



Advisory report

on

the VAT One Stop Shop scheme: billions of euros in custody accounts at the Federal Cash Office

addressed to the parliamentary Budget Committee

This report comprises the concluding audit findings issued by the Bundesrechnungshof in accordance with Article 96 (4) Federal Budget Code. The decision on its disclosure is reserved to the Bundesrechnungshof.

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Manual use of electronic taxation system

The Federal Central Tax Office (the Office) is the single point of contact for the VAT One Stop Shop scheme. The Office has to process several ten thousand data sets per quarter: It so far has used manual procedures in default of IT assistance. Until processed, the domestic and foreign VAT payments made by enterprises are kept in custody accounts at the Federal Cash Office and are thus not available to budgets in Germany and the other member states of the European Union.

Facts and figures

A new EU-wide taxation scheme was introduced on 1 July 2021. Since then, the Office has been forced to process incoming data manually. The lack of IT assistance leads to an enormous backlog in cases. Tax payments made by enterprises have therefore been held in the Federal Cash Office's custody accounts for many months. In practical terms, such payments are not available as budget revenues, with Germany failing to meet time limits set by Union Law for passing on payments.

What are the next steps?

The Office needs to be empowered to adequately meet its duties as single point of contact within the One Stop Shop scheme. This requires an appropriate IT assistance. Budget funds needed to establish such a system have to be made available. In calculating the funds needed, the bodies responsible should be aware of the fact that an expansion of the scheme is already being discussed at EU level.

What is the objective?

The VAT One Stop Shop scheme has been introduced to make electronic commerce (e-commerce) easier. The objective is to reduce the enterprises' and government's workload. This requires that the scheme works smoothly on the government's part. Manual processing must therefore be a thing of the past. In order for the government to achieve this objective, it must provide sufficient budget funds.

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List of Abbreviations

E

EU *European Union*

F

Finance Ministry *German Federal Ministry of Finance*

I

IT *Information technology*

IOSS *Import One Stop Shop scheme*

M

Member State of Consumption *EU member state in which the supply takes place and the VAT is due*

Member State of Identification *EU member state in which an enterprise is registered for using OSS*

MOSS *Mini One Stop Shop scheme*

O

OSS *One Stop Shop scheme*

0 Executive summary

On 1 July 2021, the existing EU-wide special VAT taxation procedure, the Mini One Stop Shop scheme (MOSS), was extended to become the One Stop Shop scheme (OSS). The OSS is supposed to make it easier for enterprises active across the Union's territory to meet their VAT obligations. Enterprises can avoid to register in each member state in which they supply goods or services to individuals (Member State of Consumption) and instead direct any tax return and payment to a central body located within the member state of their registration (Member State of Identification). The Member State of Identification passes on registration and tax return data, payment information and the enterprises' payments to the Member States of Consumption. The various steps of the process are each subject to time limits. For example, the Member State of Identification has the duty to transmit payments within ten days of the end of the month in which such payment has been made.

The Bundesrechnungshof in a first step examined as to how the OSS scheme works in practice at the level of the Federal Central Tax Office (the Office). The Federal Ministry of Finance was requested to comment on the draft of the present report. Its comments have been incorporated into this report.

- 0.1 The Bundesrechnungshof found that the bodies responsible currently cannot rely on IT assistance in confirming the posting of incoming payments vis-à-vis the Federal Cash Office, in generating payment authorizations, and in sharing payment information with the other member states. OSS data cannot be sent to the Federal Cash Office via an electronic interface but needs to be processed manually.
- 0.2 In contrast to MOSS, the number of German enterprises registered under OSS increased more than tenfold. In combination with the lack of IT assistance, this led to a huge backlog of cases surrounding the posting of incoming enterprise payments at the Office. At present, the backlog is roughly nine months or more than 36 000 unprocessed cases. We believe that the backlog will grow to 87 000 unprocessed payments by the end of March 2024. Due to the delays, the Office is not in the position to pass on related data and VAT amounts to the other member states in due time. Other member states admonish German enterprises about not having paid although the enterprises have already made payments in Germany.
- 0.3 Owing to the lack of execution as to the posting of incoming payments and payment authorizations, €4.3 billion are held in the Federal Cash Office's custody accounts. A major part of this amount are VAT payments to which other member states are entitled and which cannot be transferred. The rest are VAT amounts payable to Germany as a Member State of Consumption. In default of a proper posting, such amounts are not available as budget revenues.
- 0.4 Our field work showed that financial risks existed surrounding the IT assistance to be established for the OSS project. The Finance Ministry's units responsible notified the management that funding was secured until summer 2022. They confirmed that at

