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European Commission

Explanatory Notes

EU VAT changes as regards the special scheme for small enterprises

Council Directive (EU) 2020/285
Commission Implementing Regulation (EU) 2021/2007

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Disclaimer: These Explanatory Notes are not legally binding and only contain practical and informal guidance about how EU law should be applied on the basis of the views of the Commission's Directorate-General for Taxation and Customs Union.

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These Explanatory Notes aim at providing a better understanding of certain parts of the EU VAT legislation. They have been prepared by the Commission services and, as indicated in the disclaimer on the first page, they are not legally binding.

These Explanatory Notes are not exhaustive. This means that although they provide detailed information on a number of issues, there might be elements that are not included in this document.

It is advisable and recommended for any user of the Explanatory Notes, interested in a particular topic, to read the whole chapter which is dealing with that specific subject.

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- **Why Explanatory Notes?**

The special scheme for small enterprises ('SME scheme') allows small enterprises to sell goods and services to their customers without charging VAT (VAT exemption) and to get some simplifications regarding their compliance and invoicing obligations. This scheme is optional, so small enterprises can decide to apply it - provided that they fulfil the conditions - or to stick to the standard VAT rules and charge VAT to their customers.

These Explanatory Notes are triggered by the modification of the existing rules of application of the SME scheme. New rules will be applicable from 1 January 2025. The objective of the Explanatory Notes is to explain the functioning of the SME scheme based on the new rules and to provide a **better understanding of legislation adopted at EU level** and in particular Council Directive (EU) 2020/285 amending Council Directive 2006/112/EC (VAT Directive) and Regulation (EU) No 904/2010 on Administrative Cooperation.

- **What will you find in the Explanatory Notes?**

The 'Explanatory Notes' are to be seen as a **guidance tool** that can be used to clarify the practical application of the new rules as regards the special scheme for small enterprises. The Explanatory Notes explain the rules applicable from 1 January 2025, covering both those of the existing rules that will continue to apply after 1 January 2025 and the new rules.

The references to Articles of the VAT Directive are the ones applicable from 1 January 2025, unless it is specified otherwise.

In these Explanatory Notes, you will find answers to the following questions, among others:

- What is the SME scheme and how does it work?
- What are the differences between the SME scheme and the standard VAT regime?
- If I already apply the SME scheme in my Member State, what will change for me as from 1 January 2025?
- If I am not applying the SME scheme but I would like to do so in my Member State from 1 January 2025, what should I do?
- What is the 'cross-border' SME scheme and what are the conditions to apply it?
- If I no longer want to apply the SME scheme, what should I do?
- If I am applying the One-Stop-Shop (OSS), what will change for me?

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- **Characteristics of the Explanatory Notes**

The Explanatory Notes are a collaborative work: although they are issued by the Directorate-General for Taxation and Customs Union of the European Commission (DG TAXUD) both Member States and businesses, respectively, the Group on the Future of VAT (GFV) and the VAT Expert Group (VEG) have been consulted.

These Explanatory Notes are not legally binding. The notes do not express a formal opinion of the European Commission and the European Commission is not bound by any of the views expressed therein.

The Explanatory Notes do not replace VAT Committee guidelines, which have their own role. Further their nature is different: the Explanatory Notes reflect the views of DG TAXUD while the VAT Committee guidelines are agreed by the VAT Committee, an advisory committee that consists of representatives of the Member States and of the Commission. However, several guidelines on the special scheme for small enterprises, already agreed by the VAT Committee at the time of publication of these Explanatory Notes, have been included here in order to provide all the information available on the subject.

National tax administrations may also issue their own guidance for the application of the new VAT rules as regards the special scheme for small enterprises.

They are a work in progress: these notes are not a final product but reflect the state of play at a specific point in time in accordance with the available knowledge and experience at that time.

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Abbreviations

B2B	**Business-to-business**
B2C	**Business-to-consumer**
CJEU	**Court of Justice of the European Union**
EU	**European Union**
IOSS	**Import One-Stop Shop**
MS	**Member State**
MSEST	**Member State of Establishment**
MSEXE	**Member State of Exemption**
OSS	**One-Stop Shop**
SME	**Small enterprise**
SME scheme	**Special scheme for small enterprises**
VAT	**Value Added Tax**
VAT Directive	**Council Directive 2006/112/EC**
VAT Implementing Regulation	**Council Implementing Regulation (EU) No 282/2011**

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Glossary

Cross-border exemption – means the exemption granted under the cross-border SME scheme ([1]).

Cross-border SME scheme – is a layer of the special scheme for small enterprises referring to the application of the scheme either in Member States other than the Member State of establishment ([2]) only or both in the Member State of establishment and in other Member States.

Cross-border supplies of goods and services – mean supplies of goods and services where the supplier is located in a Member State and the VAT on those supplies is due in another Member State.

Distance sales of goods – refer to supplies of goods from a supplier established in a Member State to final consumers located in other Member State(s).

Distance sales of services – refer to supplies of services from a supplier established in a Member State to final consumers located in other Member State(s).

Domestic exemption – refers to the exemption granted to a taxable person established in the Member State in which VAT is due ([3]).

Domestic SME scheme – means the SME scheme applicable in the Member State of establishment only.

EX number – means the single individual identification number with the suffix 'EX' ([4]) by which the Member State of establishment identifies a taxable person wanting to benefit from the cross-border exemption.

Exempt small enterprise – is, in the context of this special scheme, a sole trader or a business benefitting from the VAT exemption under the SME scheme in the Member State in which the VAT would be due under the standard VAT regime.

Exports of goods – refer to supplies of goods where goods are transported from a Member State to a non-EU country.

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([1]) Article 284(2) of the VAT Directive.
([2]) Article 284(2) of the VAT Directive.
([3]) Article 284(1) of the VAT Directive.
([4]) Article 284(3) of the VAT Directive.

Input transactions – cover domestic purchases of goods and services (also those with reverse charge mechanism), purchases of goods coming from another Member State, purchases of services from a supplier established in another Member State, importations of goods, and purchases of services from non-EU countries.

Intra-EU supplies of goods – refer to supplies of goods which are transported from one Member State to another.

Member State annual turnover – means the total annual value of supplies of goods and services, exclusive of VAT, made by a small enterprise within that Member State during a calendar year.

Member State of establishment (MSEST) – means the Member State in which a small enterprise eligible for exemption on its supplies of goods and services under the SME scheme is established ([5]); that is the Member State where the functions of that small enterprise's central administration are carried out or, in the case of a natural person, where that person has its permanent address [(6)].

Member State of exemption (MSEXE) – means any Member State other than that of establishment in which a small enterprise is eligible for exemption under the SME scheme on its supplies of goods and services.

National annual threshold – is the upper limit set by a Member State for the application of VAT exemption under the SME scheme. A national annual threshold cannot be higher than EUR 85 000 (or the equivalent in national currency).

Output transactions – cover local supplies of goods and services, cross-border supplies of goods and services, exportations of goods, and supplies of services to customers established in non-EU countries.

Place of establishment – means the place where the small enterprise has located its business seat of economic activity. The place of establishment of a natural person is where it has its permanent address.

Sectoral thresholds – refer to the situation where a Member State applies more than one national annual threshold. Sectoral thresholds are annual turnover thresholds fixed by a Member State below which a small enterprise may be eligible to apply the SME

([5]) To determine what it takes to be seen as established in a Member State, see also guidelines resulting from the 123rd meeting of 20 November 2023 – Document A – taxud.c.1(2024)794997 – Working paper No 1075 (p. 295).

([6]) To determine what it takes to be seen as established in a Member State, see also guidelines resulting from the 123rd meeting of 20 November 2023 – Document A – taxud.c.1(2024)794997 –Working paper No 1075 (p. 295).

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scheme and be granted a VAT exemption. None of the sectoral thresholds can be higher than EUR 85 000 (or the equivalent in national currency).

Small enterprise – covers natural persons carrying out an economic activity, entrepreneurs, legal entities, etc.

SME scheme – means the special scheme for small enterprises as laid down in Title XII, Chapter 1 of the VAT Directive ([7]).

Standard VAT regime – means the normal VAT rules set out in the VAT Directive.

Territory of the Community – means the territories of the Member States as defined in Title II, Article 5 of the VAT Directive.

Union annual turnover – means the total annual value of supplies of goods and services, exclusive of VAT, made by a small enterprise within the territory of the Community during a calendar year.

Union annual threshold – is set at EUR 100 000 and only small enterprises whose Union annual turnover does not exceed the Union threshold will be eligible to apply the cross-border SME scheme. The Union annual threshold ensures that only enterprises that are small can benefit from the cross-border exemption.

Windsor Framework arrangements – refer to the arrangements adopted by the Joint Committee established by the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community as enshrined in its Decision No 1/2023 of 24 March 2023 laying down arrangements relating to the Windsor Framework [2023/819].

Working days – are all days other than public holidays, Sundays and Saturdays, according to Article 2(2) of Regulation (EEC, Euratom) No 1182/71 of the Council of 3 June 1971 determining the rules applicable to periods, dates and time limits.

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([7]) Any reference made to provisions governing the SME scheme referred to throughout these Explanatory Notes shall be taken to be to the provisions in their wording as of 1 January 2025.

Executive Summary

General

- The SME scheme is a VAT special regime that allows small enterprises to not charge VAT on their supplies of goods and services and thus alleviates the associated VAT compliance obligations. The counterpart of the VAT exemption is the loss of the right to deduct input VAT incurred on the purchases of goods and services linked to the VAT exempt supplies.

- The SME scheme is optional and exists in almost all Member States.

- Until 31 December 2024, the SME scheme is only accessible to small enterprises established in the Member State where VAT is due (domestic application of the SME scheme). The shift of taxation of supplies of goods and services from the place of origin to the place of destination created some inequalities between small enterprises established and non-established in a same Member State. To put all small enterprises on an equal footing, the rules of the SME scheme have been reviewed and some new common rules have been created.

- As from 1 January 2025, the SME scheme is therefore also accessible to small enterprises not established in the Member State where VAT is due (cross-border application of the SME scheme). The domestic application of the SME scheme remains applicable. The SME scheme is only open to small enterprises established within the European Union.

- The SME scheme and the Union One-Stop-Shop scheme (OSS) are compatible and can cohabit.

The domestic SME scheme

- To apply the domestic SME scheme, the small enterprise must have an annual turnover not exceeding the national annual threshold or applicable sectoral threshold set by the Member State of establishment (MSEST). This threshold cannot be higher than EUR 85 000.

- In case a small enterprise applies the domestic SME scheme only, it must contact its Member State of establishment to get information on its VAT compliance obligations (registration, VAT return, etc) if any, as each Member State is allowed to set its own rules and to release small enterprises from one or more of these VAT obligations.

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- Should an SME want to apply the SME scheme in both its Member State of establishment and in one or more Member State(s), it will have to apply the rules set for the cross-border SME scheme.

The cross-border SME scheme

- To be eligible to apply the cross-border SME scheme, the total annual turnover of the SME in the 27 Member States must not exceed the Union annual threshold set at EUR 100 000, or the equivalent in national currency.

- In addition, the annual turnover of the SME in each of the Member States where it wants to apply the cross-border SME scheme must not exceed the national annual threshold or applicable sectoral threshold applicable in each of them.

- The SME must only file one single prior notification in its MSEST to request access to the cross-border SME scheme. The MSEST acts as the contact point between the small enterprise and the other Member State(s).

- The VAT obligations of the small enterprise are simplified: one single quarterly report to report the turnover of the SME in the 27 Member States to be submitted in MSEST. The SME is allowed to issue simplified invoices.

- An SME can leave the cross-border SME scheme in one or more Member State(s) voluntarily.

- An SME is excluded from the cross-border SME scheme in all Member States when its Union annual turnover exceeds EUR 100 000. Although its Union annual turnover of EUR 100 000 is not exceeded, an SME is excluded in one or more Member State(s) of exemption if and when its annual turnover in one or more MSEXEs exceeds the national annual threshold set by these MSEXEs (or the transitional period expires).

- The exclusion of the cross-border SME scheme should not prevent the small enterprise from applying the domestic SME scheme, provided that it meets the conditions in its MSEST.

- The cohabitation of the SME and OSS schemes is possible. A small enterprise can apply the SME scheme in some Member States (MSEST included) and the OSS scheme in other Member States (but OSS cannot be applied in MSEST). If the small enterprise is excluded from the cross-border SME scheme in one or more Member State(s), it can therefore apply the One Stop Shop for this/these Member States.

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1. Introduction

The Explanatory Notes refer to the **rules applicable from 1 January 2025**; covering both those of the **existing rules** that will continue to apply and all of the **new rules**.

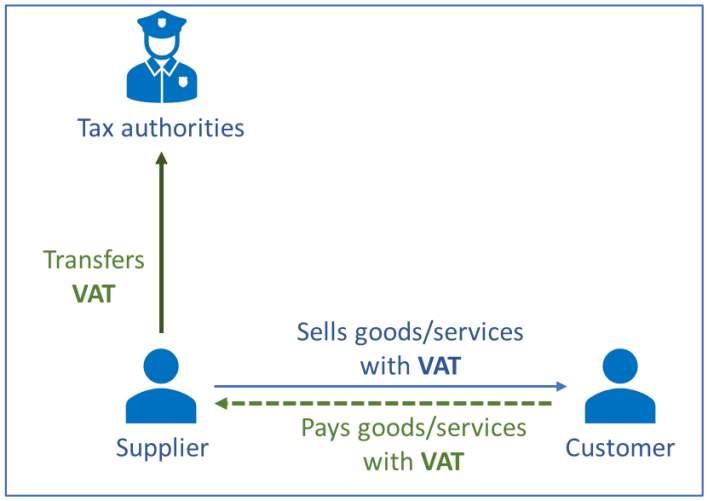
This section answers the following questions:

a) How does the standard VAT regime work in a nutshell?
b) What is the Special Scheme for Small Enterprises ('SME scheme')?
c) Why changing the SME scheme rules?

1.1. The core functioning of the standard VAT regime

As a general rule, a business selling goods and/or services (hereinafter, 'supplier') has to charge VAT to its customer. The customer pays VAT to the supplier and the latter transfers this VAT to the tax authorities. In principle, **charging VAT to customers opens a right for the supplier to deduct the VAT incurred on the purchases** of goods and services used to make these taxed supplies ([8]).

The figure below summarises how, under the standard VAT regime, a supplier collects VAT from its customer on behalf of the tax authorities.



([8]) Article 168 of the VAT Directive.

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Figure 1: Collection of VAT under the standard VAT regime

To help tax authorities collect VAT, the VAT Directive ([9]) lays down a series of rules businesses must comply with (e.g., VAT registration, invoicing, accounting, and reporting). In complying with these rules, small enterprises (hereinafter, 'SMEs') bear proportionally higher compliance costs than large businesses due to the more limited resources available to them and the complexity and differences between the national VAT systems.

1.2. The Special Scheme for Small Enterprises

The **special scheme for small enterprises** (hereinafter 'SME scheme'), in Title XII, Chapter 1, of the VAT Directive is designed to ease the burden of compliance on SMEs in dealing with VAT through the application of the **VAT exemption** on the supplies of goods and services, resulting in **less compliance work**.

1.2.1. The concept of 'small enterprise'

The SME scheme is designed for small enterprises. In the context of these Explanatory Notes, small enterprises refer to any person considered to be a taxable person for VAT purposes ([10]), regardless their form (self-employed, freelancers, start-ups, incorporated companies, natural persons carrying out economic activity, etc.) and whose annual turnover within the European Union does not exceed EUR 100 000 (cross-border SME scheme) or the national annual threshold or sectoral threshold of the Member State of establishment (domestic SME scheme).

1.2.2. VAT exemption and VAT deduction

Under the SME scheme, a small enterprise can **VAT exempt ([11]) the supplies** of goods and services made to its customers – businesses and/or final consumers – provided that its annual turnover remains below a certain annual threshold fixed by the Member States concerned. The VAT exemption means that the small enterprise does **not charge VAT to its customers**. The counterpart of the VAT exemption under the SME scheme is

([9]) Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).
([10]) Title III of the VAT Directive.
([11]) Article 284 of the VAT Directive. The graduated tax relief is no longer applicable from 1 January 2025.

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that the small enterprise is **not allowed to deduct input VAT ([12])** borne on its purchases of goods and services used to make these VAT exempt supplies, as illustrated in Figure 2 below.

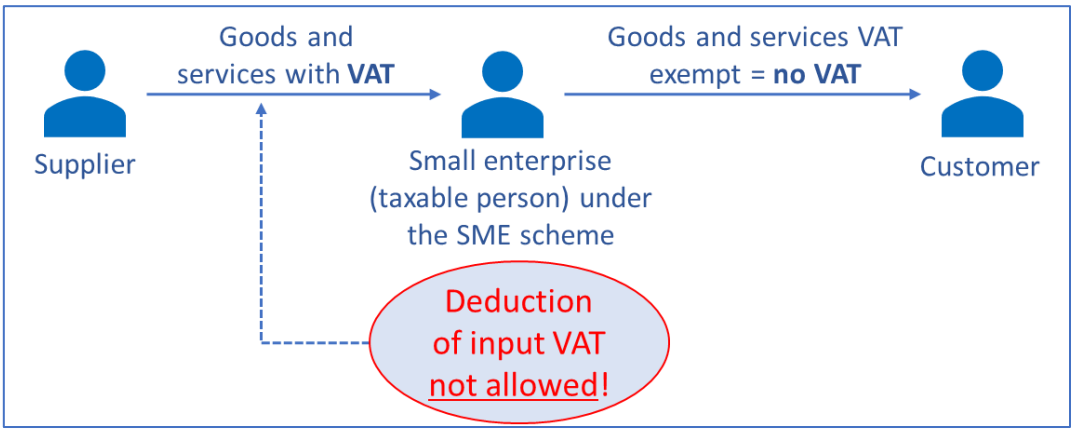

Figure 2: Core mechanism of the SME scheme

1.2.3. Optional application

The application of the **SME scheme is optional**, both for Member States and for small enterprises.

This means that **Member States can choose** to implement the SME scheme in their national legislation or not. If a Member State (MS 1) chooses to implement this scheme for small enterprises established within its jurisdiction ('domestic exemption'), it is obliged to extend the application of the VAT exemption to small enterprises – that fulfil the requirements – established in another Member State ('cross-border exemption') and that would like to apply the VAT exemption in MS 1. If a Member State (MS 2) does not implement the SME scheme, none of the SMEs – established or not – can apply the SME scheme in MS 2.

In the case where a Member State chooses to not implement the SME scheme in its jurisdiction, it will still be the Member State of establishment (MSEST) and will act as the contact point between SMEs established in its jurisdiction and any of the other Member States where these SMEs want to apply the cross-border exemption (see section 4).

Its optional nature means that **any small enterprise** fulfilling the conditions **can choose** whether or not to apply the SME scheme ([13]) (if implemented by the Member State

([12]) More information on the right to deduct VAT in section 5.

([13]) Article 290 of the VAT Directive.

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where it wants to avail itself of the VAT exemption). If the small enterprise decides to apply the SME scheme, the VAT exemption will apply to all its supplies. If it decides to not apply the SME scheme, the standard VAT regime will apply by default to all the supplies. That said, Member States may be applying simplified VAT rules ([14]) to small enterprises that do not apply the SME scheme.

SMEs fulfilling all the conditions can choose the moment as from which they will apply the SME scheme, be it domestic and/or cross-border. A small enterprise starting its economic activity can apply the SME scheme if it meets the conditions. A small enterprise applying the standard VAT regime and charging VAT to its customers can also decide to change and apply the VAT exemption to its supplies of goods and services. In any case, the small enterprise wanting to apply the SME scheme shall do so with the intention to apply it on a continuous basis. This means that a small enterprise cannot choose to opt in and opt out for the SME scheme whenever it suits the small enterprise.

1.2.4. Less compliance work

To alleviate the administrative burden on SMEs, VAT compliance obligations are simplified, as detailed in the following sections of these Explanatory Notes. In some cases where a small enterprise decides to apply the SME scheme in its Member State of establishment only ('domestic' exemption), that Member State may release this enterprise from all or certain VAT obligations, like for example being required to register for VAT purposes, to submit VAT returns, to issue invoices, to keep accounting and to fulfil other administrative obligations ([15]) (see section 3). The small enterprise is also released from certain compliance obligations under the cross-border SME scheme (see section 4).

1.3. Reason for the review of the SME scheme

The SME scheme was introduced in 1977. Its review is triggered by the change in the place of taxation of supplies of goods and services from **origin** (where the supplier is established) to **destination** (where the goods and services are consumed). That created distortions of competition between SMEs established and those not established in one

([14]) Article 281 of the VAT Directive.

([15]) Articles 292b and 292c of the VAT Directive. See SME web portal (https://sme-vat-rules.ec.europa.eu) for more information on the simplifications applicable in each Member State.

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and the same Member State for the application of the SME scheme. The Figure below provides further details on the impacts of taxation at origin versus at destination.

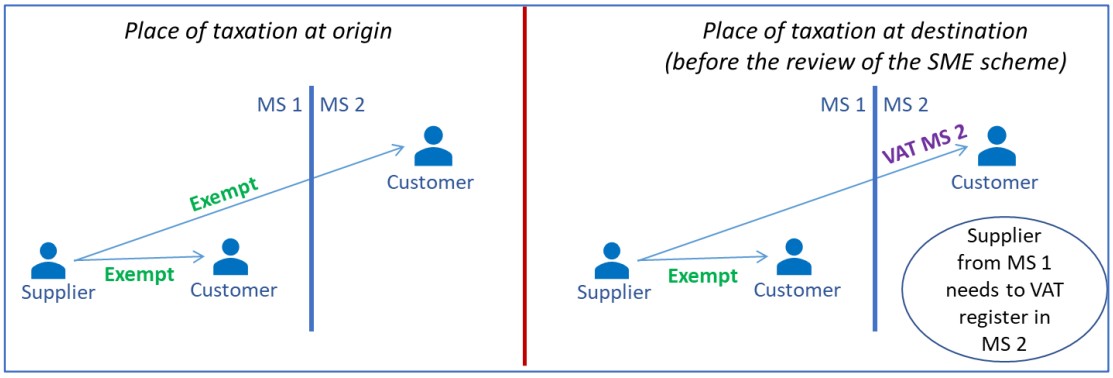

Figure 3: Place of taxation: origin versus destination

Explanation of place of taxation at origin (left image of the figure):

While the place of the supply was located where the supplier was established, the supply was taxable in MS 1. Therefore, both supplies made to customers and/or final consumers located in MS 1 and in MS 2 could be VAT exempt under the SME scheme. At that time, it meant that the supplier's VAT obligations were alleviated.

Explanation of place of taxation at destination before the review of the SME scheme (right image of the figure):

For supplies of services, the general rule states that the place of supply is where the customer is established ([16]) (taxation at destination). Until 31 December 2024, the SME scheme can be applied only in the Member State where the supplier is established. Therefore, until then, the supply made to a customer and/or a final consumer in MS 1 can be VAT exempt under the SME scheme, since both the supplier and the customer and/or consumer (taxation at destination) are located in MS 1. However, the supply made to the customer and/or final consumer in MS 2 cannot be VAT exempt since the SME scheme can only be applied in the Member State where the supplier is established. With taxation at destination, the VAT applicable to the supply made to the customer located in MS 2 is the one in MS 2. This implies that the supplier, to be able to charge the VAT applicable in MS 2 to the final consumer and to pay it to the tax authorities, must VAT register and fulfil VAT obligations in MS 2. Therefore, the supplier's VAT obligations were only simplified in its Member State of establishment but not in the other Member States where VAT is due.

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([16]) Article 44 of the VAT Directive.

Therefore, **until 31 December 2024**, while the SME scheme alleviates the VAT administrative burden of the supplier established in the Member State where VAT is due (which equals the Member State of establishment), the VAT administrative burden can be significant if the supplier is required to VAT register and charge the local VAT in all other Member States where VAT is due, as illustrated in Figure 4 below. This is particularly relevant for suppliers involved in the supplies of services and goods to final consumers (e-commerce and distance sales).

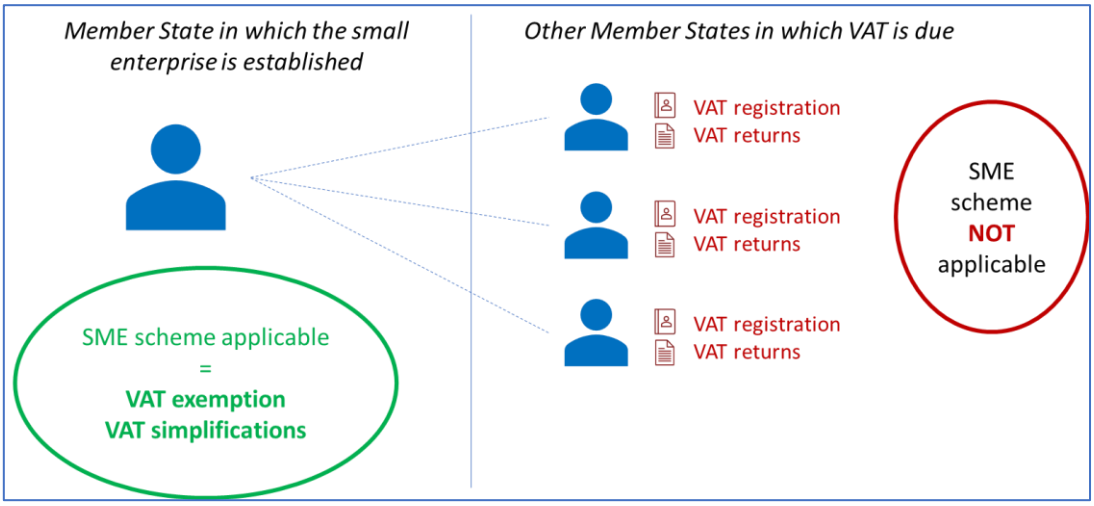

Figure 4: Territorial scope of the SME scheme until 31 December 2024

This situation creates a distortion of competition between small enterprises established and those not established in the Member State where VAT is due. While a small enterprise established in the Member State where VAT is due can benefit from the VAT exemption of the SME scheme and be released from some or all VAT obligations, a small enterprise not established in that same Member State can be obliged to VAT register and fulfil VAT obligations, including paying VAT.

1.4. Keystone of the new SME scheme: extension of its territorial scope

The opening of the SME scheme to SMEs not established in the Member State where VAT is due was necessary to put all SMEs – established and not established – on an equal footing and so to address distortions on competition resulting from the shift to taxation at destination.

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In practice, from 1 January 2025, a small enterprise **is allowed also to opt for the SME scheme in Member States in which it is not established ([17]) and where VAT is due** provided that it meets the conditions (cross-border exemption). This implies that a small enterprise availing itself of the SME scheme in any Member State other than its Member State of establishment can VAT exempt its supplies of goods and services in that Member State, as illustrated in Figure 5 below. A small enterprise established in that same Member State already is able to access that VAT exemption.

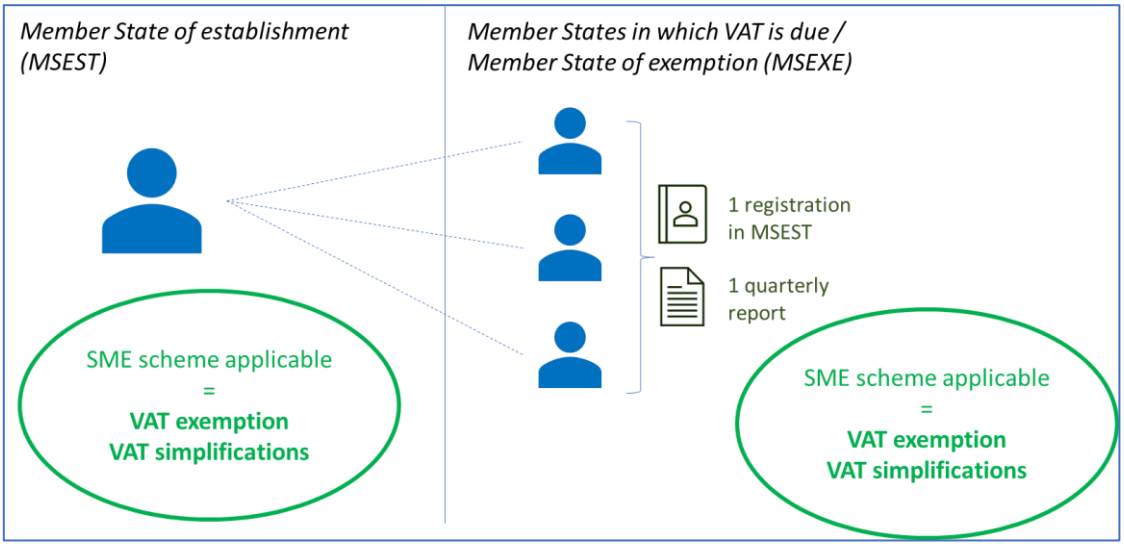

Figure 5: Territorial scope of the SME scheme from 1 January 2025

The possibility to apply the SME scheme in Member State(s) where VAT is due but the SME is not established (hereinafter, 'Member State of exemption' or 'MSEXE') also triggers simplified 'cross-border' VAT obligations, as described in the following sections.

1.5. The new SME scheme: two layers of application

The opening of the SME scheme creates **two layers of application**: a domestic layer and a cross-border layer.

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([17]) Article 283(1)(c) of the VAT Directive deleted from 1 January 2025.

1.5.1. Domestic layer

The domestic layer refers to the case where the small enterprise applies the SME scheme in its Member State of establishment *only*.

