Booklet no. 97

The Import One-Stop Shop (IOSS) and import VAT settlement in a special procedure

2023

On 1 July 2021 the VAT exemption for low-value imported goods was removed. Since then, import consignments have been subject to VAT regardless of the value limit. In addition, two new procedures have been introduced to make the payment of VAT on imported goods easier.

On 1 July 2021, the so-called Mini One-Stop Shop (MOSS) was replaced by the One-Stop Shop (OSS). At the same time, complementing the OSS, the Import One-Stop Shop (IOSS) was introduced, which can be used to meet VAT / value added tax obligations on the distance sales of goods imported from outside the European Union. As of this date, VAT on imported goods can be paid and declared also in a simplified procedure if the seller decides not to use the IOSS. The main rules relating to the Import One-Stop Shop and the simplified procedure are summarised below.

Contents

1. General overview

With the increasing role of e-commerce, it became necessary to revise the rules relating to value added tax (VAT) in a manner to take into account the characteristics of the business models used in e-commerce and to minimise the administrative burden on businesses engaged in this sector.

When adopting the e-commerce tax package, the legislator aimed to ensure that VAT is paid in the state where the product is delivered and transferred to the consumer (taxation

at the place of consumption) and to introduce solutions to simplify the payment, declaration and collection of VAT, as appropriate.

The e-commerce tax package amended, among others, the provisions of the VAT Directive[1] and the VAT Implementing Regulation[2], and in Hungary, the rules of the Directive were introduced into the VAT Act[3] by adopting Act CXVIII of 2020 on the amendment of certain tax laws. The provisions of the VAT Implementing Regulation apply directly.

By the amendments,

- the rules for intra-Community distance selling have been changed,
- the application of the One-Stop Shop has been extended,
- the VAT exemption for low-value imported goods has been abolished,
- new rules for paying VAT on imports have been created, and
- VAT payment and other tax obligations have been added to the electronic interfaces involved in e-commerce.

This booklet provides information on the rules for importing goods. The amendments relating to intra-Community distance sales are set out in the booklet no. 98 titled "**VAT rules for non-EU and EU One-Stop Shop and platforms**".

2. The Import One-Stop Shop (IOSS)

The e-commerce tax package has brought various changes with regard to the importation of goods. The VAT exemption for low-value consignments has been abolished, and simplified solutions for paying VAT on imports have been introduced, among others. These solutions include the Import One-Stop Shop (hereinafter: IOSS), an import scheme to complement the OSS (One-Stop Shop) introduced instead of the MOSS (Mini One-Stop Shop).

The IOSS makes it possible to settle VAT on distance sales of goods imported from third countries and to meet obligations as to declaring VAT. The IOSS is also a one-stop shop scheme essentially designed so that a taxable person does not have to apply for registration in each Member State where his obligation to pay VAT on the distance sale of goods imported from a third country arises.

The IOSS allows a taxable person registered in the One-Stop Shop in a Member State to meet his VAT obligation arising in the Member State of destination in connection with the distance sale of goods imported from a third country in the country of IOSS registration. If the registration of the taxpayer in the One-Stop Shop takes place in Hungary, the obligation to pay VAT on the distance sale of goods imported from a third country can be fulfilled in Hungary, regardless of the Member State in which such obligation arises. The National Tax and Customs Administration of Hungary (NTCA) transfers the declared and paid VAT to the appropriate Member State of taxation. This way the taxpayer is relieved

[1] Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax.
[2] 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.
[3] Act CXXVII of 2007 on Value Added Tax.

of the obligation to file a VAT return and pay tax in the Member State of consumption, which he could only perform after registration in the given Member State.

The **distance sale of goods imported from a third country** means the supply of goods dispatched or transported from a third country or third territory to a buyer located in a Member State of the Community by or on behalf of the supplier.

Having regard to the above criteria, the concept of distance selling applies only if the products are sold to

- a taxable person or non-taxable legal person who is not required to pay VAT on intra-Community procurement, or
- any other non-taxable person or organisation.

New means of transport and goods supplied after assembly or installation are excluded from this definition.

2.1. In what cases can it be used?

Selling products from outside the EU can **give rise to VAT liability on two grounds**, namely the supply of goods in the Member State where the product is dispatched, on the one hand, and the import of goods in the Member State where the product is released for free circulation, on the other hand. As a general rule, this means that the supply of goods is to be treated as a transaction outside the scope of VAT, and that the tax on imported goods is payable in the Member State where the product is released for free circulation.

