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# Leaving MOSS

## Background

A taxable person can leave either scheme voluntarily (deregistration), or it can be excluded from the scheme by the Member State of identification. Depending on the reasons for deregistration or exclusion, the taxable person may be barred from using either that particular scheme (Union scheme or non-Union scheme), or both schemes, for a certain period. This period is called the quarantine period.

### Deregistration

## 1. How does a taxable person deregister from the mini One

In order to deregister from the scheme, the taxable person is required to inform the Member State of identification at least 15 days before the end of the calendar quarter before that in which it intends to cease using the scheme. So, if a taxable person wants to deregister from the scheme from the 1<sup>st</sup> July, it must inform the Member State of Identification before the 15<sup>th</sup> June.

Member States will implement their own processes for notifying of the intention to deregister from the scheme, but it must be done electronically.

Once the taxable person has ceased using the scheme, obligations arising from supplies of telecommunications, broadcasting or electronically supplied services where VAT becomes chargeable after the date of cessation shall be discharged to the Member State(s) of consumption.

It is important to note that, in this instance, the taxable person is excluded from using the scheme it has left in any Member State for two calendar quarters.

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## **2. What if a taxable person moves his business establishment**

If a taxable person moves its business establishment from one Member State to another, or if it ceases to be established in the Member State of identification, but wants to continue using the scheme from a Member State in which it has another fixed establishment, the taxable person will be required to deregister from the scheme in one Member State, and register for the scheme in another Member State.

In this instance, the date of deregistration/registration will be the date of the change (i.e. when the business in the Member State of identification closes), and there is no quarantine period. However, the taxable person is required to inform both Member States (the old Member State of identification and the new Member State of identification) of the change no later than the 10<sup>th</sup> day of the month following the change.

As an example, a taxable person is established in the UK, and has registered for the mini One Stop Shop in the UK from 1<sup>st</sup> January 2015. Following a restructuring, the business establishment moves to France on 21<sup>st</sup> March 2017. To continue using the mini One Stop Shop, the taxable person will be required to deregister for the mini One Stop Shop in the UK, and register for the mini One Stop Shop in France. The date of deregistration in the UK, and registration in France, is 21<sup>st</sup> March 2017. Supplies made on 21<sup>st</sup> March 2017 shall be included in the French mini One Stop Shop declaration. The taxable person has to inform both Member States of this change by 10<sup>th</sup> April 2017.

A failure to inform both Member States within this time period will result in the taxable person being required to register and account for the VAT in each Member State in which it has a customer with respect to its supplies made as of 21<sup>st</sup> March 2017 and a quarantine period being applied under the normal rules.

The same procedure applies in cases where the taxable person is moving from the Union to the non-Union scheme (or vice versa).

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## **3. Should a taxable person deregister from the Union scheme**

The place of supply of telecommunications, broadcasting and electronically supplied services to non-taxable persons in other Member States is, in principle, in the Member State of the customer. However, to reduce the administrative burden for small businesses, a derogation to this principle has been introduced, entering into force on 1 January 2019. It provides that the place of supply of these services is in the Member State of the supplier where he is established or, in the absence of an establishment, has his permanent address or usually resides in only one Member State and the total value of these supplies does not exceed EUR 10,000 (exclusive of VAT) in the current and the preceding calendar year. The supplier can opt to apply the Member State of the customer-rule though and will in this case be bound by this decision for two calendar years. As soon as the threshold is exceeded, the place of supply is in the Member State of the customer (no option possible).

This means that taxable persons whose relevant supplies of services did not exceed the value of EUR 10,000 in 2018 can voluntarily deregister from the Union scheme in 2019.

They are however not obliged to do so and can opt to apply the general place of supply rule (taxation in the Member State of the customer) and continue using the mini One Stop Shop, in particular if they expect that their turnover is going to exceed this threshold in 2019.

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## **4. How should Member States that have not adopted the Eur**

They should calculate the national value by applying the exchange rate published by the European Central Bank on 5 December 2017 (the date of adoption of Directive (EU) 2017/2455 which introduced this threshold).

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### **Exclusion**

## **1. For what reasons shall a taxable person be excluded from**

A taxable person shall be excluded from the scheme for the following reasons:

- It notifies that it no longer supplies telecommunications, broadcasting or electronically supplied services;
- It may be assumed that its activities under the special schemes have ceased
  - o where it has made no supplies under the special scheme for 8 consecutive calendar quarters;
- It no longer meets the conditions necessary for using the scheme (for example, a taxable person using the non-Union Scheme is subsequently required to register in a Member State);
- It persistently fails to comply with the rules relating to the scheme - this is defined as being so in at least the following cases:
  - o Reminders to render a return have been sent to the taxable person for three immediately preceding calendar quarters, and the VAT return has not been submitted for each return within 10 days of the reminder;
  - o Reminders to make a payment have been sent to the taxable person for three immediately preceding calendar quarters, and the full amount has not been paid within 10 days of receiving each of these reminders, unless the outstanding amount for each return is less than €100;
  - o Where the taxable person has failed to make its records electronically available to the Member State of identification or Member State of consumption within one month of a subsequent reminder by the Member State of identification.

Whilst any Member State can ask that the Member State of identification excludes the taxable person, only the Member State of identification can take the decision of whether or not to exclude. A taxable person can appeal the exclusion decision according to national procedures that apply in the Member State of identification.

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## **2. What is the quarantine period?**

The quarantine period is the period during which the taxable person is excluded from using one or both of the schemes in the mini One Stop Shop. A quarantine period applies in the following cases only:

a. The taxable person notifies the Member State of identification that it no longer supplies telecommunications, broadcasting or electronically supplied services - there is a quarantine period of two calendar quarters from the date of cessation. The quarantine only applies to the scheme the taxable person was in;

b. The taxable person voluntarily leaves the scheme - there is a quarantine period of two calendar quarters from the date of cessation. The quarantine only applies to the scheme the taxable person was in;

c. The taxable person persistently fails to comply with the rules relating to the special scheme - there is a quarantine period of 8 calendar quarters from the date of cessation. This quarantine applies to both schemes;

d. The taxable person is excluded because he no longer meets the conditions necessary to use the respective special scheme - no quarantine period applies;

e. The taxable person is assumed to have ceased his activities subject to a special scheme because he has made no supplies of services covered by that scheme for 8 consecutive calendar quarters - no quarantine period applies.

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## **3. What is the date on which exclusion becomes effective?**

Where the taxable person voluntarily leaves the scheme, the cessation shall be effective as of the first day of the next calendar quarter.

Where the taxable person notifies the Member State of identification that it no longer supplies telecommunications, broadcasting or electronically supplied services or persistently fails to comply with the rules relating to the special scheme, the exclusion shall be effective as from the first day of the calendar quarter following the day on which the decision on exclusion is sent by electronic means to the taxable person. However where the exclusion is due to a change of place of taxable person or fixed establishment, the exclusion shall be effective as from the date of that change provided the information about the change is communicated by the taxable person to both Member States no later than the tenth day of the month following that change.

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