**PRINCIPLES OF ACCOUNTING FOR THE VAT AT THE ONE STOP SHOP (OSS)**

**NON-UNION SCHEME**

**GENERAL INFORMATION**

The extended form of the MOSS scheme, i.e. the One Stop Shop (OSS), apply from **1 July 2021**.

**Under the OSS non-Union scheme**, is possible to account for the VAT on
business-to-consumer (B2C) services provided in Member States.

**REGISTRATION**

The following documents are **required** for the registration for the non-Union scheme:

- the VIN-R application for registration;

- commercial register extract or other document proving the company’s representation, e.g. contract of partnership, articles of association (original translation with a copy of the foreign language version);

- the original confirmation of registration for VAT from the country where a taxable person is established;

- the original PPS-1 power of attorney.

**Important**

All documents submitted in a foreign language must be translated into Polish by a sworn translator.

In order to register for the non-Union scheme, it is necessary to:

1. complete the VIN-R form – *Informing application regarding the special non-Union scheme to account for the VAT*, selecting the purpose of the application: Registration,
2. send the form – via the e-Deklaracje system – to the Head of the Second Tax Office Warszawa-Śródmieście,
3. in the case of acting through a proxy, the **original** PPS-1 power of attorney must be submitted.

**Note**

In the VIN-R form, a taxable person declares that he has no place of business or fixed establishment in the European Union and agrees to receive letters (information) by electronic means.

Taxable persons for VAT purposes in the non-Union scheme have an individual VAT identification number allocated, e.g.: **EU616xxxxxxx.**

If the conditions for registering for the non-Union scheme are met, the Head of the Second Tax Office Warszawa-Śródmieście shall confirm the application only by electronic means to the
e-mail address provided in the application for registration.

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Where a taxable person does not meet the conditions necessary to use the non-Union scheme, the Head of the Second Tax Office Warszawa-Śródmieście shall inform the taxable person – also only by electronic means to the e-mail address provided in the application for registration – that a decision to refuse the acceptance of the application has been issued. The decision may be appealed against within 7 days from the date of delivery.

As a rule, registration is effective from the first day of the calendar quarter following the quarter during which a taxable person submitted the VIN-R form. However, if a taxable person started supplying services before that date, the accounts for services under the
non-Union scheme apply from the first day of supplying the services, provided that the taxable person – **by the tenth day of the month** following the month in which the services were first supplied – notifies the Head of the Second Tax Office Warszawa-Śródmieście of the commencement of operations under the non-Union scheme. In this case, the taxable person shall be required to submit a VAT return covering the calendar quarter during which the first supply took place.

**Example**

A Polish taxable person started supplying services to consumers located in other EU Member States on 1 July 2021 and intends to account for the VAT on these services under the
non-Union scheme. Provided that the taxable person notifies the Head of the Second Tax Office Warszawa-Śródmieście about the commencement of operations by the tenth day of the month following the month in which the services were first supplied, i.e. by 10 August 2021, the taxable person will be identified for the non-Union scheme on 1 July 2021. Failure to meet this deadline means that the taxable person will have to register and account for VAT under general rules on services supplied in July in each of the individual Member States.

**VAT RETURN**

A taxable person identified for the non-Union scheme by the Head of the Second Tax Office Warszawa-Śródmieście shall be obliged to submit VAT returns in which the services supplied are accounted for to the Head of the Second Tax Office Warszawa-Śródmieście via the
e-Deklaracje system.

VAT returns shall be submitted for quarterly periods by the end of the month following each subsequent quarter.

A taxable person using the non-Union scheme shall submit VAT returns for each calendar quarter, regardless of whether the services covered by the scheme were supplied or not.

Where a taxable person using the non-Union scheme **has supplied no services** under this scheme during a return period and **has no corrections to make** in respect of previous returns, he shall submit a **nil-VAT return**.

**Important**

The deadline for submitting the returns (the end of the month following each subsequent quarter) shall also apply if this day falls on a Saturday or a statutory holiday (the OSS is open 24 hours a day, 7 days a week). However, this does not apply to the payment of VAT. Payment rules remain unchanged. Payment made on the first working day after the end of the month following the quarter is treated as made after deadline, if the last day falls on a (public) holiday.

A taxable person **cannot** submit a VAT return before the end of the return period. This means that it shall be submitted electronically on the first day after the end of the quarter at the earliest.

In order to submit the return, it is necessary to:

1. complete the VIN-DO form – *Declaration to account for the VAT under the
non-Union scheme*, indicating the tax period covered by the return and selecting the purpose of submitting the return: Submission;
2. send the form – via the e-Deklaracje system – to the Head of the Second Tax Office Warszawa-Śródmieście;
3. demonstrate, in section C of the VIN-DO form, the tax due to all Member States of consumption where the services are supplied.

