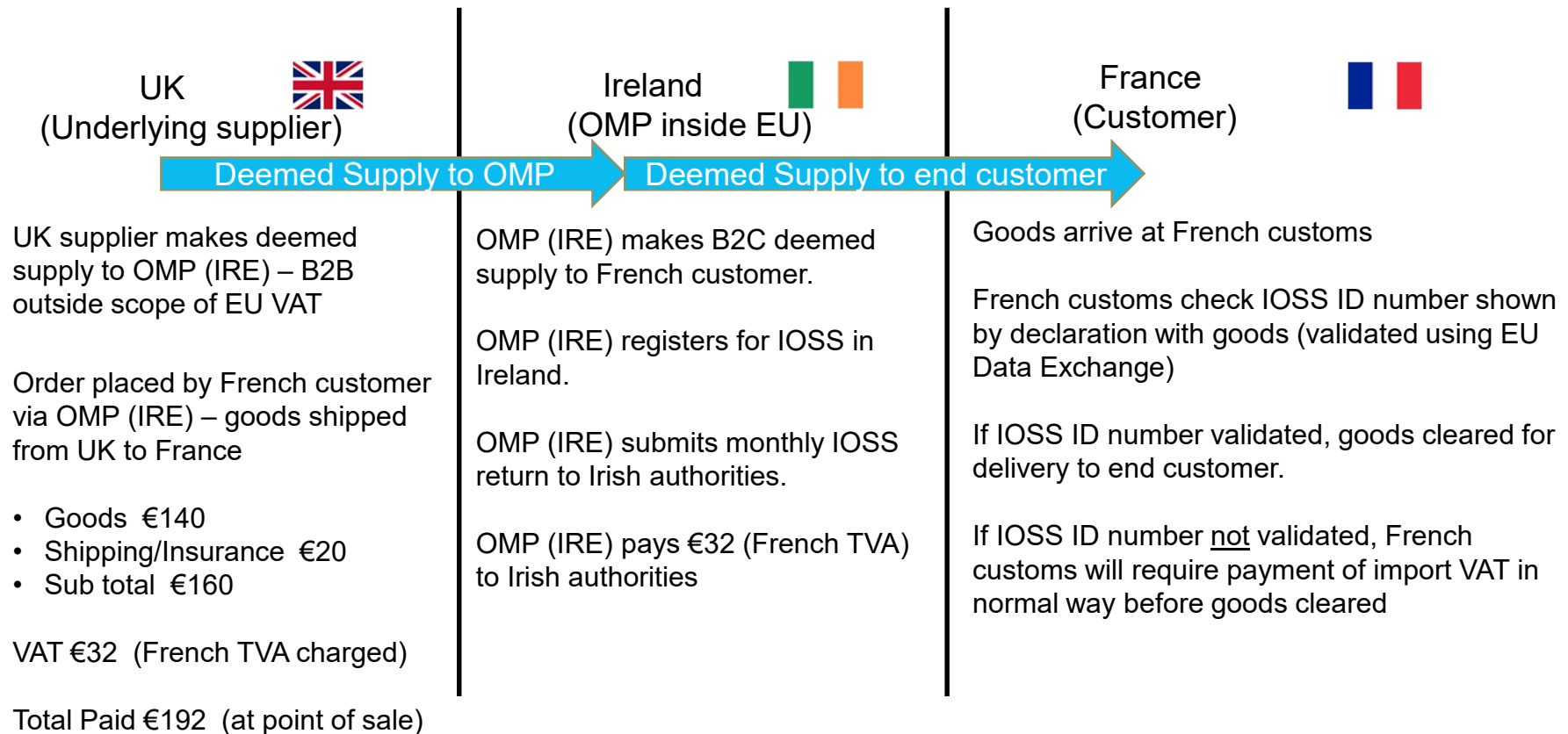
## *Import Scheme– Scenario 2*

*Goods and supplier outside the EU – OMP outside EU. Goods direct to consumer*




## Import Scheme– Scenario 3

*Goods and supplier outside EU – OMP inside EU. Goods direct to consumer*



# Union Scheme– Scenario 1

*Supplier outside EU – Goods and consumer inside EU. Goods direct to consumer*

UK   
(Underlying supplier)

UK supplier registered for German VAT – goods shipped from Germany to France


UK supplier registers for Union OSS in Germany. Intermediary not required.

