VAT in the Digital Age

Political agreement reached on the EU's proposal

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On 5 November 2024, the 27 EU Member States reached unanimous political agreement on the *VAT in the Digital Age* ("ViDA") proposal.

While there are still some formalities to be completed before the proposal is fully adopted into EU law, this agreement overcomes the main political hurdle and means that major changes to how VAT operates across the EU are on the way.

In this alert, we summarise the key elements of the ViDA proposal, when they are due to come into effect, and what the impact will be for businesses.

What is ViDA and when will it take effect?

ViDA is a set of measures aiming to significantly modernise the EU's VAT system. The proposal was first published in December 2022 and has been under discussion at the EU Council since then. The overall thrust of the proposal has remained broadly the same since first announced, but the agreed version includes important changes both to the detail and timeline of the proposals.

There are three pillars to the proposal.

1. **E-invoicing and Digital Reporting**
2. **Platform Economy**
3. **Single VAT registration**

While there are a range of effective dates for different elements of the proposal, the most significant implementation dates are expected to be:

- **1 July 2028** in respect of the introduction of the Platform Economy and Single VAT Registration pillars; and;
- **1 July 2030** in respect of the e-Invoicing and Digital Reporting pillar.

We now discuss the three pillars in more detail below.

First pillar: E-invoicing and digital reporting

The most wide-reaching pillar of ViDA is the transition to mandatory EU e-invoicing and digital reporting for VAT. This involves a number of steps.

Shortly after the proposal being fully adopted (likely to be in the **first half of 2025**), Member States will be allowed to make the issuing of e-invoices mandatory for domestic transactions without having to obtain a derogation (authorisation) from the EU Council. Member States may also stipulate that a customer is obliged to accept e-invoices from this date. This could potentially see more EU Member States adopting mandatory e-invoicing and digital reporting in the near future.

From **1 July 2030** the following changes will apply:

- EU VAT registered businesses will be obliged to issue a structured e-invoice for cross-border business-to-business ("B2B") and business-to-government ("B2G") supplies in the EU. The e-invoice will be based on a standard EU format, but Member States may allow other formats under certain conditions. The e-invoice must be issued within **10 days** of the date of the supply (or the date of payment, if earlier). This is a change from the two-day time period included in the original ViDA proposal.
- Certain data from the e-invoice issued for the above-mentioned supplies must be digitally reported to the relevant tax authorities by the supplier *directly* after the e-invoice has been issued (or within five days if the customer issues the e-invoice under a "self-billing" arrangement). The digital reporting of this data will mean that periodic EC Sales Lists are no longer required.
- It is also intended that the customer will digitally report data from an e-invoice for received for the above mentioned supplies within **five days** of its receipt from the supplier. However, an important amendment to the original proposal is that Member States may choose to waive the customer's digital reporting obligation if certain conditions are met.
- Another important change compared to the original ViDA proposal is that monthly summary e-invoices (instead of transaction-level e-invoices) will be permitted, subject to certain conditions, for a period of up to one calendar month. These summary e-invoices must be issued within 10 days of the end of the relevant month. This is a welcome development as the proposed abolition of summary invoices under the original proposal had been a cause for concern for businesses in certain industries.

While ViDA aims to achieve full harmonisation of e-invoicing across the EU, as a compromise measure, Member States which had existing e-reporting obligations for domestic transactions in effect on 1 January 2024 or were in the process of implementing such obligations on that date, may retain those obligations in their current form until **1 January 2035**, by which time they must fully conform to the EU standard. This means that businesses operating in multiple Member States may still have to deal with varying e-invoicing and reporting obligations across the EU for some time to come.

The current proposal also requires some additional data items to be included on an e-invoice with effect from 1 July 2030, including an indication where the triangulation simplification is being used, the bank account number or other account to which payment is to be made, a reference to the number on the original invoice in the case of a corrective invoice, and (from 1 January 2027) an indication whether cash accounting applies.

Impact for businesses

The transition to e-invoicing and digital reporting will be a very significant change which requires businesses to review and update their current invoicing and VAT reporting procedures. The impact is likely to be felt throughout the business and will require input and support from a wide range of stakeholders.

While 1 July 2030 is some time away, businesses with multinational operations must monitor the e-invoicing and digital reporting obligations around the EU and further afield as many of these will take effect before that date.