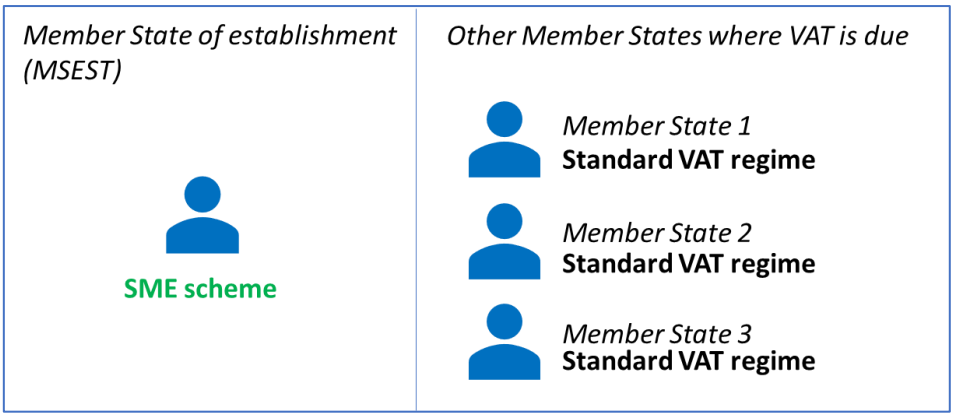

Figure 6: Domestic layer of application of the SME scheme

In the other Member States (MS 1, MS 2, MS 3) where VAT is due and where the small enterprise has activities, it applies the standard VAT regime (or simplified procedures), either by choice (the SME scheme is optional) or because it does not meet the requirements to apply the SME scheme in those Member States.

1.5.2. Cross-border layer

The cross-border layer covers the following two scenarios:

a) The small enterprise applies the SME scheme only in Member State(s) other than its Member State of establishment (Member State of establishment excluded).

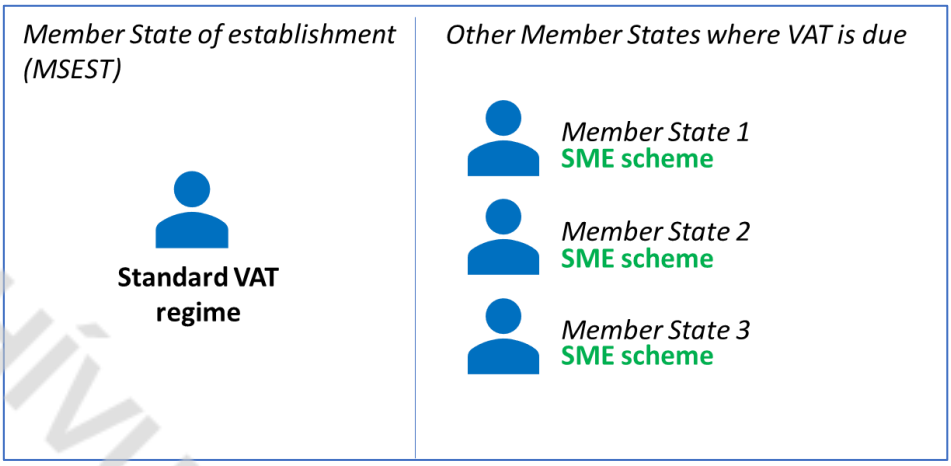

Figure 7: Cross-border layer of application of the SME scheme – scenario A1

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In scenario A1, provided that the small enterprise meets the requirements to apply the cross-border SME scheme in all the Member States where VAT is due, it can choose to apply the cross-border SME scheme in all of them.

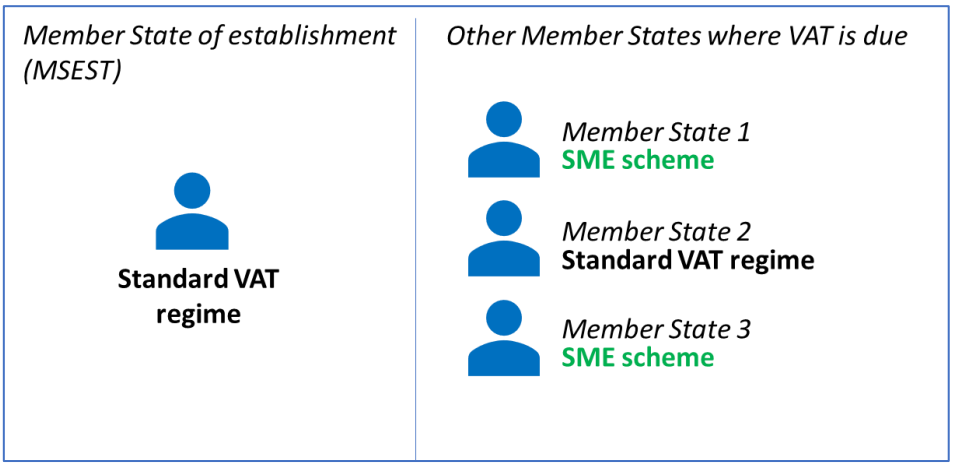

Figure 8: Cross-border layer of application of the SME scheme – scenario A2

In scenario A2, although the small enterprise meets the requirements to apply the cross-border SME scheme in all the Member States where VAT is due, it can still choose to apply the cross-border SME scheme only in some of these Member States.

If in some of the Member States where VAT is due, the small enterprise does not meet the requirements to apply the cross-border SME scheme, it will have to apply the standard VAT regime there but could still choose to apply the SME scheme in other Member States where it meets the requirements.

b) The small enterprise applies the SME scheme both in its Member State of establishment and in other Member State(s).

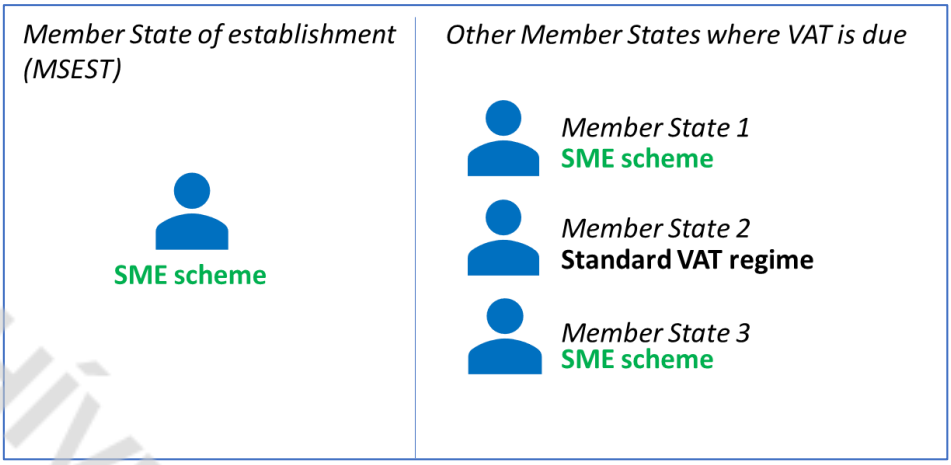

Figure 9: Cross-border layer of application of the SME scheme – scenario B

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Under scenario B, the only difference with scenarios A1 and A2 lies in the fact that the small enterprise also applies the SME scheme in its Member State of establishment.

The application of the SME scheme and the corresponding VAT compliance obligations differ depending on the option chosen by the SME: domestic or cross-border.

- The **domestic** SME scheme applies in the case where the small enterprise makes use of the SME scheme in its Member State of establishment only,
- The **cross-border** SME scheme covers the cases where the small enterprise makes use of the SME scheme: a) in Member State(s) other than the Member State of establishment only or b) in other Member State(s) and in its Member State of establishment as well.

To better understand the functioning and the obligations of each layer, the Explanatory Notes include sections that deal specifically with each one separately and some other sections that apply to all layers. For each section, it will be specified which layer – domestic or cross-border – it applies to.

1.6. Relevant legal acts

The Commission announced, in its VAT Action Plan of 7 April 2016 ([18]), a comprehensive simplification package for SMEs conducive to their growth and favourable to cross-border trade. This entailed a review of the SME scheme. On 18 January 2018, it then presented a Proposal for a Council Directive amending the VAT Directive as regards the SME scheme.

The legal acts which introduced the VAT changes addressed in these Explanatory Notes include:

a) Council Directive (EU) 2020/285 of 18 February 2020 amending Directive 2006/112/EC on the common system of value added tax as regards the special scheme for small enterprises and Council Regulation (EU) No 904/2010 as regards administrative cooperation and exchange of information between Member States for the purpose of monitoring the correct application of the special scheme for small enterprises

([18]) https://data.consilium.europa.eu/doc/document/ST-12764-2016-INIT/en/pdf.

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b) Council Directive (EU) 2022/542 of 5 April 2022 amending Directives 2006/112/EC and (EU) 2020/285 as regards rates of value added tax

c) Commission Implementing Regulation (EU) 2021/2007 of 16 November 2021 laying down detailed rules for the application of Council Regulation (EU) No 904/2010 as regards the special scheme for small enterprises

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2. Main features of the new SME scheme

This section is **common to all layers**, whether a small enterprise wants to apply the SME scheme in its Member State of establishment only (domestic), in other Member State(s) only (cross-border) or both in its Member State of establishment and in other Member State(s) (cross-border). It is **essential** to understand basic elements of the SME scheme to know how it works.

2.1. The notion of establishment

The SME scheme makes a distinction between small enterprises which are 'established' and those which are 'not established' within the territory of a Member State.

For the correct application of the SME scheme, there can be **one Member State of establishment only (MSEST)**. The other Member States where the SME wants to apply the SME scheme are called 'Member States of exemption' (MSEXE).

2.1.1. Member State of establishment

A small enterprise is considered established in the Member State where it has **located the seat of its economic activity ([19])**: this is the place where the functions of the business' central administration are carried out. In case of a natural person, the place of establishment can be the Member State where that person has its permanent address. To ensure the effective application of the scheme, **there can be one Member State of establishment only**. It is in that Member State that the small enterprise needs to be identified for use of the cross-border exemption. The notion of an SME being established in a given Member State does not cover places where it has a fixed establishment ([20]) as that would open up for multiple identifications.

([19]) Article 10(2) and (3) of the Council Implementing Regulation (EU) No 282/2011 of 15 March 2011 laying down implementing measures for Directive 2006/112/EC on the common system of value added tax (recast) (OJ L 77, 23.3.2011, p. 1).

([20]) Discussed by the VAT Committee at its 121st meeting based on Working paper No 1051 *The new special scheme for small enterprises and fixed establishments* and at its 123rd meeting based on Working paper No 1073 *The SME scheme updated as of 1 January 2025*.

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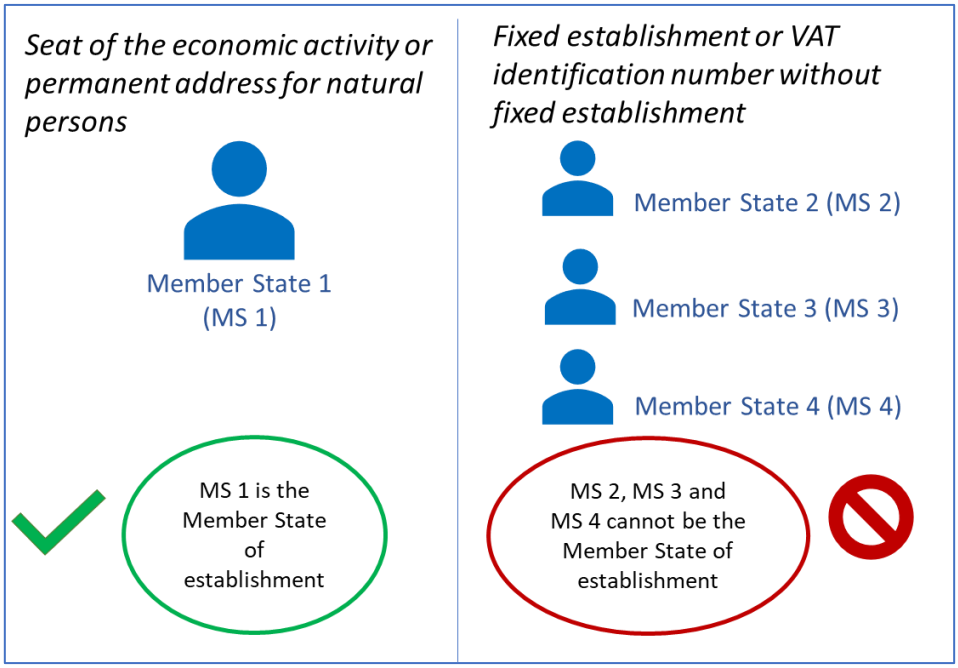

Figure 10: Place of establishment in the context of the SME scheme

As indicated in Figure 10, the Member State of establishment (MSEST) is the Member State where the small enterprise has located the seat of its economic activity: MS 1. In case of a natural person, the seat of the economic activity can be the permanent address of that person.

A Member State where the small enterprise has fixed establishments or where it is identified for VAT purposes without there being a fixed establishment (in this case MS 2, MS 3 and MS 4) cannot be seen as the Member State of establishment. Should the small enterprise want to apply the SME scheme in MS 2, MS 3 and/or MS 4, this is possible from 1 January 2025 under the cross-border SME scheme (provided that the SME meets all the conditions). In that case, MS 2, MS 3 and MS 4 will be Member States of exemption (MSEXE).

2.1.2. The situation of fixed establishment and VAT registration of EU small enterprises

In case a small enterprise has a fixed establishment or a VAT registration number without fixed establishment in one or more Member States where it applies the standard VAT regime and where it would like to change and apply the VAT exemption (cross-border VAT exemption), the small enterprise will for VAT purposes have to de-register in these Member States once it is granted access to the cross-border SME scheme.

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If a small enterprise has a fixed establishment in a Member State where it already applies the SME scheme (domestic) and it wants to continue to apply the SME scheme (cross-border) after 1 January 2025, the small enterprise will have to follow the registration rules for the cross-border SME scheme detailed in section 4 and then de-register for VAT purposes in that Member State.

In case a small enterprise has a fixed establishment or a VAT registration number without fixed establishment in one or more Member States where it does not want to apply the VAT exemption (cross-border SME scheme), the new rules applicable from 1 January 2025 will have no impact.

2.1.3. The situation of non-EU small enterprises

A non-EU enterprise is an enterprise whose seat of economic activity, permanent address, etc. is located outside the EU. **Non-EU enterprises cannot apply the SME scheme (domestic / cross-border)**. A non-EU enterprise which has **fixed or permanent establishment(s) within the EU cannot apply the SME scheme either**.

Small enterprises established in the United Kingdom, including Northern Ireland ([21]), should be regarded as non-EU enterprises for the application of the SME scheme. Therefore, the SME scheme does not apply to the following transactions:

a) Supplies of goods made by a taxable person established in a Member State where the place of that supply is located in Northern Ireland;
b) Supplies of goods made by a taxable person established in Northern Ireland where the place of that supply is located in a Member State.

Only small enterprises whose place of establishment is located in an **EU Member State** can apply the SME scheme.

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([21]) See *Press Release on New way forward on the Protocol on Ireland/Northern Ireland* and *Factsheet to the Windsor Framework*.

2.2. Scope of application

2.2.1. Transactions covered

Under the SME scheme, the VAT exemption applies to the following supplies of goods and services made to business customers and/or to final consumers:

- Domestic supplies of goods
  Example: supplies of 'souvenirs' where the supplier and the final consumer are both located in one same Member State and VAT is due in that Member State.
- Intra-Community distance sales of goods ([22])
  Example: the supplier established in Member State 1 sells books and sends them to final consumers located in Member State 2.
- Domestic supplies of services (the supplier is established in the Member State where VAT is due)
  Example: the supplier runs a restaurant where the customers eat onsite.
- Electronically supplied services
  Example: a small enterprise established in Member State 1 supplies online interior design services to business customers or final consumers located in Member State 2.
- Supplies of goods dispatched or transported from one Member State to a business customer located in another Member State (intra-Community supplies of goods)
  Example: supplies of car spare parts transported from a supplier established in Member State 1 to a customer located in Member State 2.
- Supplies of goods dispatched or transported from a Member State to a non-EU country (exports)
  Example: supplies of car spare parts transported from a supplier established in Member State 1 to a customer located in a non-EU country.

If an SME chooses to apply the SME scheme, the VAT exemption applies to all its supplies of goods and services (unless they are transactions excluded from the application of the scheme as explained in section 2.2.2 below). This is, if the supplies fall within its scope of application, an SME cannot opt for the SME scheme to be applied only to certain individual transactions and for the standard VAT regime to be applied to others.

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([22]) Article 33 of the VAT Directive.

The VAT exemption applies to supplies only. This means that the VAT exemption does not apply to purchases of goods and services with reverse charge ([23]) and imports of goods. For these transactions, a small enterprise may still be liable to pay VAT, to VAT register and to fulfil compliance obligations under the standard VAT rules ([24]) in the Member State where these transactions are located. The interaction between the SME scheme and the standard VAT regime is explained further in section 6.

2.2.2. Transactions excluded

The following transactions are excluded ([25]) from the application of the SME scheme:

- Occasional transactions ([26]), like the supply before first occupation of a building or parts of the building or the supply of building land,
- Exempt cross-border supplies of new means of transport made from one Member State to another ([27]).

In addition to the abovementioned transactions, Member States may decide to exclude any other supplies of goods and services of their choosing from the application of the SME scheme ([28]). While this option is permitted by the VAT Directive ([29]), it can be a source of complication for small enterprises as it deprives the SME scheme of its intended simplification by forcing SMEs otherwise eligible for the VAT exemption to apply the standard VAT regime to the excluded transactions.

If not all transactions are covered by the SME scheme, a small enterprise can be in a situation where it has to VAT register and fulfil VAT compliance obligations for transactions that are excluded from the scheme while still being eligible to apply the SME scheme to the transactions falling within its scope (provided that the small enterprise meets the conditions). Since the SME scheme is optional, there is however always the possibility for the small enterprise to assess whether such a situation would be suitable from a business point of view.

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([23]) Article 196 and, if relevant, Articles 194 or 199 of the VAT Directive.
([24]) Working paper No 1049 *The new special scheme for small enterprises: interaction with rules on intra Community acquisitions*.
([25]) Article 283(1) of the VAT Directive.
([26]) As referred to in Article 12 of the VAT Directive.
([27]) As referred to in Article 2(2) of the VAT Directive and carried out in accordance with the conditions specified in Article 138(1) and (2)(a).
([28]) https://sme-vat-rules.ec.europa.eu
([29]) Article 283(2) of the VAT Directive.

2.2.3. What prevails: the SME scheme or the standard VAT regime?

The VAT exemption of the SME scheme prevails over the VAT treatment under the standard VAT regime, as explained below.

Example 1

A small enterprise supplies goods to a business customer and the goods are transported from Member State 1 (MS 1) to Member State 2 (MS 2).

Under the standard VAT regime, the **intra-Community supply of goods** is VAT exempt according to Article 138 of the VAT Directive and opens a right for the supplier (the small enterprise) to deduct input VAT linked to this supply in MS 1.

If the small enterprise carries out the same supply of goods under the SME scheme, the rules of that scheme prevail over the standard VAT regime. The supply is VAT exempt according to Article 284 of the VAT Directive and it does not open any right for the small enterprise to deduct input VAT incurred on the purchases linked to this supply in MS 1.

Under the SME scheme, the exempt supply is not followed by an intra-Community acquisition of goods subject to VAT ([30]). For the business customer, this means that it should not account for VAT for this purchase. It is the business customer's responsibility to check the VAT exempt status of the small enterprise through the application SME-on-the-Web ([31]).

([30]) Article 2(1)(b)(i) and Article 139 of the VAT Directive.

([31])The link is available as from January 2025: https://ec.europa.eu/taxation_customs/sme-verification

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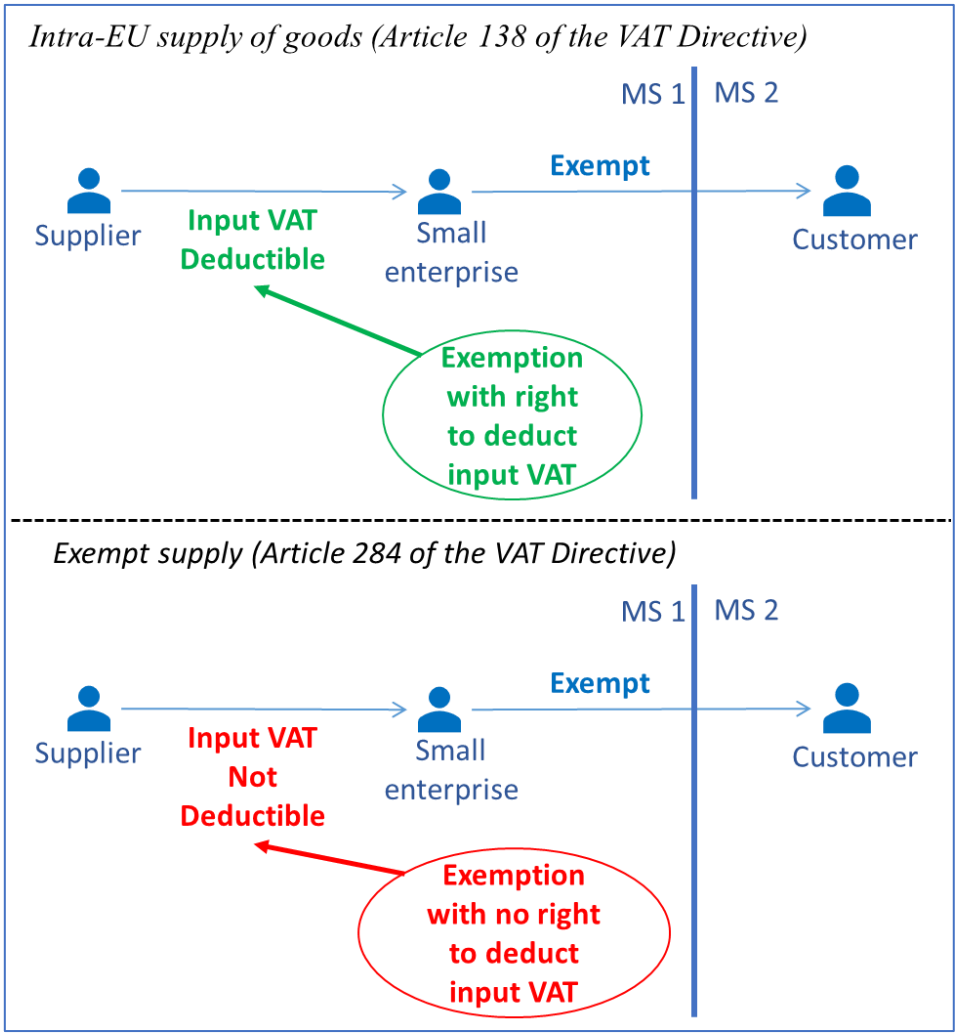

Figure 11: VAT exemption on B2B supplies of goods to another Member State

Example 2

A small enterprise established in Member State 1 (MS 1) supplies advertising services to a business customer located in Member State 2 (MS 2). According to the general rule on the place of supply of services ([32]), this supply is taxed in the Member State where the customer is located: MS 2 (taxation at destination). This means that this supply of services is out of the scope of VAT in MS 1.

Under the standard VAT regime, this supply of services located in MS 2 would still open a right for the supplier (the small enterprise) to deduct input VAT in MS 1 on purchases

([32]) Article 44 of the VAT Directive.

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linked to that supply. Since the place of supply is located in MS 2, the business customer would account for VAT in MS 2 based on the reverse charge mechanism ([33]).

Under the SME scheme, that supply will also be located in MS 2. If the small enterprise does not apply the cross-border SME scheme in MS 2 (Member State where VAT is due), the business customer will still be liable to account for VAT in MS 2 under the reverse charge mechanism.

If the small enterprise applies the cross-border SME scheme in MS 2, the supply is covered by the cross-border exemption in MS 2 so there is no VAT for the customer to account for. It is the business customer's responsibility to check the VAT exempt status of the small enterprise in the application SME-on-the-Web ([34]).

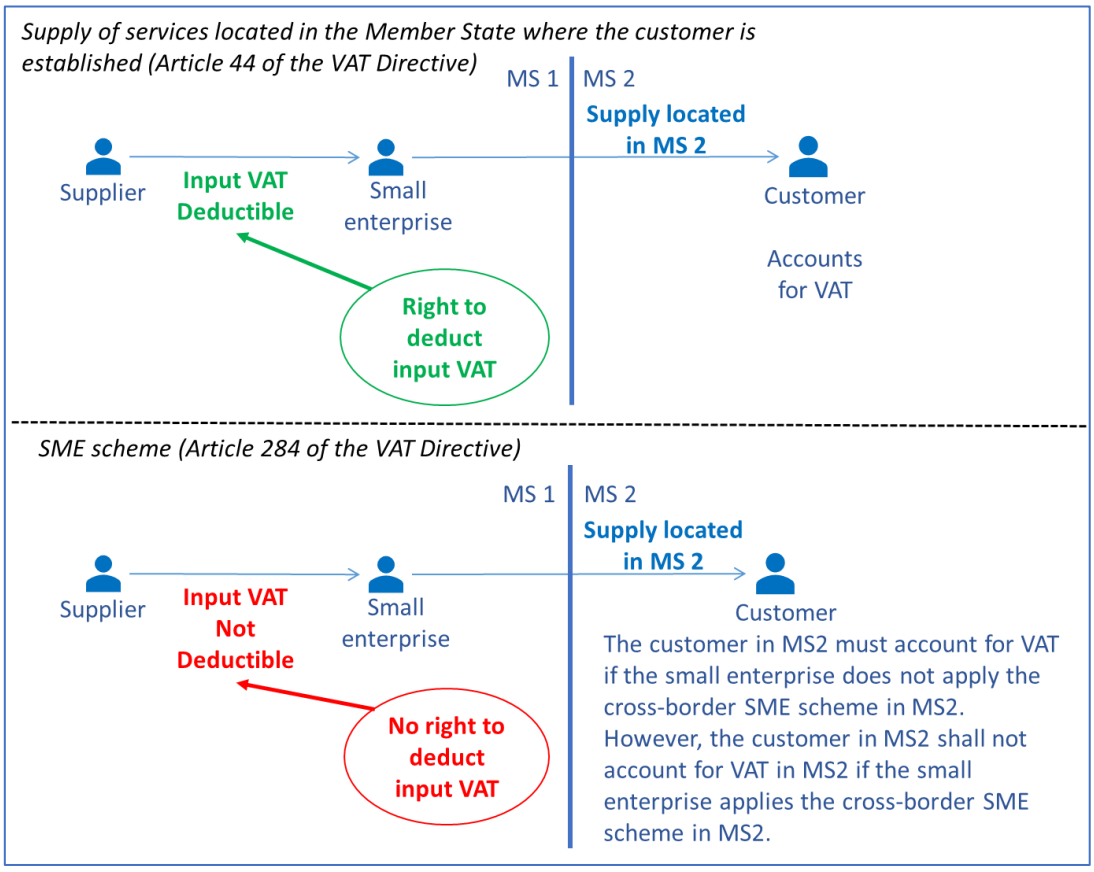

Figure 12: Supply of services to a business customer located in another Member State

([33]) Article 196 of the VAT Directive.
([34])The link is available as from January 2025: https://ec.europa.eu/taxation_customs/sme-verification

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Example 3

A small enterprise supplies goods from Member State 1 (MS 1) to final consumers located in Member State 2 (MS 2). The place of this supply is located in MS 2 ([35]).

If the small enterprise does not make use of the cross-border SME scheme in MS 2, the standard VAT regime applies. Under this scenario, the small enterprise would have to VAT register in MS 2 and should charge the VAT applicable in MS 2 to the final consumers. An alternative to the standard VAT regime could be the application of the Union One-Stop-Shop scheme (OSS) (see section 7). This supply should open a right for the small enterprise (the supplier) to deduct input VAT linked to that supply.

If the small enterprise applies the cross-border SME scheme in MS 2, the supply would be VAT exempt so no VAT should be charged to the final consumer in MS 2. This supply would not open a right to deduct input VAT. There would be no obligation for the small enterprise to register in MS 2 as it is already registered through the cross-border SME scheme.

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([35]) Articles 33 and 139 of the VAT Directive.

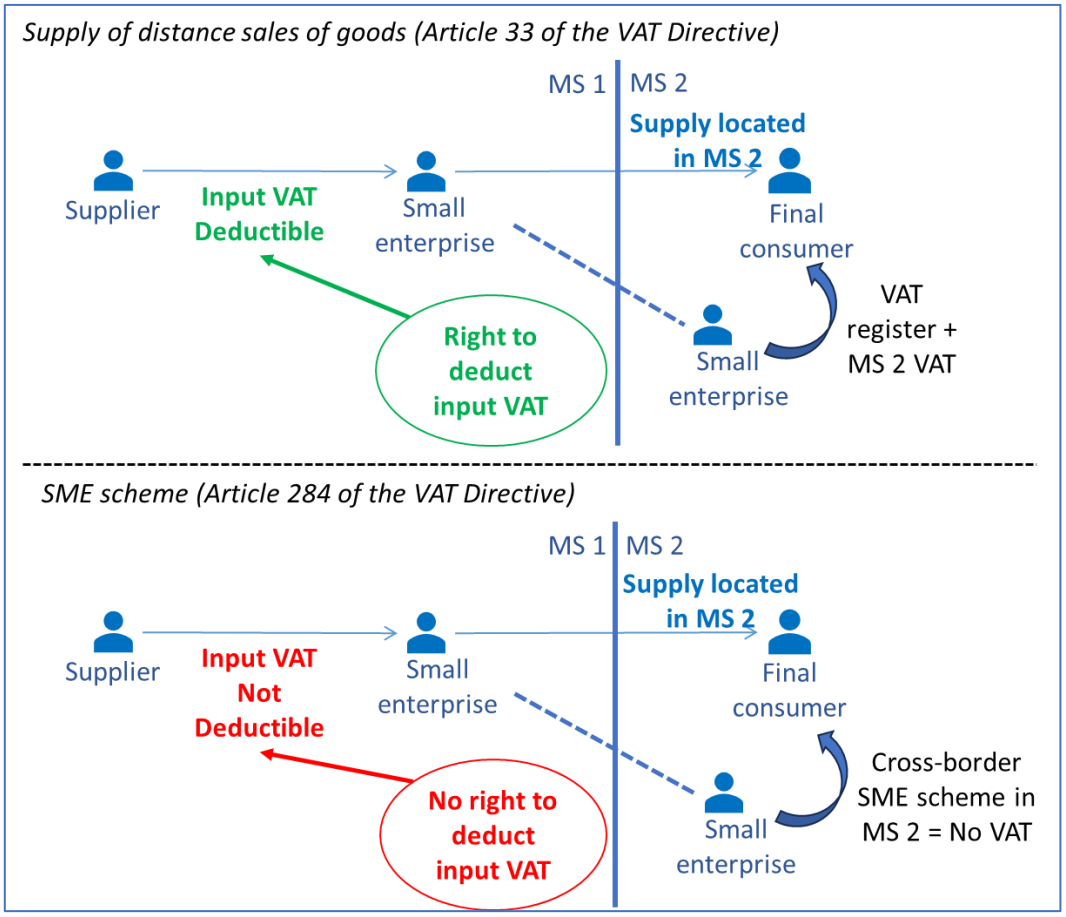

Figure 13: Distance sales of goods to final consumers

Example 4

A small enterprise supplies goods that are transported from Member State 1 (MS 1) to a non-EU country.