Order placed by French customer

- Goods €140
- Shipping/Insurance €20
- Sub total €160

VAT €32 (French TVA charged)

Total Paid €192 (at point of sale)


Germany   
(UK rents German Warehouse)

At PoS, goods in EU (German warehouse) from which UK supplier fulfils order.

Despite UK supplier being non-EU established, entitled to use Union OSS.

Submits Union OSS return and payment of €32 (French VAT) to German authorities

**No intrinsic value of goods to consider as goods located in EU at PoS**

France   
(Customer)

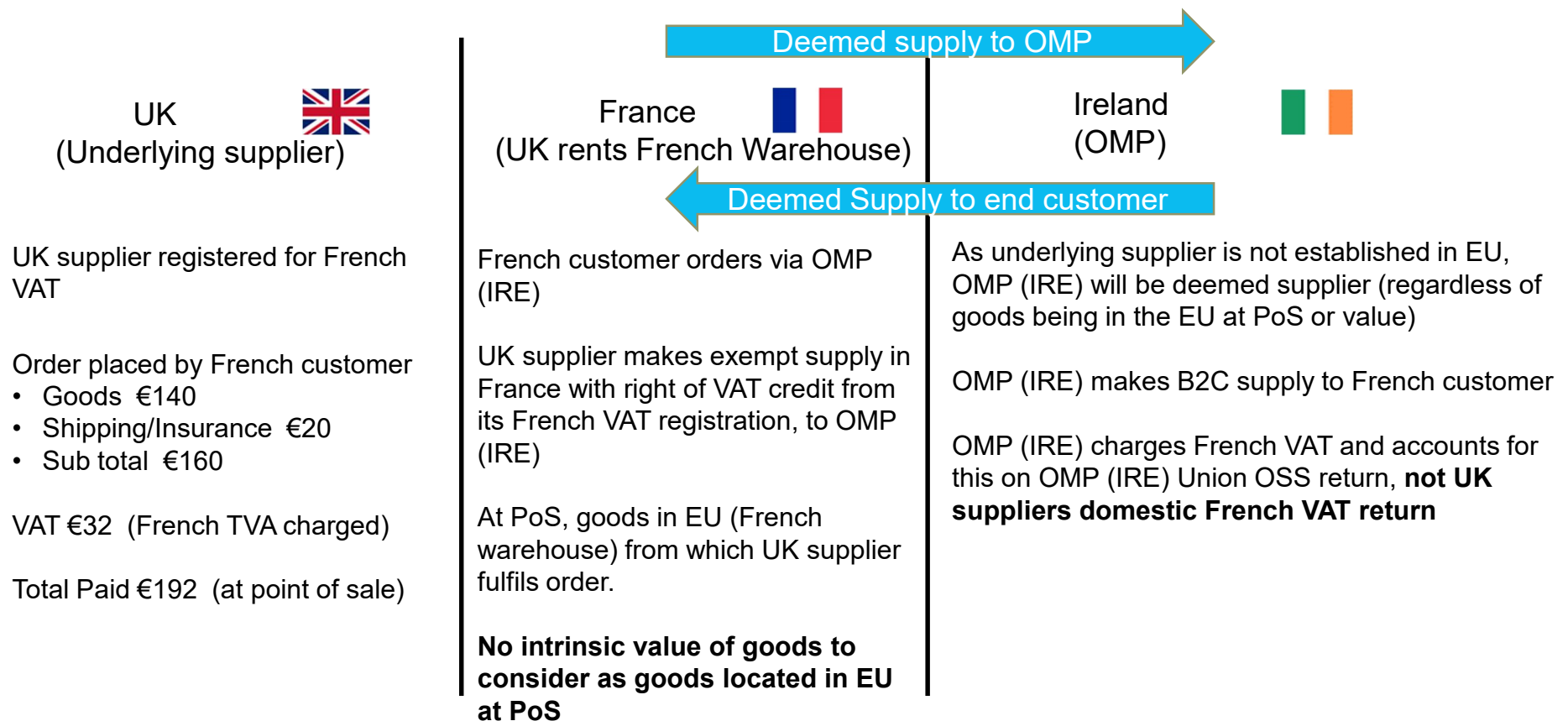
Goods are supplied within the EU customs territory – **no customs declaration requirements.**