This can change if the seller decides to use the IOSS. In that case, the place of performance for the distance sale of goods imported from a third country will be the Member State of destination, irrespective of the state in which the product is released for free circulation.

Choosing the IOSS means that there is no obligation to pay VAT for the importation of goods in the state of release for free circulation (the imported products will be exempt from VAT), as the tax on the distance sale of goods imported from a third country is paid in the Member State where the product is delivered (transferred) to the buyer. VAT exemption on imported goods is conditional and applies only if the valid IOSS number of the seller is appropriately stated in the customs declaration form.

Consequently, the IOSS can be used for the distance sale of goods imported from a third country, but only for non-excisable products where the intrinsic value of the consignment does not exceed EUR 150. Overall, it means that the IOSS can only be applied if

- the intrinsic value of the consignment does not exceed EUR 150,
- the product is non-excisable,
- the goods supplied are no new means of transport,
- the goods supplied are not installed or assembled,
- the buyer is a taxable person or non-taxable legal person who is not required to pay VAT on intra-Community procurement, or any other non-taxable person or organisation,

- the goods are dispatched or transported from a third country or third territory, and
- it is done by or on behalf of the supplier.

The definition of **intrinsic value** is set out in the appropriate Commission Regulation[4]. Accordingly, intrinsic value means for commercial goods the price of the goods themselves when sold for export to the customs territory of the Union,

- excluding transport and insurance costs, unless they are included in the price and not separately indicated on the invoice,
- and any other taxes and charges as ascertainable by the customs authorities from any relevant document(s).

It is important to note that for the purposes of IOSS, intrinsic value should not be determined for each product that constitutes the subject of distance selling, but for each consignment. Therefore, if the seller delivers several products to the buyer at the same time under a single contract of carriage, it should be considered as a single consignment for determining the intrinsic value. However, if the seller delivers the goods ordered separately by the same buyer as individual consignments, their intrinsic value should also be determined separately for each consignment, unless it can be reasonably suspected that the consignments have been split up in order to avoid customs duties.

2.2. Who is it for?

Overall, the IOSS can be used by taxable persons engaged in the distance sale of goods imported from a third country, i.e. any taxable person regardless of the place of business establishment. However, the place where the seller is established, i.e. the state in which he is registered or has a permanent establishment, is relevant for the purposes of IOSS registration. Establishment determines on the one hand, in which Member State a taxable person may register for IOSS, and on the other hand, whether the taxpayer can register directly or through an intermediary. Some taxable persons may apply for registration in the IOSS directly in their own name, while others may apply for registration in the IOSS only indirectly, through an intermediary.[5]

In Hungary, it is possible to register for the IOSS directly, i.e. **without an intermediary** for taxable persons who are

- registered domestically,
- registered in a third country, with a permanent establishment in Hungary,
- not established in the Community for economic purposes, but are established for economic purposes in a third country with which the European Union has concluded an appropriate cooperation and tax collection agreement (currently Norway).

[4] Commission Delegated Regulation (EU) 2020/877 of 3 April 2020 amending and correcting Delegated Regulation (EU) 2015/2446 supplementing Regulation (EU) No 952/2013, and amending Delegated Regulation (EU) 2016/341 supplementing Regulation (EU) No 952/2013, laying down the Union Customs Code.
[5] Section 253/P and Section 253/Q of the VAT Act.

Domestically **it is only possible to register through an intermediary** for taxable persons who are

- not registered or permanently established in the Community (except Norway),
- registered not domestically, but in a different Member State of the Community.

The **intermediary** may only be a taxable person who

- is established domestically for economic purposes,
- fulfils the criteria for financial representatives[6], and
- has been appointed to fulfil the VAT liability of the taxable person carrying out the distance sale of goods imported from a third country and the obligations established in the VAT Act with regard to the Import One-Stop Shop in the name and on behalf of the taxable person, and
- requests to be registered as an intermediary.

A taxable person may appoint only one intermediary at a time, but an intermediary may act on behalf of several taxable persons. The intermediary and the taxable person appointing him will be jointly and severally liable to fulfil the VAT payment obligation.