Under the standard VAT regime, the export of goods is VAT exempt according to Article 146 of the VAT Directive and it opens a right for the supplier (the small enterprise) to deduct input VAT linked to this export of goods outside the EU.

If the small enterprise carries out the same supply of goods under the SME scheme, the rules of that scheme prevail over the standard VAT regime. The supply of goods is VAT exempt according to Article 284 of the VAT Directive which does not open a right for the supplier (the small enterprise) to deduct input VAT.

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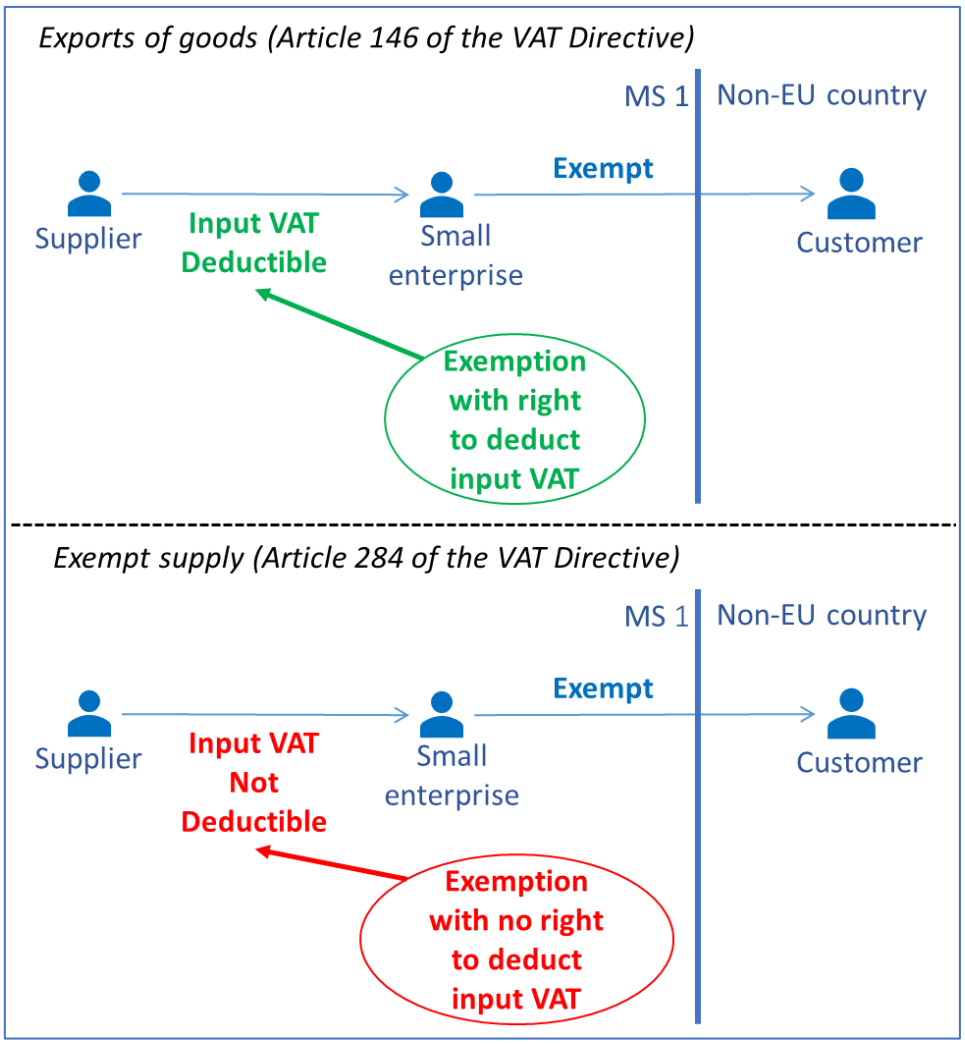

Figure 14: Supplies of goods transported or dispatched outside the EU

2.3. National annual threshold versus sectoral thresholds

A common framework ([36]) for the exemption sets the maximum for the **national annual turnover threshold at EUR 85 000** for all Member States (or the equivalent in national currency). The VAT Directive does not allow Member States to set a national annual threshold higher than that. Member States must apply the same level of national annual threshold to SMEs established in their jurisdictions and to SMEs established not in their jurisdiction but in another Member State. The national annual threshold set should be VAT excluded.

([36]) Article 284(1) of the VAT Directive.

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Member States may have more than one threshold. They can set varying thresholds for different business sectors. Having more than one threshold is an exception to the general rule. The existence of sectoral thresholds must be based on objective criteria and none of these thresholds can exceed EUR 85 000 (or the equivalent in national currency). However, small enterprises eligible to benefit from more than one sectoral threshold in a particular Member State can only use **one of those thresholds for all their supplies in that Member State**. In this specific case, it is the responsibility of any Member State applying more than one threshold to provide clear guidance to the small enterprise on which threshold it should use. You can find information on the thresholds applied by Member States on the SME web portal ([37]). To avoid legal uncertainty for a small enterprise whose activities corresponding to more than one threshold may fluctuate over the year, the Member State concerned should only require the shift from one threshold to another once a year at the beginning of each calendar year based on activities reported by the small enterprise during the preceding calendar year.

2.4. Calculation of the annual turnover

The annual turnover serving as a reference for the application of the SME scheme includes the following amounts, exclusive of VAT ([38]):

a) The value of supplies of goods and services to be taxed if not made under the SME scheme
Example: supplies of hairdressing services, supplies of clothes sold online, etc.
b) The value of transactions which are exempt, with deductibility of the VAT paid at the preceding stage, pursuant to Article 98(2) or Article 105a of the VAT Directive
Example: supplies of concert tickets, cleaning services in private households, etc.
c) The value of transactions related to exempt exports, international transport and the related supplies of services by intermediaries ([39])
Example: supplies of goods transported or dispatched to customers located in a non-EU country.
d) The value of exempt intra-Community supplies of goods ([40])
Example: supplies of goods transported or dispatched to customers located in a Member State other than that of departure of the goods.

([37]) https://sme-vat-rules.ec.europa.eu
([38]) Article 288 of the VAT Directive.
([39]) Articles 146 to 149, and Articles 151, 152 and 153 of the VAT Directive.
([40]) Article 138 of the VAT Directive.

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e) The value of real estate transactions, financial transactions as referred to in Article 135(1), points (b) to (g) of the VAT Directive, and insurance and reinsurance services, unless those transactions are ancillary transactions
Example: the leasing of immovable properties, supplies of lotteries and gambling, etc.

The **transfer of goods** forming part of the business assets of a small enterprise to another Member State is to be treated as a supply of goods for consideration ([41]). The value of the goods transferred is to be included in the calculation of the annual turnover of the SME in the Member State of departure of the stock. That corresponds to the purchase price, or in the absence of a purchase price, the cost price of those goods ([42]).

Transactions to not include in the annual turnover:

- Transfers of goods to a non-EU country: should goods be exported without there being a supply as might be the case where they are simply moved to **a stock in a non-EU country**, there will be no turnover generated. The amounts of the goods transferred should therefore not be included in the calculation of the turnover in that specific case.
  Example: an EU small enterprise moves part of its raw material stock in the EU to a warehouse in a non-EU country.

- **Disposals of tangible or intangible capital assets** of an SME: should not be taken into account for the purposes of calculating the annual turnover.
  Example: a tangible capital asset can be, for example, a computer or a machine used by the small enterprise to carry out its economic activity. The value of a tangible or intangible capital asset from the small enterprise's business that is removed is not included in the calculation of the annual turnover.
- **Exempt supplies for certain activities carried out in the public interest ([43])**
  Example: exempt supplies made by universities or hospitals are not included in the calculation of the annual turnover.

As a general rule, the turnover includes the value of all supplies. Amounts linked to purchases are not to be taken into consideration. Intra-EU acquisitions and imports of goods made by the SME are therefore not supposed to be included in this calculation.

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([41]) Article 17 of the VAT Directive.
([42]) Article 76 of the VAT Directive.
([43]) Article 132 of the VAT Directive.

Nor is the value of services for which the SME is liable to account for VAT under the reverse charge mechanism ([44]).

Example 5

A small enterprise is established in Member State 1 (MS 1) and produces ceramics (plates, cups, etc) it sells to business customers in MS 1 and in Member State 2 (MS 2). It applies the SME scheme in MS 1 but not in MS 2. It does not have economic activity in any other Member State. Sometimes, it sells goods to final consumers located in a non-EU country. For the purposes of its business, it has moved a stock from MS 1 to MS 2. In this current year, it also removed a machine it used to produce the ceramics from its business assets and replaced it with a new one it bought from a supplier established in MS 1. It buys raw material supplied to it in MS 1 from a supplier established in MS 3 (intra-Community acquisition of goods). The below table shows how to calculate the small enterprise's turnover in MS 1.

Calculation of annual turnover in MS 1	
Transactions	To include in the annual turnover?
Domestic supplies of goods to business customers in MS 1	Yes
Supplies of goods to business customers in MS 2	Yes
Supplies of goods to final consumers in non-EU country	Yes
Transfer of own stock from MS 1 to MS 2	Yes
Disposal of the used machine	No
Purchase of a new machine from supplier in MS 1	No
Purchase of raw material from supplier in MS 3	No

Figure 15: Calculation of the annual turnover – recapitulative table

Example 6

([44]) Article 196 of the VAT Directive.

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A university makes exempt supplies of services (provision of university education) and taxed supplies of services (provision of research). While the value of the exempt supplies is not to be included in the annual turnover of the university, its taxed supplies of services could be covered by the SME scheme and therefore their value should be included in the calculation of the annual turnover. If the university decides to apply the SME scheme, it would not be able to deduct input VAT, as detailed in section 5.

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3. "Domestic" SME scheme

This section explains how the **domestic SME scheme** works and what are the compliance obligations. It applies to SMEs which want to apply the SME scheme in their Member State of establishment ***only***.

If an SME wants to apply the SME scheme in its Member State of establishment and in other Member State(s), it should consult section 4 on the cross-border SME scheme as the rules and compliance obligations in that case are the ones applicable to the cross-border SME scheme.

3.1. Conditions to apply this scheme

3.1.1. Member State of establishment

As detailed in section 2.1, the domestic SME scheme is only applicable in the Member State of establishment. That is the Member State where the SME has **located the seat of its economic activity** ([45]): the place where the functions of the business' central administration are carried out. In the case of a natural person, the place of establishment can be the permanent address of that person. To ensure the effective application of the scheme, **there can be one Member State of establishment only**. Therefore, the notion of an SME being established in a given Member State does not cover fixed establishments or holding a VAT number ([46]) (see Figure 10).

Since the SME scheme is optional for Member States to put in place, the domestic SME scheme is only applicable in those Member States that have implemented the SME scheme in their jurisdiction. In case a Member State has not implemented the SME scheme, the domestic SME scheme will not be applicable so there will be no possibility for the small enterprise to VAT exempt its supplies of goods and services in that Member State. However, a small enterprise established in such a Member State may still apply the cross-border SME scheme in other Member States that implemented it (Member

([45]) Article 10(2) and (3) of Council Implementing Regulation (EU) No 282/2011 of 15 March 2011 laying down implementing measures for Directive 2006/112/EC on the common system of value added tax (recast) (OJ L 77, 23.3.2011, p. 1).

([46]) Discussed by the VAT Committee at its 121st meeting based on Working paper No 1051 *The new special scheme for small enterprises and fixed establishments*.

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States(s) of exemption) provided that the small enterprise meets the conditions (see section 4).

3.1.2. Transactions covered

An SME can apply the domestic SME scheme to all its supplies that fall under the application of the SME scheme (section 2.2). The SME scheme will not apply to the transactions excluded by the SME scheme (section 2.2.2). The latter will fall under the standard VAT regime or simplified procedures if applicable in MSEST.

Example 7

An SME supplies interior design services online. It also owns a piece of land it wants to sell. While the domestic SME scheme would apply to the interior design services online, the standard VAT regime will apply to the sale of the piece of land.

3.1.3. National annual threshold versus sectoral thresholds

To apply the domestic SME scheme, the annual turnover of an SME in its Member State of establishment must **not exceed the national annual threshold or the applicable sectoral threshold** set in that Member State, in the current calendar year and in the previous calendar year (section 2.3).

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Example 8

The national annual threshold set by a Member State of establishment (MSEST) is EUR 65 000. This means that an SME established in that Member State and whose annual turnover in the current calendar year and in the previous calendar year does not exceed EUR 65 000 could apply the domestic SME scheme. On the contrary, if its annual turnover exceeds EUR 65 000 in the current calendar year and/or in the previous calendar year, it could not apply the domestic SME scheme in its Member State of establishment.

Case Scenario	National annual threshold (EUR)	Annual turnover previous calendar year (Y-1) (EUR)	Annual turnover current calendar year (Y) (EUR)	Eligibility to apply the domestic SME scheme
Case scenario 1	**65 000**	55 000	61 000	**Eligible**
Case scenario 2		67 000	52 000	**Not eligible**
Case scenario 3		40 000	75 000	**Not eligible**
Case scenario 4		70 000	66 000	**Not eligible**

Figure 16: National annual threshold – previous and current calendar years

In *case scenario 1*, the annual turnover both in the current calendar year (Y) and in the previous calendar year (Y-1) does not exceed the national annual threshold of EUR 65 000. Therefore, the SME could apply the domestic SME scheme in its Member State of establishment.

In *case scenarios 2, 3 and 4*, the annual turnover exceeds the national annual threshold, either in the previous calendar year (Y-1) (case scenario 2), in the current calendar year (Y) (case scenario 3) or both in the previous and current calendar years (Y-1 and Y) (case scenario 4). Therefore, the SME could not in any of these case scenarios apply the domestic SME scheme in its Member State of establishment in the current calendar year (Y).

Some Member States may require SMEs wanting to apply the SME scheme to have an annual turnover not exceeding the national annual threshold in the current calendar year and in the **two previous calendar years ([47])**.

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([47]) Article 288a(1) of the VAT Directive.

Example 9

To be eligible to apply the SME scheme, a small enterprise must have an annual turnover not exceeding the national annual threshold in the current calendar year (Y) and in the two previous calendar years (Y-1 and Y-2), as it is the case in case scenario 1.

Case Scenario	National annual threshold (EUR)	Annual turnover year before the previous calendar year (Y-2) (EUR)	Annual turnover previous claendar year (Y-1) (EUR)	Annual turnover current calendar year (Y) (EUR)	Eligibility to apply the domestic SME scheme
Case scenario 1	**65 000**	55 000	61 000	56 000	**Eligible**
Case scenario 2		64 000	52 000	67 000	**Not eligible**
Case scenario 3		40 000	75 000	63 000	**Not eligible**
Case scenario 4		66 000	70 000	68 000	**Not eligible**
Case scenario 5		70 000	56 000	60 000	**Not eligible**

Figure 17: National annual threshold – current calendar year and two previous calendar years

More information on the rules applicable in your Member State of establishment is available in the SME web portal ([48]).

An SME starting its economic activity can also apply the domestic SME scheme in its Member State of establishment. In that case, its annual turnover in the previous calendar year (or two previous calendar years) and/or in the current year will be zero '0'.

3.2. Simplifications under this scheme

3.2.1. Registration

Member States have the possibility to release SMEs established in their territory from the obligation to state the beginning of their activity, to register and to be identified with a VAT number in the Member State of establishment **if they apply the domestic SME scheme only ([49]).**

If the Member State of establishment decides to not release SMEs from the obligation to register, it should ensure that the identification procedure will not be longer than

([48]) https://sme-vat-rules.ec.europa.eu
([49]) Article 292b of the VAT Directive.

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15 working days. This may be longer where, in specific cases, the Member State of establishment needs additional time to carry out investigations in order to prevent tax evasion or avoidance. The registration procedure and obligations may differ depending on the situation of the SME and the rules applicable in the Member State of establishment. More information on the requirements set by Member States is available on the SME web portal ([50]).

However, since the SME scheme covers supplies and not purchases, an SME might still be liable to apply the standard VAT regime or simplified procedures to the purchases for which it is liable to declare and pay VAT (see section 6). If an SME carries out transactions that are excluded from the application of the SME scheme (see section 2.2.2), it will also have to apply the standard VAT regime to those transactions.

3.2.2. VAT returns

Member States have the possibility to release SMEs established in their territory which apply the SME scheme at a domestic level **only** from the obligation to submit a VAT return ([51]).

In case the Member State of establishment does not exercise that option and instead requires an SME to submit a VAT return, this VAT return must be simplified and cover the period of a calendar year. However, SMEs can also opt for a different tax period ([52]). For more information on the rules applicable in your Member State of establishment, you can consult the SME web portal ([53]).

3.2.3. Accounting

Member States have the possibility to release SMEs established in their territory which apply the SME scheme at domestic level from the obligation to keep accounts ([54]). More information on the rules applicable in your Member State of establishment is available on the SME web portal ([55]).

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([50]) https://sme-vat-rules.ec.europa.eu
([51]) Article 292c of the VAT Directive.
([52]) The tax period should be set in accordance with Article 252 of the VAT Directive.
([53]) https://sme-vat-rules.ec.europa.eu
([54]) Article 292d of the VAT Directive.
([55]) https://sme-vat-rules.ec.europa.eu

3.2.4. Invoices

Member States have the possibility to release SMEs established in their territory which apply the SME scheme at domestic level from the obligation to issue invoices ([56]). If MSEST imposes the obligation to issue invoices, the SME should be allowed to issue simplified invoices ([57]). More information on the rules applicable in your Member State of establishment is available on the SME web portal ([58]).

3.2.5. Other administrative obligations

Member States have the possibility to release SMEs established in their territory which apply the SME scheme at domestic level from other administrative obligations ([59]). More information on the rules applicable in your Member State of establishment is available on the SME web portal ([60]).

If a small enterprise applies the **SME scheme at domestic level only**, the Member State of establishment may release it from some or all VAT obligations. For more information on the rules applicable in your Member State of establishment, you can consult the SME web portal.

3.3. Leaving the scheme

3.3.1. Move to the cross-border SME scheme

Should a small enterprise applying the domestic SME scheme want to extend the application of the SME scheme to other Member States and apply the cross-border exemption, the SME must fulfil the conditions and abide by the rules explained in section 4.

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([56]) Article 292d of the VAT Directive.
([57]) Article 220a(1)(c) and Article 226b of the VAT Directive.
([58]) https://sme-vat-rules.ec.europa.eu
([59]) Article 292d of the VAT Directive.
([60]) https://sme-vat-rules.ec.europa.eu

Example 10

A small enterprise applies the domestic scheme in its Member State of establishment (MSEST) only: Member State 1. At some point, it decides to apply the SME scheme also in Member State 2. The small enterprise will have to file a prior notification requesting the application of the SME scheme in Member State 2. More information is available in section 4.

3.3.2. Relocation of the seat of economic activity

In case an SME relocates the seat of its economic activity (or permanent address in case of a natural person) to another Member State or to a non-EU country, the domestic SME scheme will cease to apply in the 'original' MSEST.

Example 11

A small enterprise moves the seat of its economic activity (or permanent address) from its Member State of establishment (Member State 1) to another Member State (Member State 2). In that case, the domestic SME scheme ceases to apply in Member State 1.

Should the SME want to apply the domestic SME scheme in its 'new' Member State of establishment (Member State 2), it must follow the rules applicable in that Member State.

3.3.3. Voluntary cessation

SMEs applying the domestic SME scheme can decide to leave the scheme voluntarily. The direct consequence will be the application of the standard VAT regime ([61]) or simplified procedures ([62]).

The small enterprise must consult the rules applicable in its Member State of establishment regarding the procedure to leave the domestic SME scheme voluntarily (if any) and the VAT obligations to fulfil after its departure from the scheme.

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([61]) Article 290 of the VAT Directive.
([62]) Article 281 of the VAT Directive.

While not obliged, Member States may impose a quarantine period on SMEs leaving the scheme voluntarily ([63]). The SME must contact its Member State of establishment in case, after leaving the domestic SME scheme voluntarily, it wants to apply the scheme again.

3.3.4. Exclusion

Exceedance of the national annual threshold (or applicable sectoral threshold) during a calendar year triggers the **exclusion of the SME from the domestic SME scheme**. Small enterprises must consult the rules applicable in their Member State of establishment regarding the procedure (if any) in case they are excluded from the domestic SME scheme.

Member States can decide whether a transitional period applies or not once the national annual threshold or applicable sectoral threshold is exceeded. If no transitional period applies, the exclusion from the domestic SME scheme is effective as from the moment the national annual threshold or applicable sectoral threshold is exceeded. In practice, this moment corresponds to the transaction that makes the annual turnover exceed the threshold.

Should a transitional period be applied, Member States can opt for one of the following ceilings:

a) Allowing the SME to continue to apply the VAT exemption under the domestic SME scheme as long as the national annual threshold (or applicable sectoral threshold) is exceeded by not more than 10% but no later than by the end of the calendar year, or
b) Allowing the SME to continue to apply the VAT exemption under the domestic SME scheme as long as the national annual threshold (or applicable sectoral threshold) is exceeded by not more than 25% but no later than by the end of the calendar year, or
c) In case no specific ceiling is applied, allowing the SME to continue to apply the exemption under the domestic SME scheme until its annual turnover reaches the limit of EUR 100 000 but no later than by the end of the calendar year.

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([63]) Article 290 of the VAT Directive.

Example 12

The national annual threshold applicable in the Member State of establishment is EUR 65 000. The table below shows, for each option related to transitional periods, the situation where the SME could continue to apply the VAT exemption and when it must cease to apply it.

Options for the application of the transitional period	Annual turnover until which the SME can continue to apply the VAT exemption under the SME scheme during the calendar year (EUR)	Annual turnover as from which the SME must cease to apply the VAT exemption under the SME scheme during a calendar year (EUR)
No transitional period	65 000	65 001
Ceiling of 10%	71 500	71 501
Ceiling of 25%	81 250	81 251
Annual turnover not exceeding EUR 100 000	100 000	100 001

Figure 18: Application of the transitional period – example A

For example, MSEST applies a ceiling of 25%. If the SME's annual turnover in the current calendar year (Y) is above EUR 65 000 but does not exceed EUR 81 250 by 31/12/Y, the SME can apply the SME scheme until the end of the current calendar year (Y) and will be excluded from the domestic SME scheme as from 1 January of the next calendar year (Y+1).

If the SME's annual turnover exceeds EUR 81 250 on 01/09/Y, the SME is excluded from the SME scheme on that day, counting from the supply that made the annual turnover exceed the ceiling of 25%.

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Example 13

The national annual threshold applicable in MSEST is EUR 85 000. The table below shows, for each option, the situation where the SME could continue to apply the VAT exemption and when it must cease to apply it.

Options for the application of the transitional period	Annual turnover until which the SME can continue to apply the VAT exemption under the SME scheme during the calendar year (EUR)	Annual turnover as from which the SME must cease to apply the VAT exemption under the SME scheme during a calendar year (EUR)
No transitional period	85 000	85 001
Ceiling of 10%	93 500	93 501
Ceiling of 25%	100 000*	100 001
Annual turnover not exceeding EUR 100 000	100 000	100 001

Figure 19: Application of the transitional period – example B

* A ceiling of 25% would amount to EUR 106 250. However, the maximum Union annual turnover permitted by the VAT Directive ([64]) to be able to benefit from the VAT exemption under the SME scheme is EUR 100 000. Therefore, even where a Member State has a high threshold and applies a transitional period with a ceiling of 25%, an SME will be excluded from the SME scheme once its annual turnover exceeds EUR 100 000.

The direct consequence of the exclusion from the SME scheme is the application of the standard VAT regime or simplified procedures. Small enterprises should consult the VAT rules applicable in their Member State of establishment to know their obligations in case they are excluded from the domestic SME scheme.

The moment as from which the small enterprise is excluded from the domestic SME scheme corresponds to the moment the annual turnover exceeds the national annual threshold (or the applicable sectoral threshold) or – in case MSEST applies a transitional period – the ceiling applied.

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([64]) Article 284(2)(a) of the VAT Directive.

Example 14

The national annual threshold is EUR 65 000. The Member State of establishment does not apply any transitional period, so the SME is excluded from the SME scheme as soon as its annual turnover exceeds EUR 65 000.

From 01/01/Y to 26/09/Y, the small enterprise has an annual turnover of EUR 64 800. On 27/09/Y, the small enterprise makes a first supply amounting to EUR 100 and a second supply amounting to EUR 300.

The small enterprise is excluded from the SME scheme on 27/09/Y as from the second supply amounting to EUR 300 as this supply makes the annual turnover exceed the threshold.

Supply 1 is still VAT exempt under the domestic SME scheme. Supply 2 must follow the taxation rules under the standard VAT regime (or simplified procedures).

Periods	Amount of annual turnover current year (EUR)	Outcome
Total supplies from 01/01/Y to 26/09/Y	64 800	**Date of exclusion: 27/09/Y, as from Supply 2**
Supply 1 of 27/09/Y	100	
Supply 2 of 27/09/Y	300	
Grand total	65 200	

Figure 20: Date of exclusion from the SME scheme – scenario A

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Example 15

The national annual threshold in MSEST is EUR 65 000 and it applies a transitional period with a ceiling of 25%. In this case, the SME is excluded from the domestic SME scheme as soon as its annual turnover exceeds EUR 81 250.

On 26/09/Y, the small enterprise's annual turnover is EUR 81 100 so it has exceeded the national annual threshold (EUR 65 000) but remains below the ceiling of 25% (EUR 81 250). On 27/09/Y, the small enterprise makes another supply amounting to EUR 300. Since the annual turnover exceeds EUR 81 250 on 27/09/Y, the SME is excluded from the domestic SME scheme on 27/09/Y, as from the supply amounting to EUR 300 and must apply the standard VAT regime as from that moment (or simplified procedures).

Periods	Amount of annual turnover current year (EUR)	Outcome
Total supplies from 01/01/Y to 26/09/Y	81 100	**Date of exclusion: 27/09/Y, as from the supply amounting to EUR 300**
Supply of 27/09/Y	300	
Grand total	81 400	

Figure 21: Date of exclusion from the SME scheme – scenario B

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Example 16

The national annual threshold in MSEST is EUR 65 000 and it applies a transitional period with a ceiling of 25%. The SME is excluded from the domestic SME scheme as soon as its annual turnover exceeds EUR 81 250. The SME exceeds the national annual threshold of EUR 65 000 on 20/10/Y but does not exceed EUR 81 250 until the end of the year 31/12/Y.

In that case, the SME can apply the domestic SME scheme until the end of calendar year Y, this is until 31/12/Y. It would be excluded from the SME scheme as from 01/01/Y+1 and should apply the standard VAT regime or simplified procedures as from that date.

Periods	Amount of annual turnover current year (EUR)	Outcome
Total supplies from 01/01/Y to 19/10/Y	64 800	**Date of exclusion: 01/01/Y+1 Supplies from 20/10/Y to 31/12/Y are still VAT exempt**
Supply of 20/10/Y	300	
Supplies from 21/10/Y to 31/12/Y	10 000	
Grand total 31/12/Y	75 100	

Figure 22: Date of exclusion from the SME scheme – scenario C

3.3.5. Quarantine period

An SME **excluded** from the domestic SME scheme will **not be able to apply the domestic SME scheme again during a period of one calendar year (Y+1)**.

In practical terms, in case the small enterprise would like to enter the domestic SME scheme again, it will have to wait until 01/01/Y+2 to apply it and to follow the registration procedure (if any) in its MSEST. In any case, the small enterprise should contact the tax authorities of its Member State to get information on any possible formality that needs to be met to enter the SME scheme again.

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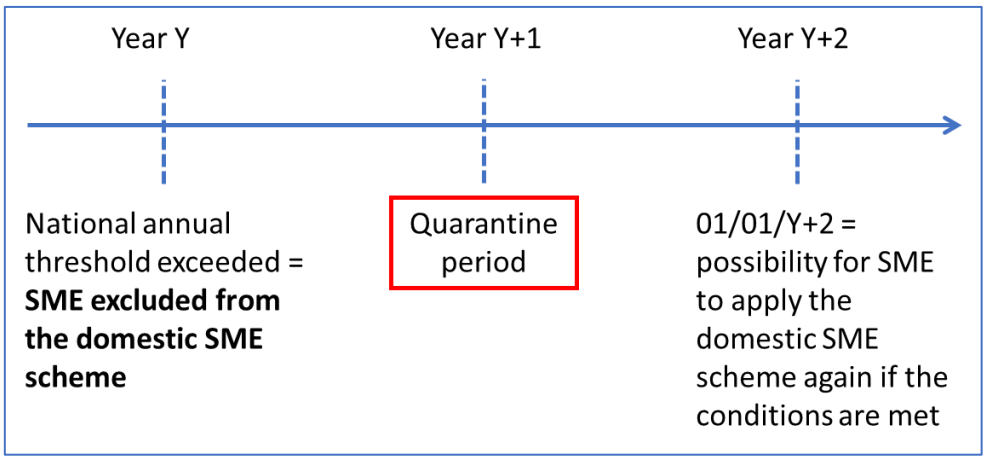

Figure 23: Quarantine period for a period of one calendar year

Member States can extend this period of exclusion to two calendar years ([65]) (Y+1 and Y+2). In that case, the small enterprise would have to wait until 01/01/Y+3 to apply the scheme again provided that it meets the conditions.

