

VAT: Extending joint and several liability for online marketplaces and displaying VAT numbers online

Guidance note

Introduction and background

What are we doing?

The government has announced the introduction of new legislation in Finance Bill 2017 to 2018 to extend the scope of existing joint and several liability rules to hold online marketplaces jointly and severally liable for:

- (i) Any future VAT that a UK business selling goods via the online marketplace fails to account for once they have been notified by HMRC.
- (ii) Any VAT that an overseas business selling goods via the online marketplace fails to account for where that online marketplace knew or should have known that that business should be registered for VAT in the UK.

Legislation will also be introduced in Finance Bill 2017 to 2018 to require online marketplaces to ensure that VAT numbers displayed on their websites are valid. They will also be required to display a valid VAT number when they are provided with one. This requirement will be supported by a regulatory penalty.

Who is likely to be affected?

This new legislation will affect:

- UK and overseas businesses selling goods in the UK to UK consumers via online marketplaces.
- Online marketplaces that control and support the sale of such goods by any business through their marketplace.

Why are we doing it?

The growth in online shopping has meant the average UK consumer can get goods faster and cheaper than ever before. This growth in online e-commerce is an important part of the UK economy but has also created opportunities for abuse of the VAT system.

Businesses that sell goods in the UK to UK consumers, mainly via online marketplaces, are not always paying the correct VAT to HMRC. They are unfairly undercutting the majority of compliant businesses trading in the UK, abusing the trust of UK consumers and depriving the government of significant revenue.

Last year the government introduced legislation giving HMRC the power to hold online marketplaces jointly and severally liable for any future VAT that an overseas business, selling goods via the online marketplace, fails to account for. However, non-compliance is not just restricted to overseas businesses and this announcement strengthens and develops HMRC's operational response to online fraud and error.

What are the new measures?

There are 3 elements to this announcement which take effect from Royal Assent in 2018:

- (i) The first measure will extend the existing joint and several liability provision for online marketplaces to cover all businesses that should be registered for

VAT in the UK (including UK businesses). This will address non-compliance by UK businesses and encourage them to register for VAT when they need to and pay the VAT due on their sales.

- (ii) The second measure further extends joint and several liability for online marketplaces in relation to overseas businesses where the online marketplace allows an unregistered overseas business to sell goods through its marketplace when it knew or should have known that the overseas business should be VAT registered.
- (iii) The third measure ensures that VAT numbers given to online marketplaces by any business selling goods in the UK via online marketplaces are displayed on that online marketplace and are valid.

How will the new measures work?

(i) Joint and several liability – extension to include UK businesses

As a UK business selling UK-located goods via online marketplaces to UK consumers how will this affect me?

If you are complying with all the UK's VAT rules you will not be affected by the new provisions. If you are not sure whether you should be registered for VAT, you should read the guidance contained in [VAT Notice 700/1 'should I be registered for VAT?'](#)

The extension of the existing joint and several liability rules to include UK businesses does not mean that it will apply automatically to any UK businesses. This is a discretionary power that will enable HMRC to target non-compliant UK businesses and take the most appropriate action on a case by case basis. HMRC will only issue a joint and several liability notice to online marketplaces where we have established that a UK business is non-compliant.

We will use risk assessment tools to identify those UK businesses that are continually non-compliant with UK VAT rules. Where a non-compliant UK business is identified we will always attempt to make contact with them to encourage them to comply with the rules, before taking any further action. We will discuss the VAT position with the business and seek to resolve any outstanding compliance issues.

Where a notice has been issued, the UK business does not have a right of appeal against the notice itself but it can contact us to discuss and seek to resolve any concerns. In addition the online marketplace will have a period of time (usually 30 days but this can be extended) in which to contact the UK business about any concerns.

Continued non-compliance could lead to the online marketplace removing the UK business from its website. However, HMRC is committed to ensuring that the measure does not impact on businesses that are genuinely complying with UK VAT rules. Therefore if a business thinks that it has complied with VAT rules, or that any non-compliance is due to a genuine error, it should contact HMRC immediately.

In addition, if the business disagrees with HMRC's view that it is non-compliant, it can request an independent review and/or appeal to the Tax Tribunal against a decision by HMRC to register the business for VAT or against any assessment for VAT (provided the business has submitted a VAT return for the assessed period(s)). If such a request or appeal is made promptly, HMRC will take account of the grounds of appeal before issuing a joint and several liability notice to the online marketplace,

except in cases where there are clear indications of deliberate non-compliance by the business.

HMRC will act promptly to withdraw any joint and several liability notice once it is satisfied that a UK business has become fully compliant with its VAT obligations.

As an online marketplace that has UK businesses selling UK-located goods through my website to UK consumers how will this affect me?