The Import One-Stop Shop scheme can also be used by **taxable persons under individual VAT exemption**, but special rules apply to these taxpayers for distance sales of goods imported from a third country. One of the legislator's aims in abolishing the tax exemption for small value import consignments was to ensure that all consignments from third countries could be taxed in the country of consumption. However, in order to avoid incurring tax liability twice if the taxable person applies IOSS – and, at the latest at the time of lodging the customs declaration, the taxable person or an intermediary acting on his/her behalf has communicated to the state tax and customs authorities the valid import identification number allocated to the taxable person for the purposes of this special scheme –, the legislator has exempted the import of goods from VAT[7], and in this case, the obligation to declare and pay tax arises only in relation to the distance supply of goods imported from a third country.

The relevant provisions of the VAT Act make it clear that a VAT exempt taxable person may act as such in the case of import distance supplies[8] made neither in the domestic territory[9] nor in another Member State of the Community. In addition, the VAT Act states that the consideration for the distance sale of goods imported from a third country shall not be included in the HUF 12 000 000 amount limit for the individual exemption from VAT.[10] The legislation also enables a taxable person who is under individual tax exemption to deduct input tax on taxable import distance supplies made by that taxable

[6] The criteria for financial representatives are specified in Article 20 of Act CLI of 2017 on tax administration procedure. According to this, a financial representative can be a limited liability company or a joint stock company, the share capital of which is minimum HUF 50 million, or has a bank guarantee of the corresponding amount, and has no outstanding tax liability registered with the tax authority.
[7] Point o) of Subsection 1 of Section 93 of the VAT Act.
[8] Point d) of Subsection 1 of Section 193 of the VAT Act.
[9] Point a) of Subsection 1 of Section 193 of the VAT Act.
[10] Point h) of Subsection 3 of Section 188 of the VAT Act.

person, subject to other conditions for deduction.[11] If the taxable person under individual tax exemption also has a tax liability in connection with the import, the relevant general prohibition of deduction[12] is waived by the VAT Act. This allows the taxable person to deduct the VAT on imports, provided that with the imported goods, the taxpayer carries out a supply of goods within the meaning of Section 12/B (2), i.e. an import distance supply of goods, in a Member State of the Community.

The new rules applicable to taxable persons under individual tax exemption entered into force on 24 November 2022, but will apply from 1 January 2022[13], taking into account that the individual tax exemption is an optional method of taxation for the calendar year.

Since the three schemes of the OSS system (non-EU scheme, EU scheme, import scheme) cover different types of supplies, it is possible for the same taxable person to register for more than one scheme. Taxable persons established in the Community can use the EU scheme and the import scheme. Taxable persons established outside the Community may apply all three schemes.

2.3. What are the consequences of using IOSS?

It is not compulsory for a taxable person to apply the rules of the IOSS for the distance sale of goods imported from a third country, but if he chooses to do so, he will be required to fulfil his VAT obligations under that scheme in respect of all transactions covered by the IOSS.

As a consequence of using the IOSS, a taxable person **must apply for registration** in that capacity, to be effected **by NTCA** before commencing the distance sale of goods imported from a third country. If the taxable person is required to act through an intermediary, the intermediary will request registration both for the client and itself. NTCA will register the intermediary in that capacity.

Based on the request, NTCA will,

- in the case of a direct application:
    - add the taxable person to the Import One-Stop Shop register and establish an import identification number for the scheme, of which the taxable person will be notified electronically,

- in the case of an application via intermediary:
    - establish an intermediary identification number, of which the intermediary will be notified electronically, and
    - establish an import identification number required for the Import One-Stop Shop for all taxable persons entrusting the intermediary, of which the intermediary will be notified electronically.

[11] Points d)-e) of Subsection 2 of Section 195 of the VAT Act.
[12] Subsection 1 of Section 195 of the VAT Act.
[13] Section 356 of the VAT Act.

When using the IOSS, the taxable person will have **an obligation to declare VAT**[14] , broken down by Member State. The taxable person or the intermediary will submit a monthly declaration to the tax authority electronically, irrespective of whether the seller conducted any distance sale subject to VAT declaration during the specific tax period. The declaration must be prepared in HUF at the exchange rate published by the European Central Bank (ECB) for the last day of the tax period. If there is no exchange rate published on the specific day, the rate published on the next day of publication should be applied.

The **tax must be paid** in HUF by bank transfer to the NTCA account at the same time as the tax return is submitted, but no later than the deadline for submitting the tax return. [15], indicating the VAT return on which the payment is based (please indicate the reference number of the tax return in the information field of the payment order, thus allowing the payment to be allocated to a specific period).