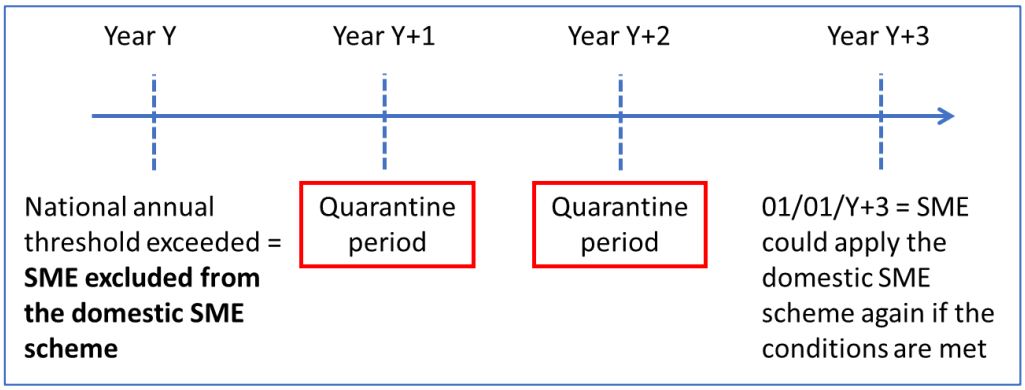

Figure 24: Quarantine period for a period of two calendar years

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([65]) Article 288a(1) of the VAT Directive.

4. "Cross-border" SME scheme

This section explains how the **cross-border SME scheme** works and what the compliance obligations are. It applies to:

a) SMEs wanting to apply the SME scheme in other Member States than the Member State of establishment only, and

b) SMEs wanting to apply the SME scheme both in their Member State of establishment and in other Member States.

A small enterprise wanting to apply the cross-border SME scheme must first be **eligible** to do so. To be eligible, an SME must have a **Union annual turnover** not exceeding EUR 100 000, in the current calendar year and in the previous calendar year (see section 4.1).

In addition, the SME must fulfil the following conditions:

1. It has the **seat of its economic activity (or permanent address for a natural person) located in a Member State** (see section 2.1),
2. It carries out **transactions that are within the scope of the SME scheme** (see section 2). A small enterprise can make supplies that are covered by the SME scheme and other that are excluded from the SME scheme,
3. The **value of the supplies made in the Member State(s) where it wants to avail itself of the cross-border VAT exemption** does not exceed the national or sectoral annual threshold applicable in the Member State(s) concerned, neither in the current calendar year nor in the previous calendar year (or in the two previous calendar years if so set by the Member State concerned) (see section 4.2).

Finally, the SME must fulfil a formal requirement:

4. It must submit a prior notification in its Member State of establishment (section 4.3) specifying the Member States in which it wants to apply the cross-border SME exemption.

The SME can start to VAT exempt its supplies in the Member States included in its prior notification once its Member State of establishment – after validating its eligibility to apply the cross-border SME scheme – provides it with a single **individual identification number** ('EX number') for the purpose of the SME scheme and confirms that the

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Member State(s) concerned have validated the access to the scheme in their respective jurisdiction.

4.1. Union annual turnover: eligibility check

To be eligible for the cross-border exemption under the SME scheme, an SME must have a **Union annual turnover not exceeding EUR 100 000** in the current calendar year (Y) and in the previous calendar year (Y-1) ([66]). The Union annual turnover corresponds to the **sum of annual turnovers ([67]) in all 27 Member States**: the Member State of establishment (MSEST), the Member State(s) where the SME wants to apply the SME scheme ('Member State(s) of exemption' or 'MSEXE') and all other Member States.

The **Union annual turnover is the sum of the annual turnovers in all of the 27 Member States**, whether the small enterprise wants to apply the SME scheme in all Member States or not. This measure operates as a **safeguard** to ensure that the SME scheme is applied only by small enterprises. Those are enterprises with a global annual turnover in the European Union not exceeding EUR 100 000.

If the Union annual turnover exceeds EUR 100 000, the small enterprise cannot apply the cross-border VAT exemption in any Member State, except in its Member State of establishment. There, it can continue to apply the domestic SME scheme, provided that its annual turnover does not exceed the national annual threshold set by its MSEST (see section 3).

The exceedance of the Union annual threshold excludes an SME from the cross-border SME scheme. However, the SME could still apply the domestic SME scheme if its annual turnover does not exceed the national annual threshold of its Member State of establishment.

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([66]) Article 284(2)(a) of the VAT Directive.
([67]) See section 2.4. of the Explanatory Notes on the calculation of the annual turnover.

Example 17

Member States	Annual turnover (EUR) for the previous calendar year (Y-1)	Annual turnover (EUR) for the current calendar year (Y)	Result
MSEST	30 000	15 000	**PASS** The Union annual turnover does not exceed EUR 100 000 in the current and in the previous calendar years.
MSEXE 1	35 000	30 000	
MSEXE 2	15 000	20 000	
Other 24 Member States where no SME scheme is applied	15 000	17 000	
Total 27 Member States	**95 000**	**82 000**	

Figure 25: Application of the Union annual turnover safeguard – scenario A

In this scenario, the SME would be eligible to apply the cross-border scheme as the Union annual turnover does not exceed the safeguard of EUR 100 000.

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Example 18

Member States	Annual turnover (EUR) for the previous calendar year (Y-1)	Annual turnover (EUR) for the current calendar year (Y)	Result
MSEST	30 000	20 000	**FAIL** The SME is not eligible to apply the cross-border SME scheme in the current calendar year Y since the Union annual turnover exceeds EUR 100 000 in the current calendar year (Y).
MSEXE 1	35 000	30 000	
MSEXE 2	15 000	40 000	
Other 24 Member States where no SME scheme is applied	15 000	17 000	
Total 27 Member States	**95 000**	**107 000**	

Figure 26: Application of the Union annual turnover safeguard – scenario B

In this scenario, the SME is not eligible to apply the cross-border scheme. The SME might still apply the domestic SME scheme if its annual turnover does not exceed the national annual threshold of its Member State of establishment.

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Example 19

Member States	Annual turnover (EUR) for the previous calendar year (Y-1)	Annual turnover (EUR) for the current calendar year (Y)	Result
MSEST	30 000	15 000	**FAIL** The SME cannot apply the cross-border SME scheme in the current calendar year Y since the Union annual turnover exceeds EUR 100 000 in the previous calendar year (Y-1).
MSEXE 1	35 000	30 000	
MSEXE 2	15 000	20 000	
Other 24 Member States where no SME scheme is applied	35 000	17 000	
Total 27 Member States	**115 000**	**82 000**	

Figure 27: Application of the Union annual turnover safeguard – scenario C

In this scenario, the SME might still apply the domestic SME scheme if its annual turnover does not exceed the national annual threshold of its Member State of establishment.

4.2. National annual threshold

In addition to its Union annual turnover not exceeding EUR 100 000, the small enterprise must have an annual turnover in the Member State(s) in which it wants to avail itself of the cross-border exemption not exceeding the national annual threshold (or the applicable sectoral threshold) in the Member State concerned in the current calendar year (Y) and in the previous calendar year (Y-1).

Member States can extend this condition to also cover the year before the previous calendar year (Y-2) ([68]). Member States must apply the same condition – either the previous calendar year (Y-1) or the two previous calendar years (Y-1 and Y-2) – equally to both SMEs established and those not established in their territory.

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([68]) Consult the SME web portal to know the Member States that request this condition to SMEs.

Example 20

A practical example of an SME's eligibility to apply the cross-border SME scheme is elaborated below. The situation of the SME is always the following:

The SME wants to avail itself of the cross-border VAT exemption in its Member State of establishment (MSEST) and in two other Member States – MSEXE 1 and MSEXE 2. In addition, the SME has an economic activity in a fourth Member State, MS 4, in which it does not want to avail itself of the VAT exemption. The SME does not have any economic activity in any of the other 23 Member States.

Member States / Union	Annual threshold (EUR)	Annual turnover (EUR) previous calendar year (Y-1)	Annual turnover (EUR) current calendar year (Y)	Eligibility to apply cross-border SME scheme
MSEST	85 000	30 000	10 000	Yes
MSEXE 1	20 000	15 000	5 000	Yes
MSEXE 2	30 000	20 000	10 000	Yes
MS 4	n/a	20 000	10 000	-
23 other Member States	n/a	0	0	-
Union	100 000	**85 000**	**35 000**	Yes

Figure 28: Application of the national annual threshold – scenario A

In this scenario, the SME decides to apply the SME scheme as from the middle of the current calendar year. The Union annual turnover in the previous calendar year (EUR 85 000) and in the current calendar year (EUR 35 000) does not exceed EUR 100 000. The national annual turnovers in MSEST, MSEXE 1 and MSEXE 2 in the current calendar year and in the previous calendar year do not exceed the national thresholds in these Member States. Therefore, the SME could apply the cross-border SME scheme in MSEST, MSEXE 1 and MSEXE 2.

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Example 21

Member States / Union	National threshold (EUR)	Annual turnover (EUR) previous calendar year (Y-1)	Annual turnover (EUR) current calendar year (Y)	Eligibility to apply SME scheme
MSEST	35 000	36 000	0	No
MSEXE 1	85 000	20 000	0	Yes
MSEXE 2	60 000	10 000	0	Yes
MS 4	n/a	15 000	0	-
23 other Member States	n/a	0	0	-
Union	100 000	**81 000**	**0**	-

Figure 29: Application of the national annual threshold – scenario B

In this scenario, the SME submits its prior notification to apply the cross-border SME scheme on 1 January of the current calendar year (Y). The SME cannot apply the SME scheme in MSEST since its annual turnover in the previous calendar year (EUR 36 000) exceeds the national annual threshold in MSEST (EUR 35 000). However, the SME could still apply the cross-border SME scheme in MSEXE 1 and in MSEXE 2 since the Union annual threshold is not exceeded neither in the current calendar year (EUR 0) nor in the previous calendar year (EUR 81 000) and since its annual turnovers in MSEXE 1 and MSEXE 2 do not exceed the national annual thresholds of these Member States neither in the current calendar year nor in the previous calendar year.

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Example 22

Member States / Union	National threshold (EUR)	Annual turnover (EUR) previous calendar year (Y-1)	Annual turnover (EUR) current calendar year (Y)	Eligibility to apply SME scheme
MSEST	35 000	30 000	20 000	Yes
MSEXE 1	85 000	20 000	25 000	Yes
MSEXE 2	15 000	15 000	30 000	No
MS 4	n/a	15 000	20 000	-
23 other Member States	n/a	0	0	-
Union	100 000	**80 000**	**95 000**	-

Figure 30: Application of the national annual threshold – scenario C

In this scenario, the SME decides to apply the SME scheme in the middle of the current calendar year (Y). The SME cannot apply the cross-border SME scheme in MSEXE 2 since its annual turnover in the current calendar year (EUR 30 000) exceeds the national annual threshold in MSEXE 2 (EUR 15 000). However, the SME could still apply the SME scheme in MSEST and in MSEXE 1 since the Union annual threshold is not exceeded neither in the current calendar year (EUR 95 000) nor in the previous calendar year (EUR 80 000) and since its annual turnovers in MSEST and in MSEXE 1 do not exceed the national annual thresholds of these Member States neither in the current calendar year nor in the previous calendar year.

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Example 23

Member States / Union	National threshold (EUR)	Annual turnover (EUR) previous calendar year (Y-1)	Annual turnover (EUR) current calendar year (Y)	Eligibility to apply SME scheme
MSEST	35 000	30 000	0	Yes
MSEXE 1	85 000	50 000	0	No
MSEXE 2	60 000	15 000	0	No
MS 4	n/a	15 000	0	-
23 other Member States	n/a	0	0	-
Union	100 000	**110 000**	**0**	-

Figure 31: Application of the national annual threshold – scenario D

In this scenario, the SME cannot apply the cross-border SME scheme in MSEXE 1 and MSEXE 2 since the Union annual threshold is exceeded in the previous calendar year (EUR 110 000). This Union threshold serves as a safeguard to ensure that only small enterprises can gain access to the cross-border exemption. **If the Union annual threshold is exceeded, the small enterprise is excluded from the cross-border exemption in all Member States other than its MSEST** even if the annual turnovers in the Member States where it wants to apply the cross-border SME scheme (MSEXE 1 and MSEXE 2) are below the national annual threshold.

The only Member State in which the SME could still apply the SME scheme is its Member State of establishment, provided that the conditions for the domestic exemption are met (see section 3). Indeed, the exceedance of the Union annual threshold does not exclude the SME from the application of the SME scheme in its Member State of establishment (domestic SME scheme). Only the exceedance of the national annual threshold set by the Member State of establishment can see an SME excluded from the domestic SME scheme.

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Example 24

MSEXE 1 and MS 4 in this scenario require small enterprises to provide information related to their annual turnover corresponding to the current calendar year (Y) and the two previous calendar years (Y-1 and Y-2). The small enterprise still does not want to apply the SME scheme in MS 4.

Member States / Union	National threshold (EUR)	Annual turnover (EUR) year before previous calendar year (Y-2)	Annual turnover (EUR) previous calendar year (Y-1)	Annual turnover (EUR) current calendar year (Y)	Eligibility to apply SME scheme
MSEST	35 000	n/a	30 000	20 000	Yes
MSEXE 1	85 000	80 000	20 000	25 000	Yes
MSEXE 2	15 000	n/a	15 000	12 000	Yes
MS 4	n/a	13 000	15 000	20 000	-
23 other Member States	n/a	n/a	0	0	-
Union	100 000	n/a	**80 000**	**77 000**	-

Figure 32: Application of the national annual threshold – scenario E

In this scenario, the SME is eligible to apply the cross-border SME scheme in MSEST, MSEXE 1 and MSEXE 2 because the Union annual threshold is not exceeded in the current calendar year (EUR 77 000) nor in the previous calendar year (EUR 80 000). The SME can apply the cross-border SME scheme in MSEST and MSEXE 2 because its annual turnovers do not exceed the respective national annual threshold of these Member States neither in the current calendar year nor in the previous calendar year.

In this example, the SME could apply the cross-border SME scheme in MSEXE 1 because its Union annual turnover for the current calendar year and for the previous calendar year does not exceed the Union annual threshold and because its annual turnover in the current calendar year and in the two previous calendar years does not exceed the national annual threshold of MSEXE 1.

Despite not wanting to apply the SME scheme in MS 4, the small enterprise also has to inform about its annual turnover corresponding to the year before the previous calendar year (Y-2) in the prior notification since MS 4 requires that information.

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Small enterprises can check the possibility to apply the SME scheme in the SME web portal, by using the simulator exercise ([69]). The simulator provides indicative information only and does therefore not give a right to claim access to the SME scheme in any of the Member States.

4.3. Prior notification

To enter the **cross-border SME scheme**, the small enterprise must first register through the submission of a **prior notification** to its Member State of establishment ([70]).

To simplify the administrative obligations, the small enterprise only needs to file **one single** registration form – the **prior notification** – in its Member State of establishment (MSEST) which acts as a **single contact point**. MSEST liaises with the tax authorities in the other Member States where the SME wants to apply the VAT exemption, as illustrated below.

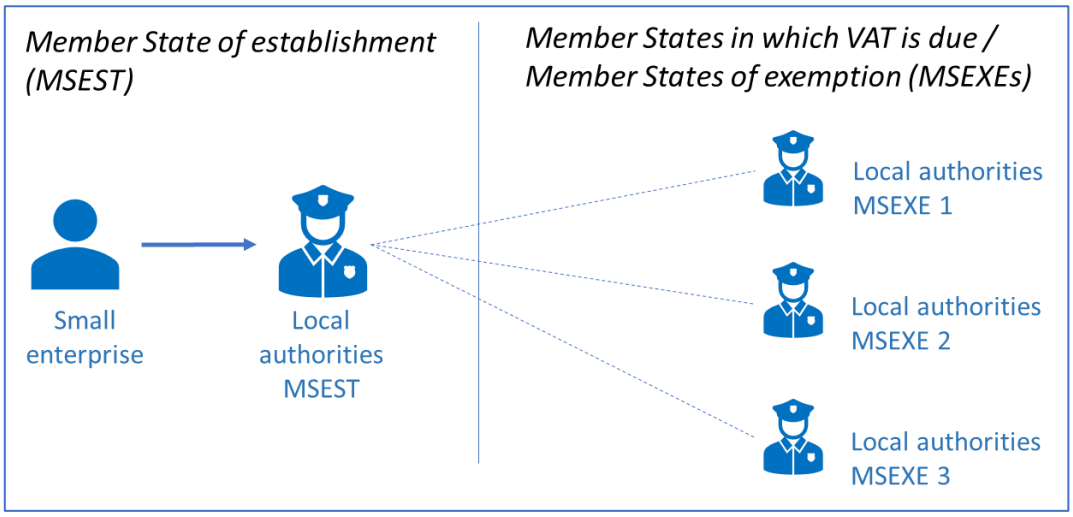

Figure 33: MSEST, a single contact point between the SME and the other Member States

The Member State of establishment (MSEST) verifies whether the small enterprise is eligible to apply the cross-border scheme, by checking that the Union annual turnover does not exceed EUR 100 000. The Member State(s) of exemption (MSEXE(s)) check other conditions, like for example that the annual turnover of the small enterprise does not exceed their national annual threshold.

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([69]) Simulator - European Commission (europa.eu)
([70]) https://sme-vat-rules.ec.europa.eu

It is always the Member State of exemption concerned that decides if the small enterprise meets the conditions to apply the SME scheme in its jurisdiction.

If the conditions for exemption are met, the tax authorities of the Member State of exemption will communicate that information to the tax authorities of the Member State of establishment. The Member State of establishment will then provide the small enterprise with a single individual identification number ([71]) with the suffix 'EX' (hereinafter, the 'EX' number). This single 'EX' number will be valid in all those Member States chosen by the SME where it meets the conditions to apply the SME scheme. The VAT exemption can only be applied once the small enterprise receives the confirmation from the Member State of establishment that it can use the 'EX number' in the Member State of exemption in question. This confirmation is done separately for each Member State in which the small enterprise wants to apply the cross-border SME scheme.

In case a small enterprise already applies the SME scheme in its Member State of establishment (domestic SME scheme) and wants to extend the application of the scheme to other Member States (cross-border SME scheme), the small enterprise will have to file a prior notification to its MSEST. If MSEST does not identify small enterprises applying the domestic SME scheme only, the extension of the scheme to other Member States will lead to the identification for the purpose of the SME scheme in all Member States where the scheme applies, included in the Member State of establishment. This means that the 'EX number' will also cover supplies made in MSEST in the context of the cross-border SME scheme.

4.3.1. Content

The prior notification must be submitted in the Member State of establishment only and should contain at least the following information ([72]):

a) the name, activity, legal form and address of the small enterprise,
b) the Member State(s) in which the small enterprise wants to apply the VAT exemption under the cross-border SME scheme,
c) the total value of supplies of goods and/or services carried out in the Member State of establishment and in each of all the other Member States during the current calendar year and the previous calendar year (or two previous calendar years, if so required by a particular Member State).

([71]) Article 284(3) of the VAT Directive.
([72]) Article 284a(1) of the VAT Directive.

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Other than the information to identify the taxable person concerned (point a) above), it is necessary in the prior notification to **specify in which Member State(s) the exemption will be taken up** (point b) above). Subject to the small enterprise being eligible for and meeting all the conditions of exemption, the exemption will apply only in that or those Member State(s).

Furthermore, in case the small enterprise is already identified for VAT purposes in a Member State where it wants to apply the cross-border SME scheme, it shall communicate any such VAT identification number in the prior notification.

Example 25

An SME does not apply the SME scheme in any Member State. On 1 January 2025, it decides to apply the cross-border SME scheme in Member State 1 and Member State 2 where it is not established. It does not want to apply the cross-border SME scheme in its Member State of establishment (MSEST).

The SME must submit a prior notification in its Member State of establishment to inform that it wants to apply the cross-border SME scheme in Member States 1 and 2. The Member State of establishment will check that the Union annual turnover of the small enterprise in the 27 Member States does not exceed EUR 100 000 in the current calendar year and in the previous calendar year. If the Union annual turnover does not exceed EUR 100 000, MSEST will transfer the request to Member States 1 and 2. If the Union annual turnover exceeds EUR 100 000, the SME's request will be rejected.

Where the Union annual turnover does not exceed EUR 100 000, Member States 1 and 2 will check whether the conditions to apply the cross-border SME scheme in their respective jurisdiction are fulfilled, like for example that the annual turnover of the SME does not exceed the national annual threshold. As a result, they will inform MSEST whether the small enterprise is eligible to apply the cross-border SME scheme in their respective jurisdiction or not. MSEST will communicate the decision of each Member State to the small enterprise. Should it be eligible, the small enterprise will be granted with a single EX number and be confirmed that it can use that number in Member States 1 and 2. In case the small enterprise does not meet the conditions to apply the cross-border SME scheme in Member State 1 and/or 2, MSEST will inform the SME accordingly.

The Member State of establishment is always involved in the registration procedure and in the eligibility checks of the SME even where the SME does not want to apply the scheme in its Member State of establishment.

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Example 26

An SME does not apply the SME scheme in any Member State. On 1 January 2025, it decides to apply the cross-border SME scheme in Member State 1 and Member State 2 where it is not established, as well as in its Member State of establishment (MSEST).

The SME must submit a prior notification in its Member State of establishment to inform that it wants to apply the cross-border SME scheme in Member States 1 and 2 and in MSEST. The Member State of establishment will check that the Union annual turnover of the small enterprise in the 27 Member States does not exceed EUR 100 000 in the current and in the previous calendar year. If the Union annual turnover is not exceeded, MSEST will transfer the request to Member States 1 and 2.

Should the Union annual turnover be exceeded, the SME's request will be rejected for Member States 1 and 2. In case the SME is eligible to apply the SME scheme in MSEST, it shall follow the rules and procedures set by MSEST for the domestic SME scheme (see section 3).

Should the Union annual turnover not be exceeded, Member States 1 and 2 will check the fulfilment of the conditions to apply the cross-border SME scheme in their respective jurisdiction, like for example that the annual turnover of the SME does not exceed the national annual threshold. They will inform MSEST whether the small enterprise is eligible to apply the cross-border SME scheme in their respective jurisdiction or not. MSEST will communicate the decision of each Member State to the small enterprise. It will also perform some checks for the application of the SME scheme in MSEST. Should it be eligible, the small enterprise will be granted with a single EX number and be confirmed that it can use that number in Member States 1 and 2 and in MSEST. If the small enterprise does not meet the conditions to apply the cross-border SME scheme in Member State 1 and/or 2, MSEST will inform the SME accordingly.

The prior notification must also include information about the **total value of supplies of goods and services, past and present,** made not only in the Member State of establishment and the Member State(s) where it wants to apply the cross-border SME scheme but also **in all other Member States** (point c) above). This is to enable the Member State of establishment to verify that the Union annual turnover threshold is not exceeded in the current calendar year nor has been in the previous calendar year.

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4.3.2. Amounts to report

The amounts to report in the prior notification are the ones corresponding to the annual turnover of the small enterprise, as detailed in section 2.4. They should be **exclusive of VAT ([73])**:

a) The value of supplies of goods and services that would otherwise have been taxed under the standard VAT regime,
b) The value of transactions which are exempt, with deductibility of the VAT paid at the preceding stage, pursuant to Article 98(2) or Article 105a of the VAT Directive,
c) The value of transactions related to exempt exports, international transport and the related supplies of services by intermediaries ([74]),
d) The value of exempt intra-EU supplies of goods ([75]),
e) The value of real estate transactions, financial transactions as referred to in Article 135(1), points (b) to (g) of the VAT Directive, and insurance and reinsurance services, unless those transactions are ancillary transactions,

The transfer of goods forming part of the business assets of a small enterprise to another Member State is to be treated as a supply of goods for consideration ([76]). The value of the goods transferred corresponds to the purchase price, or in the absence of a purchase price, the cost price of those goods ([77]). That value should be included in the amount reported for supplies of goods.

Transactions to not include in the prior notification are:

- Transfers of goods to a non-EU country: should goods be exported without there being a supply as might be the case where they are simply moved to **a stock in a non-EU country**, there will be no turnover generated and the amount of the goods should therefore not be included.
- **Disposals of tangible or intangible capital assets** of an SME: should not be taken into account for the purposes of calculating the annual turnover.
- **Exempt supplies for certain activities carried out in the public interest ([78])**.

([73]) Article 288 of the VAT Directive.
([74]) Articles 146 to 149, and Articles 151, 152 and 153 of the VAT Directive.
([75]) Article 138 of the VAT Directive.
([76]) Article 17 of the VAT Directive.
([77]) Article 76 of the VAT Directive.
([78]) Article 132 of the VAT Directive.

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4.3.3. Filling the prior notification: annual turnover and thresholds

The general rule for Member States is to have one national annual threshold, which cannot be higher than EUR 85 000. However, a Member State may have put in place varying annual thresholds for different business sectors ([79]). If a Member State has more than one national annual threshold, these thresholds are seen as sectoral thresholds. They must be based on objective criteria and none of them can be higher than EUR 85 000.

Below some practical examples on how an SME should report its annual turnover in the prior notification, depending on whether Member States apply one national annual threshold or sectoral thresholds.

Example 27

The prior notification is submitted in the Member State of establishment (MSEST) on 1 September 2025. The small enterprise wants to apply the cross-border SME scheme in its Member State of establishment and in Member State 1 (MS 1). MSEST requires small enterprises to provide information on the annual turnover corresponding to the current calendar year (Y) and to the previous calendar year (Y-1). MS 1 requires information on the annual turnover corresponding to the current calendar year (Y) and to the two previous calendar years (Y-1 and Y-2).

Out of the remaining 25 Member States where the small enterprise does not want to apply the SME scheme and for which it will also have to provide information on its annual turnover in the prior notification, Member State 4 (MS 4) is the only Member State that applies the same rule as MS 1 and requires small enterprises to provide information on the annual turnover corresponding to the current calendar year (Y) and to the two previous calendar years (Y-1 and Y-2).

For MS 1 and MS 4, the small enterprise must indicate the total value of supplies made during the whole year of 2023 (Y-2), the whole year of 2024 (Y-1) and the total value of supplies made from 1 January to 31 August 2025 (Y) in its prior notification. If no turnover is generated for one or either of these years, the total value to indicate is '0'.

For MSEST and for the 24 other Member States, the small enterprise must indicate the total value of supplies made during the whole year of 2024 (Y-1) and the total value of

([79]) Article 284(1) of the VAT Directive.

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supplies made from 1 January to 31 August 2025 (Y). If no turnover is generated for one or either of these years, the total value to indicate is '0'.

Example 28

A small enterprise wants to apply the cross-border SME scheme in Member State 1 (MS 1). This Member State applies one national annual threshold amounting to EUR 60 000. Member State 2 (MS 2) applies a national annual threshold of EUR 30 000 but the small enterprise does not have any economic activity in that Member State and thus has no need to avail itself of the SME scheme there.

In MS 1, the SME has an annual turnover of EUR 10 000 for the current calendar year (Y) and an annual turnover of EUR 55 000 for the previous calendar year (Y-1). The SME should report its annual turnovers in the prior notification as follows*:

Prior Notification			
Member States	*National annual threshold (EUR)*	*Annual turnover (EUR) previous calendar year (Y-1)*	*Annual turnover (EUR) current calendar year (Y)*
Member State 1	60 000	55 000	10 000
Member State 2	30 000	0	0

Figure 34: Prior notification – one national threshold

* This example just shows the case of Member States 1 and 2. The prior notification shall also include the annual turnover – or zero '0' if no economic activity is carried out – in all of the remaining 25 Member States.

For any Member State applying more than one threshold, the total value to be reported in the prior notification for that Member State will need to be broken down along the lines of those thresholds ([80]). Reporting the annual turnover per sectoral threshold serves to determine which sectoral threshold is to be used by the small enterprise and to monitor its use.

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([80]) Article 284c(c) of the VAT Directive.

Example 29

Member State 2 (MS 2) applies varying thresholds for the following business sectors: one threshold for the construction sector (EUR 30 000) and one for all other sectors of activity (EUR 40 000). An SME has a total annual turnover of EUR 30 000 in the current calendar year (Y) and EUR 33 000 in the previous calendar year (Y-1) in MS 2. The small enterprise must indicate its annual turnover corresponding to each sector separately in the boxes of the prior notification, as illustrated below.

Scenario 1

Under this scenario, the SME's total annual turnover for the current calendar year (EUR 30 000) and the previous calendar year (EUR 33 000) is generated in the construction sector. In that case, the totality of the annual turnover should be indicated in the box corresponding to the threshold for '*construction*' and zero '0' should be indicated in the box corresponding to other economic activities '*other*'.

Prior Notification			
Member State	*National annual threshold (EUR)*	*Annual turnover (EUR) previous calendar year (Y-1)*	*Annual turnover (EUR) current calendar year (Y)*
Member State 2 - Construction - Other	 30 000 40 000	 30 000 0	 33 000 0

Figure 35: Prior notification – varying sectoral thresholds, scenario 1

Scenario 2

Under this scenario, part of the SME's annual turnover is generated in the construction sector (EUR 10 000 for the previous calendar year and EUR 15 000 for the current calendar year) and another part relates to other economic activities (EUR 20 000 in the previous calendar year and EUR 18 000 for the current calendar year). The SME must split its annual turnover per threshold, as illustrated below.

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Prior Notification			
Member State	*National annual threshold (EUR)*	*Annual turnover (EUR) previous calendar year (Y-1)*	*Annual turnover (EUR) current calendar year (Y)*
Member State 2 - Construction - Other	 30 000 40 000	 10 000 20 00	 15 000 18 000

Figure 36: Prior notification – varying sectoral thresholds, scenario 2

In case MS 2 considers that the SME can apply the SME scheme in its jurisdiction, it will inform MSEST and indicate which sectoral threshold the SME must use ([81]) since an SME with supplies susceptible to fall under several sectoral thresholds can use one only. MSEST will transfer the information received from MSEXE to the small enterprise accordingly.

