

7

LEGAL AND TAX ASPECTS OF THE DIGITAL BUSINESS

“THE VALLEY IS THE HUB WHERE KNOWLEDGE BECOMES THE DRIVER THAT TRANSFORMS”



7. LEGAL AND TAX ASPECTS OF THE DIGITAL BUSINESS

Navigate in the stormy legislative ocean is one of the most critical issues when starting an online business. The numerous (and growing) legal obligations applicable to the online world require a detailed study in order to familiarize the student with the legal framework. A correct legal compliance will provide our website with the consecutive increase in trust in users.

- Personal data protection. Compliance with legal principles : information, consent, access to data by third parties , security measures ,etc.

- Regime of advertising communications: latest news.
- Use of cookies: legal regime .

- Requirements for online contracting : legal conditions for delivery and return products.

- Tax aspects of e-commerce : direct taxation vs indirect taxation Application of VAT in e-commerce. The new regulatory framework of 2021 .

- Customs legislation applicable to international e-commerce

- Regime of services provided electronically.

- Other applicable laws : Intellectual Property, Electronic Signature, etc.

- Application in mobile environments.

- Examples of application of specific regulations applicable to agri-food sector:

- Examples from the USA market

- Examples from the Chinese market

- **GDPR: The new general data protection regulation**
- Entered into force in May 2016
- **Compulsory application for all companies in the European Union since 2018.**
- It gives citizens **greater control** and security over their personal information in the **digital** world. The GDPR extends your rights to decide **how you want your data to be managed** and how you want to receive information from companies.



WHAT IS PERSONAL DATA?

It is all information about an identified or identifiable natural person, whether it is a name, an ID, location data, an online identifier or one or more elements of the physical, physiological or genetic, psychic, economic, cultural or social identity of said person. Implying differences with respect to the old Organic Law on Data Protection.

GREATER TRANSPARENCY.

More transparency with the people whose information is accessed. From now on, with the new European data protection regulation, companies must explain to the users from whom they collect their data, why they are collecting them and demonstrate that these data are only being used for the purposes explained.

GOODBYE TO TACIT CONSENT.

Users will have the ability to withdraw their consent and delete the information from the company's servers. Tacit consent is over. The new general data protection regulation requires many more controls to ensure that whoever transfers their data does so with full knowledge. From now on, companies must review and redo the set of contracts and clauses.

COMPANIES ARE RESPONSIBLE FOR SECURITY.

Each company is the one that determines the levels of risk in which it incurs and the measures that must be adopted to guarantee that the information of any person is properly kept and it is used correctly. Homogeneity in data security is over. No one should be wondering "what is GDPR". We are all responsible.

PROACTIVITY IN THE COMMUNICATION OF SECURITY BREACHES.

Act proactively in the communication of failures. In the event of a data leak, the data controller must notify the security flaws to the Data Protection Agency of your country within 72 hours. This expert will have to have an effective system to make the report or to communicate the leak to those affected, in case there is any risk to their rights.

NEW FIGURE OF THE DPO

The general data protection regulation encourages the creation of the new figure of the Data Protection Officer or data protection delegate. An essential figure in the new European regulation and whose mission is to identify all possible risks and look for solutions. Its presence is mandatory for all public administrations and in those organizations with large-scale data processing. It can be internal or external to the company.

NEW REQUIREMENTS FOR DATA OF MINORS.

The new regulation considers that parental consent will be required to process data of children under 16 years of age in online services. Member States can legislate to lower the age of consent, although in no country can the requirement of parental consent be lower than 13 years.

NEW CERTIFICATIONS

The personal data protection regulation pays special attention to the implementation of certification schemes and opens up various possibilities for their management. The certifications can be granted by the data protection authorities, both individually and collectively from the European Committee, or by accredited entities.

PRIVACY BY DESIGN & BY DEFAULT

Technological Measures for Privacy by design and by default. The new data protection regulation establishes that all projects, whether commercial, creating a web page, developing a technological environment, etc.; must evaluate from the beginning of its design and by default the risks that it may entail for the privacy of the personal data that it will incorporate. In addition, you must verify that the necessary measures have been put in place to eliminate or mitigate them and, finally, that at all times the data processing complies with the data protection regulations in force.

ADAPTATION OF THE REGULATION TO EACH COMPANY

Due to all the changes regarding the Organic Law on Data Protection, some guides have been prepared with instructions where concepts, methodology, examples and models to follow, recommendations and even lists of possible risks of non-compliance and security are established. They are not standard guides but must be adapted to each company with the help of an external professional.



The cost of non-compliance

Your local Data Protection Authority monitors compliance; their work is coordinated at EU-level. The cost of falling foul of the rules can be high.