The **date of performance and determination of the tax payable** will be the date of sale, with the goods deemed to have been sold upon acceptance of payment. Based on this, the tax payable does not have to be determined in the IOSS at the time when the product is delivered to the buyer, but when payment is accepted. The date of acceptance of payment will be the day on which the taxable person using the IOSS or the person acting on his behalf receives the appropriate payment confirmation, payment authorisation message or commitment to pay, regardless of when the money is actually paid, taking into account the earliest.[16]

In the case of the IOSS, only the payable tax can be settled, as it is not possible to **deduct input tax** in the IOSS system. If a taxable person not established domestically for economic purposes is registered only in the one-stop shop and would like to deduct input tax, it is possible to refund the tax in accordance with the special rules for the refund of non-established taxpayers only.[17]

In the case of a taxable person established in a third country, the refund is not conditional on his establishment in a country with which Hungary has a reciprocal agreement for the refund of value added tax. However, if the taxpayer is registered or would be required to register domestically for tax purposes because of other activity, the deductible input tax may be included in his domestic declaration.[18]

In addition, the taxable person or his intermediary is also subject to a **registration obligation**[19], which must be fulfilled in a manner to allow verification by the tax authorities of the Member State of performance. The taxable person should make the register available electronically upon request. The intermediary must keep record of all the taxable persons represented by him. The records must be retained for a period of ten years from the last day of the calendar year in which the distance sale of goods imported from a third country under the one-stop shop scheme is completed.

[14] Section 253/U (1)-(3) of the VAT Act.
[15] Section 253/U (4) of the VAT Act.
[16] Article 61b of Council Implementing Regulation (EU) No 282/2011.
[17] Chapter XVIII of the VAT Act.
[18] A taxpayer established in a third country can submit a claim for a refund using the IAFAK form regularised by the NTCA, while a taxpayer established in another Member State of the Community can submit a claim for a refund using the 'ELEKAFA form.
[19] Section 253/V of the VAT Act.

The level of detail required for record-keeping is determined by the applicable Community regulation[20]. Based on this, the records kept by the taxable person or the acting intermediary must contain the following information:

- the Member State of consumption in the territory of which the products are sold,
- quantity and determination of the products sold,
- product sale performance date,
- tax base, specifying the currency,
- any subsequent increase or decrease in the tax base,
- applied tax rate,
- amount of tax payable, specifying the currency,
- amount and date of payments received,
- if an invoice is issued, the information specified on the invoice,
- information to determine the place of departure and arrival of the goods dispatched or transported to the buyer,
- proof of possible return of the product, including the tax base and the applied tax rate,
- order number or unique transaction identifier,
- unique consignment identifier if the taxable person is directly involved in transportation.

2.4. Rules relating to platforms

Due to the fact that electronic commerce is typically conducted through electronic interfaces, the e-commerce tax package has set tax obligations on electronic interfaces in certain cases. In determining the scope of the electronic interfaces concerned, the regulation aimed to cover all the possible technological solutions, so that **tax liability could essentially arise in respect of any electronic interface**, such as, in particular, a marketplace, portal or other similar tool (hereinafter collectively: platform).

The regulation created the obligation to pay tax on electronic interfaces through a fiction, as it considers that the supplier sold the product not to the buyer but to the platform, which in turn resold it to the buyer (deemed supplier). **This rule**, however, **only applies** to the distance sale of goods imported from a third country if

- the platform facilitates the sale of goods, and
- the intrinsic value of the import consignment does not exceed EUR 150.

Based on the above, if a platform facilitates the distance sale of goods imported from a third country as a consignment with an intrinsic value not exceeding EUR 150, it should be considered as both the buyer and the supplier of that product.[21]

Therefore, **in the case of distance selling facilitated by the platform, two consecutive sales take place**, but the product is actually transported from the supplier to the buyer only once, so the transaction should be treated as a chain transaction. In order for the

[20] Article 63c (2) of Council Implementing Regulation (EU) No 282/2011 .
[21] Section 12/C (1) of the VAT Act.

platform to be the taxable person carrying out the distance sale of goods imported from a third country in every case, the regulation stipulates that the sales connected with the transport of goods are carried out by the platform.[22] Therefore, the sale to the actual sales platform is considered to be performed at the place of dispatch or transport of the goods, so if the product is dispatched in a third country, there is no tax liability arising in the Member States of the Community in connection with that sale. In turn, the sale carried out by the platform to the buyer is performed in the Member State of destination, based on which the platform is subject to a tax declaration and payment obligation in that Member State, which, taking into account the conditions and rules mentioned above, can be fulfilled using the IOSS system.

