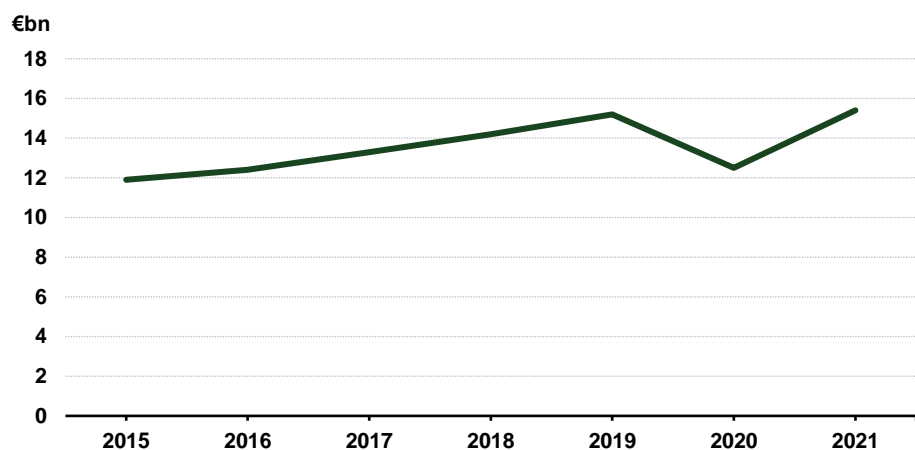


15 Collection of VAT on e-commerce

- 15.1** Value Added Tax (VAT) is a tax on consumer spending, which is charged to the final consumer of the goods or services but collected from the supplier. VAT is collected through a staged process which focuses on the value added at each stage in the production and distribution cycle. Each trader registered for VAT in the supply chain charges VAT on their sales, with a corresponding entitlement to a deduction of the amount of VAT charged to them on their purchases. The Office of the Revenue Commissioners (Revenue) is responsible for collecting and enforcing the payment of VAT.
- 15.2** An e-commerce transaction is the sale or purchase of goods or services, conducted over computer networks by methods specifically designed for the purpose of receiving or placing of orders. An e-commerce transaction can be business-to-business or business-to-customer, and the business supplying the goods or services may be in Ireland, another European Union (EU) member state or elsewhere in the world. E-commerce is a method of facilitating business transactions that is used across all business sectors and business models. A large proportion of the Irish economy is involved in e-commerce activities or in activities which enable and facilitate e-commerce, such as online marketing. The advent of e-commerce means that businesses can operate within a market in a country without ever establishing a physical presence in that country.
- 15.3** In 2021, the total net amount of VAT collected by Revenue was €15.4 billion (see Figure 15.1). These receipts represented 23% of the overall tax yield to the Exchequer in the year. VAT receipts had fallen significantly in 2020, but the trend in receipts suggests this was a temporary fall associated with measures related to the Covid-19 pandemic.
- 15.4** The EU has standard rules on VAT, but these rules may be administered differently in each EU country. For EU-based companies, VAT is chargeable on most sales and purchases of goods within the EU. In general, VAT is charged and due in the EU country where the goods are consumed, or services received, by the final customer.

Figure 15.1 VAT receipts 2015 – 2021



Source: Annual reports of the Revenue Commissioners

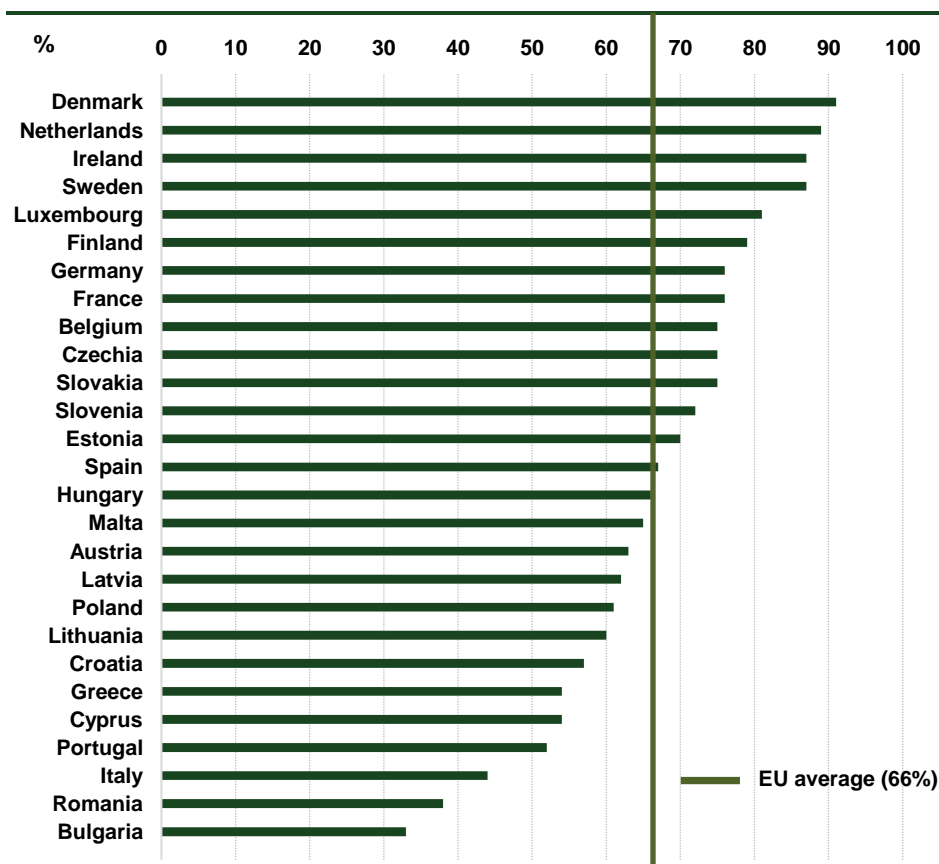
- 15.5** VAT is not charged on goods exported to countries outside the EU. VAT is charged and due in the country of import if that country operates a VAT system. While the exporter does not need to charge any VAT, they will need to provide documentary evidence to prove that the goods were transported outside the EU such as invoices, transportation documentation, an import customs record or customs documentation to the relevant tax authority, if requested to do so.
- 15.6** This examination was undertaken to consider what are the implications for VAT receipts resulting from the shift to online trade. It focuses on Revenue's
- strategy to capture and collect VAT due on e-commerce
 - assessment of e-commerce risks
 - e-commerce compliance work.