Each Member State of establishment can decide how the prior notification is to be submitted in its jurisdiction. This is, the prior notification should in principle be submitted by electronic means but it is not compulsory for the Member State of establishment to impose such an obligation ([82]). In case the Member State of establishment does require the prior notification to be submitted electronically, the electronic submission will be subject to the conditions laid down by the Member State concerned.

4.3.4. Language

The Member State of establishment can decide the language in which SMEs established in its territory must file the prior notification.

4.3.5. Currency

The turnover made up by the values of the transactions carried out is to be reported in the prior notification in EURO ([83]).

Member States which have not adopted the euro may require the values to be expressed in their national currency. If the supplies have been made in other currencies,

([81]) Article 284(1) of the VAT Directive.
([82]) Article 284c(2) of the VAT Directive.
([83]) Article 284c(1)(b) of the VAT Directive.

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the conversion shall be made by applying the exchange rate published by the European Central Bank on the first day of the calendar year or if there is no publication on that day, on the next day of publication ([84]).

Example 30

An SME wants to apply the cross-border SME scheme in its Member State of establishment (MSEST) whose national currency is 'YYY' and in Member State 1 whose national currency is EUR. The SME does not need to apply the cross-border SME scheme in the remaining 25 Member States as it has no economic activity in any of them.

The SME submits its prior notification in its Member State of establishment on 1 January 20XX. It has an annual turnover in MSEST amounting to 'YYY' 200 000 for the previous calendar year 20XX-1 and zero '0' for the current calendar year 20XX. Its annual turnover in Member State 1 amounts to EUR 20 000 in the previous calendar year 20XX-1 and zero '0' for the current calendar year 20XX.

MSEST requires the SME to submit the values in 'YYY' currency in the prior notification. The exchange rate on 1 January 20XX-1 was YYY 1 = EUR 0.25. There is no conversion to be done for the current calendar year as the annual turnover equals to zero '0' and there is no conversion to be done neither for the other Member States as the amount to report for each of them for every calendar year is zero '0'.

The SME should file the prior notification as follows:

Member State	*Value (YYY) for the previous calendar year (Y-1)*	*Value (YYY) for the current calendar year (Y)*
MSEST	200 000	0
Member State 1	80 000	0
25 other Member States	0	0

Figure 37: Prior notification – other national currency than Euro

([84]) Article 284c(1)(c) of the VAT Directive.

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4.4. Single individual identification number ("EX" number)

The Member State of establishment is obliged ([85]) to identify any small enterprise which upon submission of a prior notification is found eligible to apply the cross-border SME scheme and meets the conditions of exemption. The identification is only necessary for the cross-border SME scheme, not for the domestic SME scheme. The individual identification number granted to the SME shall contain the suffix 'EX'. The Member State of establishment will grant the small enterprise an EX number that the small enterprise can use in all the Member States where it can apply the cross-border SME scheme. The EX number is not a VAT identification number as such. It is only used for the purpose of the functioning of the cross-border SME scheme.

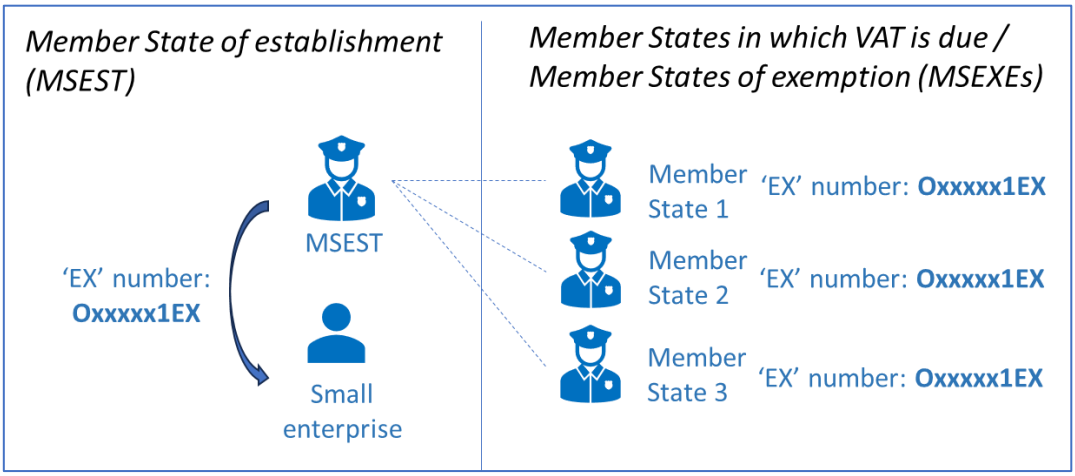

Figure 38: The single individual identification 'EX' number

The EX number will be valid in the Member States where the small enterprise applies the cross-border SME scheme. In the figure above, the EX number will be valid in MSEST, Member State 1, Member State 2 and Member State 3.

In case the small enterprise is granted access to the SME scheme in a Member State where it was already identified for VAT purposes, the MSEXE concerned shall take all the steps necessary to ensure that the small enterprise ceases, in respect of supplies of goods and services made in that Member State falling under the SME scheme, to be VAT identified there.

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([85]) Article 284(3)(b) of the VAT Directive.

4.5. Registration procedure

4.5.1. Timeframe

The registration procedure is initiated by the small enterprise submitting the prior notification in its Member State of establishment. Both the Member State of establishment and the Member State(s) where the small enterprise wants to avail itself of the VAT exemption will proceed to some checks to determine whether the small enterprise can access the cross-border SME scheme and apply the VAT exemption. The whole **registration process is not supposed to take longer than 35 working days ([86])** following the date of the receipt of the prior notification by the Member State of establishment.

MSEST has 15 working days to perform its checks. If the small enterprise is eligible to apply the cross-border SME scheme – the Union annual turnover in the previous calendar year and in the current calendar year does not exceed EUR 100 000 – it will forward the request to the Member State(s) of exemption. If the small enterprise is not eligible, MSEST will send a rejection notification to the small enterprise. The rejection from the cross-border SME scheme implies that the small enterprise cannot VAT exempt its supplies in any of the Member States where it has an economic activity and will have to fulfil VAT obligations under the standard VAT regime – or simplified procedure. An alternative to the standard VAT regime could be the application of the Union One Stop Shop scheme (OSS) ([87]) (see section 7). The only Member State where the small enterprise could apply the SME scheme is in its MSEST if it meets the conditions to apply the domestic SME scheme.

Member States of exemption have 15 working days as from the date they receive the request from MSEST to perform their checks: for example, verifying that the turnover does not exceed the national or applicable sectoral threshold. If the small enterprise meets the conditions to apply the cross-border SME scheme, the Member State(s) of exemption will inform MSEST and MSEST will inform the small enterprise that it can apply the cross-border SME scheme in the Member State(s) concerned. If the small enterprise does not meet the conditions, the MSEXE(s) will inform MSEST accordingly and in turn MSEST will send a rejection notification to the small enterprise. The rejection implies that the small enterprise cannot VAT exempt its supplies of goods and services in the Member State(s) where it does not meet the conditions of exemption and it will

([86]) Article 284(5) of the VAT Directive.
([87]) Title XII, Chapter 6 of the VAT Directive.

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instead have to fulfil VAT obligations in that/those Member State(s). An alternative for the small enterprise can be the application of the OSS scheme (see section 7).

If, in specific cases, a Member State needs additional time to carry out checks to prevent tax evasion or avoidance, the process may take longer. In that case, the Member State of exemption must let the Member State of establishment know that more time is needed. This enables MSEST to inform the small enterprise about the delay.

If MSEST receives no information that the small enterprise does not meet the conditions for applying the cross-border exemption and it is not informed by MSEXE that additional time for checks is needed, MSEST may assume that the small enterprise is eligible for exemption but only in time to meet the deadline of 35 working days as from the date of submission of the prior notification.

Working days refer to ([88]) all days other than public holidays, Sundays and Saturdays ([89]). The working days applicable are the ones from the Member State of establishment for the 15 working days period during which it should check the information submitted in the prior notification. For the 15 working days period during which Member State(s) of exemption perform their checks, the working days are the ones applicable in each Member State of exemption concerned.

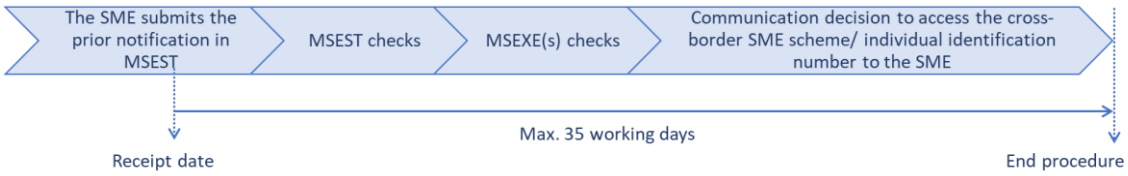

Figure 39: Timeline of the ordinary registration procedure

4.5.2. Commencement date

The small enterprise can start to VAT exempt its supplies under the SME scheme in a particular Member State as from the date the Member State of establishment informs or confirms the small enterprise that its single 'EX' number can be used in that Member State. The small enterprise is granted a single 'EX' number available in all the Member States where it wants to apply the SME scheme and which have confirmed access to the cross-border SME scheme. Each Member State concerned needs to confirm that the small enterprise meets the conditions to apply the scheme in its jurisdiction and must inform the Member State of establishment accordingly. Therefore, the date of

([88]) Regulation (EEC, Euratom) No 1182/71 of the Council of 3 June 1971 determining the rules applicable to periods, dates and time limits (OJ L 124, 8.6.1971, p. 1).

([89]) See as defined by Article 2(2) by Regulation 1182/71.

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commencement may differ from a Member State to another. The small enterprise needs for each Member State to wait to receive confirmation before it can start to apply the scheme in that Member State.

Member States where the SME wants to apply the SME scheme have the obligation to tell the Member State of establishment whether the SME meets the conditions to apply the cross-border exemption in their jurisdiction. If the Member State of establishment receives no answer from a potential Member State of exemption within the 15 working days as from the moment MSEST transfers the SME's request to potential MSEXE(s), it should be understood that the Member State of establishment is able to grant the small enterprise access to the SME scheme in that Member State as from the expiry of the deadline of 35 working days for the whole registration procedure.

Exception to this rule is when a Member State of exemption requests more time to the Member State of establishment to perform additional checks in case of suspicion of tax evasion or avoidance. In that case, the Member State of establishment notifies the small enterprise that more time is needed to confirm its access to the cross-border SME scheme.

To not delay access to the cross-border exemption, MSEST should issue the 'EX' number or update it as soon as it receives confirmation from any MSEXE, with updates to follow, and inform the small enterprise of access to exemption in the relevant MSEXE, as explained in the example below. If an MSEXE informs MSEST that the conditions for exemption are not met, MSEST should adopt the same approach and communicate the rejection decision to the small enterprise.

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Example 31

An SME does not apply the SME scheme currently. It wants to avail itself of the VAT exemption under the cross-border SME scheme in its Member State of establishment (MSEST) and in two Member States of exemption: MSEXE 1 and MSEXE 2. The SME submits the prior notification in its MSEST on 3 February 2025. MSEST, MSEXE 1 and MSEXE 2 consider that the SME can apply the SME scheme.

MSEST confirms the 'EX' individual identification number to the SME as soon as it receives the decisions from each of the other Member States concerned. In this example, it means that the commencement date is 15 February in MSEST, 24 February in MSEXE 2 and 5 March in MSEXE 1.

	Submission date of the prior notification	Date MSEST receives result of checks from the Member States concerned	Information/ confirmation of 'EX' number to SME	Commencement date
MSEST	03/02/2025	***	15/02/2025	15/02/2025
MSEXE 1	n/a	04/03/2025	05/03/2025	05/03/2025
MSEXE 2	n/a	20/02/2025	24/02/2025	24/02/2025

Figure 40: The commencement date

*** MSEST performs its own checks.

4.6. Update to a prior notification

The SME must inform its Member State of establishment in advance of any change to the information provided in the prior notification ([90]). The update may relate to any piece of the information communicated in the prior notification.

4.6.1. Change in information related to the SME

Small enterprises which submitted a prior notification can submit an update to a prior notification to inform about any change regarding their name, legal form, activity, address, etc. The information submitted in the update to a prior notification will replace the information initially given in the prior notification.

([90]) Article 284(4) of the VAT Directive.

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4.6.2. Extension to additional Member State(s)

In case a small enterprise wants to avail itself of the VAT exemption under the SME scheme in Member State(s) other than the ones indicated in the prior notification, it should submit an update to the prior notification. The update should not include information already given in reports ([91]) previously submitted; except the the 'EX' individual identification number given to the SME if granted before the submission of the update of the prior notification.

The request to extend the cross-border SME scheme to additional Member States through the update of the prior notification will be processed after the original prior notification has been dealt with. This means that even if an update to a prior notification is submitted before the small enterprise is granted with an 'EX' number, the update of the prior notification will only be processed after the original prior notification has been dealt with. Regarding the process, it is the same as for the prior notification: the whole procedure is not supposed to be longer than 35 working days. The Member State of establishment notifies the small enterprise of the acceptance or rejection of its request. If the request to avail itself of the VAT exemption in additional Member State(s) is accepted, the VAT exemption in those Member States will apply as from the date the small enterprise receives the confirmation that it can use its already existing single individual identification 'EX' number in that/these additional Member State(s).

4.6.3. Material errors detected before 'EX' number is granted

In case the small enterprise detects material errors in the information submitted in the prior notification before it is granted an 'EX' number, the small enterprise has the possibility to correct the prior notification by submitting a second prior notification. This second prior notification will be treated as a correction. The information provided in the correction of the prior notification replaces the information provided in the initial prior notification. In this case, the 35 working days start counting as from the date of submission of the correction to the prior notification.

Material errors cover the information related to the small enterprise (name, etc), the values of the reported supplies and the withdrawal to apply the cross-border scheme in one or more Member State(s).

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([91]) Article 284a(2) of the VAT Directive.

4.6.4. Corrections and errors detected after 'EX' number is granted

Corrections should be made by submitting an update to the prior notification. That includes errors detected after a small enterprise is admitted to the SME scheme.

The update should always mention the 'EX' individual identification number already given to the SME and should include information that was not already given in the prior notification. The information provided in the update of the prior notification replaces that provided in the initial prior notification. The update of the prior notification will be seen as received only once the prior notification has been processed in respect of all MSEXE(s) concerned and the small enterprise has been informed of the outcome.

If, based on the new information provided in an update of the prior notification, it results that the small enterprise is not eligible or in fact never met the conditions to enter the cross-border SME scheme, the small enterprise will be rejected from the SME scheme with retroactive effect. This means that the small enterprise will be seen as not having access to the cross-border SME scheme from the date of submission of the original prior notification and as being obliged to apply the standard VAT regime – or simplified procedures – to its supplies as from that date. If the small enterprise VAT exempted its supplies in one or more Member States following the outcome of the original prior notification, it will have to contact the Member States concerned to regularise its VAT situation.

4.7. Quarterly report

The compliance obligations are simplified: the small enterprise must submit a single quarterly report in its Member State of establishment for the supplies carried out in **all Member States**.

The purpose of the quarterly report is twofold: a) it allows the Member State of establishment to monitor the Union annual turnover of the small enterprise and b) it enables each Member State of exemption to verify that the conditions of exemption continue to be met. Therefore, the SME must report its **turnover** (see section 2.4) for each calendar quarter ([92]) in all Member States. This also includes the Member States

([92]) Article 284b of the VAT Directive.

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where the small enterprise does not apply the SME scheme whether or not it has any economic activity there.

The quarterly report must be submitted in the Member State of establishment within a month as from the end of the calendar quarter.

Calendar Quarters		Period of submission of the quarterly report
Q1	January, February, March	April
Q2	April, May, June	July
Q3	July, August, September	October
Q4	October, November, December	January

Figure 41: Reporting periods and deadline for submission

The reporting should be done by the small enterprise under its single 'EX' identification number. The value of supplies is to be reported Member State by Member State and should be done in euro ([93]). However, Member States not having adopted the euro may require the value to be expressed in their national currency. In that case, for conversion, the exchange rate to be used by the small enterprise is the one published by the European Central Bank on the first day of the calendar year, or, if no publication on that day, on the next day of publication must be used.

Where the Member State granting the exemption applies more than one threshold, the SME should report the value of supplies corresponding to each threshold separately. This serves to monitor correct application of the sectoral threshold.

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([93]) Article 284c(1) of the VAT Directive.

Example 32

A small enterprise involved in distance sales of goods to final consumers applies the cross-border SME scheme in its Member State of establishment (MSEST) and in Member State 1. It does not have any economic activity in the other Member States. MSEST applies one national annual threshold while Member State 1 applies two sectoral thresholds, one for the sector of construction and another for all other business sectors. For each calendar quarter, the SME must indicate the value of supplies carried out in each Member State. If a Member State has set sectoral thresholds, the values of supplies must be split per sectoral threshold or zero '0' if no supply has been carried out.

In Q2, the supplies made in MSEST amount to EUR 6 000 and the supplies made in Member State 1 corresponding to the sector 'other' amount to EUR 10 000. The small enterprise is not involved in the construction sector and therefore did not make any supply falling under this sectoral threshold. The supplies should be reported in the quarterly report as illustrated below:

Quarterly Report Q2	
Member State	*Value (EUR)*
MSEST	6 000
Member State 1: - Construction - Other	 0 10 000
25 other Member States:	 0

Figure 42: Quarterly report – example of reporting

The small enterprise must report separately the value of the supplies as regards each threshold ([94]). If the small enterprise does not have any supply during a calendar quarter for one or all thresholds, it should report zero '0'.

Each Member State of establishment can decide how reporting is to be done in its jurisdiction. Information may be required to be submitted by electronic means but it is not compulsory for the Member State of establishment to impose such an obligation ([95]). In case the Member State of establishment requires the quarterly report

([94]) Article 284c(c) of the VAT Directive.
([95]) Article 284c(2) of the VAT Directive.

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to be submitted electronically, the electronic submission will be subject to the conditions laid down by that Member State.

4.7.1. Values to be included

The values to include in the quarterly report are the same as the ones to include in the prior notification (see section 4.3, which also refers to the common section 2.4 on the annual turnover). The values should be VAT exclusive ([96]).

The SME should provide in a single quarterly report the total value of supplies of goods and services carried out in all Member States. If no supplies have been made in a Member State, the SME should report zero '0'.

4.7.2. Special case – first quarterly report

Between the date of submission of the prior notification and the date of commencement of the VAT exemption (when the SME is granted its 'EX' number) there might be a gap or a duplication in the turnover to be reported in the first quarterly report held up against what is included in the prior notification. To remediate this, the first quarterly report should include the following supplies, as described in the examples below:

Example 33

The SME submits a prior notification on 4 March 2025. The prior notification includes the annual turnover corresponding to the previous calendar year (Y-1) and the annual turnover corresponding to the current calendar year (Y), i.e. between 1 January and 3 March in this example. The SME receives the 'EX' individual identification number from its Member State of establishment on 11 April. The small enterprise can start to VAT exempt its supplies as from 11 April.

The first full quarterly report to be submitted by the SME corresponds to Q2 and covers transactions carried out in the months of April, May and June. It should be filed between 1 and 31 July.

To avoid a gap and capture the transactions made between the date of submission of the prior notification (4 March) and the end of the first calendar quarter (31 March) which count towards the annual turnover, the SME shall also file a quarterly report corresponding to Q1 that only covers the transactions made between 4 March and

([96]) Article 288 of the VAT Directive.

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31 March. The transactions made between 1 January and 3 March are already included in the prior notification.

Example 34

The SME submits a prior notification on 15 July. The prior notification includes the annual turnover corresponding to the previous calendar year (Y-1) and the annual turnover corresponding to the current calendar year (Y), i.e. between 1 January and 14 July in this example. The SME is granted an 'EX' number on 7 August.

The first quarterly report to be submitted by the SME corresponds to Q3 and covers the transactions carried out in the months of July, August and September. It should be filed between 1 and 31 October.

To avoid a duplication of the annual turnover indicated in the prior notification that already includes transactions made up to and including 14 July, the first quarterly report should only include the transactions made between 15 July and 30 September.

Example 35

The SME submits a prior notification on 20 December 20YY. The prior notification includes the annual turnover corresponding to the previous calendar year (Y-1) and the annual turnover corresponding to the current calendar year (Y), i.e. between 1 January and 19 December in this example. The SME is granted an 'EX' number on 16 January 20YY+1.

The first full quarterly report to be submitted by the SME corresponds to Q1 20YY+1 and covers transactions carried out in the months of January, February and March 20YY+1. It should be filed between 1 and 30 April.

To capture the transactions made between the date of submission of the prior notification (20 December 20YY) and the end of the fourth calendar quarter 20YY (31 December), the SME shall also file a quarterly report corresponding to Q4 that only covers the transactions made between 20 December and 31 December 20YY.

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4.7.3. Special case – Union annual turnover threshold exceeded: final report

In case the Union annual threshold of EUR 100 000 is exceeded, the small enterprise has 15 working days following the day on which the Union annual threshold is exceeded to inform its Member State of establishment. This is done through the submission of a **final report** containing the following information:

- The total value of supplies of goods and services carried out in the Member State of establishment from the beginning of the calendar quarter up until the day the Union annual turnover threshold was exceeded;
- The total value of supplies of goods and services carried out in all the other Member States from the beginning of the calendar quarter up until the day the Union annual turnover threshold was exceeded.

Contrary to the national annual threshold, there is **no tolerance or transitional period** between the moment the Union annual threshold is exceeded and the moment the small enterprise is excluded from the application of the cross-border SME scheme. For more information, see section 4.8.

Example 36

The SME exceeds the Union annual threshold on 1 September 2025 and informs its MSEST about this situation within 15 working days through the submission of a final report. The SME must cease to apply the cross-border SME scheme effectively on 1 September 2025, as from the transaction that made the annual turnover exceed the Union threshold. The final report should contain the value of the supplies made between 1 July and 1 September 2025 included (until the transaction that made the Union annual turnover exceed the Union annual threshold) and is to be submitted within 15 working days counting from 1 September 2025.

The consequence of exceeding the Union annual threshold of EUR 100 000 is the exclusion of the SME from the cross-border SME scheme in all Member States granting the exemption. The SME may remain under the domestic SME scheme in the Member State of establishment if it meets the conditions of exemption in that Member State (for more see section 4.8).

The small enterprise could still consider – if it meets the conditions – whether to apply the One Stop Shop special scheme for supplies made in Member States other than the

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Member State of establishment where it has an economic activity to declare and pay VAT ([97]).

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([97]) VAT One Stop Shop - European Commission (europa.eu)

The consequence of exceeding the Union annual threshold of EUR 100 000 is the exclusion of the small enterprise from the SME scheme in all Member States, except in its Member State of establishment. The exclusion from the SME scheme in MSEST is triggered by the exceedance of the national annual threshold of MSEST. For more details, see section 4.8.

4.7.4. Corrections

As a general principle, any reporting obligation shall enable corrections. While not specifically addressed by the SME Directive, small enterprises have the possibility to correct quarterly reports. Corrections can cover errors or be the result of cancellations of transactions, like for example returns of goods.

The way to correct a quarterly report already submitted is to resubmit the original quarterly report. The information included in the resubmitted quarterly report replaces the information included in the original version ([98]). The deadline to correct a quarterly report is three years.

4.7.5. Other simplified obligations

Member States have the possibility to release small enterprises from the obligation to fulfil some obligations ([99]), like for example to issue invoices. In case a Member State requires an SME to issue an invoice, it should be a **simplified invoice ([100])**. A simplified invoice must contain at least the following elements:

a) The date of issue of the simplified invoice,
b) EX number of the small enterprise,
c) Identification of the type of goods or services supplied,
d) Amount of the goods or services supplied,
e) A mention that the supply is VAT exempt under the SME scheme,
f) A reference of that initial simplified invoice where an initial simplified invoice is corrected.

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([98]) Guidelines resulting from the 123rd meeting of 20 November 2023, Document D – taxud.c.1(2024)4333871 – 1078.
([99]) Article 292d of the VAT Directive.
([100]) Article 220a(1)(c) of the VAT Directive and Article 226b of the VAT Directive.

More information on the rules applicable in your Member State of establishment and in all other Member States is available on the SME web portal ([101]).

4.7.6. Consequences of non-compliance

Where a small enterprise is late in submission of the quarterly report by more than 30 days or where consecutively two or more quarterly reports are submitted late ([102]), any of the MSEXEs may require such enterprise to fulfil VAT obligations such as to VAT register and to submit periodical VAT returns ([103]) in their Member State, as a derogation to the main rule. If the SME applies the SME scheme in its Member State of establishment, MSEST can also in such cases impose the obligation to VAT register and to submit periodical VAT returns on the SME.

While taking away any VAT simplifications put in place, a compliance failure cannot deprive the taxable person from applying the exemption itself. To render the SME VAT exemption non-applicable because of a failure to comply with formal requirements is not consistent with the basic general principles underpinning the VAT system.

Example 37

An SME applies the cross-border SME scheme in Member State 1 and in Member State 2. It misses the deadline to submit the quarterly report corresponding to Q3 in MSEST.

Depending on how MSEST proceeds with delays in the submission of other reports or returns within its jurisdiction, as a first step, MSEST may send a reminder to the SME, providing an additional deadline to submit the quarterly report.

If the SME is late in the submission of quarterly report by more than 30 days or where consecutively two or more quarterly reports are submitted late, Member State 2 – while not obliged – may decide to temporarily suspend the VAT simplification linked to the SME scheme by requesting the SME to VAT register in its jurisdiction and to submit a VAT return.

Under this scenario:

([101]) https://sme-vat-rules.ec.europa.eu/

([102]) Guidelines resulting from the 123rd meeting of 20 November 2023, Document D – taxud.c.1(2024)4333871 – 1078.

([103]) Article 284d(3) of the VAT Directive.

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- The SME would still be allowed to VAT exempt its supplies in Member State 2 under the cross-border SME scheme,

- The SME would still be required to file quarterly reports covering supplies made in all Member States in its Member State of establishment,

- In addition, the SME is required to VAT register and to file VAT returns in Member State 2, by way of derogation of the main rule. Since the transactions will be VAT exempt, MSEXE will provide guidance to the small enterprise on how to file VAT returns, if necessary.

If the SME does not VAT register and does not submit VAT return in Member State 2 as a consequence of not filing the quarterly report for Q3, Member State 2 may decide to impose penalties or sanctions for failing to VAT register and to submit periodical VAT returns in Member State 2. Such sanctions or penalties can apply only if Member State 2 has first imposed the obligation to the small enterprise to VAT register and to submit VAT returns in Member State 2 and the small enterprise disregarded that obligation.

Once the SME demonstrates that it is compliant with the reporting obligations – by submitting quarterly reports timely – Member State 2 should release the SME from the obligation to VAT register and to submit VAT returns in its jurisdiction.

In case the Union annual threshold of EUR 100 000 is exceeded and the small enterprise does not inform its MSEST through the submission of a final report within 15 working days, MSEST may impose sanctions to the small enterprise.

4.8. Leaving the cross-border SME scheme

4.8.1. Voluntary cessation

Cessation occurs in the following situations:

a) The SME decides to cease applying the VAT exemption under the SME scheme in some or in all Member States,
b) The SME decides to cease applying the cross-border SME scheme but to continue apply the domestic SME scheme in its Member State of establishment only,
c) The SME has ceased its economic activity.

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For each of the abovementioned situations, the small enterprise is obliged to inform its Member State of establishment through the submission of an update to the prior notification ([104]). The **cessation will be effective as of the first day of the next calendar quarter** following the receipt of the update from the SME.

Example 38

The SME applies the cross-border scheme in its Member State of establishment, in Member State 1 and in Member State 2. It decides to stop applying the SME scheme in Member State 2 as it will no longer be making any supplies in that Member State. On 15 May (second month of Q2), it submits an update to the prior notification in its Member State of establishment to inform about this new situation. The exemption in Member State 2 will cease to apply on 1 July (first month of Q3) and the 'EX' number will no longer be valid in Member State 2 as from that date.

When information about the cessation is **received during the last month of a calendar quarter**, the cessation will be effective as of **the first day of the second month of the next calendar quarter**.

Example 39

The SME applies the cross-border scheme in its Member State of establishment, in Member State 1 and in Member State 2. It decides to stop applying the SME scheme in Member State 2 as it will no longer be making any supplies in that Member State. On 15 June (third month of Q2), it submits an update to the prior notification in its Member State of establishment to inform about this new situation. The exemption in Member State 2 will cease to apply on 1 August (second month of Q3) and the 'EX' number will no longer be valid in Member State 2 as from that date.

In case the SME decides to no longer apply the SME scheme in any Member State, it should inform its Member State of establishment through an update to a prior notification. MSEST will, without delay, deactivate the 'EX' number in all Member States.

4.8.2. Exclusion

The exclusion of the small enterprise from the cross-border SME scheme occurs in the following situations:

([104]) Article 284(4) of the VAT Directive.

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a) the Union annual threshold of EUR 100 000 is exceeded, or
b) the national annual threshold in a Member State granting the exemption is exceeded (or the transitional period expired),
c) in case the SME presumably has ceased its economic activity but did not communicate it to MSEST,
d) in case of bankruptcy putting an immediate end to taxable activities carried out by the small enterprise.

4.8.2.1. Union annual turnover threshold being exceeded

Where, during a calendar year, the Union annual turnover threshold of EUR 100 000 is exceeded, the small enterprise is excluded from the cross-border SME scheme as of that time in all Member States, but not in the Member State of establishment if the national annual threshold in that Member State is not exceeded. From a practical point of view, '*as of that time'* corresponds to the date the Union annual threshold is exceeded, **from the supply that made exceed the Union annual threshold of EUR 100 000**. Contrary to the exceedance of national annual threshold set by Member States, there is no transitional period when the Union annual threshold is exceeded.