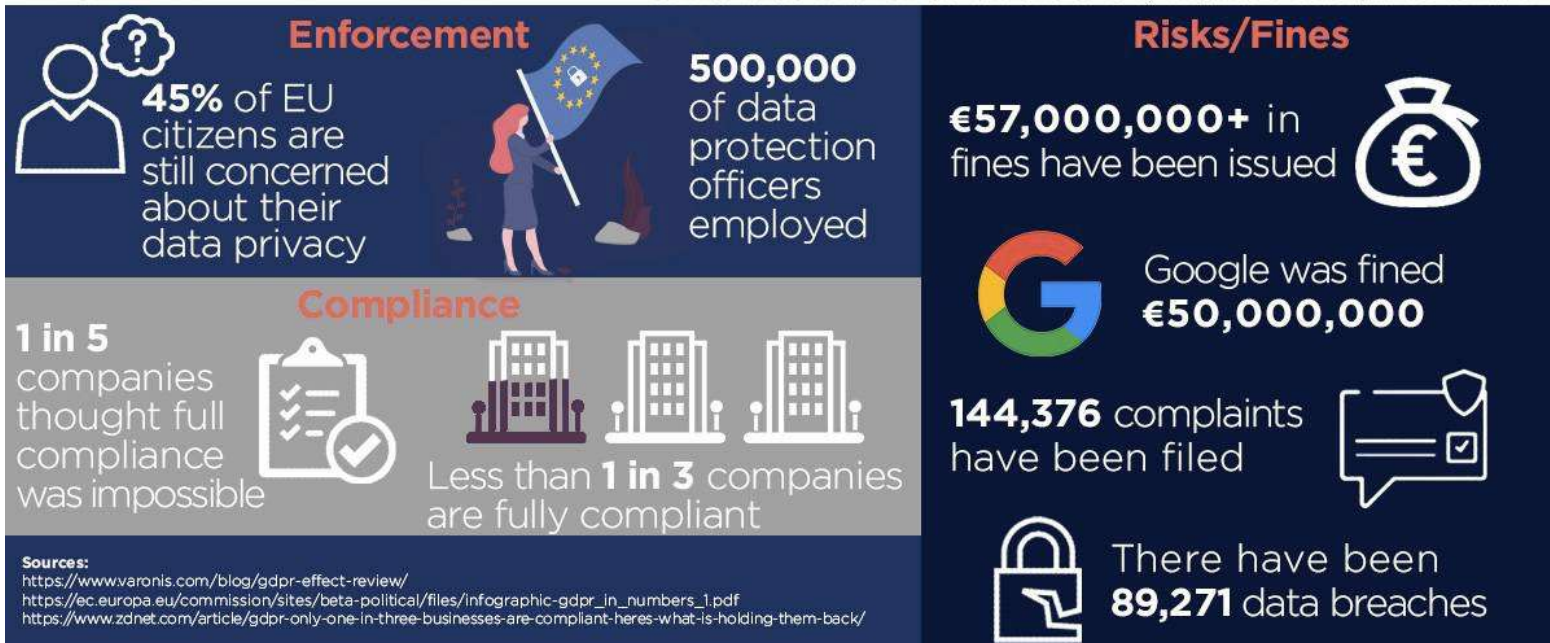


https://ec.europa.eu/justice/smedataprotect/index_es.htm

GDPR by the numbers

The **General Data Protection Regulation (GDPR)** went into effect on May 25, 2018 and drastically affected how companies' use and store their users' information. As a piece of EU legislation, the GDPR was primarily created to protect users and their data. After almost a year and a half since its implementation, what was the outcome? Is user data more secure? Are most companies GDPR compliant?

Let's look closer at some important enforcement, risks, fines and compliance numbers:



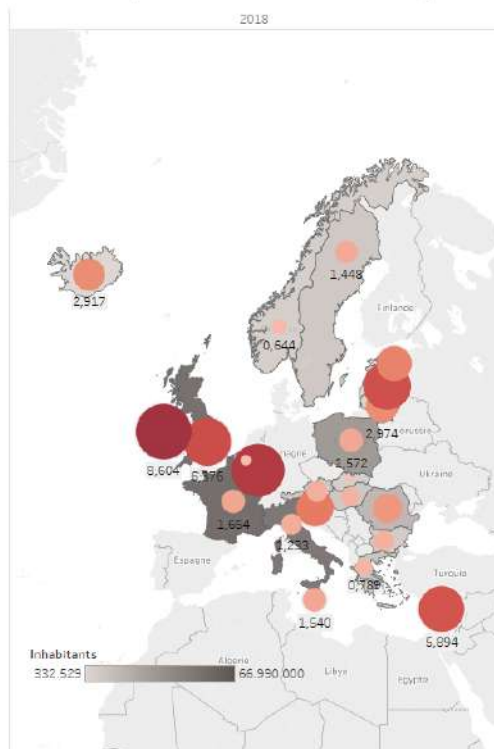
Sources:

<https://www.varonis.com/blog/gdpr-effect-review/>
https://ec.europa.eu/commission/sites/beta-political/files/infographic-gdpr_in_numbers_1.pdf
<https://www.zdnet.com/article/gdpr-only-one-in-three-businesses-are-compliant-heres-what-is-holding-them-back/>