Scale of e-commerce activity

- 15.7** The Central Bank collects data each month from the largest issuers of credit and debit cards resident in Ireland.¹ The data collected on debit and credit card transactions is published on the Central Bank website. This includes a sectoral breakdown of expenditure, e-commerce and spending outside of Ireland. The statistics published by the Central Bank show that estimated online expenditure was just over €33 billion for 2021. This compares with estimated online expenditure of €27.6 billion in 2020 and €22 billion in 2019.
- 15.8** The European Commission's 2022 report on *Digital Economy and Society Index* summarises indicators on Europe's digital performance and tracks the progress of EU countries. The report notes that 33% of Irish SMEs sell online, with 11% selling across borders — significantly above the EU averages of 18% and 9% respectively. In addition, 22% of Irish SMEs total turnover originates from online sales, which is almost double the EU average of 12%.
- 15.9** In January 2022, Eurostat published the results of the 2021 survey of information and communication technology usage in households and by individuals. The report found that 66% of individuals aged 16-74 in the EU had shopped online in the previous 12 months prior to the survey (see Figure 15.2).
- 15.10** The survey results varied considerably across the EU ranging from 33% in Bulgaria to 91% in Denmark. Ireland ranked in the top three countries with 87%.

¹ Only euro-denominated cards issued by these providers to Irish residents are included. Credit and debit cards issued to Irish residents by issuers that are not resident in Ireland are not included in the compilation of data.

Figure 15.2 Percentage of individuals that bought/ordered goods or services for private use on the internet in the previous 12 months



Source: Eurostat, 2021 information and communication technology survey

Developments in the area of VAT on e-commerce

- 15.11** The growth of e-commerce poses a number of challenges to the administration of taxation systems with particular risks to the collection of VAT. To address these issues, the European Commission has undertaken a number of initiatives in this area. For example, the Mini One Stop Shop was introduced in 2015 and the VAT on e-commerce package was introduced in July 2021.

Mini One Stop Shop (MOSS)

- 15.12** MOSS was introduced in 2015 for the payment of VAT on telecommunications, broadcasting and electronic services (TBE). It was a voluntary scheme, for which traders could register in order to reduce the administrative burden associated with filing returns and paying VAT in multiple EU countries.¹ A MOSS return was filed quarterly, in the member state where the trader registered for the scheme. This notified the relevant tax authority of the TBE sales in each EU member state in which they were trading, facilitating the payment of local VAT and avoiding the requirement to register for VAT in each relevant member state. The Revenue web portal for MOSS was developed in advance of 2015 and Ireland was the first member state to make MOSS registration available to businesses.

¹ Under MOSS, a business engaged in telecommunications, broadcasting and electronic services can register in a single member state — the member state of identification (MSID) — to file a single quarterly return and pay its VAT liability due to all member states through a web portal in its chosen MSID.

15.13 Between 2015 and 2018, member states were permitted to retain a portion of the tax collected under the union scheme on behalf of other member states.¹ However, since 2019, the practice of retention has been abolished. Figure 15.3 shows the amount of VAT collected on behalf of Ireland by other member states from 2015 to 2021. It also shows the amount of VAT collected by Ireland on behalf of other member states from 2015 to 2021 and the amounts retained by Ireland for doing so between 2015 and 2020.

Figure 15.3 VAT collected by Revenue via the MOSS/OSS schemes and amounts retained, 2015 – 2021

Year	VAT collected by other member states proper to Ireland €'000	Net VAT collected by Ireland proper to other member states ^a €'000	Amount retained by Ireland €'000
2015	23,900	313,690	88,200
2016	39,166	397,205	158,826
2017	39,904	1,183,497	255,520
2018	54,059	1,428,971	242,245
2019	67,401	2,006,182	67,576 ^b
2020	89,166	2,365,806	15 ^b
2021	144,458	3,115,681	—
Total	458,054	10,811,032	812,382

Source: Certified Account of the Receipt of Revenue of the State collected by the Revenue Commissioners for the years 2015 – 2021

Notes: a Net VAT collected by Ireland proper to other member states is net of VAT repayments.

b These are amounts retained by Ireland as a result of late payments received in 2019 and 2020 in respect of returns for earlier years.