The exceedance of the Union annual threshold triggers the deactivation of the EX number in all Member States of exemption and the obligation for the small enterprise to fulfil VAT obligations (pay VAT, VAT register, submit periodical VAT returns, etc) in all Member States where the SME has an economic activity (except in its Member State of establishment unless the national annual threshold in that Member State is exceeded). An alternative to the standard VAT regime or simplified procedures may be the application of the OSS scheme (see section 7).

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Example 40

The SME applies the cross-border SME scheme in its Member State of establishment, in Member State 1 and in Member State 2. It also makes supplies in Member State 3 where it does not apply the SME scheme. In Q3 2028, the volume of the supplies in Member State 3 increases significantly. Until 2 September 2028, the SME has a Union annual turnover amounting to EUR 99 900. On 3 September, it carries out another supply amounting to EUR 105 in Member State 1. So, the Union annual turnover exceeds EUR 100 000 on 3 September 2028 (EUR 100 005).

	Annual threshold (EUR)	Quarterly report Q1 (EUR)	Quarterly report Q2 (EUR)	Transactions between 01/07 and 02/09 (EUR)	Annual total (until 03/09) (EUR)
MSEST	**32 000**	5 000	7 000	6 000	18 000
Member State 1	**40 000**	5 000	5 000	3 000	13 105*
Member State 2	**85 000**	10 000	7 000	3 000	20 000
Member State 3	n/a	15 000	5 000	28 900	48 900
Other 23 Member States	n/a	0	0	0	0
Union (total)	**100 000**	35 000	24 000	40 900	**100 005**

Figure 43: Exclusion – Union annual threshold being exceeded

*(5 000 + 5 000 + 3 000 + 105 = 13 105)

In this example, the SME is excluded from the cross-border SME scheme on 3 September 2028 in all Member States of exemption: Member State 1 and Member State 2, in this example. The consequence of the exclusion is that the SME should apply the standard VAT regime or simplified procedures (or alternatively the OSS scheme) in these Member States. The SME could still apply the domestic SME scheme in MSEST, provided that the annual turnover in MSEST does not exceed the national annual threshold applicable in that Member State.

In case of exceedance of the Union annual threshold, the exclusion from the cross-border SME scheme is extended to all Member States where the SME has an economic activity. This means that the SME cannot access the cross-border SME scheme in any of the Member States (except MSEST) during the quarantine period of one year after exclusion (see Figure 44).

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Where an SME is excluded from the cross-border SME scheme, a quarantine period applies before the SME can avail itself of the cross-border exemption again. The quarantine period in case the Union annual threshold is exceeded applies to all Member States; except the Member State of establishment if the conditions are met to apply the domestic SME scheme in that jurisdiction. The quarantine period when the Union annual threshold is exceeded is one calendar year. During that quarantine period, the small enterprise cannot submit an update to the prior notification to avail itself of the cross-border SME scheme in any Member State.

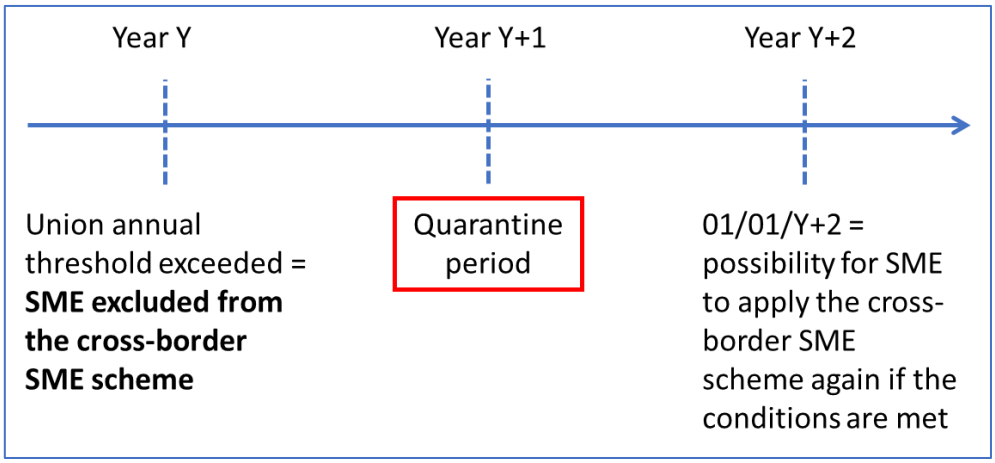

Figure 44: Quarantine period for exceedance of the Union annual turnover threshold

In practical terms, the small enterprise would have to await 1 January Y+2 to submit an update to the prior notification to apply the cross-border SME scheme again.

Example 41

The SME applies the cross-border SME scheme in its Member State of establishment, in Member State 1 and in Member State 2. The SME is excluded from the cross-border SME scheme in Member States 1 and 2 on 3 September 2028 (Year Y). A quarantine period applies during whole calendar year 2029 (Y+1). Should the SME want to enter the cross-border SME scheme again in the future, the quarantine period implies that the SME could only request access to the cross-border SME scheme by submitting a prior notification from 1 January 2030 (Year Y+2). The former 'EX' number of the small enterprise should appear in the prior notification.

Access could be granted if the Union annual turnover of the SME in the current calendar year (2030) and in the previous calendar year (2029) does not exceed the Union annual threshold and provided that the SME meets the other conditions to apply the cross-border SME scheme.

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The quarantine period means that the SME cannot request access to the cross-border SME scheme in any Member State during Year Y+1 (2029). If the SME wants to apply the SME scheme in Member State 3 – a Member State in which it has not applied the cross-border SME scheme in the past – the quarantine period implies that it would also need to wait until 1 January 2030 to file a prior notification requesting access to the cross-border SME scheme in Member State 3.

4.8.2.2. National annual turnover threshold being exceeded

Where, during a calendar year, the Union annual turnover threshold is not exceeded but the national annual turnover threshold is exceeded in one or some Member States of exemption, the small enterprise is excluded from the application of the SME scheme in that/these Member State(s) but could continue to apply the VAT exemption in other Member State(s) of exemption. Its 'EX' number will no longer be valid in the Member State(s) where the national annual threshold is exceeded but will remain valid in the other Member States of exemption.

Example 42

The SME applies the cross-border SME scheme in its Member State of establishment, in Member State 1 which does not allow for a transitional period and in Member State 2. It also makes supplies in Member State 3 where it does not apply the SME scheme. In Q3 2028, the volume of the supplies in Member State 1 increases significantly. On 3 September it makes a supply amounting to EUR 1 000 so that the annual turnover in that Member State exceeds the national annual threshold. However, the Union annual turnover does not exceed the Union annual threshold.

	Annual threshold (EUR)	Quarterly report Q1 (EUR)	Quarterly report Q2 (EUR)	Transactions between 01/07 and 02/09 (EUR)	Annual total (until 03/09) (EUR)
MSEST	**32 000**	5 000	7 000	4 000	16 000
Member State 1	**40 000**	5 000	5 000	30 000	**41 000***
Member State 2	**85 000**	10 000	7 000	3 000	20 000
Member State 3	n/a	5 000	0	5 000	10 000
Other 23 Member States	n/a	0	0	0	0
Union (total)	**100 000**	25 000	19 000	42 000	87 000

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Figure 45: Exclusion – national annual threshold being exceeded

*(5 000 + 5 000 + 30 000 + 1 000 = 41 000)

In this example, the SME can no longer apply the VAT exemption in Member State 1 since its annual turnover in that Member State (EUR 41 000) exceeds the national annual threshold in Member State 1 (EUR 40 000). It should consult its VAT obligations in Member State 1 in terms of VAT registration and VAT returns. However, since the Union annual turnover (EUR 87 000) does not exceed the Union annual threshold (EUR 100 000), the SME can continue to apply the SME scheme in MSEST and in Member State 2.

As regards the effective date as from which the SME must cease to apply the SME scheme in a Member State in case of exceedance of the national annual threshold, it depends on the option applied by each Member State. Member States have the possibility to apply a transitional period, as explained in section 3.3.4 and reproduced below:

a) Allowing the SME to continue to apply the VAT exemption under the SME scheme if the national annual threshold is exceeded by not more than 10% but no later than by the end of the calendar year, or
b) Allowing the SME to continue to apply the VAT exemption under the SME scheme if the national annual threshold is exceeded by not more than 25% but no later than by the end of the calendar year, or
c) In case no specific ceiling is applied, allowing the SME to continue to apply the exemption under the SME scheme within the limit of EUR 100 000 but no later than by the end of the calendar year.

As an alternative, Member States also have the possibility to not apply any transitional period (0%). In that case, the VAT exemption must cease to apply as from the moment the national annual threshold is exceeded. In practical terms, this corresponds to the day of the exceedance of the national annual threshold, **as from the supply that made the national annual threshold (or applicable sectoral threshold) exceed**. Examples on the application of the transitional period are available in section 3.3.4.

The national transitional period applies provided that the Union annual turnover is not exceeded. Once the Union annual turnover exceeds EUR 100 000, the SME is excluded from the application of the cross-border SME scheme in all Member States of exemption without any transitional period, as explained in section 4.8.2.1.

An SME excluded from the application of the SME scheme in a Member State will not be able to enter the scheme again for that Member State during a period of one calendar

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year. In practical terms, the small enterprise should wait until 1 January Y+2 to submit an update to the prior notification to apply the cross-border SME scheme in that Member State again.

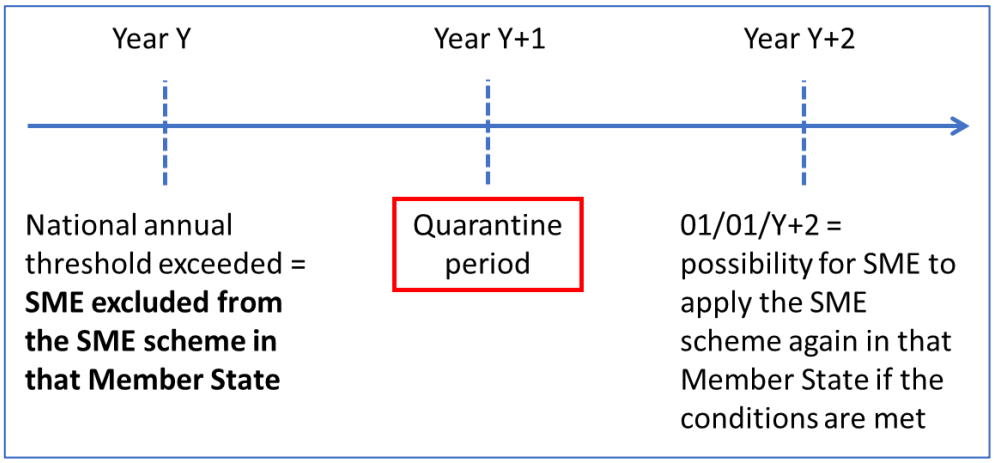

Figure 46: Quarantine period for a period of one calendar year

Member States can apply a quarantine period of 2 calendar years when the national annual threshold is exceeded but the Union annual threshold is not.

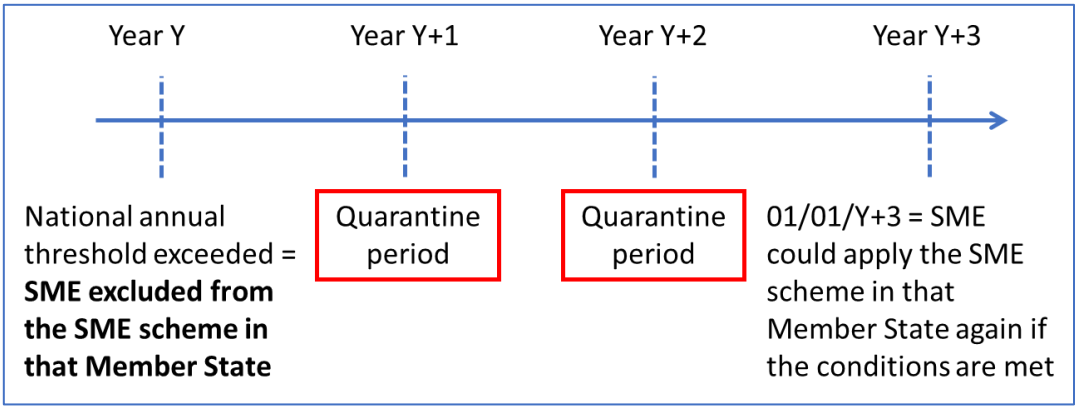

Figure 47: Quarantine period for a period of two calendar years

4.8.2.3. Assumption that the economic activity has ceased

In case the small enterprise is not compliant and does not submit quarterly reports, the MSEST will take the necessary steps to verify the state of affairs either with the small enterprise or through other means. If it results that the economic activity has ceased and that the small enterprise did not communicate its situation to MSEST or that MSEST can assume that the economic activity has ceased, the small enterprise will be excluded from the cross-border SME scheme and its 'EX' number will be deactivated without delay.

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If, during a period of 8 consecutive calendar quarters no supplies of goods and services are reported in one or more Member State(s), the small enterprise – absent information to the contrary – will be presumed to have ceased its activity in the Member State(s) concerned. Its 'EX' number will no longer be valid in this/these Member State(s). If supplies have not been reported for any of the Member States of exemption, the small enterprise's 'EX' number will be deactivated.

4.8.2.4. Case of bankruptcy

In case of bankruptcy putting an immediate end to taxable activities being carried out by the small enterprise, the small enterprise is excluded from the cross-border SME scheme as from the moment the bankruptcy is declared. Where for the duration of the bankruptcy procedure taxable activities continue, the cross-border SME scheme shall only cease to apply upon submission of an update to the prior notification ([105]). In that case, the cross-border SME scheme ceases to apply as of the first day of the next calendar quarter following the receipt of the information from the small enterprise (or its representative) or, where such information is received during the last month of a calendar quarter, as of the first day of the second month of the next calendar quarter.

4.9. Appeals

Appeals ([106]) are a national matter. It belongs to each Member State to set its own rules and procedures. For the application of the SME scheme, a small enterprise having been refused access to – or excluded from – exemption under the SME scheme should address its complaint to the legal entity which issued the administrative decision. This is, where such a refusal or exclusion is because the small enterprise has exceeded the Union turnover threshold, the legal redress must be sought with its Member State of establishment. Where, on the other hand, refusal or exclusion is because the small enterprise has exceeded the national or applicable sectoral threshold or not met the conditions for exemption, the legal redress must be sought with the Member State of exemption concerned.

With a view to enable small enterprises to know where to seek legal redress, the Member State of establishment should take all steps necessary to ensure that upon refusal of access to or exclusion from exemption, the small enterprise concerned is

([105]) Article 284(4) of the VAT Directive.
([106]) Guidelines resulting from the 121st meeting of 21 October 2022 document A – taxud.c.1(2023)3139286 – 1055.

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informed about the reason leading to that decision and of the Member State where legal redress in respect of that refusal or exclusion could be sought in accordance with the national procedures of that Member State.

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5. Input VAT deduction

This section is **common to all layers**, whether a small enterprise wants to apply the SME scheme in its Member State of establishment only (domestic), in other Member State(s) only (cross-border) or both in its Member State of establishment and in other Member State(s) (cross-border).

A small enterprise whose supplies are exempt under the SME scheme cannot deduct VAT incurred on the purchases used to make these supplies ([107]) (see Figure 2).

5.1. Domestic SME scheme

Under the domestic SME scheme, the small enterprise cannot deduct input VAT on the purchases used to make the exempt supplies of goods and/or services ([108]).

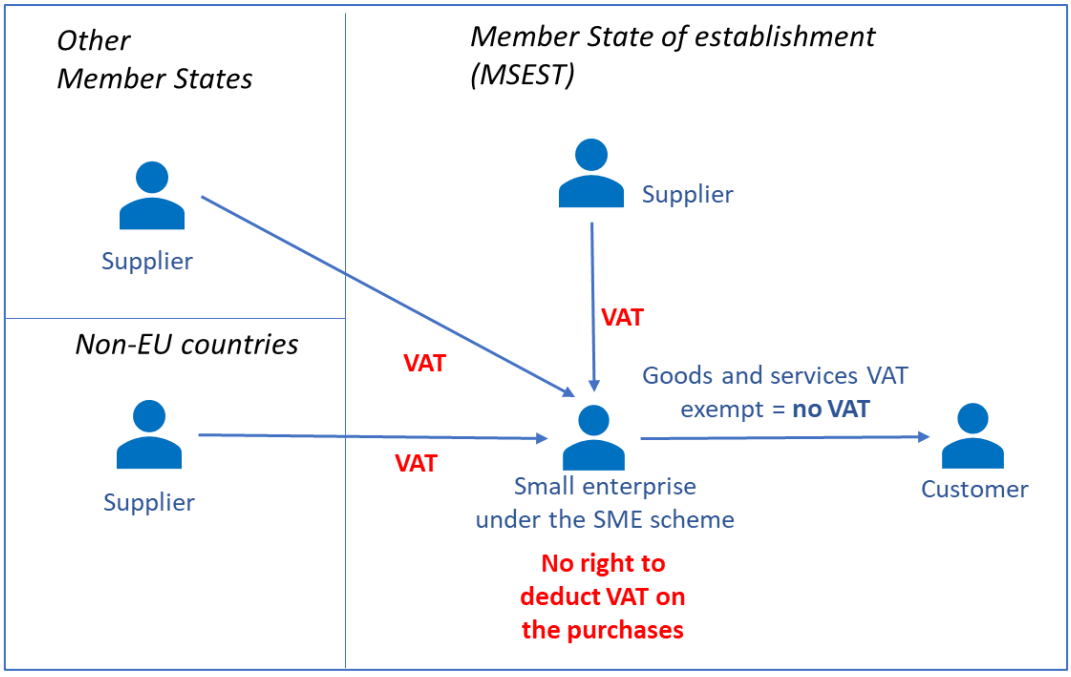

Figure 48: Domestic SME scheme and right to deduct VAT

In case the small enterprise carries out both transactions covered by the SME scheme and excluded from the SME scheme in its Member State ([109]), it should consult its

([107]) Article 289 of the VAT Directive.
([108]) In accordance with Articles 167 to 171 and Articles 173 to 177 of the VAT Directive.
([109]) See section 3.3.3 on excluded transactions from the SME scheme.

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Member State to be informed about the possible consequences on its right to deduct input VAT, like for example the possible application of a pro rata.

5.2. Cross-border SME scheme

This section provides examples on the deduction of VAT through several case scenarios.

Example 43

An SME applies the SME scheme in its Member State of establishment (MSEST) and in another Member State: MS 1. It purchases goods and services in MSEST to be used to make supplies either in MSEST, in MS 1 or both in MSEST and MS 1.

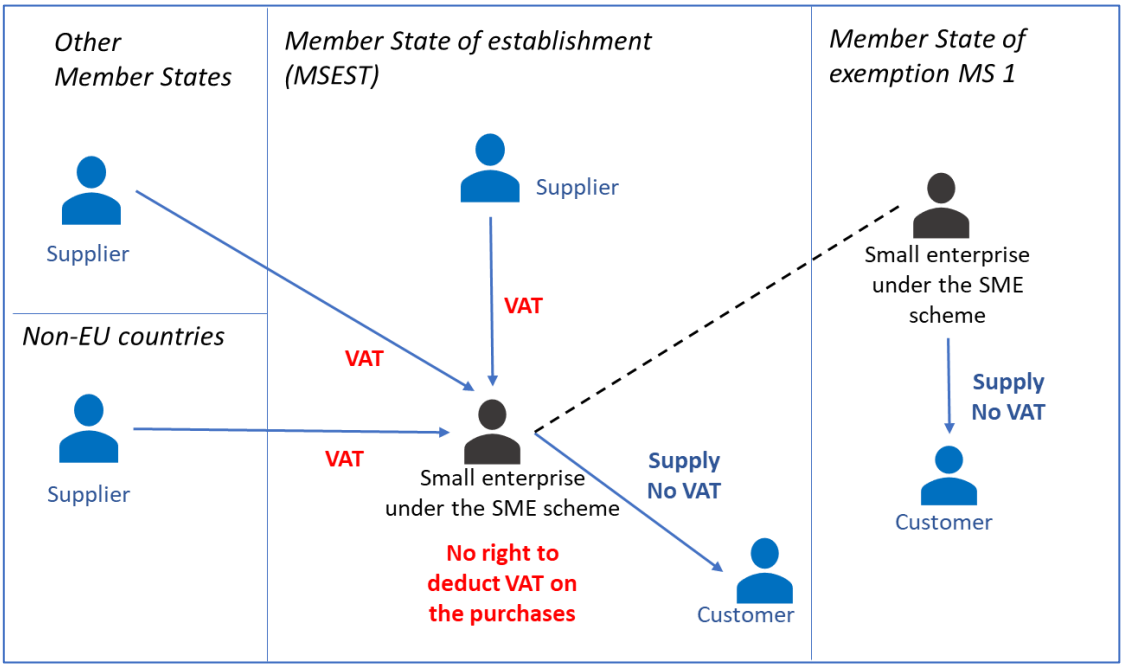

Figure 49: Cross-border SME scheme and VAT deduction – scenario A

In this scenario, the SME is **not entitled** to deduct input VAT on any of the purchases of goods and services used to make exempt supplies in MSEST and/or in MS 1.

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Example 44

An SME applies the SME scheme in its Member State of establishment (MSEST). It also has an economic activity in MS 1 where it does not apply the SME scheme. Indeed, in MS 1 the small enterprise is VAT registered, charges local VAT to its customers there and submits periodical VAT returns.

The small enterprise purchases goods and services in its Member State of establishment (MSEST) it uses to make either exempt supplies in MSEST, taxed supplies in MS 1 or to make supplies both exempt in MSEST and taxed in MS 1 (mixed costs).

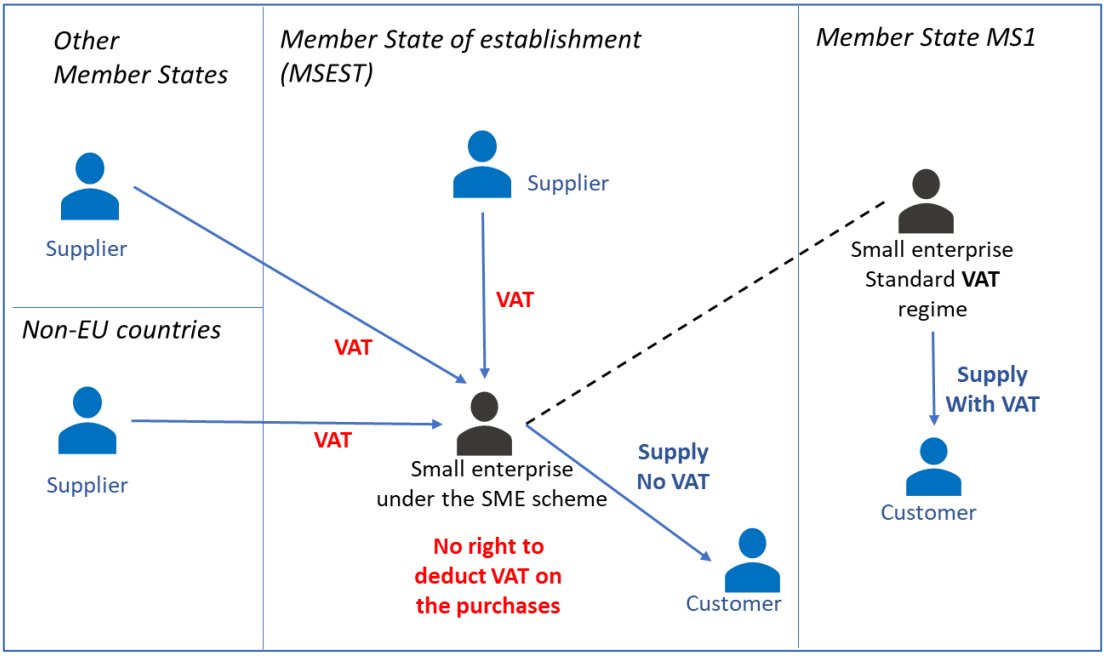

Figure 50: SME scheme and VAT deduction – scenario B

Under this scenario, the SME is **not entitled** to deduct input VAT on any of the purchases of goods and services incurred in its Member State of establishment ([110]).

([110]) CJEU C-507/16, *Entertainment Bulgaria System EOOD*.

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Example 45

An SME applies the SME scheme in its Member State of establishment (MSEST). It also has an economic activity in MS 1 where it does not apply the SME scheme. Indeed, in MS 1 the small enterprise is VAT registered, charges local VAT to its customers and submits periodical VAT returns.

The small enterprise purchases goods and services in MS 1 that it uses to make taxed supplies in that jurisdiction.

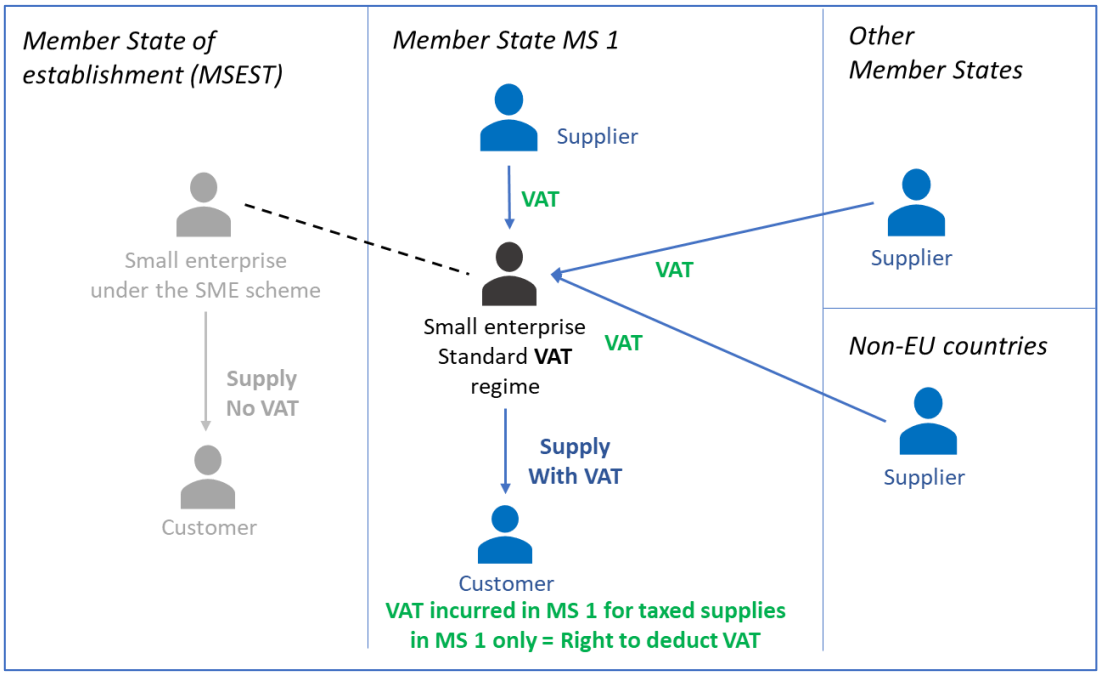

Figure 51: SME scheme and VAT deduction – scenario C

Under this scenario, the SME **is entitled to deduct** input VAT on these purchases of goods and services incurred in MS 1.

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Example 46

An SME applies the standard VAT regime in its Member State of establishment (MSEST). It is VAT registered, charges local VAT to its customers there and submits periodical VAT returns. This SME applies the cross-border SME scheme in MS 1. It purchases goods and services in MSEST that will be used to make taxed supplies in MSEST.

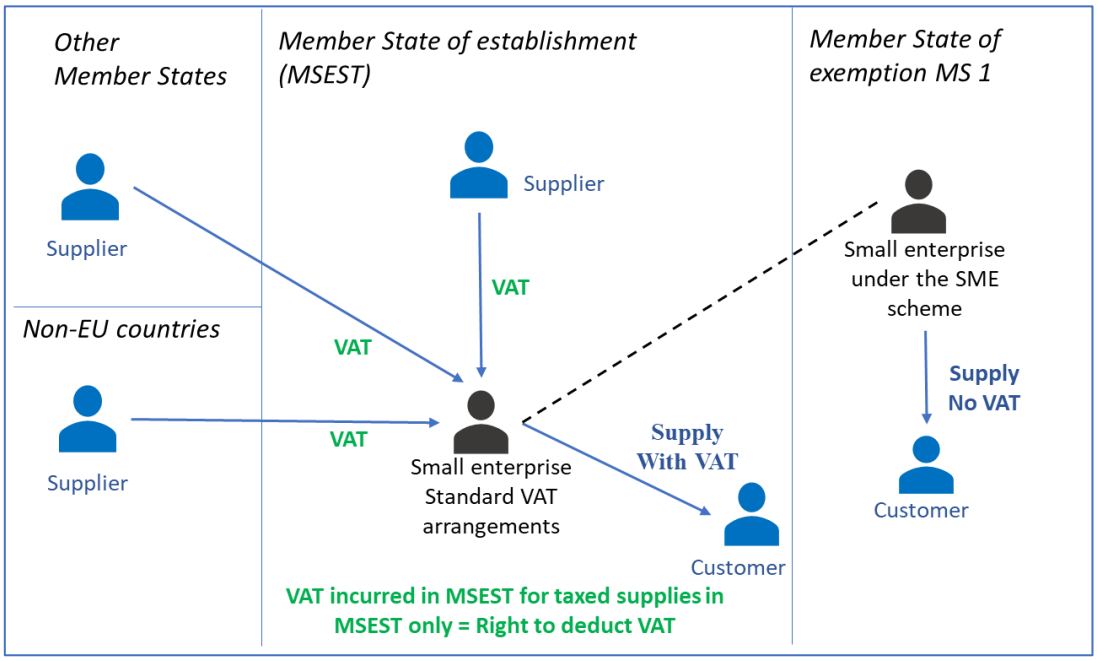

Figure 52: Cross-border SME scheme and VAT deduction – scenario D

Under this scenario, the SME is entitled to deduct input VAT on the purchases of goods and services incurred in MSEST used to make taxed supplies in MSEST.

