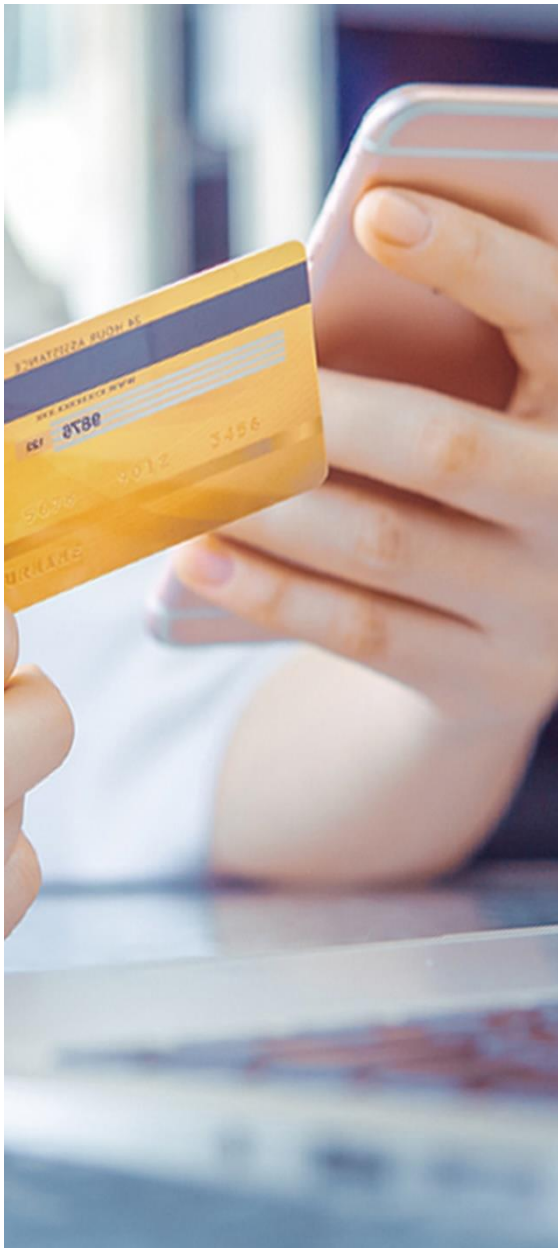


# New VAT regulations on ecommerce applicable from July 1, 2021

Legal flash, Finance and Tax  
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- > On April 28, 2021, the Official Gazette of the Spanish State published Royal Decree-Law 7/2021, of April 27, which completes the transposition into the Spanish VAT Act of European regulations on ecommerce, pending the amendment of the VAT Regulation and the approval of the self-assessment forms.
- > Specifically, this Royal Decree-Law incorporates Directive (EU) 2017/2455 and Directive (EU) 2019/1995 into Spanish domestic law.
- > These new regulations will enter into force on July 1, 2021.
- > Companies trading online products to customers, electronic interfaces, postal operators, and courier and transport firms must review their operating procedures and adapt them to these new VAT ecommerce rules, checking the Member States where the goods are delivered, whether there is a permanent establishment and whether those States have record-keeping obligations for VAT purposes.



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## Introduction

On April 28, 2021, the Official Gazette of the Spanish State published [Royal Decree Law 7/2021, of April 27, on the transposition of European Union directives on competition, anti-money laundering, credit institutions, telecommunications, tax measures, prevention and remedying of environmental damage, posting of workers in the framework of the transnational provision of services and consumer protection](#) (“RDL 7/2021”). RDL 7/2021 transposes two EU VAT ecommerce Directives, namely Directive 2017/2455, as regards certain value added tax obligations for supplies of services and distance sales of goods; and Directive 2019/1995, as regards provisions relating to distance sales of goods and certain domestic supplies of goods.

The transposed Directives make up the so-called VAT ecommerce package, driven by the growing digital economy, which has introduced new players (including online platforms and marketplaces) and clears the way for end consumers in Member States to acquire goods and services provided by suppliers all over the world electronically.

The new VAT ecommerce rules will apply from July 1, 2021, mainly affecting online sellers, electronic interfaces, postal operators, courier and transport firms, and EU consumers.