1 There are two schemes under MOSS — the union scheme, for businesses established in the EU or with at least one branch based in an EU country; and the non-union scheme, for businesses not established in the EU and without any branches based in the EU. The retention percentage was 30% for 2015 and 2016 and 15% for 2017 and 2018.

2 The changes made to the VAT Directive were transposed into Irish law in June 2021 through a Regulation made under section 3 of the European Communities Act 1972.

3 Further detail on these measures is included in Annex 15A to this chapter.

15.14 Between 2015 and 2020, Ireland collected €10.8 billion in respect of the union and non-union schemes on behalf of other member states. Of the amount collected for the union scheme, Ireland was permitted to retain just over €812 million. Ireland also received just over €458 million (after retention) in VAT MOSS receipts from other member states.

VAT on e-commerce package

15.15 In July 2021, the 'VAT on e-commerce package' was introduced to simplify VAT obligations for e-commerce activities.² The new measures were introduced to facilitate cross-border trade, combat VAT fraud and ensure fair competition for EU businesses.³ The new measures include

- extension of the scope of the Mini-One-Stop-Shop (MOSS), now referred to as a One Stop Shop (OSS)
- introduction of a new Import-One-Stop-Shop (IOSS)
- treatment of online marketplaces and platforms as 'deemed suppliers' for certain transactions
- introduction of special arrangements for certain imports of goods.

- 15.16** Revenue established a Cross-Divisional e-commerce Oversight Group in May 2021, to manage the implementation of the EU VAT on e-commerce package, including the implementation of the OSS and the IOSS. The group covers a range of issues including system changes, communications with stakeholders, guidance, registrations and the division of the case base for OSS, IOSS and intermediaries. There are also sub-groups which cover OSS/IOSS compliance and payment compliance.

Brexit

- 15.17** When the UK left the EU on 31 December 2020, there were a number of implications from a VAT e-commerce perspective, including¹
- MOSS could no longer be used by traders to pay UK VAT when selling to customers in the UK. Instead, traders need to register for UK VAT in order to record VAT on those sales.
 - Irish traders will be liable to charge UK VAT, at the point of sale, at the appropriate rate on goods shipped from Ireland to consumers in Great Britain in consignments of £135 or less.
 - For consignments with a value over £135, import VAT and potentially customs duty will be due and the Irish supplier will need to consider whether they arrange for payment of the UK VAT and custom duty or if their customers should be responsible for the payment of any customs duty and VAT arising in the UK.
 - Similarly, goods despatched by UK-established businesses to Irish customers from the UK would be treated as third-country imports. These UK businesses are no longer subject to EU distance-selling rules and can no longer register for VAT in Ireland as distance-sellers.
 - UK MOSS businesses were previously registered under the union MOSS scheme for EU businesses prior to Brexit. Following Brexit, these cases were obliged to re-register in an EU member state under the non-union OSS/IOSS scheme for non-EU businesses.
 - The VAT Information Exchange System (VIES) is no longer available for the UK/ Great Britain.²

Revenue strategy for e-commerce

- 15.18** One of the actions taken by Revenue in recent years was to establish an e-commerce senior management group in 2018, the aims of which included
- assessing the compliance risks associated with e-commerce
 - developing strategies to address e-commerce related compliance risks and developing and proposing business initiatives and projects to senior management for this purpose
 - considering specific measures to improve Revenue's capacity to manage compliance risks arising from e-commerce
 - increasing organisational awareness of e-commerce and digitalisation activities and associated risks
 - considering structural, resource, skills and legislative measures to enhance Revenue's capacity to identify and address e-commerce related risks
 - providing an update on progress for Revenue's management advisory committee by end 2018.

¹ Northern Ireland is treated as a member state with regard to VAT on goods but it is not treated as a member state with regard to VAT on services.

² The VAT Information Exchange System provides a mechanism whereby checks can be made in each member state on the validity of claims to zero-rating. It helps to detect unreported movements of zero-rated goods between member states.

- 15.19** The senior management group met in April and May 2018 and was due to meet again in September 2018. However, the group was disbanded prior to that meeting. Minutes are only available for the May meeting. At that meeting, the importance of “... *analysing the compliance risks associated with the e-commerce sector and the development of an up-to-date strategy to tackle the identified risk priorities ...*” was stressed.
- 15.20** Revenue’s *Statement of Strategy 2021-2023* is underpinned by eight corporate priorities. One of the corporate priorities — international tax and customs agenda — includes an objective to *actively participate in the dedicated strategic projects at EU level with a view to influencing the implementation of agreed objectives so as to minimise the customs burdens on all legitimate cross border commercial activity, including e-commerce.*
- 15.21** Revenue stated that while the number of discrete e-commerce issues set out in its more recent statements of strategy has declined, e-commerce tax compliance considerations have featured in Revenue’s input into considerations of new tax initiatives at both national and international fora. Revenue considers that they do not need a specific strategy for e-commerce as changes in place at EU level have significantly reduced the risks identified in any of its historic strategy papers. The introduction of Central Electronic System of Payment (CESOP) information in 2024 will add a further level of assurance.¹