In Ireland, the Revenue Commissioners have indicated their intention is to introduce mandatory e-invoicing and digital reporting for domestic B2B and B2G transactions, but no date has been confirmed for this introduction.

Second pillar of ViDA: Platform economy

The second pillar of ViDA impacts the VAT treatment of transactions involving online platforms and marketplaces.

From 1 July 2028 (with a potential delay in some cases – see below), a digital platform acting as an intermediary or agent in facilitating the supply of short-term accommodation rentals (i.e. 30 consecutive nights or less per customer) and/or passenger transport by road will be regarded as the “deemed supplier” of those services for VAT purposes and will therefore be liable to account for VAT thereon.

However, the platform will not be liable if the underlying supplier provides its VAT number (effective in the Member State where the VAT is due) to the platform operator and declares to the platform operator that it will charge any VAT due on that supply. Therefore, the deemed supplier requirement is principally intended to apply in circumstances where the underlying supplier is not required to charge VAT on their supplies.

A late change to this proposal – which was necessary to reach unanimous agreement – is that Member States can postpone the introduction of this deemed supplier rule until 1 January 2030 at the latest. However, one Member State (Spain) has already announced that it will request a derogation to apply the deemed supplier rule before 1 July 2028. We may therefore see a variety of different implementation dates across the EU.

A second important change to the original proposals is that Member States may choose not to make the platform a deemed supplier if the underlying supplier qualifies and opts for the small and medium-sized business (“SME”) VAT regime (i.e. if the business is below the SME threshold in the relevant country and does not elect to apply normal VAT rules).

Other platform measures

ViDA also includes measures that will more widely affect platforms. These changes are also effective from 1 July 2028.

- The place of supply of a platform’s “facilitation service” (i.e. a charge for the use of the platform) to non-business (B2C) customers will be where the underlying service takes place.

- Platforms (and other parties) facilitating supplies of goods, and which hold goods owned by a third party (e.g. in a central warehouse) will be required to inform the third party if these goods are moved to another country.

Impact for businesses

This pillar of ViDA is sector specific. However, for businesses operating platforms, particularly in the passenger transport and accommodation sectors, its impact will be significant. In addition, there will be an impact for suppliers of passenger transport and short-term accommodation services on platforms who are not currently obliged to charge VAT on those supplies, as there will be a corresponding impact on sellers' prices and revenue from the platform charging VAT on those supplies.

While Member States' option to limit or delay the deemed supplier rule may reduce platforms' obligations in certain jurisdictions, it also has the potential to create additional complexity, as different rules will apply in different Member States. Platforms will also need to adopt procedures to confirm the underlying sellers' VAT status. Further variability is likely due to Member States having flexibility in defining the meaning of short-term accommodation rentals.

Platform rules not changing under ViDA

It is also important to note that certain proposed changes included in the original ViDA proposal are not in the agreed version. These include the following:

- There is no extension of the deemed supplier regime for platforms facilitating the supply of goods beyond that introduced under the e-Commerce VAT package which took effect on 1 July 2021.
- The *Import One Stop Shop* (IOSS) for platforms will not become mandatory under ViDA.

Both of these measures remain under consideration as part of the negotiations concerning the EU Customs Reform Package.

Third pillar of ViDA: Single VAT Registration

The Single VAT Registration (SVR) pillar is intended to reduce the need for non-established traders to register for VAT in an EU Member State in which they are not established. The measures in this proposal are set out below and will mainly take effect from 1 July 2028 (unless otherwise indicated):

- The existing *One Stop Shop* ("OSS") regime for B2C distance sales of goods and certain services makes it possible to pay VAT on those supplies across multiple EU countries through a single return. The OSS will be extended to other B2C supplies, including supplies of electricity and natural gas, supply and install contracts, and certain domestic supplies of goods and services. This extension will mainly apply from 1 July 2028, however, the extension of OSS to B2C supplies of electricity, natural gas and other energy-related supplies will take effect from 1 January 2027. This is likely to relevant for suppliers supplying electric vehicle ("EV") charging outside of their Member State of establishment.
- There will be a new OSS module for businesses to report movements of their own goods between EU Member States. Currently, the movement of own goods between Member States, with certain limited exceptions, triggers a VAT reporting and registration obligation in both the country of