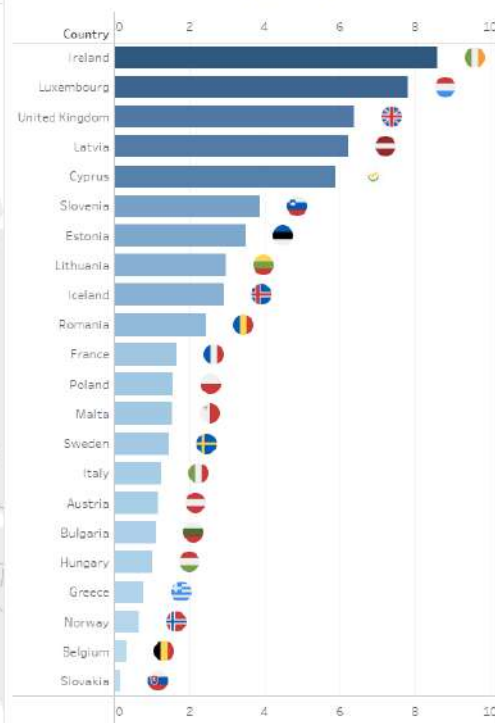
THE GDPR CHALLENGE



Who complains the most to DPA in Europe ?



Number of complaints sent to national DPA per 10,000 inhabitants



THE GDPR CHALLENGE



6^{TOP} BIGGEST GDPR FINES OF 2020

Google **100 Million £**
The French data authority, CNIL, has fined Google after investigators revealed that the tech giant were placing cookies on their websites, without the consent of consumers.

35.2 Million £
H&M Hennes & Mauritz Online Shop A.S. & Co. KG have fined for data protection violations in the H&M service center, Nuremberg.

amazon **35 Million £**
The French data authority, CNIL, has fined Amazon Europe after investigators revealed that they were placing cookies on their websites, without the consent of consumers.

27.8 Million £
TIM (telecommunications operator) have fined against Conserve and sanctioning measure against TIM SpA.

BRITISH AIRWAYS **22 Million £**
The Information Commissioner's Office (ICO) has fined British Airways (BA) £20m for failing to protect the personal and financial details of more than 490,000 of its customers.

20 Million £
Marriott International, Inc. UK has fined for insufficient technical and organisational measures to ensure information security.

Source: enforcementtracker, medianama

privado

<https://www.youtube.com/watch?v=kLFFnAONHvU>

DO I NEED THE CONSENT OF THE RECIPIENTS TO SEND ADVERTISING?

As a general rule, the consent of the recipients is required to send them advertising. However, in accordance with the RGPD, and Law 34/2002, on Services of the Information Society, there are situations that legitimize the sending of advertising without the need for consent.



DO I NEED THE CONSENT OF THE RECIPIENTS TO SEND ADVERTISING?

Specifically, a company can send advertising when its recipients have **previously** become customers, since it is considered that there is a **legitimate interest** of the company in the processing of its customers' data for marketing and advertising purposes. In any case, the advertising sent must be related to products or services similar to those that were initially contracted by the client.



WHAT RISKS AM I EXPOSED TO IF THE ADVERTISING I SEND IS NOT LEGAL?

The consequences for sending advertising can consist of large fines and serious reputational impacts. Thus, for example, an infraction for carrying out SPAM (sending unsolicited advertising) can lead to the imposition of a penalty of up to 150,000 euros in accordance with the Law and, in accordance with the RGPD, the sanctions could be of a higher amount, being able to reach up to 4% of the annual turnover of the previous year or 20 million euros.



WHAT HAPPENS WITH COOKIES?



Comienza Vende Promociona Gestionar Precios Recursos Iniciar sesión

Crea un ecommerce, sin importar lo que vendas

Dirección de correo electrónico

Comienza la prueba gratis

Shopify utiliza cookies para proporcionar la funcionalidad necesaria al sitio y mejorar tu experiencia. Al utilizar nuestro sitio web, aceptas nuestra [Política de privacidad](#) y nuestra [Política de cookies](#).

Aceptar

Web oficial de la Unión Europea ¿La sabes?

Cookies
Este sitio web utiliza cookies para mejorar su experiencia de navegación. Más información sobre cómo usamos las cookies y de qué manera puede cambiar su configuración.

Acepto las cookies Rechazo las cookies

Comisión Europea

español

Buscar

Respuesta al coronavirus

Más información >

Con su acuerdo, nosotros y [nuestros socios](#) usamos cookies o tecnologías similares para almacenar, acceder y procesar datos personales como si web. Puede retirar su consentimiento u oponerse al procesamiento de datos basado en intereses legítimos en cualquier momento haciendo clic en "Configurar" o en nuestra [Política de Cookies en este sitio web](#).