that time it was not possible to gauge the impacts resulting from the non-secured funding as from summer 2022.

- 0.5 We believe that the backlog of cases can only be permanently cleared by the Office by means of an electronic interface. We cannot accept that Germany is not in the position to meet its obligations under Union Law vis-à-vis the other member states in due time – and, under the given circumstances, will not be for the foreseeable future. Additionally, the technical shortcomings put pressure on the enterprises as these are admonished by other member states. Such shortcomings create uncertainties and a lack of acceptance of the special VAT taxation procedure. Furthermore, a damage to Germany's image cannot be ruled out.
- 0.6 The European Commission announced that adjustments to the scheme would be implemented still in 2022. On top of that, the expansion of the special VAT taxation procedure has already been put up for discussion. This would pose new challenges to the Office. If the required IT assistance cannot be provided in a timely manner, additional delays and a growing backlog could be the result. The amounts in the Federal Cash Office's custody accounts will increase and will thus not be available to the budgets of territorial entities in Germany and/or the other member states.
- 0.7 We hold that it is imperative to promptly link the OSS scheme to an electronic interface between the Office and the Federal Cash Office. Only this step would provide a basis for the Office to process incoming data in a timely manner and to reduce its backlog of cases. We therefore recommend that the parliamentary Budget Committee makes available the funds required for providing appropriate IT assistance for the OSS scheme.
- 0.8 The Finance Ministry shares our view relative to the need to provide IT assistance. The technical implementation of a link to the payment processing system as well as the securing of funding had been commissioned by the Office in July 2022. The Finance Ministry added that some functions had already been developed.
- 0.9 Additional delays in developing the OSS IT assistance must be avoided. We therefore reiterate our recommendation that sufficient budget funds need to be made available for this purpose.

1 Driver for government reporting

As from 1 July 2021, the EU-wide special VAT Mini One Stop Shop scheme (MOSS) was extended to become the One Stop Shop scheme (OSS).¹ The new OSS includes three schemes: OSS Union scheme; OSS Non-Union scheme; and the Import scheme (IOSS). Each scheme has its own target group and shall be used for specific types of sales. The participation in the OSS scheme is supposed to make it easier for enterprises that are active across the Union's territory² to meet their VAT obligations. Enterprises may avoid to register in each member state in which they supply goods or services to private individuals³ and instead direct any tax return and payment to a central body located within the Member State of Identification. The scope of the OSS scheme includes considerably more features than MOSS.⁴

Due to our audit experience gained surrounding MOSS, we are also monitoring the introduction of OSS. In a first step, we examined as to how the OSS scheme works at the level of the Office and which difficulties have emerged so far. To this end, we conducted field work at the Federal Ministry of Finance and the Federal Central Tax Office.

2 Initial situation

2.1 Federal Central Tax Office as single point of contact

In Germany, the Office is the single point of contact for the OSS scheme. It serves as the interface between the other member states, Germany's tax offices and the enterprise using OSS. The enterprise has to declare its participation in the scheme vis-à-vis the Office and register via the Office's online portal. It needs to use the online portal to submit a special quarterly VAT return. The return generally must show all sales per Member State of Consumption, which are subject to the OSS scheme, the tax rate and the applicable VAT. The

¹ On 5 December 2017, the Economic and Financial Affairs Council (ECOFIN) adopted the so-called digital package. This package is predicated on the project launched by the European Commission to modernise the VAT system applicable to cross-border electronic business transactions between enterprises and consumers. Cf. Press Release of the European Commission as of 5 December 2017, IP/17/4404, https://ec.europa.eu/commission/presscorner/detail/en/IP_17_4404.