If the platform is to be viewed as the procurer and reseller of the goods to facilitate sales, the taxable persons involved in the transaction must also **issue invoices** accordingly. The actual supplier is to issue an invoice to the platform, and in turn the platform is to issue an invoice to the buyer. The sale of goods by the actual supplier takes place outside the Community and therefore it is not subject to Community invoicing rules, while the platform is required to comply with these invoicing rules.[23]

It is important to note that if the platform decides to use the IOSS, the invoice must be issued in accordance with the rules of the Member State issuing the IOSS identifier, i.e. the one registering it in the system. If this Member State is Hungary, an invoice should be issued to the non-taxable buyer subject to request only, in the absence of which a transaction receipt will suffice.

In view of the foregoing it can be seen that **facilitating the sale of goods** is a key factor in the tax obligations of platforms, the concept of which is therefore defined in the Community regulations.[24] According to this, the term facilitate means the use of an electronic interface that allows a seller and a buyer to enter into contact via that electronic interface, where the end result is the sale of goods to that buyer. In addition to the above definition, the regulation also specifies the fulfilment of which cumulative conditions should be considered as not facilitating sales. According to these, the platform:

- does not specify, directly or indirectly, the conditions relating to the sale of goods,
- is not involved, directly or indirectly, in authorising the paid amount to be charged to the buyer,
- is not involved, directly or indirectly, in ordering or delivering products.

Also, the facilitation of product sales cannot be established if the activities of the platform are limited to the following:

- processing payments in relation to product sales,
- listing or advertising products,
- redirecting or transferring buyers to a different electronic platform offering products for sale without further involvement in sales.

[22] Section 27 (4) of the VAT Act.
[23] Article 219a of Council Directive 2006/112/EC.
[24] Article 5b of Council Implementing Regulation (EU) No 282/2011.

In order to facilitate for the platforms the fulfilment of tax obligations, the Community regulation resorts to a presumption[25], according to which **a platform may treat those selling through it as taxable persons and buyers as non-taxable persons**, unless informed to the contrary. Therefore, a platform that becomes taxable due to sales to non-taxable buyers does not have to check the status of the buyer on a transaction-by-transaction basis.

In addition, **limiting their liability in respect of tax obligations** is also easier for the platforms.[26] The platforms rely on the accuracy of the information supplied by the sellers using the electronic interface as appropriate, and should not be required to pay any tax in excess of the VAT declared and paid by them if

- the platform actually relies on the information provided by sellers or other third parties for the correct declaration and payment of tax on the particular sale, and
- the supplied information is incorrect, furthermore,
- the platform is able to prove that it was unaware, and could not reasonably be expected to know, that the information was incorrect.

In the light of these circumstances, the platform should make all reasonable efforts to obtain from the sellers the information necessary to fulfil the relevant tax obligations.[27] The manner and details of this should be arranged as part of the business relationship between the parties, as no such provision is contained in the tax legislation.

As explained above, a taxpayer that sells its products through its own website is not deemed to be a platform.

2.5 Characteristics of the import scheme returns

In the import scheme, the tax assessment period is the calendar month, the return and related payment period is the month following the quarter, i.e. each tax assessment period is also the return period of the previous month.[28]

The tax return is compiled from

- the distance sales of goods imported from a third country during the reference period,
- plus any adjustments of the prior periods,

provided that amendments can be made to returns submitted up to 3 years earlier.

A tax return that has already been filed cannot be amended; any amendment can be included in a subsequent return. For example, a tax return filed in October for the third quarter of 2022 may be amended in the tax return for the fourth quarter of 2022, i.e. in

[25] Article 5d of Council Implementing Regulation (EU) No 282/2011.
[26] Article 5c of Council Implementing Regulation (EU) No 282/2011.
[27] In order to fulfil tax obligations, it is advisable to possess information on the supplier's place of establishment, description of products, tax base, place of dispatch of goods, possible return of products, and information on withdrawal.
[28] Subsection 1 of Section 253/U of the VAT Act.