Revenue’s assessment of e-commerce activity

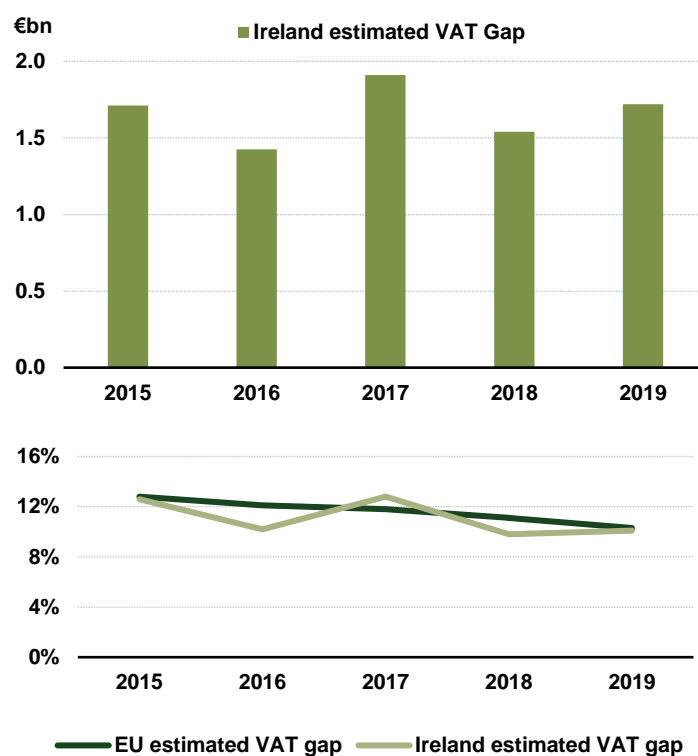
- 15.22** In July 2018, Revenue’s planning division prepared a paper for the e-commerce senior management group which stated that Revenue had no way of identifying or capturing the volume and nature of online trade on an ongoing basis. The paper noted that if this information was available to Revenue, it would help in understanding the relevant business models and in identifying emerging trends.
- 15.23** To address this issue, the paper suggested amending the existing self-assessment forms, such as the Form 11, CT 1 form and registration forms to capture additional information, for example, on the level of online sales/purchases, or payment methods accepted. Revenue stated that this was considered in 2019 but as macro-data sources such as the Central Bank, CSO, Eurostat and Visa had improved significantly, Revenue did not see the need to revise tax returns in this regard. Revenue also noted that the proposed revisions of the forms would require revision of enabling legislation and regulations.
- 15.24** Revenue implemented an alternative approach, based on a revision of the customer registration process, to improve its analytics capability. In November 2018, the tax registration forms (TR 1 and 2) were amended to request the taxpayer to provide the percentage of sales anticipated online. This field is only mandatory for all new online registrations. The information supplied by new online registered tax payers for the ‘percentage of sales anticipated online’ field is not in a format suitable for extracting statistics.
- 15.25** Revenue stated that it does not require taxpayers to quantify their e-commerce turnover given the challenges in defining such turnover, the additional costs to all parties and the relatively limited additional value of this data. Revenue has stated the value of a separate requirement for businesses to quantify e-commerce turnover is questionable as there is little evidence to suggest that the turnover from the digital channels of an established business presents a higher VAT risk than turnover from physical channels.

¹ In February 2020, the EU Council adopted a legislative package to request payment service providers to transmit information on cross-border payments originating from member states and on the payee of these cross-border payments. This information will be centralised on a European database (CESOP) and made available to member states via Eurofisc.

Compliance VAT gap

- 15.26** The compliance VAT gap is the difference between the expected VAT revenue in accordance with the current legislative framework and the amount of VAT that is actually collected by Revenue. Revenue does not calculate the compliance VAT gap.
- 15.27** A briefing paper by the European Parliamentary Research Service in December 2020 noted that, among indirect taxes, VAT has the highest share in the member states' indirect taxation revenues. As a result, the paper concluded that estimations and actions to narrow the difference between expected and actual VAT revenues — the VAT gap — are important. There is no common methodology for estimating the VAT gap and the quality of VAT gap estimates depends on the availability, accuracy and completeness of national accounts data.
- 15.28** Since 2013, the European Commission has published a report annually that provides VAT gap estimates for the EU member states. The European Commission follows a top-down approach to estimate the VAT gap by calculating the difference between the VAT due and the actual VAT revenues. The VAT gap represents VAT lost due to
- fraud and evasion
 - avoidance practices and optimisation
 - bankruptcies and financial insolvencies and
 - administrative errors.
- 15.29** The latest report, published in December 2021, provides VAT gap estimates for the period 2015 – 2019. The report states that the VAT gap is defined as the difference between the amount of VAT collected and the tax liability according to tax law i.e. the VAT total tax liability (VTTL).
- 15.30** For 2019, the report estimates the EU VAT gap to be €134 billion or 10.3% expressed as a share of the VTTL and calculates the VAT gap for Ireland at 10.1%. This represents about €1.7 billion in tax receipts. The estimates for the majority of member states lie in the range of 5 – 15%, with half of the member states having an estimated VAT gap above 8.6% (see Figure 15.4).