In Germany, the 2020 Annual Tax Act (Jahressteuergesetz, JStG 2020) as of 21 December 2020, Federal Law Gazette I page 3096, introduced paragraphs 18i, j and k into the German Turnover Tax Law.

² In terms of VAT, the Union's territory encompasses the German domestic market and the territories of the other member states of the European Union which are considered the domestic markets of these other member states under Union Law.

³ Member State of Consumption.

⁴ So far, the procedure has only encompassed cross-border telecommunication, radio and TV services and other services that were provided electronically in particular to individuals living in other member states in which the enterprise was not domiciled.

corresponding VAT amount must be paid to an account of the Federal Cash Office. Member States of Consumption with no sales are not included in the return.

Domestic enterprises that registered for the OSS scheme need to disclose their sales to individuals in Germany through the special VAT taxation procedure. Germany in this case is both the Member State of Identification and the Member State of Consumption. The Office stores all incoming data (registration, tax return and payment data) in a database. It transfers such data and, on a pro rata basis, the VAT payments to the Member States of Consumption. Pursuant to Union Law, the funds shall be remitted within ten days of the end of the month of payment.⁵ If Germany is a Member State of Consumption, the Office shall transfer the VAT amount on a pro rata basis to the domestic tax office competent for the enterprise.⁶

The OSS scheme may especially be applied to intra-community distance sales. This term includes e.g. the following sales types:

- A Germany-based enterprise sells goods (directly, without using a market place) to private individuals in other member states (e.g. France, Poland and Hungary). The deliveries are subject to VAT taxation in the Member State of Consumption – here: France, Poland and Hungary. The enterprise would have to register for tax purposes in each of the three member states. If the enterprise uses the OSS scheme, it may report such sales to the Office and pay VAT in Germany. A registration in France, Poland and Hungary is not required.
- An enterprise based in a third country (e.g. Switzerland) sells its goods via a Germany-based electronic interface (market place). The goods are deposited in a warehouse in the south German city of Constance and are directly sent to private individuals in Spain and Portugal. The market place becomes the supplier that gets active in the intra-community distance sale and would need to register in Spain and Portugal. By using the OSS scheme, it may avoid a registration. It can meet its tax obligations via the Office.

The European Commission has announced systemic adjustments to the scheme still to occur in the current year 2022. It also intends to further expand the OSS scheme following an evaluation.

2.2 Technical implementation within the Office

The internal administrative process comprises the following four stages:

- registration;

⁵ Article 46 (1) of the Council Regulation (EU) No 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax

⁶ Pursuant to Article 108 (2) of the German Constitution, VAT matters are generally managed by the federal states' fiscal authorities.

- tax return;
- payment data; and
- payment.

The Office receives all incoming data and the payments made by the enterprise and reviews the data especially relative to completeness. Each registration, each tax return, each piece of payment data and each tax amount paid is to be allocated to the individual member state and/or the responsible German tax office. While this is done automatically when registering and submitting tax returns, payments need to be compared manually with the information made in the relevant tax return.

The payments made by enterprises are checked by the Office, confirmed vis-à-vis the Federal Cash Office and entered into the OSS database. Payments to enterprises, e.g. following excess payments, but also the remittance of funds to another member state via the Federal Cash Office need to be separately authorised by the Office. To authorise a payment to the Federal Cash Office, the Office may use a standardised form.

Data traffic to the other member states is limited for technical reasons. Payment data is therefore transferred as data packets with a maximum size of 4 000 entries. The data is transferred on a monthly basis, or several times per month if the limit of 4 000 entries has been reached.

3 Findings

3.1 Increase in caseload

The number of enterprises participating in the OSS scheme multiplied following the expansion of the scheme's scope. This is true for both enterprises registered in Germany and those registered in other member states. A major driver for this trend is the expansion of the scheme to also include intra-community distance sales via an electronic interface (market place). Such sales represent a large portion of global e-commerce.

The hike in cases markedly increased the Office staff's workload.

