



Significant amendments to VAT system Switzerland

Switzerland is preparing for significant amendments to its VAT system which will take effect as of 1 January 2025, particularly regarding e-Commerce by introducing a new taxation for platforms in its Swiss VAT Act.

These amendments could trigger substantial consequences for online platforms which facilitate the sale of goods and services to Swiss customers. With these amendments Switzerland will introduce;

1. Deemed supplier rules, similar to the ones in the EU, for online marketplaces, and
2. Annual reporting obligations, similar to the EU DAC7 rules, for online marketplaces.

INTRODUCTION OF DEEMED SUPPLIER RULES

The amendments to the Swiss VAT Act include various scenarios when an online marketplace should be regarded as a so called deemed supplier, the conditions under which the rules apply, and the reporting and formal obligations that platforms may have.

CURRENT REGULATIONS / PROCEDURES

Generally, when a seller sells goods into the Swiss territory through an electronic platform (acting as a disclosed agent), the seller is considered to be the

supplier of the goods to the users under Swiss VAT law. If the goods are drop-shipped from outside Switzerland to users in Switzerland, the seller has no Swiss VAT obligations (when the import is carried out by the buyers) under reservation of the mail-order regulations introduced in 2019.

Under such rule the seller is deemed to have supplied the underlying goods within the Swiss territory as soon as its annual turnover exceeded the CHF 100'000 threshold of "low-value goods" (<CHF 5) shipped to the Swiss territory. In such case, the seller must register for Swiss VAT, act as importer of record for all goods, and collect and remit Swiss VAT, on its local supplies regardless of whether they qualify as low-value goods.

Under the 2019 approach, online marketplaces were not considered part of the supply chain from a Swiss VAT perspective, and they had no Swiss VAT obligations arising from the underlying supplies. This situation will change.



DEEMED SUPPLIER AS OF 2025

As of 2025, the Swiss will apply the so called “deemed supplier” approach for online platforms which facilitate the sale of goods (i.e. online marketplaces).

Online platforms are considered as deemed suppliers when they facilitate, through their electronic interface, the sale of goods between a seller and a user with this sale being concluded on this platform:

- whether the online platform facilitates the transaction or not must be analyzed on a transaction basis;
- all other supplies of goods than the sale of goods, such as for instance leasing are not considered in this respect;
- the order must take place on the online platform. If the online platform is not aware of the goods to be delivered, or of the final price paid (e.g., because it does not issue a final invoice and/or negotiations occur between the seller and the buyer afterwards), these transactions may be excluded from the deemed supplier concept;
- whether the seller or the user, or perhaps even the online marketplace is responsible for the transport of the goods, is not relevant;
- the status of the underlying seller and the user is also not relevant.

As a result, B2C, B2B, C2C and C2B transactions are in scope.

- This means that online marketplaces may have to collect Swiss VAT on domestic C2C transactions. Note that the fictitious supply for the seller to the online platform is exempt from VAT, provided certain conditions are met.

When the conditions of the deemed supplier concept are met, the online platform is required to collect VAT on the transactions in the following situations:

- if the goods are already in free circulation on Swiss territory at the beginning of transport (thus domestic sales in Switzerland);
- in the case of the sale of goods imported into Switzerland, when the online platform has reached CHF 100'000 of low-value goods supplied from abroad and imported into Swiss territory, or if the online platform has an import license (through which it opted to waive the CHF 100'000 threshold). This could be also the case if the seller acts as the importer of record of the goods in Switzerland, meaning that the fictitious supply between the seller and the online platform would be located on the Swiss territory;



- even if the online platform is already registered for VAT in Switzerland, it would be liable to collect Swiss VAT as well as following the additional requirements as deemed supplier in the above cases.

Additionally, the guidelines provide the following information that needs to be considered by the platforms:

- online platforms are required to apply specific invoicing requirements;
- a transactional report from the online platform to the seller will serve as a valid document to support the VAT exemption for the fictitious supply between the seller and the platform;
- online platforms will be allowed to apply the VAT margin scheme or the fictitious input VAT deduction scheme if the underlying seller is not registered for Swiss VAT provided all other conditions for the corresponding regimes are met;
- online platforms that are not established on the Swiss territory are not required to appoint a Swiss fiscal representative for VAT purposes but an address on the Swiss territory will have to be communicated (notably for VAT audit purposes);

- the FTA will have two administrative measures at its disposal for online platforms that do not fulfil their obligations. The first is an import ban and the second is the possibility of destroying the contents of parcels that this online platform sends within Switzerland. In addition to the administrative measures in case of non-compliance, the FTA will publish a blacklist of online platform that do not comply with their Swiss VAT obligations to inform Swiss customers.