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## Scheme for intra-Community distance sales of goods

Under current regulations on distance sales of goods, businesses and professionals that sell goods to end consumers in other Member States are only subject to taxation in the Member State of destination (i.e., they are subject to VAT in the customer’s Member State) if their sales exceed certain annual thresholds set by each country, meaning that these thresholds are not harmonized at EU level. In Spain, this current threshold is set at €35,000.

From July 1, 2021, the above scheme will no longer be applicable, as a new scheme for intra-Community distance sales of goods will enter into force. The main amendments are summarized below.



- The concept “intra-Community distance sales of goods” has been changed and now these transactions are generally located in the place of destination of the recipient of the sold goods.
- However, as an exception, the sale will still be subject to VAT in the Member State where the supplier is established if (i) the supplier is established in only one Member State, and (ii) it carries out intra-Community distance sales that, together with the provision of online telecommunications, broadcasting and television services, do not exceed the new global and harmonized annual threshold of €10,000 (from the previous year or, if applicable, the current year) for these kinds of transactions within the EU. If this threshold is exceeded, the supplier must charge the customer VAT at the rate applicable in the Member State of consumption. If this threshold is not exceeded, the supplier can choose to apply the VAT rate applicable in the Member State of destination, as provided under the laws currently in force.
- To avoid having to register and account for VAT in each Member State of the end consumer when their sales exceed the above annual threshold, EU businesses selling goods can benefit from the One-Stop Shop (OSS) for transactions with customers on a voluntary basis. Therefore, this Union scheme enables sellers to declare VAT on all intra-Community distance sales of goods and supplies of B2C services, rather than being limited to online telecommunications, broadcasting and electronic services (as until now).
- This new rule on location will not affect deliveries that have been taxed under arrangements applicable to second-hand goods, works of art, antiques and collectors' items in the Member State in which the dispatch or transport of the goods begins. Likewise, it will not apply to new means of transport or to goods for installation and assembly, which are subject to special location rules for VAT purposes.

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### **Scheme for distance sales of imported goods**

A new scheme is established for sales made to customers by suppliers outside the EU, of which we highlight the following aspects:

- To avoid fraud and restore competition among suppliers inside and outside the EU, the current VAT exemption for goods in small consignments not exceeding €22 has been removed.
- Distance sales of goods dispatched directly to an EU customer from a third territory in consignments of an intrinsic value not exceeding €150 have two options:



- a. They can apply the Import One-Stop Shop (IOSS) scheme, applicable to all distance sales of goods imported into the EU from a third country or third territory, allowing the VAT of the Member State of destination to be charged when the supplier accepts payment, exempting the import from VAT.
  - b. They can apply the special arrangement for the declaration and payment of VAT on imports. Under the special arrangements, the customer will pay the VAT to the declarant/person presenting the goods to customs. In most cases, this declarant/person will be a postal operator, express carrier or customs agent.
- Where the goods are valued at over €150 per consignment, a full customs declaration will still be required at the time of import, along with the corresponding duties.

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## New obligations for electronic interfaces

Finally, from July 1, 2021, electronic interfaces will be subject to more VAT obligations when suppliers based outside of the EU sell their goods to EU customers through these platforms. This will happen when the electronic interface facilitates the corresponding supply of goods in the following two cases:

- The goods are imported within the EU, their intrinsic value does not exceed €150 per consignment and those goods were sold to the customer using an electronic interface.
- The delivery of the goods is made from a warehouse located in the EU, but the supplier selling the goods through the interface is not established within the EU.

In either situation, the interfaces will become the taxpayers, as the regulation assumes they are acting as intermediaries in their own right as regards sales to customers. This means that they will be responsible for charging VAT and collecting it from the end consumer. Also, they will be obliged to keep records of all transactions in which they are involved for at least 10 years.

The above measures entail significant amendments to distance sales made within the framework of ecommerce, which may result in sales being taxed under different rules, and additional recording and formal obligations.

Therefore, businesses operating through ecommerce must assess the impact of the new rules applicable from July 1 on their business model and adapt their operating procedures to these changes as efficiently as possible, taking into account the schemes applicable in each case.



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