Cross-border mail order trading: New Swiss VAT rules as from 1 January 2019

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Key takeaways:

- **Dealers outside Switzerland sending low value goods to customers in Switzerland can become liable to Swiss VAT on domestic supplies.**
- **Swiss VAT compliance obligations to be covered.**
- **Delivery logistics to be updated.**

1. Issue – status quo

Consumers in Switzerland often order goods from dealers outside of Switzerland. If these goods are sent from abroad to Switzerland, then, for Swiss domestic VAT purposes, the default rule states that the place of supply of such goods is deemed outside of Switzerland. Therefore, no Swiss domestic VAT is due on such supplies. Far different from Swiss domestic VAT, Swiss import VAT generally applies (at the same domestic VAT rate). A low value order, however, would be exempt from Swiss import VAT.

Currently, low value supplies of goods from abroad to Switzerland are neither subject to Swiss import VAT nor to Swiss domestic VAT. A low value order, in this sense, is any supply of goods for which Swiss import VAT would not be more then CHF 5. A Swiss import VAT charge of CHF 5 corresponds to a value of goods of CHF 65 (where the applicable Swiss VAT rate is 7.7%, i.e., standard rate) or CHF 200 (where the applicable VAT Swiss rate is the privileged rate of 2.5%).

This means that customers in Switzerland are currently able to buy (low value) goods free of any Swiss VAT, if they order the goods from suppliers outside of Switzerland. By contrast, supplies made by Swiss domestic dealers are typically subject to Swiss VAT.

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As of 1 January 2019, this situation will change: low value supplies of goods from abroad to Switzerland can also fall under Swiss VAT liability of the dealer abroad.

2. New Swiss VAT rules as of 1 January 2019

As of 1 January 2019, a dealer outside Switzerland sending low value goods to customers in Switzerland can become liable to Swiss VAT on domestic supplies. This Swiss VAT liability of the dealer abroad kicks in if the dealer's annual turnover in low value supplies to customers in Switzerland is at least CHF 100’000; this is so because the then place of supply for low value goods will be deemed Switzerland. The dealer is then required not only to register with the Swiss VAT authorities but also to report and pay Swiss domestic VAT. The exemption, however, of low value supplies of goods from Swiss import VAT will continue to exist.

Once the dealer is registered for Swiss VAT purposes, the place of supply is not only deemed to be in Switzerland for low value goods but also for all other cross-border supplies to Switzerland.

From which point in time will a dealer abroad be liable to Swiss VAT on domestic supplies?

The test as to whether the "CHF 100'000 annual turnover" threshold is reached, will be applied on the basis of the calendar year 2018 turnover. If the 2018 Swiss annual turnover in low value supplies to customers in Switzerland is at least CHF 100'000 and if it is expected that this will also be the case for the 12 months following 1 January 2019, then the dealer is liable to Swiss domestic VAT as of 1 January 2019.

A dealer who begins his low value supply business with Swiss customers after 1 January 2019 will be liable to Swiss domestic VAT as soon as the dealer reaches the "CHF 100'000 annual turnover" threshold.

How to register for Swiss VAT?

Dealers must assess their Swiss VAT situations themselves. If the conclusion is that the dealer is subject to Swiss VAT, then this dealer must take action and register with the Swiss VAT authorities. The Swiss VAT authorities will require both that the dealer appoint a fiscal representative in Switzerland and provide a security (cash or bank guarantee) for VAT liabilities.

Is a voluntary VAT registration possible?

Indeed, a voluntary VAT registration is possible as long as you do not reach the "CHF 100'000 annual turnover" threshold for mandatory Swiss VAT registration. Thus, remaining under the annual turnover threshold allows you to register voluntarily for Swiss VAT. This step might be useful when foreign dealers achieve annual turnovers with low value goods close to CHF 100'000. With a voluntarily registration, the consistency is assured, regarding the process and the tax liability.

What to consider following Swiss VAT registration?

As opposed to Swiss VAT on domestic supplies, low value supplies of goods, for which Swiss import VAT would not be more then CHF 5, will continue to be exempt from Swiss import VAT, regardless of the amount of the dealer's annual Swiss turnover. If Swiss import VAT for a supply is more than CHF 5, it will be important for the dealer to make sure that it is the dealer and not his Swiss customer who is charged with this import VAT. Otherwise, the Swiss customer would be charged with VAT twice, i.e., a charge for import VAT, and an additional charge for VAT on a Swiss domestic supply as invoiced by the dealer. To avoid such a double-charge to your customer, consider the following:

- On the Swiss VAT authorities' website, there will be a public list of dealers who have registered for Swiss domestic VAT. Customs agents may use this list to decide whether import VAT will be charged either to the recipient of the supply (i.e., to the customer in Switzerland) or to the dealer abroad (i.e., if the dealer is registered for Swiss domestic VAT, and thus entitled to Swiss input VAT credit for Swiss import VAT). Dealers should, therefore, check to see if they are included in the public list.

- The address label on the envelope / parcel must show both the business name (as registered with the Swiss VAT authorities) and the Swiss VAT number of the dealer abroad.

- CN 22/23 mailings must carry an additional address label showing both the business name (as registered with the Swiss VAT authorities) and the Swiss VAT number of the dealer abroad.

- To facilitate procedures at the Swiss border, you can open a customs account in the centralized settlement procedure (CSP) of the Swiss Federal Customs Administration. If you hold such an account, the Swiss customs office will invoice the Swiss import VAT directly to you, and not at the border to the declarant.

The Swiss VAT authorities are yet to issue executing provisions. Therefore, changes might occur that overrule the above summary or are not covered in the above. Dealers should monitor their Swiss VAT situations.

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