Nosotros y nuestros socios hacemos el siguiente tratamiento de datos con su consentimiento y/o nuestro interés legítimo:
Almacenar o acceder a información en un dispositivo, Anuncios y contenido personalizados, medición de anuncios y del contenido, información sobre el público y desarrollo de productos, Compartir tus análisis de navegación y grupos de interés con anunciantes y otros intermediarios del mercado publicitario, Datos de localización

Al pulsar sobre un artículo, vínculo del sitio web o "Aceptar", admites que estás de acuerdo con el uso de cookies y otras tecnologías para procesar tus datos personales (como la dirección IP) con el fin de mejorar y personalizar tu experiencia en los sitios del portafolio de marcas de eBay, incluidos eBay y terceros que proporcionen publicidad personalizada para ti, tanto dentro como fuera de nuestros sitios web. Además, los terceros con los que nos asociamos pueden almacenar cookies en tu dispositivo y usar cierta información para la personalización de la publicidad y mediciones de datos de audiencia y datos analíticos. Puedes denegar tu consentimiento o seleccionar las cookies que aceptas de forma individual pulsando "Más información". Puedes retirar tu consentimiento en cualquier momento en <https://www.ebay.es/cookie>.

Finalidad del procesamiento de datos: Almacenar o acceder a información en un dispositivo, Anuncios y contenido personalizados, medición de anuncios y del contenido, información sobre el público y desarrollo de productos.

Qué hacemos

La estrategia de la UE, su función a la hora de establecer prioridades y su aplicación a través de las políticas.

Quiénes somos

Organización, departamentos, funciones y responsabilidades, principios rectores y cómo hacer visitas y participar.

Configurar

Aceptar

Más información

Aceptar

Any website that wants to use cookies must **first** obtain consent to install a cookie on the computer or mobile device.

Not all cookies require user consent.

Examples of **exempt cookies**, whether their own or from third parties. They are those used for the sole purpose of:

- User input
- User identification authentication session
- User security
- Media player session
- Load cookies
- Customization of the user profile
- Social Sharing Plugin
- Shopping basket
- The filling of forms

Non-exempt cookies - it is necessary to inform and obtain consent, both for own cookies and those of third parties, which process data for any purpose other than those mentioned.

Example: cookies used to perform usability analysis or "analytics" of the website or in the advertising of the website or application or even of the products or services of the company in any other website or application.

In January 2017, the European Commission proposed a new Regulation on the privacy of electronic communications (ePrivacy). It will replace the 2002 Electronic Communications Privacy Directive (the "cookie law").

A LINK TO A PAGE WITH THE COOKIE POLICY AND THE ABILITY TO CONFIGURE AND REJECT

The following information must be included in the cookie policy:

- a) Definition and generic function of cookies.
- b) Information about the type of cookies used and their purpose.
- c) Identification of who uses cookies
- d) Information on how to accept, deny or revoke consent for the use of cookies
- e) Where appropriate, information on data transfers to third countries made by the editor.
- g) Data retention period
- f) When profiling
- h) In relation to the rest of the required information