Figure 15.4 Estimated value of the VAT gap in Ireland and estimated VAT gap as a percentage of the VTTL in the EU and Ireland 2015 – 2019



Source: VAT gap in the EU, report 2021, European Commission

- 15.31** A working group on tax gap analysis was established by the European Commission in February 2021. The aim of the working group is for tax administrations to learn and share knowledge on the development and improvement of tax gap methodologies. Four sub-groups have also been established, one of which is on the e-commerce VAT gap (internal and cross-border) and Ireland is represented on that group by a Revenue official. Each sub-group will prepare an interim and final report with recommendations and methodologies and also develop a set of metrics to support tax administrations in the decision-making process of adopting and monitoring new tax compliance strategies. It is expected that the interim report will be completed in 2023 and the final report will be completed in 2025.
- 15.32** The e-commerce VAT gap sub-group is part of a wider project established under the EU Fiscalis programme of administrative co-operation. The project has a four-year life span and aims to identify and share best practice across the EU 27 in the identification and measurement of tax gaps across the spectrum of taxes including personal income tax, social security contributions, corporate income tax and value added tax. The sub-group planned to meet quarterly but to date has had just one meeting, held in September 2021. Revenue stated that the main outcome of that meeting was confirmation that no member state is currently measuring the e-commerce VAT gap. Future meetings of the group will consider possible methods to address this, dependent on assessment of the available data and applicability of general tax gap measurement methods to e-commerce.

Revenue's assessment of e-commerce risks

15.33 The examination team reviewed the most recent paper prepared in July 2018, for the e-commerce senior management group on the specific risks posed by e-commerce. Figure 15.5 sets out the risks included in the paper and includes an update from Revenue on the impact of these risks.

Figure 15.5 Risks posed by e-commerce identified by Revenue in July 2018

Risks	Description	Status as at September 2022
Anonymity of traders	For e-commerce transactions, it is more difficult to identify whether a transaction occurred, in what jurisdiction it occurred, whether tax is applicable and, if so, who is taxable.	Ongoing risk. However, the introduction of the OSS/IOSS and the deeming provision for marketplaces and platforms as part of the 2021 e-commerce package and the introduction of CESOP from 2024 go some way to address this issue.
Payment methods	Unlike traditional financial institutions such as banks and credit card companies, many electronic payment providers are under no legal obligation to provide information to Revenue.	Domestic transactions are addressed by S.891D of the TCA 1997. Cross-border payments will be addressed by the planned introduction of CESOP from 1 January 2024.
Location of data	Data holders of transactional and financial data associated with e-commerce may not be accessible to Revenue due to the location of the data and jurisdictional issues.	Domestic transactions are addressed by S.891D TCA 1997. Cross-border payments will be addressed by the planned introduction of CESOP from 1 January 2024.
Jurisdictional issues	Where jurisdictional issues arise they can impact on Revenue's power to impose a tax and Revenue's power to compel traders to comply with domestic tax law. Revenue officials in one country do not have enforcement powers in another.	This risk is largely applicable to distance sales. The introduction of OSS and IOSS in July 2021 has significantly reduced the barriers to cross-border taxpayer compliance. The associated OSS Compliance Framework implemented in July 2021 mandates increased intra-jurisdictional administrative cooperation. ^a Council Regulation 904/2010 on administrative cooperation in the field of VAT has been strengthened since 2017 to allow for increased cooperation between member states. It also now contains specific rules on administrative cooperation in respect of the e-commerce package.
Data privacy	Financial institutions and online marketplaces hold information on the trading activities of Irish and distance sellers that would be useful for Revenue compliance programmes. The main obstacle to getting this information is data protection rules which do not allow businesses to share data with tax authorities.	Mitigated by measures introduced by the VAT on e-commerce package such as changes in relation to distance selling, the introduction of the deemed supplier provision in 2021 and the planned introduction of CESOP from January 2024.
International reputation	Failure by Revenue to address non-compliance issues in relation to domestic e-commerce and distance sellers operating out of Ireland could damage Ireland's reputation internationally.	Mitigated by Revenue's engagement with EU Commission proposals and implementation of adopted VAT and mutual assistance legislation. This work is ongoing and Revenue continues to engage at EU level on future changes.
International cooperation	International cooperation is required to ensure that third parties located in a different jurisdiction comply with domestic information reporting regulations and to enforce penalties if necessary.	Addressed by strengthening of Council Regulation 904/2010 on administrative cooperation in the field of VAT which is already in place. The EU Commission is also currently looking to agree similar administrative cooperation agreements with third countries outside of the EU.

Source: Revenue Commissioners

Note: a Unlike previous cross-border EU VAT schemes, compliance under the new OSS/IOSS schemes is subject to a specific EU cross-border framework and rules which have been implemented by the EU Commission. The framework is designed to ensure close cross-border collaboration in future OSS compliance management.