January 2023. Unlike the part of the tax return relating to the base period, the adjustment allows for the entry of a **differential VAT amount**, i.e. the values entered here do not overwrite the values for the previous period, but are adjusted with a positive or negative sign. This is why it is a good idea to save and print the return after filling it in, and only submit it after a thorough review of the data.

Once the tax return closing the activity has been submitted (i.e. final tax return technically closing the application of the special scheme in the event of the exit or exclusion of the taxpayer from the scheme), it is no longer possible to amend the return; the amendment shall be submitted directly to the Member State of consumption in accordance with the rules of that Member State.[29]

A zero return can be filed by ticking the appropriate box, with a single click. A zero return can only be filed if there were no sales subject to scope of the IOSS system in the current period and no adjustments are required for prior periods.

When completing the tax return, the OSS portal (*https://oss.nav.gov.hu/*) will display the reference number of the return, which must be entered in the payment message box when making the payment related to the relevant return.[30]

The IOSS return figures must be entered in HUF. The OSS portal's interface for returns refers to this separately in the header of each tax base and amount field. Transactions denominated in euro must be converted into HUF at the exchange rate of the ECB on the last day of the tax assessment period: (https://www.ecb.europa.eu/stats/policy_and_exchange_rates/euro_reference_exchange_rates/html/index.en.html).[31]

Payments should also be made in HUF, in the same amount as entered in the tax return (and not rounded to thousands of HUF) by bank transfer to the NTCA OSS VAT collection account number 10032000-01077027 (IOSS payments cannot be made to the NTCA Value added tax revenue account with tax type code 104!) .

If the taxpayer fails to file the tax return or fails to file it by the deadline, the Member State of identification (i.e. NTCA in the case of Hungarian taxpayers) will send a tax return reminder electronically on the 10th day after the tax return deadline.

If the taxpayer fails to pay the amount of tax or fails to pay it by the deadline, the Member State of identification (i.e. NTCA in the case of Hungarian taxpayers) will send a payment reminder electronically on the 10th day after the payment deadline. The Member State of consumption indicated in the tax return will be entitled to send further reminders. In this case, the VAT is payable directly to that Member State.

If an amendment to a tax return filed for a previous period results in an overpayment for one or more Member States, the Member States of consumption concerned will reimburse the amount directly. Member States have differing practices as to whether they refund overpayments ex officio or on request, so it is advisable to file an individual application

[29] Section 253/U (5) of the VAT Act.
[30] Section 253/U (4) of the VAT Act.
[31] Section 253/U (3) of the VAT Act.

for a tax refund with the tax authority concerned. To apply for a tax refund directly to the Member State of consumption, you can find the contact details of the Member State by clicking on the following link:
https://vat-one-stop-shop.ec.europa.eu/contact-country_en

2.6 Rules on exit and exclusion

If the taxable person no longer carries out an economic activity covered by the special scheme for imports[32], he/she will be deemed to have left the scheme on the day following the decision to do so.

A taxable person applying the special scheme for imports may cease to apply the special scheme irrespective of whether he/she continues to make supplies, which may be covered by the rules of that scheme. The taxpayer shall submit his/her exit request to the NTCA at least 15 days before the end of the month preceding the month in which he/she ceases to use IOSS. In this case, the exit will take effect on the first day of the following month.[33]

If the taxpayer intends to make a change that will change the Member State issuing the identification number, he/she shall notify the NTCA and the authority of the other Member State no later than the 10th day of the month following the change, e.g. the transfer of the registered office.[34] The exit will take effect from the date of the change.

If a taxpayer submits zero amount tax returns for two years, i.e. it can be assumed that the taxpayer has ceased its economic activity, the NTCA will exclude the taxpayer from the IOSS system.[35] The exclusion shall take effect on the day following the date of the decision to exclude.

The NTCA will exclude a taxpayer from the IOSS system if it does not meet the conditions for using the OSS import scheme.[36] The exclusion shall take effect on the day following the date of the decision to exclude.

If a taxpayer fails to fulfil its obligation to file a tax return or make a payment despite three consecutive periodic warnings, or fails to provide the taxpayer's records pursuant to Section 253/V of the VAT Act within the given deadline during a NTCA tax audit, the NTCA will exclude the taxpayer from the IOSS system.[37] The exclusion shall take effect on the day following the date of the decision to exclude.