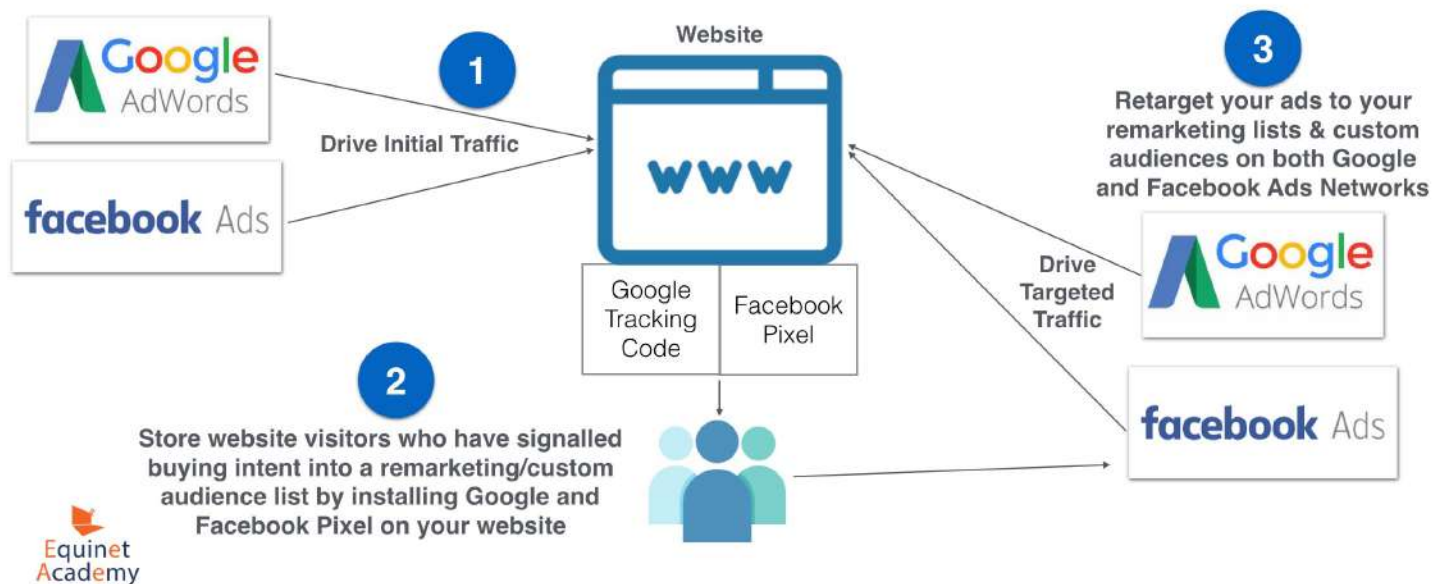




2. Some time later they visit a football site and an offer for cheap hotels in Rome appears

Sites that use these types of services (for example, remarketing / retargeting) must respect applicable laws when providing information to the user through the privacy policy of the site, which requires prior consent.

WHAT IS RETARGETING/REMARKETING?





<https://www.youtube.com/watch?v=9x9FrtAl4M8>

PLACE OF CONCLUSION OF THE CONTRACT:

- Consumer contract: habitual residence of the consumer.
- Contract between businessmen: It is presumed to be held in the place where the service provider is established, but the parties may agree on any other place.

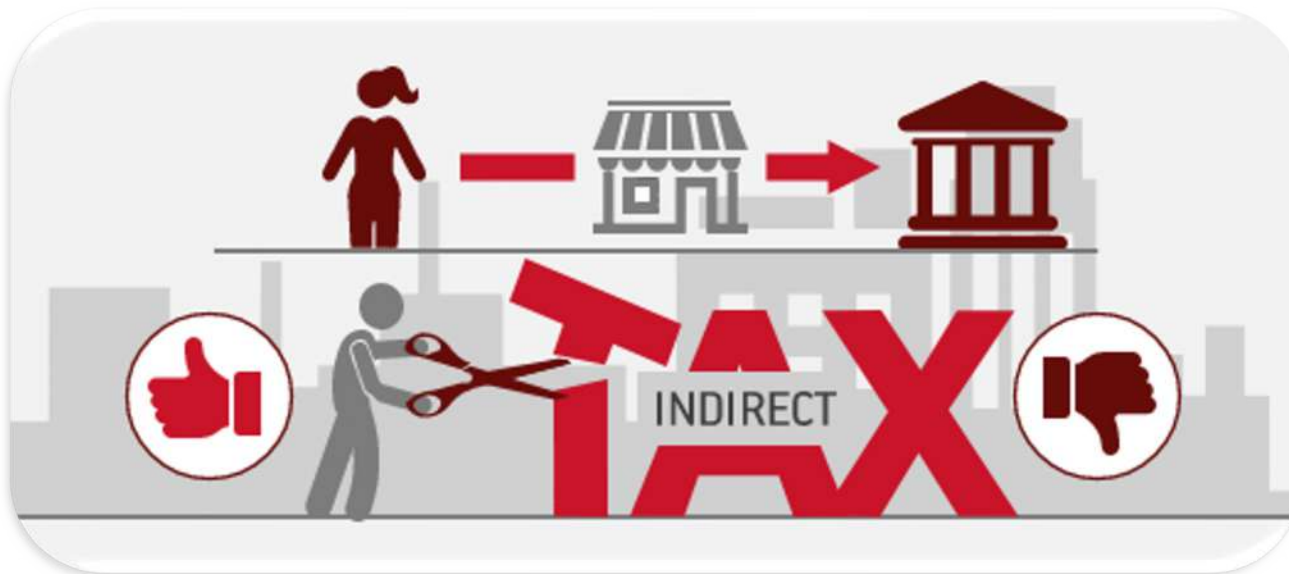
DELIVERY TIMES:

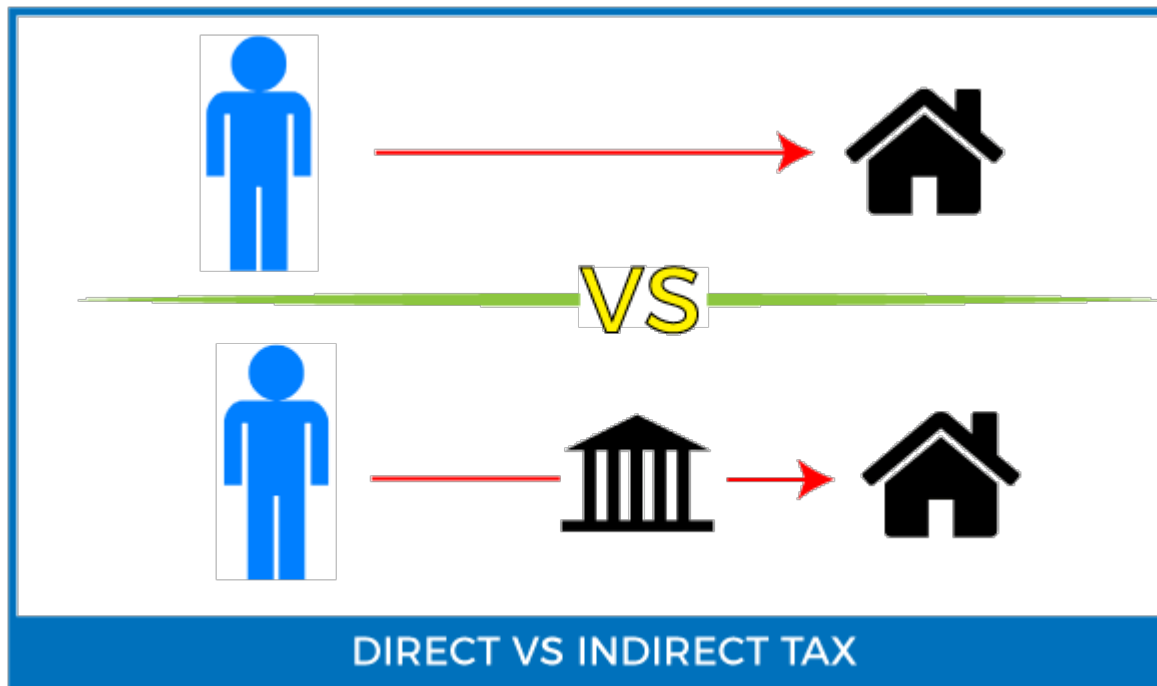
- Unless otherwise agreed by the parties, the seller must execute the order within a maximum period of thirty days from the day following the day on which he received the notification from the buyer.

RETURN PERIODS:

- From the day the buyer receives the product, you have 14 business days to return the product.







NEW AMAZON SERVICES

VAT Services on 

 **amazon**marketplace

VAT ON ONLINE SERVICES

MOSS: Mini One Stop Shop

The VAT Mini One Stop Shop (MOSS) is an optional scheme that allows VAT, a tax generally due in several EU countries, to be settled in a single EU country.

Providers of cross-border telecommunications, television and radio broadcasting services or cross-border digital services to persons who are not taxable persons are eligible for the scheme. The services contemplated in the one-stop mini-window system are, among others:

- Website hosting
- Supply of computer software
- Database access
- Download apps or music
- Online games
- Long distance education.

<https://www.youtube.com/watch?v=y-c8i846994>

Customs and e-commerce go hand in hand, so if we want to bet on international sales, we must bear in mind the customs tax for e-commerce when billing the online store.



Introducción

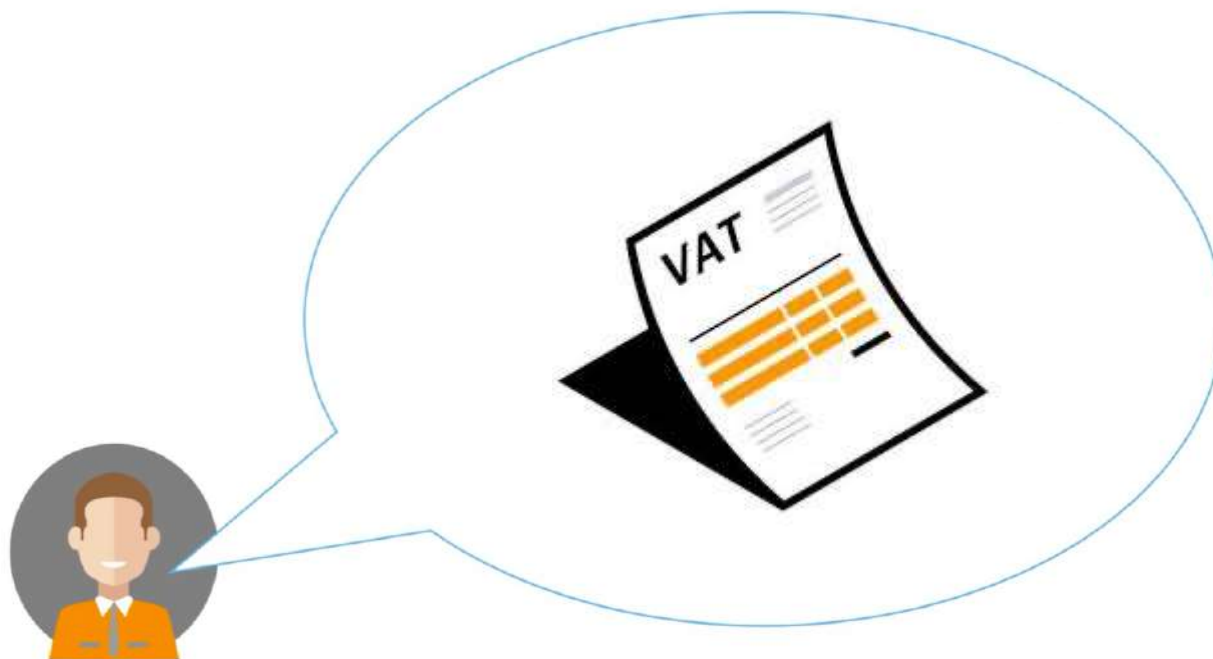
¿Qué es el nuevo paquete de IVA de comercio electrónico?