SWISS DAC7

One of the significant changes implemented with the new online platform legislation concerns the obligation to provide information for all platforms, including those through which services are provided. At the request of the FTA, these platforms must now disclose information. From a EU VAT perspective, the obligations imposed seem to be in line with those obligations that the EU has introduced under DAC7. Online platforms, whether facilitating the supply of goods or services, shall have a recurring yearly obligation to disclose information to the FTA if certain thresholds are met regardless of whether the supplies are in scope of the current platform rules.

This, thus, introduces a new reporting obligation for online platforms in Switzerland which shall be submitted electronically.



In this regard we would like to emphasize that all online platforms, regardless of whether they facilitate the sale of goods or services, will have the obligation to provide information to the FTA.

Consequently, online platforms will have to maintain a register listing the supplies rendered on the Swiss territory, or at least be capable of providing information on the annual sales generated on the Swiss territory, by the various underlying sellers operating through the online platform.

Only information on sellers (identity, turnover, type of supplies and list of recipients) with annual turnover of over CHF 50'000 on the platform needs to be kept and demand of reported to the FTA.

Online platforms (except those qualifying as deemed suppliers) with over CHF 1 million of contracts concluded through their interface, will have an automatic annual electronic reporting obligation towards the FTA (not on demand).

If the platform fails to fulfil its recording obligations, it may be prosecuted for breach of its procedural obligations and a fine may be imposed.

CHALLENGES AND POINTS OF ATTENTION

Based on our experience with the introduction of the deemed supplier rules for online marketplaces under the EU VAT Directive, implementing a deemed supplier approach will trigger several challenges and points of attention.

With regards to practically all elements relating to the overall supply chain, such as;

- impact on the Swiss commercial effects, such as for instance the pricing effects;
- impact on the terms & conditions;
- impact on the financial systems;
- impact on invoicing requirements and VAT compliance obligations;
- implication of transitional measures, or the lack of such transitional measures (e.g. sale or shipment takes place or starts in 2024 and goods arrive after the deemed supplier rules kicked in).

Given the similarities between the EU VAT deemed supplier rules and these new Swiss deemed supplier rules, we expect that the implementation of the new Swiss rules will trigger the same points of attention. However, we note that these of course should be addressed based on the Swiss VAT rules and regulations, which may deviate from the EU VAT rules and regulations.

OUR RECOMMENDATIONS

Although the practice guidelines of the FTA are still in a draft status, the legal changes to the Swiss VAT Act itself will enter into force as of 1 January 2025. Therefore, we strongly recommend to start reviewing your Swiss VAT position in light of these upcoming changes in order to be prepared in due time.



SV ALNER ATLAS GROUP



As to the Swiss annual DAC7 reporting obligations, based on our experiences with the implementation of the EU DAC7 rules, we strongly recommend online platforms to start reviewing the possible impact for their organizations as soon as possible. Although at this point, we're still awaiting further elaboration on these new Swiss reporting rules, we point out that the OECD's DAC7 approach in principle triggers online platforms to collect (and report) data which it typically would not collect for VAT purposes.

As a result, substantial changes to customer onboarding procedure, the set-up of financial systems and the Terms & Conditions, etc should be expected. In addition, similar to the EU DAC7 rules and regulations, it is our expectation that the underlying Swiss rules and regulations is also defined in a very broad scope. As a result, the implementation of these new Swiss reporting rules requires sufficient preparation.

QUESTIONS?

For more information, please feel free to reach out to our Svalner Atlas colleagues Johan Visser, Tijmen Kraaijeveld, Gert Vranckx, Sini Paljarvi, Martin Fridh, Alva Brenner, or to our Swiss network colleague at [Wenger Vieli](#), Clara Bodemann.

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