Revenue compliance activity

- 15.34** Revenue stated that e-commerce activities are an integral part of whole case management in Revenue and that therefore an integrated risk management approach is applied in all divisions involved in compliance management.
- 15.35** There is no distinction between VAT registered traders that derive their income from e-commerce sales and those that derive their income from physical sales for the purposes of revenue compliance activities. Therefore, Revenue stated it is often impossible to separately identify e-commerce-only compliance activity from non-e-commerce compliance activities. All compliance branches may therefore undertake compliance interventions involving cases with e-commerce activity. VAT registered traders with e-commerce sales will also be subject to triggers in Revenue's risk profiling systems such as REAP and VAT Real Time Risk.
- 15.36** Non-resident suppliers making distance sales to Irish consumers in excess of the Irish registration threshold of €35,000 and that are not registered for VAT in Ireland do not have an identifier in the Revenue customer registration system. This means that they cannot be recorded in Revenue's case management system.¹ Revenue stated that, in the absence of turnover data, it is almost impossible to target unregistered businesses or to validate non-resident VAT returns effectively and efficiently. This means that Revenue is often dependent on the full co-operation of the trader when checking registration obligations, verifying returns and quantifying liabilities. The introduction of the CESOP system is designed to provide an EU-wide source of third-party payments data which will enable independent verification of returns and disclosures filed by non-resident traders.
- 15.37** Revenue considers that it is not practical to disaggregate e-commerce risk management activities from routine risk management activities except insofar as niche regulatory or compliance issues require specialist resources. Revenue stated that there are specific VAT risks involved with non-resident unregistered traders and for that reason, there are specialist areas dealing with particular areas of the digital economy but these are the exception.
- 15.38** One such specialist area, the non-resident online business (NROB) branch was established in October 2018 following a pilot project which commenced in January 2018 to
- develop a legal, procedural and technical capability for Revenue to meet its compliance obligations for non-resident unregistered traders under EU cross border e-commerce VAT regulations, and
 - ensure the VAT compliance of both registered and unregistered non-resident online traders that supply goods and digital services into Ireland.
- 15.39** The NROB branch is responsible for policy and systems development and for providing customer service, advice and support to non-resident online businesses which serve the Irish market under the various EU cross-border and e-commerce VAT schemes. From quarter one 2019, the branch comprised two teams — the registered traders compliance team and the unregistered traders compliance team.

¹ Up to July 2021, member states were required to adopt a threshold of either €35,000 or €100,000 for distance sales. Ireland's threshold was €35,000. The 2021 VAT on e-commerce package removed the distance sales thresholds. From July 2021, once the value of the goods (and certain services) sold in the previous 12 months reaches €10,000, the business needs to account for VAT at the rate applicable in the country where the customer is located.

- 15.40** Revenue stated that NROB is a small branch providing a niche function to non-resident online businesses and it has no role in other e-commerce compliance activities. The branch carried out 333 compliance interventions over the period 2018–2021, including 192 appraisals.¹ Of the 141 aspect queries and audits carried out, 83 cases yielded a total of €10.8 million.
- 15.41** Between 2018 and 2021, to address the risk of non-compliance of unregistered non-resident distance selling, Revenue carried out profiling of websites and issued letters to traders in other jurisdictions that may be selling to Ireland but not registered for VAT in Ireland.² The screening of unregistered cases was carried out on a part-time basis by two members of staff in the NROB branch. The aim of this work was to advise unregistered non-resident traders operating in the Irish market of Irish distance-selling requirements. The websites screened and contacted as part of this work were recorded on a standalone database.
- 15.42** Target traders are sourced from third-party data sources, local intelligence, reviews of ceased distance sellers and traders excluded from the MOSS scheme. Revenue reviewed the use of automated tools to assist with detecting unregistered traders. One of the analysis tools was downloaded for evaluation with a view to implementing it, but for a number of reasons including GDPR/security issues and the pending introduction of the OSS and CESOP, it was decided not to proceed with its implementation.
- 15.43** Sales and turnover data for these websites is not available and so it was not possible for Revenue to identify traders which exceed the Irish distance-sales registration threshold of €35,000 in a 12-month period. Accordingly, the letters issued to traders were primarily advisory in nature, setting out the rules around distance selling to Irish customers and outlining how a business can register for VAT. In order to try and identify subsequent registrations, the initial letter asked the trader to confirm whether they have exceeded the Irish distance selling threshold and provided details of registration procedures. The letter did not specify a reply date. In October 2019, Revenue introduced a reminder letter to issue two months after to prompt an outstanding reply. Where a reply was not received within three months, no further action could be taken by Revenue and the case was closed.
- 15.44** Between 2018 and 2021, there were just over 9,000 websites/traders profiled by Revenue. Each case worker records the results of the profiling carried out on individual spreadsheets which are combined and recorded on a master spreadsheet. Revenue is unable to quantify the number of registrations arising directly from the NROB branch contacts during this period as the registration function in Revenue is centralised and the branch are not involved in this process. However, Revenue stated that 127 traders which were contacted were subsequently identified through customer contacts and profiling, as having registered for VAT in Ireland. These 127 cases accounted for an Irish VAT uplift of approximately €22 million in declared VAT from their dates of registration to the end-June 2022 VAT period. Revenue believes that there are likely to be additional registrations and VAT uplift related to NROB activity that have not been identified.
- 15.45** Revenue stated that a more systematic approach to capturing the registration outcomes of the profiling carried out on unregistered traders would require either significant IT developments or the establishment of a dedicated registration function within NROB branch. The latter was considered in 2020 but the branch did not have the capability or capacity to undertake this function, particularly as the function was expected to wind-down following the implementation of the OSS in 2021.