Table 1

Enterprises registered under the MOSS and/or OSS scheme

	Effective date 31 Dec 2017 MOSS	Effective date 30 June 2021 OSS	Effective date 31 Dec 2021 OSS	Effective date 30 June 2022 OSS
Number of enterprises registered in Germany	2 683	16 623	29 217	32 378

Source: Data provided by the Office. The numbers only refer to enterprises registered under OSS Union scheme.

3.2 Lack of IT assistance

The Bundesrechnungshof found that the bodies responsible cannot rely on IT assistance in confirming the posting of incoming payments vis-à-vis the Federal Cash Office, in generating payment authorizations, and in transmitting payment information to the other member states.

An electronic interface to import the transaction lists is not available. Each receipt of a payment made by the enterprises registered in Germany has to be validated manually by the Office and be confirmed vis-à-vis the Federal Cash Office. There are some 32 000 incoming payments per quarter. Furthermore, each payment needs to be recorded in the OSS database of the Office. According to the Office, the resources put into the processing of incoming payments could be reduced by at least 40-60 per cent by using an electronic interface.

Additionally, the Office does not have the possibility to generate payment authorizations based on a computer routine. Most data needs to be “typed” manually into the applicable form although relevant data is already available in electronic form. In a next step, the payment authorization is printed, signed and sent to the Federal Cash Office.

Moreover, there is also no IT assistance available in transmitting payment information to the other member states. The office staff has the duty to monitor as to whether the limit of 4 000 entries has been reached and to send the set of data, which has to be compiled manually, to the relevant member state.

3.3 Backlog of processing incoming payments

Per quarter, the Office receives some 32 000 payments. According to its own estimates, the Office is able to manually process 12 000 to 15 000 transactions within the given period of time so that in the past months the number of unprocessed transactions gradually increased. Currently, the backlog is roughly nine months or more than 36 000 unprocessed

cases.⁷ The Office has already reacted by allocating staff released in the wake of reorganisation efforts in other units to the OSS unit.⁸ The backlog of cases nonetheless continued to grow. Another reason for the backlog is that Germany failed to finalise the EU payment module when the provision took effect on 1 July 2021. The basic requirements as to the European Union have only been met since 3 March 2022.

Figure 1

Number of unprocessed incoming payments is set to surge.

Projection of unprocessed incoming payments (in thousands) by the end of the quarter.

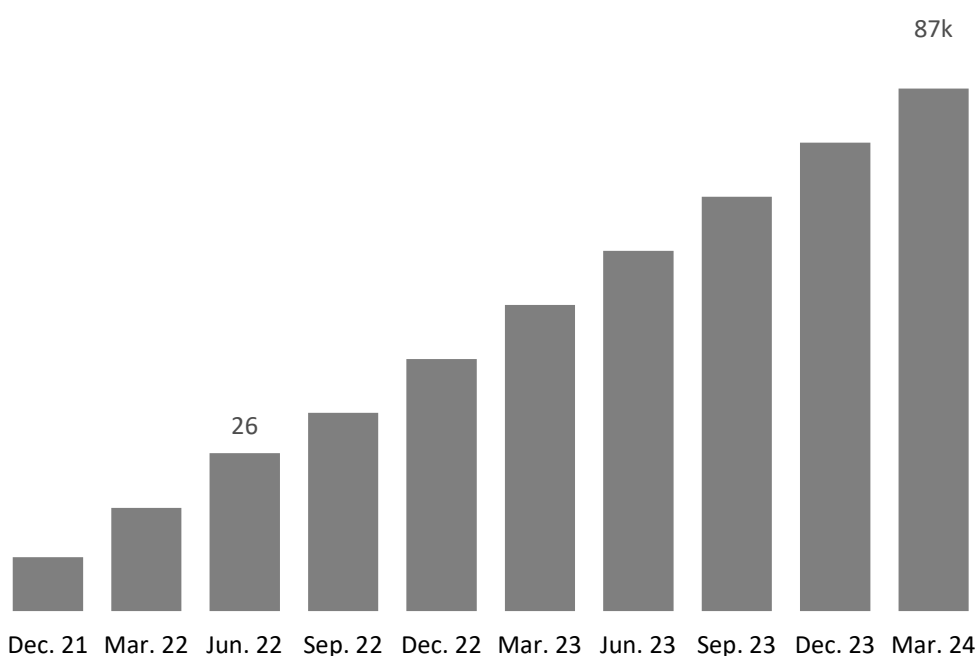


Figure: Bundesrechnungshof.

