

Simplification of MOSS for the small trader.

On 8<sup>th</sup> January HMRC published a further simplification of the rules for the recently introduced MOSS scheme, which applies to businesses trading below the UK's VAT registration threshold (currently £82,000) that make supplies of digital services (telecommunications, broadcasting or electronically supplied services) to consumers in other EU member states.

Background:

On 1 January 2015 the VAT place of supply for digital services supplied to consumers and other non-business customers inside the EU changed from where the supplier belongs to where the customer belongs. Businesses making these supplies became liable to register for VAT in each country where they supplied digital services.

To make it easier to comply with this change the VAT MOSS system was introduced. Businesses using VAT MOSS can declare and pay the VAT due on their sales of digital services to customers across the EU using a single return and payment. This can be done in their home member state, instead of registering for VAT in every member state where the VAT is due.

Evidence of where your customer belongs:

Businesses need to determine where their customer is located. There are specific rules in place for certain types of transactions but for all other supplies of digital services, the normal rule is that businesses must collect two pieces of non-contradictory information to evidence their customer's location.

From the start, HM Revenue and Customs (HMRC) has allowed UK businesses that are below the UK VAT registration threshold and registered for VAT MOSS to base their customer location decisions on a single piece of information provided to them by their payment service provider. HMRC introduced this simplification in response to feedback from small businesses that said that they found it difficult to obtain 2 pieces of evidence.

HMRC recognises that some small businesses have still found this difficult. They are now going a step further and allowing businesses below the UK VAT registration threshold to exercise their best judgement. This means businesses can rely on any single piece of information, such as the address provided by the customer, to determine where their customer is located. This additional flexibility will provide additional help for businesses below the UK VAT registration threshold.

Consider if you're in business – and therefore within the scope of the changes

There is no registration threshold on cross border supplies of services and businesses of all sizes fall within the scope of the changes. However, this only applies where supplies are made in the course or furtherance of a business. If activity is carried out as a hobby (ie only on a minimal and occasional basis), HMRC does not normally see this as a business activity for VAT purposes.

HMRC's analysis of the VAT MOSS returns submitted by UK businesses so far indicate that some of those registered for VAT MOSS may not be in business for VAT purposes.

This of course is an interesting angle, and it begs the question whether HMRC would view a person making minimal overseas supplies as pursuing a hobby even if their UK trade undoubtedly was – we would strongly recommend caution.

If you need advice on VAT and MOSS, please talk to a consultant at RiverView Portfolio Ltd