Before submitting the relevant return, it is possible to submit a **draft return** by selecting the purpose of submitting the return: Draft return.

The draft return means its verification before submitting the relevant return in order to eliminate errors.

If information about detected errors is received, in order to submit the return, it is necessary to correct the errors indicated by the tax office in the received message and submit a correct return by ticking the “Submission” box.

If information about a correctly completed draft return is received, the return should be submitted by ticking the “Submission” box.

The draft **does not constitute a return and will not be provided** to the Member States of consumption.

**VAT amounts in EUR**

The amounts indicated in the VAT return are expressed in EUR and **shall not** be rounded up or down. A taxable person shall report and remit the exact amount of VAT.

In the event that the services supplied in a specific Member State of consumption are exempt from VAT, a taxable person should not include them in the VAT return (however, the VAT return must show services broken down by tax rates: standard and reduced, if any of the Member States applies such a lower rate to the services in question).

**Note**

A unique reference number (URN) shall be allocated to each submitted VAT return. A taxable person shall be informed by electronic means about the allocation of such a number. **The reference number of the return should always be provided when making payment (without it, it will not be possible to make the payment effectively and such payment may not be recognised as made on time).** The unique reference number for the non-Union scheme consists of the code of the Member State of identification, the VAT number and the period (quarter/year) for which the return is submitted, e.g. **PL/EUXXXXXXX/Q3.2021**.

**CORRECTION TO THE RETURN**

Where any amendments to the VAT return are required after its submission, the corrections shall be made **in a subsequent return within 3 years** of the date on which the initial return was required to be submitted. That subsequent VAT return shall identify the relevant country of consumption, the tax period and the amount of VAT for which any amendments are required.

**Important**

Only one return can be submitted for each return period under the OSS scheme. Corrections shall be made only in the subsequent return for the next “current” return period.

Changes to the figures contained in a VAT return relating to the return period up to the third quarter of 2021 shall be made by means of amendments to that return and not by adjustments in a subsequent return.

**PAYMENTS**

A taxable person shall pay the entire amount of tax resulting from the VAT return – **by the end of the month following each subsequent quarter** at the latest – to the bank account of the Second Tax Office Warszawa-Śródmieście number: **84 1010 1010 0165 9315 1697 8000** (for payments from abroad: **PL84 1010 1010 0165 9315 1697 8000**, BIC: NBPLPLPW). Payments of VAT shall be made in EUR.

The distribution of payments between the Member States of consumption shall made by the Head of the Second Tax Office Warszawa-Śródmieście.

Each payment shall indicate the reference number (URN) of the VAT return concerned (the number format can be found in the RETURN section). Failure to provide the reference number of the VAT return shall result in the inability to distribute and transfer the payment to the Member States of consumption (distribution of payments is done automatically via IT systems), and return of the payment to the taxable person. In consequence, this may lead to arrears which a taxable person shall be obliged to settle directly with the Member States of consumption. Late payment may have the same effect.

**Note**

In the case of making payments (other than in the case of submitting returns), if the last day of the deadline falls on a Saturday or a public holiday, the day of the deadline is a last working day of the month following each subsequent settlement period (quarter).

**Example**

A taxable person is identified for the non-Union scheme as of 1 July 2021. Pursuant to the regulations, a taxable person would be required to submit a VAT return for services supplied in the third quarter by 31 October 2021. According to the 2021 calendar, 31 October 2021 falls on Sunday. Therefore, the VAT return should be submitted via the e-Deklaracje system on 31 October 2021, i.e. Sunday, at the latest. Payment must be made (into the bank account of the tax office) on the last working day preceding the end of the month following a given quarter/settlement period, i.e. 29 October 2021, at the latest.

**Note**

If a taxable person is registered in Poland for more than one special scheme (e.g. the Union scheme and the import scheme), **a separate payment** of VAT should be made **for each of the schemes**. Payment of VAT is assigned to the relevant return, so if it is not possible to assign the payment to the relevant return, the amount paid shall be returned to the taxable person.

**Important**

Any tax overpayments shall be handled by the Head of the Second Tax Office Warszawa-Śródmieście or by the tax administration of the Member State of consumption, depending on the reason for and the date of the overpayment.

Where the overpayment is the result of transferring amount exceeding the amount indicated in the VAT return to the Head of the Second Tax Office Warszawa-Śródmieście, the Head of the Second Tax Office Warszawa-Śródmieście shall refund the overpaid amount to the taxable person.

Where the overpayment is the result of a correction to the VAT return, the overpayment shall be refunded by the Member State of consumption in accordance with its laws, provided that the amount of the correction exceeds the amount of tax due declared in the current tax period.

**RECORDS**

Under the non-Union scheme, a taxable person **must keep** records of the transactions covered by this scheme. The records **must be kept** for 10 years from the end of the year in which the transaction was made.