¹ Appraisals are carried out to establish whether there is a need for any action. The outcome of an appraisal is a recommendation from the caseworker, as to the appropriate compliance intervention, i.e. aspect query, profile interview, audit or investigation. Alternatively, the caseworker may recommend that no further action is required, where the appraisal has clarified the risk(s). As a result, a yield is not expected from an appraisal.

² An intra-community distance sale of goods occurs when goods are dispatched or transported by, or on behalf of, a supplier in one European Union member state to certain customers in another member state.

- 15.46** Revenue stated that, reflecting the adoption of OSS across the EU, other changes in the EU regulatory environment which have reduced the risks of unregistered online trading, and the restructuring of the Irish online market following Brexit, the unregistered programme has been wound down. Since July 2021, the work of the unregistered compliance team has been focused on the administration of the OSS/IOSS case base, the management of various Brexit-related issues, the implementation of the EU CESOP programme in 2024 and the progression of a programme of IT developments needed to integrate OSS/IOSS more fully with Revenue systems. The unregistered compliance team was re-designated as a CESOP-focused team in September 2022.
- 15.47** As mentioned above, Revenue stated compliance activity on VAT registered traders with e-commerce related sales is carried out by all compliance branches. Revenue does not distinguish the level or outcome of VAT related e-commerce compliance activity from its total compliance activity. This is also the case for MOSS registered traders as it is not possible to identify the specific compliance activities carried out on MOSS traders.

Conclusions

- 15.48** An e-commerce transaction is the sale or purchase of goods or services, conducted over computer networks by methods specifically designed for the purpose of receiving or placing of orders. The phenomenon of e-commerce means that businesses can operate in a market without ever establishing a physical presence in that country.
- 15.49** E-commerce sales are an important income stream for many businesses. The European Commission's 2022 report on *Digital Economy and Society Index* shows that 33% of Irish SMEs sell online, with 11% selling across borders — significantly above the EU averages of 18% and 9% respectively. There has also been a significant increase in flows of tax revenues between member state revenue authorities in respect of the amounts paid via Mini One Stop Shop since its introduction in 2015.
- 15.50** The growth of e-commerce poses a number of challenges to the administration of taxation systems with particular risks to the collection of VAT. To address these issues, the European Commission has introduced a number of changes in this area, for example, the introduction of the Mini One Stop Shop in 2015 and the more recent VAT on e-commerce package introduced in July 2021. The planned introduction of CESOP from January 2024 will also be a significant development allowing the transmission and exchange of payment data to assist cross-border VAT compliance.
- 15.51** Significant changes are being implemented at EU level to ensure that effective and coordinated arrangements are in place to manage the taxation system. With this in mind, this is an area that will be kept under review by my Office and may be reported upon again in the future, as necessary.

Revenue's strategy for e-commerce

- 15.52** While one of Revenue's corporate priorities for 2022 refers to active participation at EU level in respect of e-commerce, Revenue does not have a specific statement of strategy focussed on this area.
- 15.53** Revenue considers that they do not need a specific strategy for e-commerce as e-commerce rules at EU level have significantly reduced the risks in this area and the introduction of CESOP in 2024 is expected to add a further level of assurance.

Revenue's assessment of e-commerce risks

- 15.54** In July 2018, Revenue documented the e-commerce specific risks for a senior management e-commerce group. As part of this examination, Revenue updated its assessment of the risks and stated that many have either been addressed or largely mitigated by the introduction of the 'VAT on e-commerce package' in July 2021 and the planned introduction of CESOP from 1 January 2024.
- 15.55** In 2018, Revenue commenced requesting traders registering for the first time to provide their estimated percentage of online sales. However, the data received from newly registered traders is not recorded in a format suitable for extracting statistics, and data is not available from existing registered traders. As a result, Revenue has no way of identifying or capturing the volume and nature of online trade on an ongoing basis.
- 15.56** Revenue stated that it does not require taxpayers to quantify their e-commerce turnover separately given the challenges in defining such turnover, the additional costs to all parties and the relatively limited additional value of this data. Revenue has stated the value of a separate requirement for businesses to quantify e-commerce turnover is questionable as there is little evidence to suggest that the turnover from the digital channels of an established business presents a higher VAT risk than turnover from physical channels. Revenue added that it is not aware of any other EU member state which currently requests this data because the range and diversity of income streams associated with online and digital service models is enormous and is extremely challenging to define and verify on an ongoing basis.
- 15.57** Revenue stated that e-commerce activities are an integral part of risk management as most businesses have a mix of e-commerce and non-e-commerce sales. As a result, it is not possible to disaggregate e-commerce risk management activities from routine risk management activities except for niche regulatory or compliance issues which require specialist resources.

E-commerce compliance activity

- 15.58** All Revenue compliance branches are responsible for the compliance of businesses in their case base, whether their income derives from e-commerce sales, physical sales or otherwise. Revenue stated that interventions dealing with businesses which operate online sales channels will not usually be recorded for statistical purposes as 'e-commerce' interventions because online business models are now normalised, widespread and integral to businesses in all sectors of the economy.
- 15.59** Compliance activity on VAT registered traders with e-commerce related sales is carried out by all Revenue compliance branches. Revenue has not established systems to distinguish the level or outcome of VAT related e-commerce compliance activity from Revenue's total compliance activity. This is also the case for MOSS registered traders.
- 15.60** There are specific VAT risks involved with distance sales traders and Revenue has established specialist units dealing with particular areas of the digital economy, for example the non-resident online business (NROB) branch. This branch carried out compliance work in this area between 2018 and 2021 that yielded €10.8 million. Revenue also noted that a minimum additional Irish VAT uplift of almost €22 million has been declared by previously unregistered distance sellers which are known to have registered as a result of work carried out by the branch's unregistered compliance programme.