VAT APPLICATION REGULATIONS



VAT APPLICATION REGULATIONS



VAT APPLICATION REGULATIONS



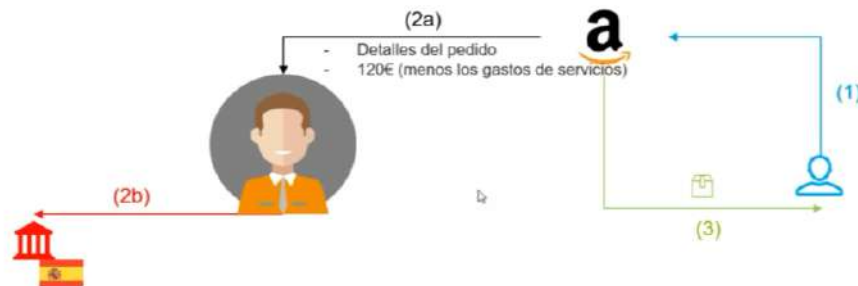
AGROSMARTglobal
 INTERREG SUDOE
 SOE3/P2/E0897
 MOOC Agrosmart Global

ecommercenews

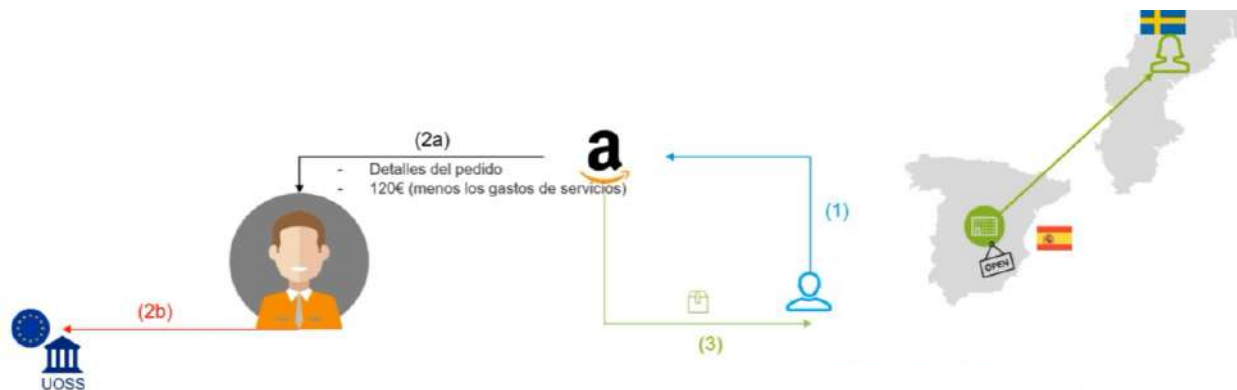


Case: Peter manages the order from a warehouse in Spain.





