



Imposition of VAT on Imported Digitized Goods

Issue

Non-EU vendors should not face higher VAT rates or compliance burdens than EU vendors on products imported in digitized form (“electronic supplies”) when selling to non-taxable EU customers.

Background

The new world of e-commerce is developing and expanding at an explosive rate and even the nature of products themselves are undergoing transformation from tangible to intangible to electronic to digital. The marketplace needs to remain unfettered from any artificial constraints in order for the maximum potential of these beneficial changes to be realized.

EU countries should be allowed to impose VAT on electronic supplies, provided that the principles of neutrality and nondiscrimination are observed.

The EU Directive requiring the collection of VAT on a destination basis by non-EU sellers of digitized goods (which would become effective July 1, 2003) is a rush to judgment on a significant worldwide taxation question and would put U.S. firms at a competitive disadvantage and burden them with larger administrative costs than EU sellers. EU sellers are taxed at an origin basis; that is their home country VAT rate applies on all sales they make within the EU. However, under the new Directive, a non-EU seller is required to apply various VAT rates depending on where the purchaser resides. This requirement to use many rates and conform to many different country tax rules greatly increases the complexity and the costs of doing business and puts U.S. companies at a competitive disadvantage.

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Policy Considerations

Imposing “destination-based” taxation on non-EU vendors while allowing EU vendors to operate under “origin-based” rules is discriminatory and may be in violation of international agreements such as the General Agreement on Trade in Services and the Ottawa Framework Conditions. The EU e-commerce VAT Directive also is not neutral as between goods delivered in physical and digital form. For example, many publications receive a zero or reduced tax rate when delivered in physical form but are subject to regular VAT rates when the same content is delivered electronically. In addition, because the EU has no jurisdiction over vendors located outside of the EU, inequities could also develop between companies that voluntarily comply with the new requirements and those that do not. It is unwise to legislate taxes that are not enforceable on a large portion of the population from which tax is due.

A complex and cumbersome compliance system could impose costs on taxpayers that are grossly disproportionate to the revenues involved. In the extreme case, such an overly complex/costly system would reduce e-commerce transactions rather than raise tax revenue.

If other countries and States are compelled to follow such a knee jerk model, then EU exporters to these countries might be harmed as well.

Recommendation

The SVTDG recommends that the U.S. do everything possible to assure that EU countries do not implement this “rush to judgment” Directive until the OECD completes its study and evaluation of the worldwide implications and recommends the most appropriate and fair methodology for imposing consumption taxes on electronic supplies.