The records kept by a taxable person **must contain** the following information:

1. the Member State of consumption to which the services are supplied;
2. the type of services supplied;
3. the date of the supply of the services;
4. the taxable amount indicating the currency used;
5. any subsequent increase or reduction of the taxable amount;
6. the VAT rate applied;
7. the amount of VAT payable indicating the currency used;
8. the date and amount of payments received;
9. any payments on account received before the supply of the services;
10. where an invoice is issued, the information contained on the invoice;
11. the information used to determine the place where the customer is established or has his permanent address or usually resides.

**UPDATING**

In order to make an update under the non-Union scheme, it is necessary to:

1) complete the VIN-R form - *Informing application regarding the special non-Union scheme to account for the VAT*, selecting the purpose of submission: Update;

2) send the form – via the e-Deklaracje system – to the Head of the Second Tax Office Warszawa-Śródmieście.

A taxable person is obliged to provide the Head of the Second Tax Office Warszawa-Śródmieście with the updated data covered by the form **no later than by the tenth day of the month** following the month in which the circumstance requiring notification occurred.

The circumstances requiring notification include:

* changes in the registration data provided in the VIN-R application for registration (e.g. contact details specific to the OSS scheme, including e-mail address, bank account details),
* changes in the scope of activities covered by the non-Union scheme as a result of which a taxable person no longer meets the conditions for its application,
* ceasing to supply services.

**DE-REGISTRATION**

De-registration from the non-Union scheme may take place:

* at a taxable person’s request (the taxable person indicates the reason on the VIN-R form),
* ex officio – by the decision of the Head of the Second Tax Office Warszawa-Śródmieście due to the circumstances.

In order to de-register (taxable person’s will), it is necessary to:

1. complete the VIN-R form – *Informing application regarding the special non-Union scheme to account for the VAT*, selecting the purpose of submission: De-registration;
2. send the form – via the e-Deklaracje system – to the Head of the Second Tax Office Warszawa-Śródmieście,
3. indicate in the VIN-R form (section C) the reason for de-registration; the reasons for
de-registration may be as follows:

a) the supply of the services covered by the scheme has ceased,

b) failure to meet the conditions necessary for the use of the non-Union scheme,

c) abandonment of the application of the non-Union scheme.

**Note**

A taxable person who intends to voluntarily cease using the non-Union scheme – point (c) (regardless of whether he is still supplying services) shall be obliged to inform the Head of the Second Tax Office Warszawa-Śródmieście about his decision **at least 15 days before the end of the quarter** preceding the quarter in which he intends to stop accounting for VAT under this scheme (e.g. a taxable person decided to account for services according to general rules). The cessation shall become effective from the first day of the following quarter.

However, in the case of:

a) ceasing to supply the services – i.e. ceasing the activity covered by the scheme,

b) change of the data covered by the application,

c) change of the activities covered by the non-Union scheme as a result of which a taxable person no longer meets the conditions for its application,

a taxable person shall be obliged to inform the Head of the Second Tax Office Warszawa-Śródmieście about the events not later than **the tenth day of the month** following the month in which given factor occurred.

**Important**

The Head of the Second Tax Office Warszawa-Śródmieście shall also de-register from the non-Union scheme – apart from the above-mentioned reasons – if a taxable person:

* does not exist or, despite documented attempts, it is impossible to contact him or his representative, or for a period of two years does not supply services covered by this scheme in any Member State of consumption,
* systematically fails to comply with the rules of the non-Union scheme.

Systematic failure to comply with the rules of the non-Union scheme (persistent
non-compliance) takes place, *inter alia*, when a taxable person:

* **has failed to submit** a return to account for the VAT for three immediately preceding calendar quarters and fails to do so within 10 days after the Head of the Second Tax Office Warszawa-Śródmieście issued a reminder,
* **has failed to pay** the full amount of VAT indicated for each of three immediately preceding calendar quarters and fails to do so within 10 days after the Head of the Second Tax Office Warszawa-Śródmieście issued a reminder, except where the remaining unpaid amount does not exceed EUR 100 for each quarter calendar,
* **has failed to submit**, by electronic means, the records requested by the Head of the Second Tax Office Warszawa-Śródmieście and fails to do so a month after another reminder issued by the Head of the Second Tax Office Warszawa-Śródmieście.

When the above-mentioned conditions of de-registration occur, the Head of the Second Tax Office Warszawa-Śródmieście shall issue a decision on the expiry of a taxable person’s identification for the non-Union scheme. A taxable person shall be notified of the issuance of the decision by electronic means, i.e. to the e-mail address provided in the application for registration. The decision may be appealed against.

In the above-mentioned cases, a taxable person shall be subject to a “quarantine” **period of two years** following the return period in which the taxable person was de-registered, during which he **shall not be able** to use any of the special schemes.