Goods pass freely to end customer

Supply to end customer 

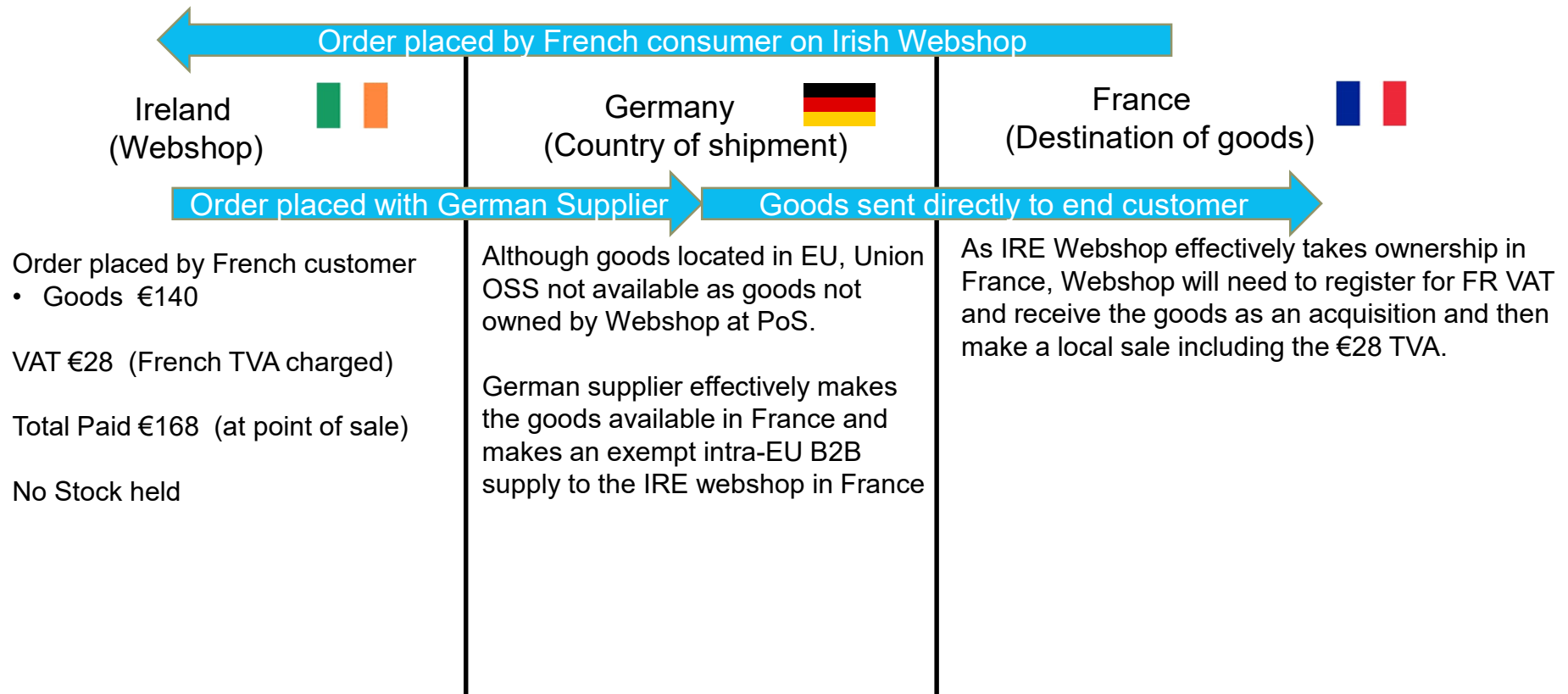
## Union Scheme– Scenario 2

Supplier outside EU – Goods and customer in same MS, OMP inside EU. Goods direct to consumer



# *Drop shipping within the EU - webshops*

*What happens when you don't own the goods at the point of sale*





## *The EU E-Commerce changes – Takeaways*

- The simplification is very complicated
- You need to know the following:
  - Are you a market place / facilitating or supplying your own goods?
  - Are you selling to customers or businesses (for UK)?
  - Is the intrinsic value exceeded?
  - Where are the goods shipped from? and how? (single / multiple)
  - Does it involve NI?
  - Do you know the VAT liability in each destination country?
  - Do you need an Intermediary and can you find one who will act?
  - Will your system be able to do all this automatically?
- The EU One Stop Shop changes are not compulsory but may save you money

## *The EU e-commerce changes – What next?*

- VAT in the Digital Age project – runs to October 2021
- Conference October 2021
- Public consultation
- Impact study
- Proposals 2022
- Very much work in progress ...