3. Simplified payment and declaration of import VAT (SA)

If the seller decides not to use the IOSS for the distance sale of goods imported from a third country, **the tax obligation relating to importation can be fulfilled in a simplified procedure** (special arrangement, SA) via tax collection performed by postal or express carriers, provided that:

[32] Point a) of Section 253/T (10), point a) of Section 253/T (12) of the VAT Act.
[33] Paragraph 2 of Article 57g of the VAT Implementing Regulation.
[34] Paragraph 2 of Article 57f, Paragraph 2 of Article 57h of the VAT Implementing Regulation.
[35] Article 58a of the VAT Implementing Regulation.
[36] Point c) of Section 253/T (10) of the VAT Act.
[37] Article 58b of the VAT Implementing Regulation.

- the intrinsic value of the consignment does not exceed EUR 150,
- the product is non-excisable,
- the final consumer (consignee) is a taxable person or non-taxable legal person who is not required to pay VAT on intra-Community procurement, or any other non-taxable person or organisation, and
- the destination of the consignment and the place of release for free circulation are the same.

Under these conditions, the simplified procedure therefore applies to the payment of tax relating to importation in a way that the VAT on goods purchased from a third country is paid and declared not by the consumer, but by the taxable person acting on behalf of the consumer. The regulation considers this taxable person **liable to collect VAT**[38], who, on behalf of the consignee, initiates the release for free circulation of the product imported from a third country and fulfils the obligation to pay and declare tax.

In a simplified procedure, the relevant engagement of the taxable person liable to collect VAT must be presumed. This presumption is rebutted if the consignee declares by the time of submitting the customs declaration that he does not wish to engage the postal or express carrier concerned. In addition to the engagement, a taxable person may act as a liable party if he is a domestically registered taxpayer who has a deferred payment authorization under customs rules and notifies NTCA in advance that he intends to apply the simplified procedure.

Under the simplified procedure, the liable party has an obligation to collect the tax due from the consignee and pay it to NTCA. However, there may be cases where the tax is not collected upon release of the goods for free circulation. In some of these cases, **the obligation to pay tax** is borne by the partly liable to collect tax, instead of the consignee.

This applies if the liable party delivers the product to the consignee but fails to collect the tax, in which case paying the tax will be his responsibility. It is not considered a failure to collect the tax if the liable party does not deliver (transfer) the product to the consignee, for example because the consignee refuses to pay the necessary public charges. The liable party will be required to pay the tax also in cases where the product has been destroyed, stolen or lost prior to delivery to the consignee.

However, the liable party will be relieved from the obligation to pay tax if he is able to prove that

- the loss of goods occurred due to reasons beyond control, outside the scope of his activity, or
- he acted as it would normally be expected in the particular situation in order to prevent material damage.

The **tax collected** from the consignee and the amount of tax due from the liable party must be declared by him electronically, submitted to NTCA **on a monthly basis.** The declaration must include the tax base of the goods released for free circulation, as well as

[38] Section 253/Y (2) of the VAT Act.

the amount of tax collected from the tax payable on the products and the amount of tax due from the liable party.

The tax base of the product and the collected tax must be declared for the calendar month in which the tax on the product released for free circulation under customs regulation was collected. In the case of goods delivered to the consignee with no tax collected, the tax base and the tax must be declared for the calendar month in which the product was made available to the consignee.

If the product has been destroyed, stolen or lost, the tax base of the product and, if the liable party has a tax payment obligation, the tax must be declared for the calendar month in which the product was found to be destroyed, stolen or lost, but no later than in the return due for the third month upon release for free circulation of the stolen or lost goods.[39]

The **deadline for declaring and paying the value added tax** is the same as in the case of import duties, and the applicable rate is 27% of the tax base in all cases, irrespective of whether the particular product would otherwise be subject to a reduced rate domestically.
The party liable to collect tax must keep record of all transactions[40] covered by the special scheme, to be retained for a period of five calendar years from the year in which the tax liability occurred, and made available electronically to NTCA on request.

The records must contain

- the information specified in the customs declaration on which the tax liability is based,
- the name and contact details of the consignee,
- identification details of the consignment received by the consignee,
- identification details of the consignment not received by the consignee that has been returned outside the territory of the Community in a certified manner, and
- identification details of the consignment not received by the consignee that does not fall into the above category,
- identification details of the consignment destroyed, lost or stolen prior to delivery to the consignee.

Ministry of Finance - National Tax and Customs Administration

[39] Section 253/ZA (1) of the VAT Act.
[40] Section 253/ZA (3) of the VAT Act.