

Subject: VAT - MINI SINGLE STOP SHOP (MOSS). LOCATION OF OPERATIONS ON NATIONAL TERRITORY

The Decree-Law No. 158/2014, of 24 October transposes into domestic law the provisions of Article 5 of Directive 2008/8 / EC of 12 February 2008 amending Directive 2006/112 / EC of 28 November 2006 (the VAT Directive), as regards the place of supply of services. The Act also approves, attached, the special VAT scheme for taxable persons not established in the Member State of consumption or non-established, supplying telecommunications services, broadcasting or television and electronic services to persons who are not taxable persons resident or established in the Community, hereinafter referred to as "Mini One Stop Shop" or "MOSS".

The procedures concerning MOSS, as well as the application of the new location rules for supply of telecommunications services, broadcasting or television and electronic services supplied to non-taxable persons were subject to instructions conveyed by the corresponding official circular letters-n. °S 30164 and 30165 on 11 and 26 December 2014, respectively.

The present official circular letter complements those guidelines, aiming to clarify its application in the autonomous regions of the Azores and Madeira.

I - Scope

1. Due to the new location rules in Article 6 of the VAT Code, which come into force from January 1, 2015, the place of taxation of supply of telecommunications services, radio, television broadcasting and electronic services provided by taxable persons to non-taxable persons becomes to be the place of establishment or residence of the buyer. So, when those services are provided to person who is not taxable person and who is established or domiciled outside the national territory, they are not subject to taxation. On the contrary, when provided to the person who is not a taxable person, established or resident in the national territory, the above-mentioned services are here object of taxation, regardless of the provider's office.

2. In order to facilitate compliance with the obligations relating to such services a *one-stop shop* mechanism was established for Community operators, which will allow them to proceed with the delivery of the declaration and payment of the respective VAT in the electronic portal of the Tax Administration State member of the headquarters or, if

no such seat, the permanent establishment (see, with regard to Portugal <https://portaldasfinancas.gov.pt> page, the Portal of Finance, selecting "Mini One Stop Shop - Moss") .

II - Decree-Law No. 347/85, dated August 23

3. Decree-Law No. 347/85 of 23 August, with subsequent amendments, provides in paragraphs 1 and 2 of Article 1, reduced rates of value added tax for operations occur in the autonomous regions of the Azores and Madeira. In turn, paragraph 3 of the same article states that the taxable operations should be located in the territory of the continent or in the autonomous regions, according to the criteria established by Article 6 of the VAT Code, with the mutatis mutandis .

4. These rules are not aimed to assessing whether a particular transaction is taxable or not covered by the VAT rules in the national territory, but only to determine whether the incident tax rate on this operation is the one of the continent or of the Autonomous Region of Azores or Madeira, as appropriate.

5. In this sense, given that the application of the new rules of the location of telecommunications, broadcasting or television services or electronic services, to non-taxable persons, it has already been clarification object through Official Circular letter No. 30165, for the purposes of determining the rates in force in the autonomous regions, it is the same applicable, mutatis mutandis, to the transactions carried out between the Autonomous Region of Azores and the Autonomous Region of Madeira, and vice versa, or between these regions and the territory of the continent.

III - Operations carried out within the mini one-stop shop (MOSS)

6. The official Circular Letter No. 30164 addresses the application of the special scheme either to taxable persons established in the Community or to taxable persons not established in it when supplying telecommunications, broadcasting or television services and electronic services, to persons who are not taxable persons resident or established in the Community.

7. According to the said Official Circular Letter, taxable persons established in the national territory, as well as those who are not established within the Community may thus opt for registration in MOSS in the national territory.

8. In operations carried out under the scheme which, in accordance with the rules laid down in the Regulations of Implementation ¹ are considered taxable in the national territory, it should be understood that to the case does not apply paragraph 3 of

¹ Regulation of Implementation (EU) n°282/2011 Of the Council, of 15 of March of 2011, with the wording that it has been given by the Regulation (EU) n° 1042/2013 of the Council, of 7 of October of 2013.

Article 1 of Decree-Law No. 347/85 of 23 August, being irrelevant where the location where the purchaser, non-taxable person, is established, domiciled or makes consumption.

9. Thus, being Portugal the Member State of consumption, the operations covered by the scheme that are deemed to be located here applies the tax rate referred to in paragraph c) of paragraph 1 of Article 18 of the VAT Code.

10. This guidance is without prejudice to the provisions of Decree-Law No. 347/85 to the services supply of telecommunications, broadcasting or television and electronic services, carried out outside the mini one-stop shop scope to non-taxable persons.

Yours sincerely,

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