Source: Projection of the Bundesrechnungshof.

Unless the situation changes the backlog in processing incoming payments will, based on present data, grow to some 87 000 cases by the end of March 2024. Due to the delays, the Office is not in the position to transmit related data and tax amounts to the other member states in due time. Without the initial posting of the incoming payment, the bodies responsible are unable to generate payment information and to transmit VAT payments to the other member states. This causes delays in the taxation procedure in the other member states.

The practical consequences are as follows: Although the enterprises have already paid VAT amounts due to the Federal Cash Office, they were admonished by other member states. As

⁷ Status: 21 September 2022

⁸ Between seven and 17 employees with a maximum of 50 per cent of their working time have been allocated to the OSS unit.

a stopgap solution, the Office recommends that the enterprises inform the other member states about their payment.

On its website, the Office gives the following advice:⁹

Many enterprises registered under the EU OSS scheme have received a payment reminder issued by other member states. In order to avoid such a scenario, the member states have been informed at an early stage that the amounts paid and earmarked for them cannot always be transmitted in a timely manner. Obviously, however, not all member states have stopped sending system-generated reminders.

If you have also received a payment reminder from another member state, you should check in a first step as to whether you paid the full tax amount declared for the given quarter to the Treves-based Federal Cash Office. If this is the case, we recommend replying to the member state's reminder, stating that the taxes have already been paid in Germany.

3.4 Several billion euros on Federal Cash Office's custody accounts

The high number of outstanding postings of incoming payments and payment authorizations results in €4.3 billion¹⁰ that are deposited on the Federal Cash Office's custody accounts. Such accounts are subject to time limits within which the amounts deposited need to be transferred or credited to other accounts. The time limit for keeping amounts of up to €1,000 on custody accounts is six months; for amounts of more than €1,000 the time limit is twelve months. Currently, the six-month time limit for amounts of less than €1,000 is often exceeded due to the backlog.

A large portion of the deposited amounts is VAT revenue payable to other member states. The bodies responsible have not yet been able to transfer relevant amounts to these member states. The rest are VAT amounts due to Germany as a Member State of Consumption. In default of a proper posting, such amounts are not available as budget revenues.¹¹

⁹ Website of the Office; https://www.bzst.de/DE/Unternehmen/Umsatzsteuer/One-Stop-Shop_EU/one_stop_shop_eu.html#js-toc-entry5, accessed on 28 October 2022 (in German only).

¹⁰ Status: 21 September 2022

¹¹ Art. 60 (2) German Federal Budget Code: A payment received may be taken into provisional custody only for as long as it cannot be entered finally. Funds in provisional custody may only be used to effect related payments.

3.5 Uncertain funding

Our field work showed that planning as to providing the required IT assistance for the OSS project is in progress. However, funding was risk-prone. The units responsible at the Finance Ministry informed the ministry's management about the fact that the budget funds available and earmarked for the numerous IT projects will in sum lead to a further tightening of the already tense situation regarding the implementation of required additional IT functions within the OSS and IOSS schemes. In a first step, resources worth €900,000 had been reallocated from other processes to the OSS and IOSS schemes. The Office believed that there were no options left to reduce the required residual amount of €2.1 million. Funding was secured until summer 2022. It was not possible to gauge the impacts resulting from the non-secured funding as from summer 2022.

4 Conclusions

In a globalised world, cross-border e-commerce in goods and services becomes increasingly important. The number of OSS participants will therefore continue to grow so that the Office will not be able to clear the backlog by using available instruments. As a result, the account balance at the Federal Cash Office increases. A significant amount of VAT revenue is hence not available to Germany. Moreover, Germany in fact withholds foreign tax revenue.