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Example 47

An SME applies the standard VAT regime in its Member State of establishment (MSEST). It is VAT registered, charges local VAT to its customers there and submits periodical VAT returns. This SME applies the cross-border SME scheme in MS 1. It purchases services in MSEST that will be used to make both taxed supplies in MSEST and exempt supplies in MS 1 (mixed costs).

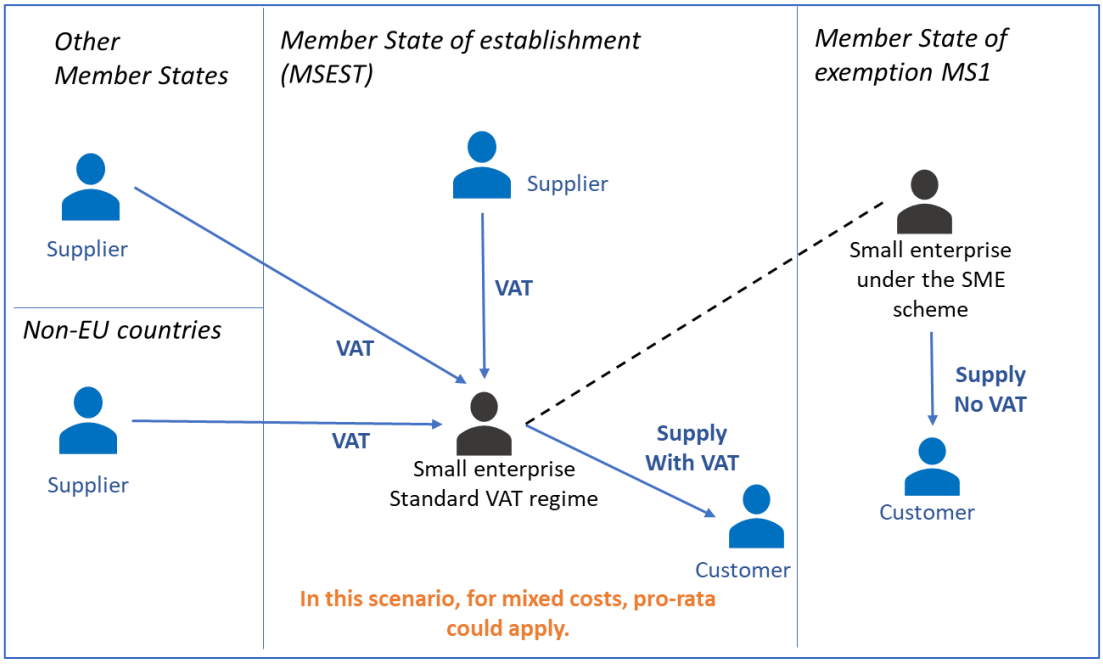

Figure 53: Cross-border SME scheme and VAT deduction – scenario E

Under this scenario, the SME is entitled to deduct input VAT on the purchases of goods and services incurred in MSEST used to make taxed supplies in MSEST. It cannot deduct input VAT on the purchases of goods and services incurred in MSEST used to make exempt supplies in MS 1. For the mixed costs used to make both supplies taxed in MSEST and exempt in MS 1, the pro-rata will apply. The pro-rata means that only part of the input VAT might be deductible in MSEST. The small enterprise should consult the tax authorities of its Member State of establishment for more information.

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Example 48

An SME applies the standard VAT regime in its Member State of establishment (MSEST). It is VAT registered, charges local VAT to its customers there and submits periodical VAT returns. This SME applies the cross-border SME scheme in MS 1. It purchases goods and services in MSEST that will be used to make exempt supplies in MS 1.

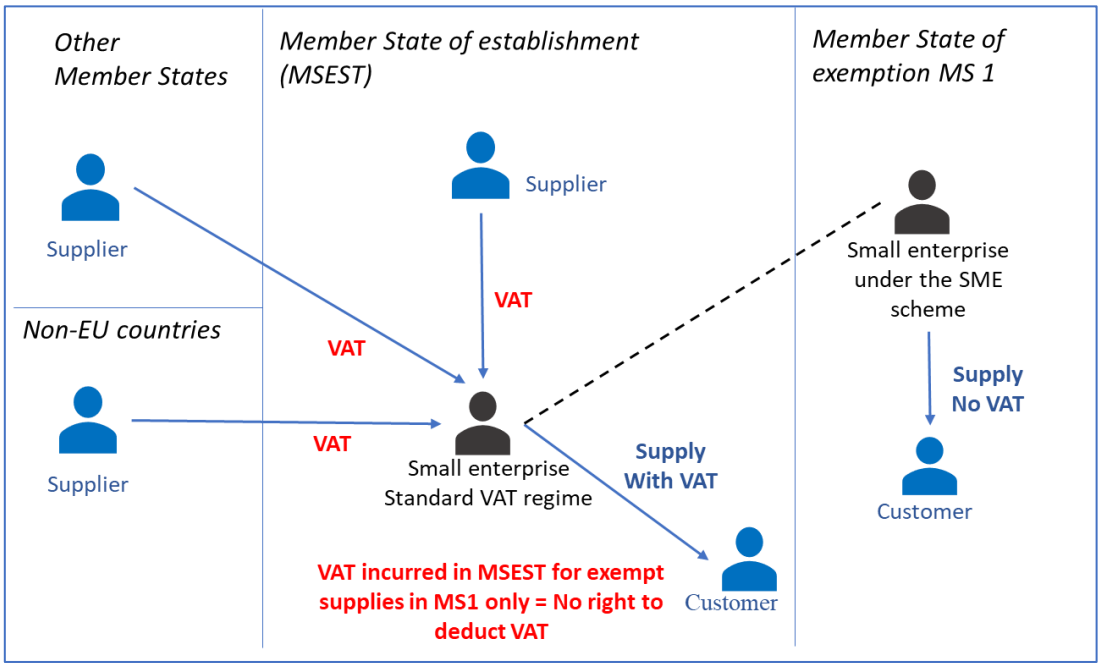

Figure 54: Cross-border SME scheme and VAT deduction – scenario F

Under this scenario, the SME is **not entitled** to deduct input VAT on the purchases of goods and services incurred in MSEST used to make exempt supplies in MS 1.

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6. Interaction with the standard VAT regime

This section is **common to all layers**, whether a small enterprise wants to apply the SME scheme in its Member State of establishment only (domestic), in other Member State(s) only (cross-border) or both in its Member State of establishment and in other Member State(s) (cross-border).

The VAT exemption under the SME scheme applies to supplies of goods and services only (output transactions) made by a small enterprise. Purchases (input transactions) made by a small enterprise are not covered by the SME scheme. Therefore, it can happen that a small enterprise applying the SME scheme to its supplies of goods and services still needs to fulfil VAT obligations under the standard VAT regime for purchases made. It can also happen that a small enterprise makes supplies excluded from the SME scheme and others covered. While the SME scheme will apply to the supplies covered by the special scheme, the standard VAT regime will apply to the supplies excluded from the special scheme. Therefore, cohabitation between the standard VAT regime and the SME scheme in one and the same jurisdiction is possible.

6.1. Transactions triggering VAT registration

Transactions that trigger a VAT registration and the obligation to declare and pay VAT are the following:

- intra-Community acquisitions of goods subject to VAT
- imports of goods
- purchases of services for which the small enterprise is liable to pay VAT (reverse charge) ([111])
- supplies of services within the territory of another Member State for which VAT is payable solely by the recipient (although there may be no VAT to pay).

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([111]) Article 196 of the VAT Directive.

Example 49

A small enterprise is established in its Member State of establishment (MSEST) and supplies goods to consumers located exclusively there. It applies the domestic SME scheme. To make these supplies, the small enterprise purchases goods and services from suppliers established in MSEST and from suppliers established in other Member States.

Transactions covered by the domestic SME scheme

Its supplies of goods to consumers located in MSEST are covered by the SME scheme and are VAT exempt ([112]). Those are output transactions.

Transactions covered by the standard VAT regime

The purchases of goods from suppliers established in other Member States (intra-Community acquisitions of goods) and the purchases of services from suppliers established in other Member States are covered by the standard VAT regime as they are input transactions. For these purchases, the person liable to declare and pay VAT is the small enterprise by application of the reverse charge mechanism. Therefore, the small enterprise would have to VAT register and declare and pay VAT on these purchases in MSEST.

Since its supplies of goods are VAT exempt under the SME scheme, the small enterprise would not be allowed to deduct input VAT on any of its purchases.

Example 50

A small enterprise is established in MSEST where it is covered by the standard VAT regime. It is provided with an 'EX' number because it applies the cross-border SME scheme in Member State 1 (MS 1) and in Member State 2 (MS 2). It makes supplies of goods to final consumers located in MS 1. To make these supplies, it purchases some services in MS 1 from a supplier registered but not established in MS 1.

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([112]) Article 284 of the VAT Directive.

Transactions covered by the cross-border SME scheme

The local supplies to final consumers located in MS 1 are VAT exempt ([113]) since covered by the cross-border SME scheme.

Transactions covered by the standard VAT regime

The supplies carried out in MSEST are covered by the standard VAT regime. The small enterprise must be VAT registered in MSEST to declare and pay VAT on the supplies made there.

The local purchases of services from the suppliers registered but not established in MS 1 are covered by the standard VAT regime. The small enterprise has to VAT register ([114]) in MS 1 to declare the local purchases and to account for VAT ([115]) on these purchases under the reverse charge mechanism. Since the small enterprise applies the cross-border SME scheme in MS 1, it cannot deduct the input VAT on its purchases ([116]) (see example 45).

Since the SME scheme is optional, it is for the small enterprise to assess which regime is more suitable to its economic activity: the standard VAT regime or the SME scheme.

6.2. Transactions excluded from the SME scheme

As detailed in section 3.3.3, some transactions are excluded from the application of the SME scheme:

- supplies carried out on an occasional basis ([117]),
- supplies of new means of transport made from one Member State to another one ([118]),

([113]) Article 284 of the VAT Directive.

([114]) Article 214(1)(d) of the VAT Directive.
([115]) Article 196 of the VAT Directive.
([116]) Article 289 of the VAT Directive.
([117]) Supplies falling under Article 12 of the VAT Directive.
([118]) Supplies carried out in accordance with the conditions specified in Article 138(1) and (2)(a) of the VAT Directive.

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- other transactions that Member States chooses to exclude from the application of the SME scheme ([119]).

In case a small enterprise makes both transactions that are excluded from the SME scheme and transactions that are covered by the special scheme, the small enterprise would be allowed (provided that it meets the conditions to do so) to VAT exempt the supplies covered by the SME scheme while being obliged to VAT register, to declare (and pay VAT on) the transactions excluded from the SME scheme.

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([119]) Article 283(2) of the VAT Directive.

7. Interaction with other special schemes

This section is **common to all layers**, whether a small enterprise wants to apply the SME scheme in its Member State of establishment only (domestic), in other Member State(s) only (cross-border) or both in its Member State of establishment and in other Member State(s) (cross-border).

7.1. Interaction between the SME and One Stop Shop scheme (OSS)

The One Stop Shop (OSS) is an electronic system allowing taxable persons, like small enterprises, to declare and pay VAT due in all EU Member States in one single Member State: the Member State where the business is established.

The OSS covers the following supplies:

- intra-Community supplies of services to EU final consumers (telecommunications, broadcasting and electronic (TBE) services included),
- intra-Community distance sales of goods to EU final consumers
- domestic supplies of goods to EU final consumers carried out by a deemed supplier ([120]).

7.1.1. SME and OSS Union schemes: possible cohabitation

Cohabitation between the SME scheme and the OSS Union scheme is possible. A small enterprise who meets the requirements shall be able to VAT exempt its supplies under the SME scheme made in its Member State of establishment ([121]) and/or in other Member States of exemption and at the same time be registered for the OSS Union scheme and declare the supplies located in the Member States where the small enterprise does not apply the SME scheme, as illustrated below. However, it is not

([120]) Article 14a(2) of the VAT Directive.

([121]) The Member State of establishment is the Member State where the small enterprise has located the seat of its economic activity.

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possible to apply both the SME and OSS Union schemes at the same time in one same jurisdiction.

Example 51

A small enterprise has economic activities in its Member State of establishment (MSEST, Member State 1), in Member State 2 (MS 2) and in Member State 3 (MS 3). It does not have any economic activity in other Member States. It applies the cross-border SME scheme in MSEST and in MS 2 but not in MS 3.

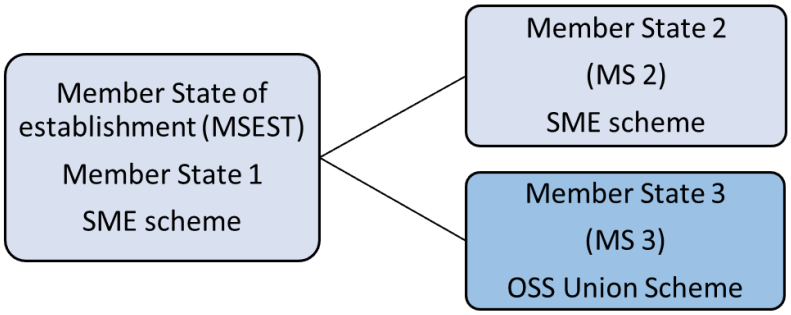

Figure 55: SME and OSS schemes

Under this scenario, the small enterprise can apply the OSS Union scheme for MS 3 to declare and pay VAT on the supplies located in MS 3, since it does not apply the cross-border SME scheme in that Member State. The OSS declaration will have to be submitted in MSEST and should only cover supplies made in MS 3.

The small enterprise applies the cross-border SME scheme in MS 1 and in MS 2 so supplies in these two Member States are VAT exempt. The small enterprise must submit a quarterly report in MSEST that will cover its turnover in all the 27 Member States, MS 3 included. For the Member States where the small enterprise does not have any economic activity, the turnover to report is zero '0'.

7.1.2. Distance sales of goods and TBE services to consumers: place of supply

The place of supply of goods and services determines in which Member State the small enterprise should declare the supplies. In the case of distance sales of goods and TBE services to consumers, the general place of supply is at destination, that is the Member State where the final consumer is located. However, the place of supply could be the

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Member State of establishment of the supplier if the following conditions ([122]) are cumulatively met:

a) the supplier is established in one Member State only (that is, it does not have any fixed establishment in another Member State), and
b) the annual turnover of distance sales of goods and TBE services does not exceed EUR 10 000 in the current calendar year and in the previous calendar year, and
c) the supplier is not registered in OSS nor has it opted for taxation at destination.

The table below aims at providing practical information – through examples – on the place of supply of the distance sales of goods and the TBE services made to consumers.

Scenarios	Taxation in MS of establishment ([123]) (MS 1)	Taxation at destination (MS 2)
Scenario 1: A small enterprise is established in Member State 1 (MS 1) and makes distance sales of goods and supplies of TBE services to consumers located in Member State 2 (MS 2). **Its turnover does not exceed EUR 10 000 and it is not registered for OSS nor has it opted for taxation at destination.** Under this scenario, the supplies to consumers in MS 2 are located in MS 1 (Member State of establishment of the small enterprise). If the small enterprise applies the SME scheme in MS 1, all these supplies are VAT exempt and should be included in the SME annual turnover of MS 1.	**Yes**	**No**
Scenario 2: A small enterprise is established in MS 1 and makes distance sales of goods and supplies of TBE services to consumers located in MS 2. **Its turnover exceeds EUR 10 000** and it is not registered for OSS. Under this scenario, the supplies to consumers located in MS 2 are located in MS 2 (destination). If the small enterprise applies the cross-border	**No**	**Yes**

([122]) Article 59c of the VAT Directive.
([123]) Article 59c of the VAT Directive.

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SME scheme in MS 2, the supplies would be VAT exempt and should be included in the SME annual turnover of MS 2 in the quarterly reports to be submitted in MS 1. If the SME does not apply the cross-border SME scheme in MS 2, the supplies would be taxed and declared in the national VAT return in MS 2 under the rules of the standard VAT regime since the SME is not registered in OSS.		
Scenario 3: A small enterprise is established in MS 1 and makes distance sales of goods and supplies of TBE services to consumers located in MS 2. Its turnover does not exceed EUR 10 000 but **it is registered for OSS**. Under this scenario, the above supplies are located in MS 2 (destination). Since the small enterprise is registered for OSS, the supplies located in MS 2 should be declared in the OSS declaration. If the small enterprise wants to apply the cross-border SME scheme in MS 2, the OSS scheme would no longer apply for MS 2. Under the SME scheme, the supplies located in MS 2 would be VAT exempt and should be included in the turnover of MS 2 in the SME quarterly reports.	**No**	**Yes**
Scenario 4: A small enterprise is established in MS 1 and makes distance sales of goods and supplies of TBE services to consumers located in MS 2. Its turnover does not exceed EUR 10 000 but **it has opted for taxation at destination**. Under this scenario, the above supplies are located in MS 2. If the small enterprise applies the cross-border SME scheme in MS 2, the supplies would be VAT exempt and should be included in the turnover of MS 2 in the SME quarterly reports. If the small enterprise wants to apply the OSS	**No**	**Yes**

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scheme instead, the supplies could not be VAT exempt and should be declared in the OSS declaration to be submitted in MS 1.		

Figure 56: Distance sales of goods and supplies of TBE services to final consumers

7.1.3. SME and Union OSS schemes: case scenarios

Scenario 1:

A small enterprise has its place of business in MS 1. It sells books and e-books to final consumers in MS 1 and in MS 2 **where it has a fixed establishment**. It also provides printing services to a customer established in MS 1.

In the year Y, its annual turnover of domestic sales of books and e-books amounts to EUR 15 000 in MS 1. Its annual turnover of distance sales and supplies of e-services amounts to EUR 9 500 in MS 2. It has an annual turnover of printing services amounting to EUR 20 000 in year Y and EUR 40 000 in Y-1. The annual threshold to apply the SME scheme in MS 1 is EUR 85 000 and EUR 70 000 in MS 2.

a) What is the place of supply of these supplies?

The sales of books and e-books to consumers in MS 1 as well as the printing services to the customer established in MS 1 are located in MS 1.

Since the small enterprise has a fixed establishment in another Member State (MS 2) than its Member State of establishment (MS 1), the provision in Article 59c (taxation in the Member State of establishment) cannot apply to the sales of books and e-books made to consumers in MS 2. Therefore, these supplies are located in MS 2.

b) Can the OSS scheme be used?

Yes, the OSS scheme can be used **only** to declare the sales of books to consumers in MS 2 (distance sales of goods). The sales of e-books to consumers in MS 2 (e-services) would have to be declared in the national VAT return in MS 2 because of the fixed establishment in that Member State ([124]).

The OSS scheme is not applicable neither to supplies of books and e-books to final consumers in MS 1 nor to printing services to customers established in MS 1. These supplies have to be included in the national VAT return in MS 1.

([124]) Article 369b(c) of the VAT Directive.

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c) Can the small enterprise apply the domestic SME scheme?

Provided that the small enterprise meets the conditions to apply the SME scheme in MS 1, it could apply the domestic scheme there.

Under this scenario, the supplies of books and e-books to the consumers located in MS 1 and printing services to customers established in MS 1 would be VAT exempt. Its reporting obligations (if any) would depend on the rules applicable in MS 1 (see SME web portal).

The supplies of books and e-books to consumers in MS 2 would not be covered by the domestic SME scheme as the place of supply is in MS 2.

d) Can the small enterprise apply the cross-border SME scheme in MS 2 only?

The small enterprise could apply the cross-border SME scheme in MS 2 only if it meets the conditions (see section 4) and if it deregisters its fixed establishment in MS 2 for VAT purposes.

Provided that the small enterprise meets the conditions to apply the cross-border SME scheme in MS 2, the supplies of books and e-books to the consumers located in MS 2 would be VAT exempt. All supplies made in all the 27 Member States should be reported in the SME quarterly reports to be submitted in Member State 1.

If the small enterprise applies the cross-border SME scheme in MS 2, the OSS scheme cannot apply for MS 2. Since supplies in MS 2 are VAT exempt, these should not be reported in the OSS declaration.

The sales of books and e-books to consumers in MS 1 and printing services to customers in MS 1 would be taxed according to the standard VAT regime and declared in the national VAT return in MS 1.

e) Can the SME apply the cross-border SME scheme in MS 1 and in MS 2?

The small enterprise could apply the cross-border SME scheme in MS 1 and in MS 2 only if it meets the conditions (see section 4) and if it deregisters its fixed establishment in MS 2 for VAT purposes.

Under this scenario, all the supplies in MS 1 and in MS 2 would be VAT exempt. The supplies of books and e-books to consumers in MS 1 and the printing services to the customer established in MS 1 should be included in the turnover of MS 1 in the SME quarterly report.

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The supplies of books and e-books to the consumers in MS 2 should be included in the turnover of MS 2.

If the small enterprise opts for the application of the SME scheme, the OSS scheme cannot apply for MS 2. Since the supplies in MS 2 are VAT exempt, the supplies should not be reported in the OSS declaration.

Scenario 2:

A small enterprise has its place of business in MS 1. It sells books and e-books to final consumers in MS 1 and in MS 2 **where it does not have a fixed establishment**. It also provides printing services to a customer established in MS 1.

In the year Y, its annual turnover of domestic sales and supplies of e-services amounts to EUR 15 000 in MS 1. Its annual turnover of distance sales and supplies of e-services amounts to EUR 9 500 in MS 2. It has an annual turnover of printing services amounting to EUR 20 000 in year Y and EUR 40 000 in Y-1. The annual threshold to apply the SME scheme in MS 1 is EUR 85 000 and EUR 70 000 in MS 2.

a) *What is the place of supply of these supplies?*

The sales of books and e-books to consumers in MS 1 as well as printing services to the customer established in MS 1 are located in MS 1.

Since the small enterprise has no fixed establishment in another Member State (MS 2) than its Member State of establishment (MS 1), the provision in Article 59c of the VAT Directive (taxation in the Member State of establishment) would apply to the sales of books and e-books to consumers in MS 2. Therefore, these supplies could be located in MS 1 (see Figure 56 scenario 1).

b) *Can the OSS scheme be used?*

If Article 59c of the VAT Directive applies, the place of supply of books and e-books sold to consumers in MS 2 would be MS 1 (Member State of establishment). MS 1 will also be the place of supply for the sales of books and e-books made to consumers in MS 1 and for printing services supplied to the customer established in MS 1.

Under this scenario, the OSS scheme could not apply. All the supplies should be declared in the national VAT return in MS 1.

If the small enterprise opts for taxation at destination (Figure 56 scenario 4), the sales of books and e-books to consumers in MS 2 will be located in MS 2. The OSS scheme

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could apply to these supplies. They would have to be declared in the OSS declaration to be submitted in MS 1.

The sales of books and e-books to consumers in MS 1 and the printing services to the customer in MS 1 would still be located in MS 1 and should be declared in the national VAT return in MS 1, unless the SME applies the SME scheme in MS 1.

c) *Can the small enterprise apply the domestic SME scheme only?*

If Article 59c of the VAT Directive applies (taxation in Member State of establishment) and it meets the conditions to apply the domestic SME scheme (see section 3), the domestic SME scheme could apply to all the supplies: the supplies of books and e-books to the consumers in MS 1, printing services to the customer in MS 1 and the books and e-books to consumers in MS 2. All these supplies would be VAT exempt. The small enterprise's compliance obligations in MS 1 would depend on the rules set by this Member State.

If the SME applies taxation at destination, only the supplies of books and e-books to consumers in MS 1 and printing services to the customer in MS 1 would be covered by the VAT exemption under the domestic SME scheme.

d) *Can the small enterprise apply the cross-border SME scheme in MS 2?*

If the small enterprise opts for taxation of the sales at destination, the cross-border SME scheme can apply to the supplies of books and e-books made to the consumers located in MS 2 only. These supplies would be VAT exempt and reported in the quarterly reports to be submitted in MS 1.

e) *Can the small enterprise apply the cross-border SME scheme in MS 1 and in MS 2?*

If Article 59c of the VAT Directive applies (taxation in the Member State of establishment), the cross-border SME scheme is not applicable.

If the SME opts for taxation of the sales at destination, see answer given above for point d).

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7.2. Interaction between the SME scheme and the Import One-Stop Shop (IOSS)

The SME scheme and the IOSS are **mutually exclusive**.

First, only small enterprises with a seat of economic activity located in a Member State are eligible to apply the SME scheme.

To avoid the risk of double non-taxation ([125]), a taxable person availing of exemption under the SME scheme would have to opt out of the SME scheme to be able to use the IOSS. Indeed, the IOSS identification number allows VAT exempt importation of goods not exceeding EUR 150 in **any** Member State (even in a Member State in which the SME could benefit from the SME scheme) although it is not allowed to import goods into the EU without VAT being levied at any stage.

7.3. SME scheme and the flat-rate farmers' scheme

The flat-rate farmers' scheme ([126]) is a special scheme which Member States may apply where applying the standard VAT rules to farmers is likely to give rise to difficulties.

There is no scope for overlap between the SME scheme and the flat-rate farmers' scheme. While aiming at farmers, the flat-rate farmers' scheme is an alternative to the SME scheme but still targets only those who are small in size ([127]).

7.4. SME scheme, travel agent scheme and second-hand scheme

Under the second-hand scheme ([128]), VAT is calculated on the basis of the margin. The question is whether when determining - based on a calculation of the turnover ([129]) - if

([125]) See page 21 of the OSS Guide
([126]) Articles 295 to 305 of the VAT Directive.
([127]) CJEU, judgment of 12 October 2017, *Shields & Sons Partnership*, C-262/16, EU:C:2017:756, paragraph 33.
([128]) Articles 311 to 343 of the VAT Directive.
([129]) Based on Article 288, first paragraph, point (1) of the VAT Directive.

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the SME scheme applies, it is possible to rely on what is the turnover made under the second-hand scheme given that this is calculated solely by reference to the profit margin achieved. This has been settled by the Court of Justice of the European Union (the CJEU) which has confirmed ([130]) that the schemes are autonomous and while the SME scheme is intended to support the creation, activities and competitiveness of small enterprises, it should not give way for larger enterprises to gain an unjustified competitive advantage. Therefore, the turnover should, according to the CJEU, be calculated on the basis of all amounts (exclusive of VAT) received or to be received, without it being reduced by the amounts paid as would be the case if instead reference would have been made to the profit margin. This is relevant for the second-hand scheme but equally to the travel agent scheme ([131]) which also taxes on the basis of the profit margin.

7.5. SME scheme and investment gold scheme

The investment gold scheme ([132]) is a mandatory scheme for Member States to apply. It provides for an exemption with right of deduction.

There could be an overlap but then only if the taxable person is also involved in activities not falling under the investment gold scheme. The turnover should be calculated on the basis of all amounts (exclusive of VAT) received or to be received. Just as with other transactions exempt with right of deduction, amounts derived from transactions falling under the investment gold scheme should also be included.

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([130]) CJEU, judgment of 29 July 2019, *B (Turnover of a second-hand car dealer)*, C-388/18, EU:C:2019:642.
([131]) Articles 306 to 310 of the VAT Directive.
([132]) Articles 344 to 356 of the VAT Directive.

8. Cash accounting

To help small enterprises that encounter difficulties in paying VAT to the competent tax authority because they have not yet received payment from their customers, Member States may, under an optional scheme, allow taxable persons to use a cash accounting scheme to account for VAT. This optional cash accounting scheme is open only to taxable persons with an annual turnover no higher than a certain threshold.

The new rule increases the threshold from EUR 500 000 to EUR 2 000 000 or the equivalent in national currency and removes the obligation for Member States to consult the VAT Committee prior to setting the threshold above EUR 500 000.

The application of this optional scheme remains the same: Article 66(b) of the VAT Directive allows Member States to provide that VAT becomes chargeable, in respect of certain transactions or certain categories of taxable persons, "*no later than the time the payment is received*". Under this scheme, taxable persons can only deduct VAT when they pay their suppliers, as stated in Article 167a of the VAT Directive.

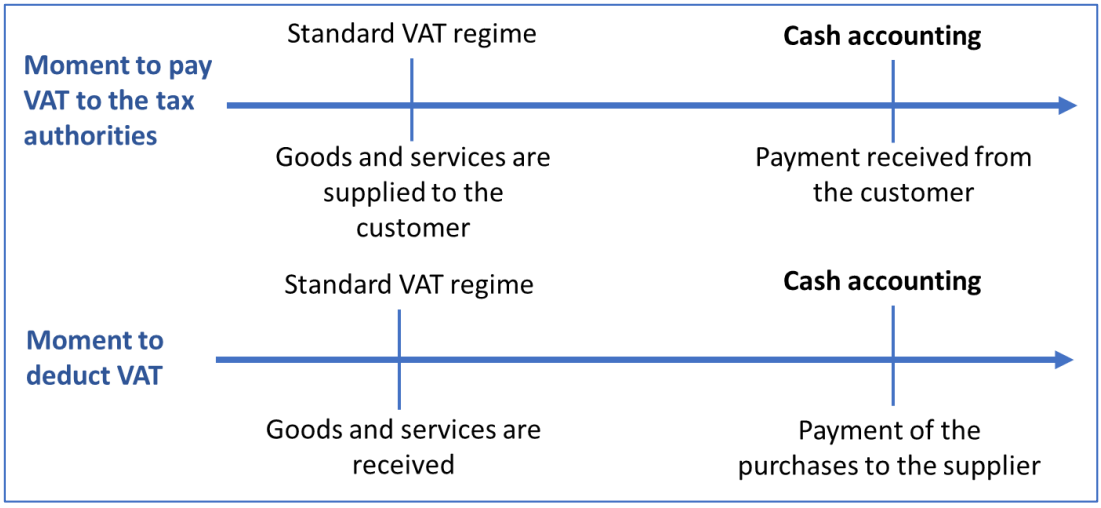

Figure 57: Standard VAT regime versus cash accounting

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Annexes

ANNEX I – The functioning of the Graduated Tax Relief

The graduated tax relief is no longer applicable as from 1 January 2025.