These new rules are an extension to the joint and several liability rules that were introduced in September 2016. They will work in a very similar way.

Where HMRC has not been able to secure the VAT compliance of a UK seller, we will issue a joint and several liability notice to the relevant online marketplace(s). The notice will identify the specific UK business and explain that it is not complying with the VAT rules. The online marketplace will then normally be given 30 days in which to raise any concerns with the UK seller or remove the UK seller from its website if they wish to avoid becoming jointly and severally liable for any future unpaid VAT of that seller. The UK business will be sent a copy of the notice that has gone to the online marketplace.

However, if the UK business gets in contact with us during this 30 day period, the time period can be extended or the notice withdrawn whilst any outstanding compliance issues are sorted out.

If the UK seller's non-compliance is not resolved and the online marketplace does not remove that UK seller from its website within the time period specified in the notice, the online marketplace will be held jointly and severally liable for the UK business' future unpaid VAT. This amount will be calculated based on VAT that is not paid from the day after the date of the notice.

(ii) Joint and several liability – knew or should have known that an overseas business must be registered for VAT

As a non-UK business selling via online marketplaces how will this affect me?

You will be affected if you are a non-UK business selling goods in the UK to UK consumers via online marketplaces. In these circumstances you are required to register for VAT in the UK, charge VAT on your sales and account for that VAT to HMRC. Some goods do not attract VAT at 20% so you will need to check what rate of VAT you should charge (guidance can be found here: <https://www.gov.uk/guidance/rates-of-vat-on-different-goods-and-services>).

If you are not sure whether you should be registered for VAT, guidance is contained in [VAT Notice 700/1 'should I be registered for VAT?'](#) and in particular section 9 which covers non-established taxable persons (NETPs).

If you are not registered for VAT when you should be and still sell goods through an online marketplace, that online marketplace could be held jointly and severally liable for your unpaid VAT if it knew or should have known that you must be registered for VAT.

This measure does not apply to UK businesses.

As an online marketplace that has non-UK businesses selling UK-located goods through my website to UK consumers how will this affect me?

Online marketplaces frequently hold the types of information needed to determine whether a non-UK business should be registered for VAT in the UK such as:

1. Location of the business; and
2. Location of the goods; and
3. Whether the business has made any UK sales.

Whereas UK businesses only need to register for VAT once their turnover exceeds £85,000 a year, there is no turnover threshold for non-UK businesses. This means that as soon as a non-UK business sells UK-located goods to UK consumers, it must register for VAT.

If an online marketplace discovers that a non-UK business is not registered for VAT but should be, they may want to contact that business to alert it to its VAT obligations. If a non-UK business is not registered for VAT when it should have been, the online marketplace could be held jointly and severally liable for that business' unpaid VAT from the point when they knew or should have known of that non-compliance.

However, the online marketplace can avoid being held jointly and severally liable for the unpaid VAT if, within 60 days of knowing, it ensures that the un-registered non-UK business cannot sell goods to UK consumers through its website.

This 60 day period allows time for the online marketplace to contact the non-UK business to alert it to its UK VAT obligations. This period of time also takes account of the situation where the non-UK business has applied to register for VAT in the UK and is waiting to receive their VAT registration number.

HMRC might inform the online marketplace that the VAT number of a non-UK business is not (or is no longer) valid, meaning that business is not correctly registered for VAT. If the online marketplace continues to allow that non-UK business to sell goods to UK consumers through its website, it could be held jointly and severally liable for the unpaid VAT of that non-UK business.

(iii) Displaying VAT registration numbers

As a business selling goods in the UK via online marketplaces how will this affect me?

It will mean that the online marketplaces will need to check any VAT registration number you provide to them to ensure that it is valid and relates to your business. Provided that the VAT registration number you give them is valid and relates to your business, the online marketplace will be required to ensure that it is displayed on the website in connection with any goods being offered for sale by your business.

Although you are not legally required to provide your VAT number, we encourage VAT-registered businesses to provide their VAT number to the online marketplace so that it can be displayed on the website. This will allow customers to know you are VAT registered and avoid any uncertainty about whether you should be VAT registered or not.

As an online marketplace displaying goods for sale by other businesses ('sellers') to UK consumers through a website how will this affect me?

Online marketplaces will be required to check any UK VAT registration numbers given to them by sellers who use their marketplace to ensure that the number is valid and relates to that seller. The easiest way to do this in the first instance is by referring to the website: http://ec.europa.eu/taxation_customs/vies/

Once the online marketplace has verified the VAT registration number they must ensure that it is displayed on their website in connection with goods being offered for sale by the relevant seller.

When will these measures take effect?

These measures are included within Finance Bill 2017 to 2018 and will take effect from the date of Royal Assent in 2018.