15.61 Revenue stated that from 2021, the NROB branch's non-resident unregistered traders programme is being wound down. The work of the unregistered compliance team is focused on both the implementation of the EU CESOP programme in 2024 and a programme of IT developments needed to integrate OSS/IOSS more fully with Revenue systems. The team was re-designated accordingly in September 2022.

Annex 15A VAT on e-commerce package

From 1 July 2021, a number of changes were made to the VAT Directive to simplify VAT obligations for e-commerce activities. The changes made to the Directive were transposed into Irish law in June 2021 through a Regulation made under section 3 of the European Communities Act 1972.

The new measures were introduced to facilitate cross-border trade, combat VAT fraud and ensure fair competition for EU businesses. The new measures include

- an extension of the transactions that can be declared in the Mini-One-Stop-Shop (MOSS) leading to the creation of the One Stop Shop (OSS)
- introduction of a new Import-One-Stop-Shop (IOSS)
- treatment of online marketplaces and platforms as 'deemed suppliers' for certain transactions
- introduction of special arrangements for certain imports of goods.

Extension of MOSS

MOSS was introduced in 2015 and applied to the supply of telecommunications, broadcasting and electronic (TBE) services to non-taxable persons. MOSS was open to both suppliers established in the EU and suppliers established outside of the EU. From 1 July 2021, the scope of MOSS was extended to include a wider range of supplies of goods and services when made to customers in the EU and it is now referred to as a One-Stop-Shop (OSS). The OSS is designed for companies based inside and outside of the EU selling goods/services in EU countries.

Under the OSS, a supplier can register electronically in a member state and declare and pay the VAT due on cross-border business-to-customer supplies of services and intra-community distance sales of goods in the EU on a quarterly basis. Similar to MOSS, the OSS is an optional scheme and if it is not availed of the supplier will be required to register in each member state in which they make supplies to consumers.

Introduction of IOSS

From 1 July 2021, the low value consignment VAT relief of €22 was abolished and all goods imported into the EU are now subject to VAT.¹ A new Import One Stop Shop (IOSS) was introduced for the declaration of VAT due on distance sales of goods imported from outside the EU. The IOSS is designed for companies selling goods to customers in the EU, in consignments of an intrinsic value of €150 or less. For consignments of a higher value, standard VAT import rules apply. The use of this scheme is not mandatory, and it is open to both suppliers established in the EU and suppliers established outside of the EU. If a taxable person does not have an establishment in the EU and wishes to use the IOSS, they are obliged to appoint an intermediary.² Although the VAT liability remains the liability of the supplier represented by the intermediary, the intermediary is responsible for the declaration and payment of the VAT due.

¹ The current customs duty exemption for goods imported into the EU up to an intrinsic value of €150 remains unchanged.

² The role of the intermediary is to fulfil the obligations of the IOSS on behalf of the supplier.

The IOSS allows traders to register and declare import VAT due in all member states through a monthly IOSS return in the member state where they have registered for the scheme. Where the IOSS applies, the customer will be charged the VAT due on the supply at the time of purchase and the importation of the goods will not be subject to VAT. The VAT collected by the supplier will instead be remitted through their monthly IOSS return. This scheme only applies to imported goods, excluding goods subject to excise duty, where the intrinsic value of the consignment does not exceed €150.

Online marketplaces and platforms

New rules were introduced for online marketplaces and platforms facilitating supplies of goods in the EU. Where online marketplaces or platforms are facilitating certain supplies of goods, they will be deemed to be making the supplies themselves. This means that the online marketplace or platform will be responsible for accounting for the VAT on those supplies.

Where an online marketplace or platform is deemed to be making supplies of goods, they will be treated as any other supplier of goods which means they can opt to register for the OSS or the IOSS or both, depending on the supplies they are making. The rules of those schemes apply in the same way to that online marketplace or platform as they do to other suppliers using those schemes.

Special arrangements for certain imports

Prior to 1 July 2021, goods with a value of less than €22 were not subject to import VAT on importation into the EU. As mentioned above, from 1 July 2021, this relief was abolished and VAT becomes chargeable on all imports, regardless of their value. Special arrangements have been introduced, for goods with an intrinsic value not exceeding €150, as a simplification for the declaration and payment of import VAT as an alternative to the IOSS and the standard rules relating to VAT due on import. The rules are designed to be used by postal operators, express carriers or customs agents who declare low-value goods for importation.

When low-value goods are ordered from outside the EU by an EU consumer then VAT is generally due in the EU by the customer who orders the goods. Under the special arrangements, the customer will pay VAT to the person presenting the goods to customs, such as a postal operator or customs agent.

All goods imported under the special arrangements are subject to the standard rate of VAT. The postal operator will pay the import VAT due to Revenue on the 15th day of the month following the month in which the goods are imported.