For informative purposes, as regards as the functioning of the graduated tax relief, the relief gradually decreases as the turnover increases until the threshold fixed by each Member State is reached. The thresholds vary from Member State to Member State and certain conditions may apply. Small enterprises benefitting from this scheme need to VAT register and submit VAT returns.

The VAT relief for small businesses can be seen as a form of tax credit for taxable persons who are registered for VAT and whose annual net sales are less than a threshold fixed by each Member State. For example, if Member State A applies an annual threshold of EUR 50 000, the relief would apply as follows:

- If the taxable person's annual net sales are EUR 20 000 or less, the taxable person will be refunded the entire amount of the VAT qualifying for the relief;
- Over EUR 20 000 but less than EUR 50 000, the taxable person will receive a partial VAT relief.

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Annex II – The VAT Committee Guidelines

GUIDELINES RESULTING FROM THE 121ST MEETING of 21 October 2022 DOCUMENT A – taxud.c.1(2023)3139286 – 1055

5. NEW LEGISLATION – MATTERS CONCERNING THE IMPLEMENTATION OF RECENTLY ADOPTED EU VAT PROVISIONS

5.1. Origin: Netherlands

References: New Articles 284, 284b, 284e and 288a of the VAT Directive Article 37b of Council Regulation (EU) 904/2010 Articles 41 and 47 of the Charter of Fundamental Rights of the European Union

Subject: The new special scheme for small enterprises: legal protection

(Document taxud.c.1(2022)7047962 – Working paper No 1049)

1. The VAT Committee **unanimously** confirms that for the application of the special scheme for small enterprises, taxpayers can rely on the Charter of Fundamental Rights of the European Union to enforce their rights flowing therefrom, notably the right to an effective remedy and to a fair trial under Article 47(1) of the Charter and the right of anyone to have their affairs handled impartially, fairly and within a reasonable time under Article 41(1) of the Charter read in conjunction with Article 51.

2. When seeking legal redress, the VAT Committee **unanimously** agrees that any taxpayer having been refused access to or excluded from exemption under that special scheme shall address its complaint to the legal entity which issued the administrative decision. Where such a refusal or exclusion is because the taxpayer has exceeded the Union turnover threshold, the VAT Committee **unanimously** agrees that any legal redress by the taxpayer must be sought with its Member State of establishment. Where, on the other hand, refusal or exclusion is because the taxpayer has exceeded the domestic threshold or not met the conditions for exemption, the VAT Committee **unanimously** agrees that legal redress must be sought with the Member State of exemption.

3. With a view to enable taxpayers to know where to seek legal redress, the VAT Committee **almost unanimously** agrees that the Member State of establishment shall take all steps necessary to ensure that upon refusal of access to or exclusion from exemption, the taxpayer concerned is informed about the reason leading to that decision and of the Member State where legal redress in respect of that

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refusal or exclusion could be sought in accordance with the national procedures of that Member State. Where applicable, the VAT Committee **almost unanimously** agrees that the Member State of exemption shall provide all the necessary information to enable the Member State of establishment to provide the taxpayer with such information.

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GUIDELINES RESULTING FROM THE 123RD MEETING of 20 November 2023 DOCUMENT A – taxud.c.1(2024)794997 – 1075

6. NEW LEGISLATION – MATTERS CONCERNING THE IMPLEMENTATION OF RECENTLY ADOPTED EU VAT PROVISIONS

6.2 Origin: Commission

References: New Articles 284, 284a-284e, 288, 288a, 292a-292d of the VAT Directive Articles 17(1)(a) and (2), 21(2b), 31(2a), 32(1) and 37a-37b of the VAT Administrative Cooperation Regulation

Subject: The SME scheme updated as of 1 January 2025

(Document taxud.c.1(2023)11242551 – Working paper No 1073)

with account also taken of discussions during the 121st meeting:

5. NEW LEGISLATION – MATTERS CONCERNING THE IMPLEMENTATION OF RECENTLY ADOPTED EU VAT PROVISIONS

5.2 Origin: Netherlands

References: New Article 284(1) Subject: The new special scheme for small enterprises and fixed establishments

(Document taxud.c.1(2022)7157727 – Working paper No 1051)

1. Solely for the purposes of applying the special scheme for small enterprises provided for in Title XII, Chapter 1, of the VAT Directive, the VAT Committee **almost unanimously** agrees that for a taxable person to be regarded as established within the territory of a Member State as provided for under Article 284(1) of the VAT Directive in its wording as of 1 January 2025 and granted possible exemption, the place where the functions of that taxable person's central administration are carried out must be in that particular Member State, as determined based on criteria equivalent to those laid down in Article 10(2) and (3) of the VAT Implementing Regulation. Consequently, the VAT Committee agrees by **almost unanimity** that where a taxable person only has a fixed establishment in a particular Member State, that taxable person cannot for the application of this special scheme be regarded as established in that Member State. Similarly, where a taxable person whose functions of central administration are carried out outside the EU has a fixed establishment in a particular Member State, the VAT Committee **almost unanimously** agrees that

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the taxable person cannot be regarded as established in that Member State under Article 284(1) of the VAT Directive in its wording as of 1 January 2025.

2. Where the exemption under the said special scheme has been put in place by a Member State in which a taxable person established in another Member State has a fixed establishment, the VAT Committee **almost unanimously** agrees that the taxable person may benefit from the exemption in that Member State pursuant to Article 284(2) of the VAT Directive in its wording as of 1 January 2025. Where a taxable person is not established in any Member State as the taxable person's functions of central administration are carried out outside the EU, the VAT Committee **almost unanimously** agrees that such a non-established taxable person cannot benefit from the exemption in that Member State provided for under Article 284(2) of the VAT Directive in its wording as of 1 January 2025. The VAT Committee **almost unanimously** agrees that this shall apply whether or not the non-established taxable person has a fixed establishment in the Member State concerned or any other Member State.

These guidelines replace those agreed on the issue of the new special scheme for small enterprises and fixed establishments following the discussion at the 121st meeting (Document B – taxud.c.1(2023)5257065 – Working paper No 1056).

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GUIDELINES RESULTING FROM THE 123RD MEETING of 20 November 2023 DOCUMENT B – taxud.c.1(2024)800132 – 1076

6. NEW LEGISLATION – MATTERS CONCERNING THE IMPLEMENTATION OF RECENTLY ADOPTED EU VAT PROVISIONS

6.2 Origin: Commission

References: New Articles 284, 284a-284e, 288, 288a, 292a-292d of the VAT Directive Articles 17(1)(a) and (2), 21(2b), 31(2a), 32(1) and 37a-37b of the VAT Administrative Cooperation Regulation

Subject: The SME scheme updated as of 1 January 2025 (Document taxud.c.1(2023)11242551 – Working paper No 1073)

with account also taken of discussions during the 121st meeting:

5. NEW LEGISLATION – MATTERS CONCERNING THE IMPLEMENTATION OF RECENTLY ADOPTED EU VAT PROVISIONS

5.3 Origin: Belgium

References: New Article 284(3)(b)

Subject: The new special scheme for small enterprises: interaction with rules on intra-Community acquisitions (Document taxud.c.1(2022)7158574 – Working paper No 1052)

The VAT Committee **unanimously** notes that to be able to benefit from exemption in a Member State other than that in which a taxable person is established as provided for under Article 284(1) of the VAT Directive in its wording as of 1 January 2025, the taxable person must, as set out in Article 284(3)(b) of the VAT Directive in its wording as of 1 January 2025, be identified for the application of this exemption in the Member State of establishment only.

As this requirement serves only for the application of the exemption laid down in Article 284(2) of the VAT Directive in its wording as of 1 January 2025, the VAT Committee **unanimously** agrees that where a taxable person is obliged under Article 214(1)(b) of the VAT Directive to be identified for intra-Community acquisitions of goods made in a Member State other than that of establishment, that taxable person shall not on that account be deprived of entitlement to exemption under the special scheme for small enterprises provided for in Title XII, Chapter 1, of the VAT Directive. The VAT Committee **unanimously** agrees that the same shall apply where a taxable person receiving services

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in a Member State other than that of establishment for which the taxable person is liable to pay VAT pursuant to Article 196 of the VAT Directive, is obliged to be identified under Article 214(1)(d) of the VAT Directive.

These guidelines replace those agreed on the issue of the new special scheme for small enterprises: interaction with rules on intra-Community acquisitions following the discussion at the 121st meeting (Document C – taxud.c.1(2023)5499576 –Working paper No 1063).

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GUIDELINES RESULTING FROM THE 123RD MEETING of 20 November 2023 DOCUMENT C – taxud.c.1(2024)5028879 – 1077

6. NEW LEGISLATION – MATTERS CONCERNING THE IMPLEMENTATION OF RECENTLY ADOPTED EU VAT PROVISIONS

6.1. Origin: Slovakia

References: Title XII, Chapters 1 and 6 of the VAT Directive

Subject: The special scheme for small enterprises: interaction with the One-Stop-Shop Union scheme and the Import One-Stop-Shop Non-Union scheme (Document taxud.c.1(2023)10130237 – Working paper No 1069)

Interaction between the special scheme for small enterprises (SME scheme) and the One-Stop-Shop (OSS) Union scheme

1. The VAT Committee **unanimously** agrees that the cohabitation between the existing SME scheme and the OSS Union scheme is currently possible and therefore, a taxable person who meets the requirements shall be able to apply exemption under the SME scheme in the Member State in which it is established and at the same time be registered for the OSS Union scheme and declare the supplies set out in Article 369b of the VAT Directive.

2. The VAT Committee **unanimously** agrees that as from 1 January 2025, the cohabitation between the SME scheme and the OSS Union scheme remains possible and therefore, a taxable person who meets the requirements shall be able to VAT exempt its supplies under the SME scheme made in its Member State of establishment[133] and/or in other Member States and at the same time be registered for the OSS Union scheme and declare the supplies set out in Article 369b of the VAT Directive insofar as those supplies are carried out in other Member States where the taxable person does not apply the SME scheme.

3. The VAT Committee **unanimously** recognises that while supplies covered by the SME scheme are not to be included in the OSS declaration, the supplies that are included in the OSS declaration shall be included in the small enterprise's annual turnover to be reported in the prior notification and in the quarterly reports under the SME scheme.

[133] The Member State of establishment is the Member State where the functions of the taxable person's central administration are carried out.

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4. The VAT Committee **almost unanimously** confirms that to accurately determine the annual turnover of a taxable person in a given Member State, the value of intra-Community distance sales of goods and supplies of telecommunications, broadcasting and electronically supplied services to non-taxable persons who are established or have their permanent address or usually reside in any Member State other than the Member State where the supplier is established, shall be included in the annual turnover of the taxable person in:

• the Member State where the taxable person is established if the conditions of Article 59c of the VAT Directive are met:
  - o the taxable person has no fixed establishment in other Member States than the Member State of establishment;
  - o the total value – exclusive of VAT – of these supplies does not exceed EUR 10 000[134] in the current calendar year nor did it do so in the previous calendar year; and
  - o the taxable person has not opted for taxation at destination;

• the Member State where the place of supply of the goods or services concerned is located according to Article 33(a) or 58 of the VAT Directive when Article 59c of the VAT Directive is not applicable.

The VAT Committee **almost unanimously** confirms that the option referred to in paragraph 3 of Article 59c is deemed to have been exercised by taxable persons registered in the special scheme provided for in Title XII, Chapter 6, Section 3 of the VAT Directive (OSS Union scheme).

Interaction between the SME scheme and the Import One-Stop Shop (IOSS)

The VAT Committee **almost unanimously** confirms that the SME scheme and the IOSS shall be mutually exclusive and remain so as from 1 January 2025[135]. To avoid the risk of double nontaxation[136], a taxable person availing of exemption under the SME scheme must opt out of the SME scheme to be able to use the IOSS.

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134 'Or the equivalent in national currency'.

135 Only taxable person with a seat of economic activity located in an EU Member State can have access to the SME scheme.

136 See page 21 of the OSS Guide

GUIDELINES RESULTING FROM THE 123RD MEETING of 20 November 2023 DOCUMENT D – taxud.c.1(2024)4333871 – 1078

6. NEW LEGISLATION – MATTERS CONCERNING THE IMPLEMENTATION OF RECENTLY ADOPTED EU VAT PROVISIONS

6.2 Origin: Commission

References: New Articles 284, 284a-284e, 288, 288a 292a-292d of the VAT Directive Articles 17(1)(a) and (2), 21(2b), 31(2a), 32(1) and 37a-37b of the VAT Administrative Cooperation Regulation

Subject: The SME scheme updated as of 1 January 2025 (Document taxud.c.1(2023)11242551 – Working paper No 1073)

Definitions

1. For the purposes of the present guidelines,

a) "SME scheme" shall mean the special scheme for small enterprises laid down in Title XII, Chapter 1, of the VAT Directive[137];

b) "Windsor Framework arrangements" shall mean the arrangements adopted by the Joint Committee established by the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community as enshrined in its Decision No 1/2023 of 24 March 2023 laying down arrangements relating to the Windsor Framework [2023/819];

c) "Member State of establishment" shall mean the Member State in which a taxable person eligible for exemption on its supplies of goods and services under the SME scheme is established[138];

d) "Member State of exemption" shall mean any Member State other than that of establishment in which a taxable person is eligible for exemption under the SME scheme on its supplies of goods and services;

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[137] Any reference made to provisions governing the SME scheme referred to throughout these guidelines shall be taken to be to the provisions in their wording as of 1 January 2025.

[138] To determine what it takes to be seen as established in a Member State, see also guidelines resulting from the 123rd meeting of 20 November 2023 – Document A – taxud.c.1(2024)794997 –Working paper No 1075 (p. 295).

e) “domestic exemption” shall mean the exemption granted to a taxable person established in the Member State in which VAT is due as provided for under Article 284(1) of the VAT Directive;

f) “cross-border exemption” shall mean the exemption granted to a taxable person established in a Member State other than that in which VAT is due as provided for under Article 284(2) of the VAT Directive;

g) “domestic threshold” or “domestic thresholds” shall mean the annual turnover threshold or thresholds fixed by the Member State in line with Article 284(1) of the VAT Directive as the upper limit for the application of exemption under the SME scheme;

h) “Union threshold” shall mean the Union annual turnover threshold laid down in Article 284(2)(a) of the VAT Directive the purpose of which is to ensure that taxable persons benefiting from the cross-border exemption are small enterprises;

i) “EX number” shall mean the individual identification number with the suffix 'EX' by which, as provided for under Article 284(3) of the VAT Directive, the Member State of establishment identifies a taxable person wanting to benefit from the cross-border exemption.

Territorial scope

2. In line with the arrangements put in place by the Windsor Framework, the VAT Committee **unanimously** confirms that the SME scheme shall not apply to the following transactions:

   a) supply of goods made by a taxable person established in a Member State where the place of that supply is located in Northern Ireland;

   b) the supply of goods made by a taxable person established in Northern Ireland where the place of that supply is located in a Member State.

General features of the SME scheme

3. The VAT Committee **unanimously** agrees that with the SME scheme not being mandatory, it is for each Member State to decide whether or not to apply the domestic exemption. Where a Member State has put in place the domestic exemption, the VAT Committee however **unanimously** agrees that the Member State shall be required also to apply the cross-border exemption.

4. The VAT Committee **unanimously** agrees that the exemption under the SME scheme shall, in line with Article 290 of the VAT Directive, be optional for taxable

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persons to apply. To be able to avail of the cross-border exemption, the VAT Committee **unanimously** agrees that the taxable person shall not be required also to apply the domestic exemption.

5. Where, in a particular Member State, a taxable person avails of exemption under the SME scheme be it domestic or cross-border, the VAT Committee **unanimously** agrees that the exemption shall apply to all the supplies of goods and services made by the taxable person within that Member State except only for those excluded from the SME scheme under Article 283 of the VAT Directive. The VAT Committee **unanimously** agrees that exemption under the SME scheme shall not apply to supplies of goods and services made to or importation of goods made by the taxable person.

6. Should use be made of exemption in a Member State under the SME scheme, the VAT Committee agrees by **unanimity** that the taxable person may not apply the normal VAT arrangements for any of its supplies in that Member State except for those excluded by the Member State granting the exemption by way of Article 283 of the VAT Directive. The VAT Committee agrees **unanimously** that when Member States decide to exclude supplies from the SME scheme, any such exclusion shall be based on objective criteria.

Domestic exemption

- conditions to meet for exemption to apply

7. The VAT Committee agrees by **unanimity** that the domestic exemption shall only apply insofar as the total value of goods and services supplied by the taxable person established in the Member State granting the exemption does not exceed the domestic threshold applied by that Member State. In fixing that threshold, the VAT Committee agrees by **unanimity** that as is the case when calculating the total value, the amount making up that threshold shall not include VAT.

- varying thresholds

8. Where, for the application of the domestic exemption, a Member State applies more than one threshold as authorised, the VAT Committee **unanimously** agrees that no matter how its domestic thresholds are composed these thresholds must all be seen as sectoral. Thus, the VAT Committee **unanimously** agrees that a Member State applying more than one domestic threshold shall be required to take all steps necessary to ensure that a taxable person can only benefit from one of those thresholds.

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9. Where a Member State applies more than one domestic threshold, the VAT Committee **unanimously** agrees that to enable determining which threshold is applicable, the Member State concerned shall introduce clear and precise criteria for the scope and application of these thresholds. The VAT Committee **unanimously** agrees that this must be done based on objective criteria such as the supplies made, with recourse made, for instance, to the common nomenclature (CN) or the statistical classification of products by activity (CPA), or the sector of activity, based on the statistical classification of economic activities (NACE), and may not see a threshold reserved for a particular category of taxable persons.

10. The VAT Committee **almost unanimously** agrees that with thresholds based on objective criteria, it cannot be left to the taxable person to decide which of the domestic thresholds to apply. Having determined based on the facts available which domestic threshold is applicable, the VAT Committee **almost unanimously** agrees that to avoid legal uncertainty for a taxable person whose activities may fluctuate over the year, Member States shall only require the shift from one threshold to another once a year at the beginning of each calendar year based on activities reported during the preceding calendar year.

- calculation of turnover

11. Where, in accordance with Article 17 of the VAT Directive, the transfer of goods forming part of the business assets of a taxable person to another Member State is to be treated as a supply of goods for consideration, the VAT Committee **unanimously** agrees that the amount attributable to that supply, made up by the purchase price, or in the absence of a purchase price, the cost price of those goods pursuant to Article 76 of the VAT Directive, shall be included in the calculation of the taxable person's turnover in the Member State of dispatch of the goods under Article 288 of the VAT Directive.

Cross-border exemption

- access to exemption

12. The VAT Committee **unanimously** agrees that the cross-border exemption shall apply only if the Union annual turnover of the taxable person does not exceed the Union threshold of EUR 100 000 and the total value of goods and services supplied in the Member State of exemption does not exceed the domestic threshold applied by that Member State of exemption. Given that these conditions are cumulative, the VAT Committee **unanimously** agrees that even

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though the domestic threshold of a Member State of exemption may not be exceeded, a taxable person whose Union annual turnover exceeds the Union threshold of EUR 100 000 shall be excluded from the cross-border exemption in all of the Member States of exemption. The VAT Committee **unanimously** however agrees that where the Union threshold is exceeded, this shall not deprive the taxable person of access to exemption in the Member State of establishment.

13. The VAT Committee **unanimously** agrees that in order to benefit from the cross-border exemption the taxable person shall submit a prior notification to its Member State of establishment and be identified by an EX number. Not to delay access to the cross-border exemption, the VAT Committee **unanimously** agrees that the Member State of establishment shall issue the EX number or update it as soon as it receives confirmation from any of the Member States of exemption, with updates to follow, and inform the taxable person of access to exemption in that Member State rather than waiting for confirmation to be received from all the Member States of exemption. The VAT Committee **unanimously** agrees that if it is informed by a Member State of exemption that the conditions of exemption are not met, the Member State of establishment shall adopt the same approach.

14. Where, in specific cases, a Member State of exemption needs additional time to carry out the necessary checks to prevent tax evasion or avoidance, the VAT Committee **unanimously** agrees that the Member State in question shall, further to Article 284(5) of the VAT Directive, inform the Member State of establishment to enable it to keep the taxable person concerned aware of the delay. If, pursuant to Article 37b(2) of the VAT Administrative Cooperation Regulation, the Member State of establishment receives no information that the taxable person does not meet the conditions for the cross-border exemption to apply and it is not informed by the Member State of exemption that additional time for checks is needed, the VAT Committee **almost unanimously** agrees that the Member State of establishment may, in view of its obligation under Article 284(5) of the VAT Directive, assume that the taxable person is eligible for exemption but only at such time as to be able to meet the set deadline of 35 working days following receipt of the prior notification.

15. Where a taxable person wants to avail itself only of the domestic exemption, the VAT Committee **almost unanimously** agrees that the taxable person shall not be required to submit a prior notification pursuant to Article 284(3) of the VAT Directive unless obliged to do so by the Member State of establishment. Where

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the taxable person wants to avail itself both of the domestic and of the cross-border exemption, the VAT Committee **almost unanimously** however agrees that a prior notification shall be required. Where a taxable person making use of the cross-border exemption wants to extend its use to other Member States of exemption or where the taxable person wants to cease applying the cross-border exemption in one or more Member States of exemption, the VAT Committee **almost unanimously** agrees that the taxable person shall be required to make an update to the prior notification in line with Article 284(4) of the VAT Directive. - prior notification

16. In addition to information already foreseen by Article 284a(1) of the VAT Directive, the VAT Committee **almost unanimously** agrees that Member States shall ensure that taxable persons in their prior notification and any update made to the prior notification also include information about any number by which they may be identified for VAT purposes in the Member State(s) of exemption. The VAT Committee **almost unanimously** agrees that, as soon as access is granted to the SME scheme, the Member State of exemption shall take all the steps necessary to ensure that the taxable person ceases, in respect of supplies of goods and services made in that Member State falling under the SME scheme, to be identified there.

17. The VAT Committee **almost unanimously** agrees that should a Member State, as authorised under Article 288a(1) of the VAT Directive, opt to extend the period of exclusion to two calendar years when a taxable person exceeds the domestic threshold, the prior notification must in regard to that Member State contain the total value of supplies of goods and services made not only in the current and the preceding calendar year but also in the calendar year prior to that.

18. The VAT Committee **almost unanimously** agrees that should a Member State, as authorised under Article 284(1), second subparagraph, of the VAT Directive, have opted to apply more than one domestic threshold, the taxable person must in the prior notification for that Member State report separately the total value of supplies of goods and services in respect of each of the thresholds applied by that Member State.

19. Where, for example being a start-up, a taxable person has made no supplies in the preceding calendar year, the VAT Committee **unanimously** agrees that this shall not prevent the taxable person from benefiting from the cross-border exemption. The VAT Committee **unanimously** agrees that in any such case, the taxable person shall, as is the case with quarterly reports submitted under Article

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284b of the VAT Directive, indicate in the prior notification the absence of supplies made by '0'.

- *correction to the prior notification*

20. With a view to ensure that information contained in the prior notification is accurate and complete, the VAT Committee **unanimously** agrees that a taxable person who prior to admission to the SME scheme detects material errors in the information submitted shall be required to correct the prior notification. The VAT Committee **unanimously** agrees that where such correction is made, this shall see the original prior notification replaced by a new prior notification. For any such new prior notification, the VAT Committee **unanimously** agrees that calculation of the 35 working days laid down in Article 284(5), second subparagraph, of the VAT Directive shall start anew from the date of submission of that new prior notification.

21. Where a taxable person detects material errors in the prior notification after being admitted to the SME scheme and given an EX number, the VAT Committee **unanimously** agrees that correction shall be made by way of an update to the prior notification. The VAT Committee **unanimously** agrees that for omissions such as missing out on listing a Member State in which the taxable person wants to avail of exemption, an update to the prior notification shall be required pursuant to Article 284(4) of the VAT Directive. If an update to a prior notification is submitted before the prior notification is fully processed, the VAT Committee **unanimously** agrees that the update shall be seen as received only once the prior notification has been processed in respect of all the Member States of exemption concerned and the taxable person has been informed of the outcome.

- *reporting*

22. To avoid duplication of information already available, the VAT Committee **almost unanimously** agrees that the total value of supplies of goods and/or services to be reported by the taxable person for the calendar quarter following admission to the SME scheme shall not include the value of supplies contained in the prior notification submitted during that same calendar quarter. To avoid a gap in reporting, the VAT Committee **almost unanimously** agrees that the total value of supplies of goods and/or services to be reported by the taxable person for the calendar quarter after being admitted to the SME scheme must, where the prior notification is submitted prior to that calendar quarter, also separately indicate the value of supplies made during the preceding calendar quarter if not

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contained in the prior notification to capture supplies made after submission of that prior notification but before admission to the SME scheme.

- *correction to the quarterly report*

23. Where a taxable person detects errors in a quarterly report, the VAT Committee **unanimously** agrees that correction shall be done by resubmission of the original quarterly report. The VAT Committee agrees **unanimously** that the same shall apply if as a result of cancellation of transactions carried out in a calendar quarter, the value reported for that calendar quarter is no longer accurate.

- *other obligations*

24. While invoices may be required, the VAT Committee **unanimously** agrees that if this is the case the taxable person shall, as envisaged under Article 220a(1)(c) of the VAT Directive, be allowed to issue simplified invoices in line with Article 226b of the VAT Directive. The VAT Committee confirms by **almost unanimity** that as to gain access to exemption under the SME scheme the taxable person must for that purpose be identified in the Member State of establishment only. The VAT Committee therefore agrees **unanimously** that a taxable person required to issue invoices for supplies falling under the SME scheme in a Member State of exemption may not on that account be obliged to register in that Member State.

- *non-compliance with reporting obligations*

25. The VAT Committee **almost unanimously** agrees that the option provided for under Article 284d(3) of the VAT Directive by which a Member State of exemption may impose VAT obligations on a taxable person who fails to comply with the obligation of reporting, shall be exercised with all due consideration to the principle of proportionality. To ensure that such imposition of VAT obligations is proportionate, the VAT Committee **almost unanimously** agrees that in case submission is not timely the Member State of exemption shall only take such a measure if the taxable person is late in the submission of the quarterly report by more than 30 days or where consecutively two or more quarterly reports are submitted late.

- *deduction*

26. The VAT Committee **unanimously** agrees that, as stipulated in Article 289 of the VAT Directive, taxable persons whose supplies are exempt under the SME scheme shall not be entitled to deduct VAT in accordance with Articles 167 to 171 and Articles 173 to 177 of the VAT Directive. Where a taxable person making

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supplies exempt under the SME scheme in a Member State (MS1) procures input in MS1 to be used for taxed supplies made in another Member State (MS2) in which the taxable person does not avail of the exemption, the VAT Committee thus agrees **unanimously**, as also confirmed by the Court of Justice of the European Union in its ruling in case C-507/16 Entertainment Bulgaria System, that the taxable person shall not, pursuant to Article 169(a) of the VAT Directive, be eligible to deduct VAT.

27. Where the taxable person procures input in MS2 in which it does not avail itself of the exemption, the VAT Committee **unanimously** agrees that the taxable person shall be entitled to deduct VAT but only if the input procured is used for taxed supplies made in MS2. If input is procured in MS2 to be used for making exempt supplies in MS1, the VAT Committee agrees **unanimously** that the taxable person shall not be entitled to deduct VAT in respect of that input.

- cessation

28. The VAT Committee **unanimously** agrees that in the case of bankruptcy putting an immediate end to taxable activities being carried out by the taxable person, the cross-border exemption shall, as is the case when the Union threshold is exceeded, cease to apply when bankruptcy is declared. Where for the duration of the bankruptcy procedure the taxable person continues to carry out taxable activities, the VAT Committee however agrees **unanimously** that the cross-border exemption shall only cease to apply upon submission of an update to the prior notification in accordance with Article 284(4) of the VAT Directive.

29. When, during a calendar year, the turnover of a taxable person exceeds the domestic threshold of a particular Member State, the VAT Committee **unanimously** agrees that the taxable person shall, in line with Article 288a(1) of the VAT Directive, be excluded from the exemption in that Member State in the following calendar year or, if so decided, the following two calendar years. Where a taxable person ceases voluntarily to apply the exemption in a particular Member State, the VAT Committee **almost unanimously** agrees that Member States shall when laying down detailed rules and conditions for this voluntary cessation pursuant to Article 290 of the VAT Directive pay due regard to the period of exclusion applied in cases where the domestic threshold is exceeded.

- (de)activation of the EX number

30. When a taxable person in line with Article 284b(3) of the VAT Directive informs the Member State of establishment that the Union threshold has been exceeded,

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the VAT Committee **unanimously** agrees the taxable person's EX number must be deactivated to reflect when the Union threshold was exceeded.

31. The VAT Committee **unanimously** agrees that a taxable person availing of the SME scheme may not be taken to have ceased its activities merely because no quarterly report is submitted. Should no reports be submitted, the VAT Committee **almost unanimously** agrees that to be able to assume that activities are ceased, the Member State of establishment must first take steps to verify the state of affairs with the taxable person or through other means.

32. The VAT Committee **almost unanimously** agrees that a taxable person availing of the SME scheme but reporting to have made no supplies during a calendar quarter shall not be taken to have ceased its activities. If, however, during a period of 8 consecutive calendar quarters no supplies of goods or services are reported, the VAT Committee **almost unanimously** agrees that the taxable person shall, absent information to the contrary, be presumed to have ceased its activities. The VAT Committee **almost unanimously** agrees that as a result, the EX number allocated to the taxable person shall be deactivated in line with point (d) of Article 284e of the VAT Directive if no supplies have been reported for any of the Member States of exemption or adapted should no supplies have been reported for some but not all Member States of exemption.

33. Should a taxable person established in a Member State be granted access to the cross-border exemption, the VAT Committee **almost unanimously** agrees that in the case of prior use in that Member State, the Member State of establishment shall for the identification of that taxable person reactivate the EX number previously allocated.

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