We feel that the massive backlog can only be cleared on a permanent basis by modifying the OSS scheme to have an electronic interface link to both the Office and the Federal Cash Office. This would help reduce the required resources put into the posting of incoming payments by at least 40 to 60 per cent.

Generating payment authorizations also urgently needs to be automated. It is almost grotesque that, while the data needed for this process is already fully available in electronic form, the Office's staff has to "type" such data manually into the applicable form due to the lack of IT assistance. Although the Office helped itself by restructuring staffing, this cannot obscure the fact that the volume of data processed within the OSS scheme – a digital system – cannot be handled with instruments of the analogue era.

The technical weaknesses lead to avoidable work and expenses not only on the government's part, but also on the enterprises' part. First and foremost, the unwarranted payment reminders issued by the other member states need to be cited in this context. The Office recommends that the enterprises notify the foreign tax authority of the VAT payment made to the Office. This, however, contradicts the express goal of the special VAT taxation procedure, namely to make it easier to meet tax obligations by allowing enterprises to take all necessary steps (registration, tax return and payment) at bodies within the Member State of Identification. The communication between enterprise and Member State of Consumption was meant to be an exception under the OSS scheme. In sum, such IT weaknesses create uncertainties and a lack of acceptance of the special VAT taxation procedure. Furthermore, a damage to Germany's image cannot be ruled out. Unless the

number of outstanding postings of incoming payments stops going higher there is the risk that payment reminders are issued by other member states.

We cannot accept that Germany is not in the position to meet its obligations under Union Law¹² vis-à-vis the other member states in due time – and, under the given circumstances, will not be for the foreseeable future. To remedy the situation, adequate IT assistance needs to be provided.

When prioritising a project to this effect, decision-makers should take into account that the current situation at the Office does not only have impacts on Germany, but also on all other member states. Without the data and payments of the enterprises registered in Germany, subsequent procedures at member state bodies (e.g. payment reminders or tax collection efforts) cannot be initiated. A final processing of the tax case is thus not possible in the other member states.

The tense situation even seems to deteriorate. The European Commission announced that adjustments to the system would be implemented still in 2022. On top of that, the expansion of the special VAT taxation procedure is already put up for discussion. This would pose new challenges to the Office. If the required IT assistance cannot be provided in a timely manner, additional delays and growing backlogs could be the result. The amounts on the Federal Cash Office's custody account will increase and will thus not be available to the budgets of territorial entities in Germany and the other member states. The solution cannot be to relax this situation again by a – perhaps permanent – increase in human resources. The basic idea underlying the special VAT taxation procedure – namely to simplify the work of government and enterprises – is being thwarted if the lack of IT assistance results in a situation that generally automated processes need to be executed manually.

5 Recommendation

We hold that it is imperative to promptly link the OSS scheme to an electronic interface between Office and Federal Cash Office in order to be able to automatically process incoming payments and payment authorizations. This is the only way to make sure that the Office reduces its backlog of cases and complies with the time limits set for the OSS scheme by Union Law.

We therefore recommend that the parliamentary Budget Committee makes available the funds required for providing appropriate IT assistance for the OSS scheme.

¹² Article 46 (1) of the Council Regulation (EU) No 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax.

6 Comments of the Finance Ministry

The Finance Ministry shares our view as to the need to provide IT assistance. The technical implementation of a link to the payment processing system as well as the securing of funding had been commissioned by the Office in July 2022. The ministry added that some functions had already been developed.

7 Final audit conclusions

IT processes which only offer a few functions due to bottlenecks as to time, funding and human resources cannot meet the requirements of modern taxation procedures. The use of such processes leads to unnecessary additional expenditures and possibly to a damage to Germany's image.

Given the recent efforts of the European Commission to expand the scheme, the Finance Ministry should ensure that the IT infrastructure required for exchanging data between the Office and the Federal Cash Office is introduced as swiftly as possible and also actually used. Further delays in developing IT assistance for the OSS scheme must be avoided. We therefore reiterate our recommendation that sufficient budget funds need to be made available for this purpose.

Korn

Dr. Bieber