*Any  
questions?*

## *Future events and schedule*

- Upcoming Events
  - 14 June Capital allowances post Finance Bill 2021
- Events Schedule
  - Topics updated regularly visit [www.icaew.com/taxfacevents](http://www.icaew.com/taxfacevents)
- Webinar Archive
  - If you miss a webinar, you can view the recording
  - **For further details visit [www.icaew.com/taxfacevents](http://www.icaew.com/taxfacevents)**

## *Thank you for attending*



Please take the time to fill out our short survey



Contact the Tax Faculty

**Phone:** +44 (0)20 7920 8646

**Email:** [taxfac@icaew.com](mailto:taxfac@icaew.com)

**Web:** [icaew.com/taxfac](http://icaew.com/taxfac)

This webinar is presented by the Tax Faculty. Tax Faculty membership gives you access to exclusive premium resources including our regular magazine, webinars, discount on events and conferences and extensive online resources to support your career.

For more information about faculty membership and our latest joining offers, please visit [icaew.com/jointf](http://icaew.com/jointf) or for more information about Faculties Online, please visit [icaew.com/subscribe](http://icaew.com/subscribe).

ICAEW, Hedeos société d'avocats and PKF Francis Clark will not be liable for any reliance you place on the information in this presentation. You should seek independent advice.

## *Relevant legal acts*

- Council Directive 2006/112/EC on the common system of value added tax, as amended by Council Directive (EU) 2017/2455 and Council Directive (EU) 2019/1995 (VAT Directive)
- Council Implementing Regulation (EU) No 282/2011 laying down implementing measures for Directive 2006/112/EC on the common system of value added tax, as amended by Council Implementing Regulation (EU) 2017/2459 and Council Implementing Regulation (EU) 2019/2026 (VAT Implementing Regulation)
- Council Regulation (EU) No 904/2010 on administrative cooperation and combating fraud in the field of value added tax as amended by Council Regulation (EU) 2017/2454 (Administrative Cooperation Regulation)
- Commission Implementing Regulation (EU) 2020/194 of 12 February 2020 laying down detailed rules for the application of Council Regulation (EU) No 904/2010 as regards the special schemes for taxable persons supplying services to non-taxable persons, making distance sales of goods and certain domestic supplies of goods

## *Relevant legal acts - continued*

- Council Decision (EU) 2020/1109 of 20 July 2020 amending Directives (EU) 2017/2455 and (EU) 2019/1995 as regards the dates of transposition and application in response to the COVID-19 pandemic
- Council Regulation (EU) 2020/1108 of 20 July 2020 amending Regulation (EU) 2017/2454 as regards the dates of application in response to the COVID-19 pandemic
- Council Implementing Regulation (EU) 2020/1112 of 20 July 2020 amending Implementing Regulation (EU) 2019/2026 as regards the dates of application in response to the COVID-19 pandemic
- Commission Implementing Regulation (EU) 2020/1318 of 22 September 2020 amending Implementing Regulations (EU) 2020/21 and (EU) No 2020/194 as regards the dates of application in response to the COVID-19 pandemic

# *Resources*

- The Commission's main page – this link takes you to the other pages below:  
[https://ec.europa.eu/taxation\\_customs/business/vat/resources\\_en#heading\\_0](https://ec.europa.eu/taxation_customs/business/vat/resources_en#heading_0)
  - **Explanatory Notes and Guidance documents**
  - [Member States OSS contact details](#)
  - [Explanatory Notes on VAT e-commerce rules](#)
  - [Guide to the VAT One Stop Shop \(applicable from 1 July 2021\)](#)
  - [Guidance for Member States and Trade concerning the importation and exportation of low value consignments](#)
  - [Explanatory Notes on Telecommunications, Broadcasting and Electronic \(TBE\) services](#)
  - **VAT rates**
  - [Taxes in Europe database](#)
  - **Campaign tools**
- ICAEW – Brexit portal - <https://www.icaew.com/brexit>
- [UK E-Commerce – Initial general guidance](#)
- [Postal Packets Regulation 2018](#)
- [UK E-Commerce – Selling direct](#)
- [UK E-Commerce – Selling using OMPs](#)





[icaew.com](https://www.icaew.com)