dispatch and country of arrival of each movement. From 1 July 2028, a business may instead choose to report the intra-EU movement of own goods in the OSS, thereby avoiding the need to report acquisition VAT in the country of arrival. However, this will not be permissible where the owner is not entitled to fully deduct input VAT in respect of those goods. In a change to the original ViDA proposal, the OSS for transfers of own goods may be used for “capital goods” where the owner has a right to full VAT recovery. However, if those goods are subsequently used for non-deductible activities or self-supplied (e.g. diverted to a private use or supplied free of charge) an adjustment to disallow some or all of the VAT recorded in the OSS must be paid.

- The current VAT call-off stock simplification (introduced as part of the Quick Fixes in 2020) will become redundant as a result of the new OSS for movement of own goods and will be abolished.
- The VAT reverse charge mechanism for B2B transactions will also be extended to reduce the circumstances in which a B2B supply of goods or services by a non-established trader requires a VAT registration in the country where the VAT is due. At present, Member States can elect to apply a reverse charge to certain supplies, such as domestic supplies of goods or services related to immovable property. Under the new rules, Member States will be obliged to allow the reverse charge if a non-established supplier is not VAT registered in the country where the VAT is due and the customer is. Even if the customer is not VAT registered in the Member State where the VAT is due, Member States will have the option to require the customer to operate reverse charge VAT on that supply.
- Under the original ViDA proposal, goods sold under the margin scheme were due to become taxable in the Member State of destination if the supplier was directly or indirectly involved in the transport to that Member State. A similar rule would apply to sales of works of art (regardless of who would arrange the transport). The rules on the place of supply for these types of goods have been deleted in the amended proposal and therefore, when the margin scheme applies, remain subject to VAT where the margin scheme applies.
- Rules for evidencing the place of supply of live streaming and virtual admissions to events (B2C) will be introduced with effect from the 20th day after official publication of the ViDA proposal. These rules will largely mirror those for the place of supply of electronically supplied services. This will provide further guidance to support the change to the place of supply of live streaming and virtual admissions to events which is already agreed to take effect from 1 January 2025.

Impact for businesses

While the above measures should reduce the circumstances in which businesses have to register for VAT outside of their country of establishment, it will not completely eliminate the need for such registrations.

For example, a non-established supplier will still need to VAT register in an EU Member State from which it makes an intra-Community supply of goods, which will also be subject to the new digital reporting requirement from 1 July 2030. Not registering for VAT in the other Member State may also have negative cash flow implications as the supplier may then have to reclaim input VAT incurred in that Member State through the non-resident refund claim mechanism rather than through a local VAT return.

Businesses will therefore need to consider whether it is preferable to maintain existing foreign VAT registrations (where possible) or maximise the use of the simplifications.

What does this political agreement mean and what are the next steps?

The political agreement reached on 5 November 2024 means that the 27 EU Member States have unanimously agreed on the content of the new proposals. However, the proposals have not yet been fully adopted, because some technical details still have to be finalised in the legal texts and the European Parliament must give its opinion in favour of the proposals.

The proposal will therefore not be fully effective until the Council formally adopts it at a later meeting. However, as a result of the political agreement reached on 5 November 2024, it is expected that the formal adoption will follow in due course. This process may take some more months, due to the size of the package.

What can you do now?

Now that the content of ViDA package is politically agreed and formal adoption is likely to follow, we recommend that you begin assessing the impact for your organisation. Almost all businesses will be impacted in some way. In preparation for the new rules, businesses will have to make significant changes to their systems and processes, and in order to be ready to implement these in a timely manner, it is important to consider and prepare for these on time.

In the meantime, it is also important to remember that Member States may not necessarily wait until the prescribed date in ViDA to introduce these changes. For example, several EU Member States have or are proposing to introduce mandatory e-invoicing and/or new reporting obligations including for example Germany, Belgium, Poland, France, and Spain. Therefore, it is important to monitor these requirements in the short term and in preparing for those changes, take account of the wider EU changes coming down the tracks.

We would be happy to help you prepare for these significant changes. Contact David Duffy or Glenn Reynolds of our Indirect Tax team for an initial conversation.