

## Changes to the Distance Selling VAT Regime

### **What does “Distance Selling” mean?**

Distance selling is a special regime in Value Added Tax (hereinafter “VAT”) that applies to certain sales.

Sales will be considered as occurring under the Distance Selling Regime when:

1. The seller, a businessman resident in the European Union, ships goods to a buyer resident in another EU country.
2. The transport of the goods is carried out by the seller or is carried out on behalf of the seller.
3. The buyer is an individual who does not carry out business or professional activities, that is, a consumer.

Certain operations are excluded from the Distance Selling Regime and even if they fulfill the above requirements, its rules do not apply to them. Some examples of this are sales of art objects, antiques, and those sales of goods occurring under the Special Regime for Used Goods

### **How were Distance Sales being taxed until now?**

Until July 1, 2021, Companies performing Distance Sales would charge and pay VAT on such sales in their country of tax residence until their sales in a particular destination country exceeded the threshold established by the destination country.

Once the amount of Distance Sales went over this threshold, VAT had to be charged and paid in the destination country. This meant that the seller had to register for VAT in that country and file the corresponding returns.

There was also the option to waive the application of this thresholds, charging and paying VAT on the buyer’s country from the first sale, which also entailed filing the corresponding returns since that moment.



## How is the Distance Sales Regime going to change?

As of July 1, 2021, the thresholds by country will be abolished, and instead a single common threshold of 10.000 € will be established for all Distance Sales made by each Company in the European Union.

This threshold will be surpassed when a Company:

- a) Has sold over 10.000 € under the distance selling regime during 2020.
- b) Has sold over 10.000 € under the distance selling regime during the period of 2021 that has already elapsed.

Once the 10.000 € threshold has been exceeded, Value Added Tax must be charged and paid at destination country of the sales **for all sales made under the distance selling regime**, and the required declarations must be filed in each country where distance sells are made.

However, at the same time, the European Union has established the possibility of opting for the application of a new regime named “Single Window” in order to simplify the payment of the VAT of Distance Sales. This new regime allows Companies who make sales under the Distance Sales Regime to pay the VAT charged for this sales by submitting a declaration in their country of origin, **avoiding the increased administrative costs of having to register and submit VAT declarations in all the countries where they perform Distance Sales.**

The option for Single Window regime has to be explicit, so if a Company wants to apply this regime, he must opt for it before the threshold is exceeded, or he will be obliged to register in the countries where he performs Distance Sales.

Bear in mind that in some countries, like Spain, the option for the Single Window regime has to be submitted before the taxable period starts or it will not apply until the end of the taxable period (which is usually a month or a quarter). Failure to opt for the Single Window Regime in time, might result in being obligated to submit declarations in all countries where Distance Sales happen for the taxable period, which will carry a significant administrative cost.

### Conclusions:

Companies that perform sales under the distance selling regime should check whether they invoiced over 10.000 € in such sales during 2020, in order to determine whether they have surpassed the new common threshold already.

If that is not the case, they should examine whether they have exceeded the mentioned threshold during the tax periods of 2021.



If that is also not the case, they should estimate whether they will exceed the threshold or not in the next tax period, or opt preventively for the Single Window, because otherwise they might find themselves in the uncomfortable situation of having to register for Value Added Tax in several EU countries, as a consequence of having exceeded the threshold of 10.000 € during a tax period, and not having opted for the application of the Single Window Regime before the beginning of that Tax Period.

If you have any questions about the application of the new Distance Selling regime, the new Single Window regime, or need advice on what you should do regarding this changes, at Font & Yildiz we are experts in these and many other areas of a Company's legal day to day and we will be happy to advise you.

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