In this case it
does not apply



In this case it **DOES** apply

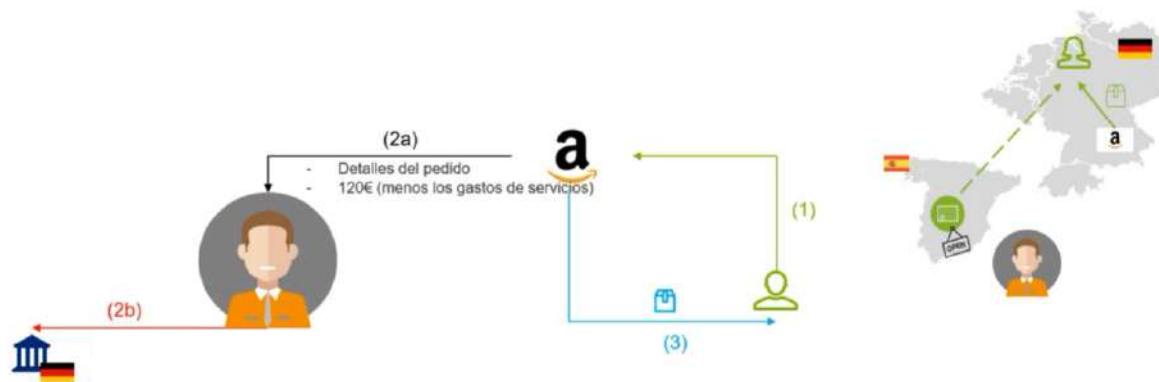


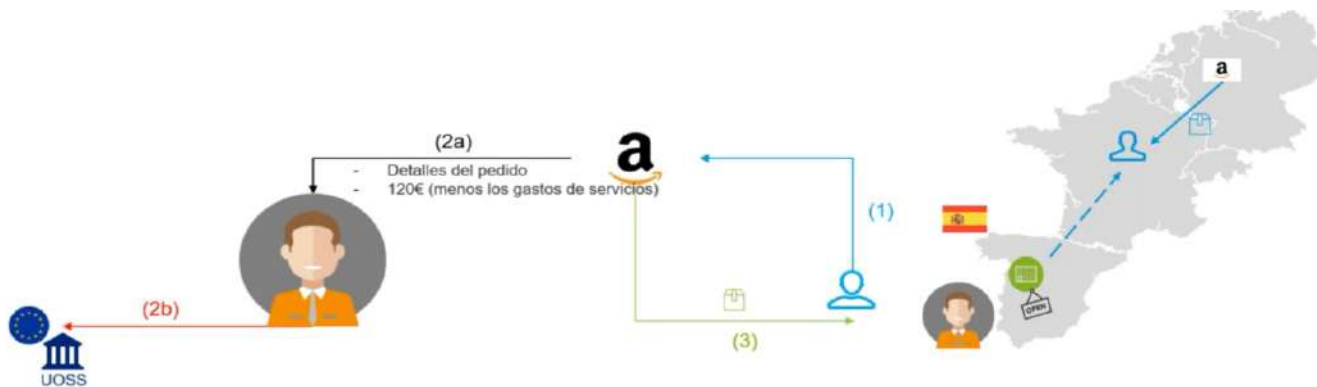
Stock in Germany -
PANEUROPEAN Logistics Program

VAT APPLICATION REGULATIONS



VAT APPLICATION REGULATIONS





VAT APPLICATION REGULATIONS



I. Anmeldung der Umsatzsteuer-Vorauszahlung

Lieferungen und sonstige Leistungen	Steuernummer	Steuersatz	Netto	Steuer	Gesamt
Lieferungen und sonstige Leistungen					
Steuerschuldige Umsätze					
von Steuerzahlern (Steuerschuldige Umsätze)	81	10%	1.176,17	117,62	1.293,79
zum Steuerzeitraum	86	0%	0,00	0,00	0,00
zu anderen Steuerzeiten	36	10%	81,12	8,11	89,23
Lieferungen und sonstige Leistungen nach § 24 UStG an Abnehmer (UStG-Umsatz)	77	0%	0,00	0,00	0,00
Umsätze, die die eine Steuer nach § 24 UStG zu anderen Steuerzeiten veranlassen, (Steuerschuldige Umsätze, z.B. Waren)	76	0%	80,00	0,00	80,00
Steuerschuldige Umsätze mit Vorsteuerabzug					
von Steuerzahlern (Steuerschuldige Umsätze)	41	0%	0,00	0,00	0,00
zu anderen Steuerzeiten	44	0%	0,00	0,00	0,00
neue Fahrzeuge außerhalb eines Unternehmens (§ 24 UStG)	49	0%	0,00	0,00	0,00
Weitere steuerfreie Umsätze mit Vorsteuerabzug (§ 6 Ausfuhrleistungen, Umsätze nach § 4 Nr. 2 bis 7 UStG)	43	0%	0,00	0,00	0,00
Steuerschuldige Umsätze ohne Vorsteuerabzug					
zu § 3, Umsätze nach § 4 Nr. 2 bis 7 UStG	48	0%	0,00	0,00	0,00
Innengemeinschaftliche Erwerbe					
Steuerschuldige Innengemeinschaftliche Erwerbe					
von Lieferanten (Innengemeinschaftliche Erwerbe)	91	0%	0,00	0,00	0,00
zum Steuerzeitraum	89	10%	14,94	1,49	16,43
zu anderen Steuerzeiten	93	0%	0,00	0,00	0,00
neue Fahrzeuge (§ 24 Abs. 2 und § 2 UStG)	95	0%	0,00	0,00	0,00
von Lieferanten (Innengemeinschaftliche Erwerbe)	94	0%	0,00	0,00	0,00
Leistungsempfänger als Steuerpflichtiger					
Steuerschuldige Leistungsempfänger als Steuerpflichtiger					
Steuerschuldige Umsätze nach § 24 Abs. 2 UStG eines in einem Gemeinschaftsgebiet ansässigen Unternehmens (§ 13b Abs. 1 UStG)	46	10%	100,00	10,00	110,00
Umsätze, die unter den GÜSÜG fallen (§ 13b Abs. 2 UStG)	73	0%	0,00	0,00	0,00
Andere Leistungen (§ 13b Abs. 2 Nr. 1, 3, 4 bis 12 UStG)	84	10%	14,00	1,40	15,40
Gesamt					
zu Lieferungen in Datei 41					277.968,79

ID

VAT identification number

Quarter * Year *

Start date End date

Services from Austria and from third countries

Member State of consumption *	tax rate	Net sales (in €)	Tax amount (in €)	Removed
<input type="text" value="Italy"/>	<input type="text" value="22.00% (STANDARD)"/>	<input type="text" value="98.34"/>	<input type="text" value="21.63"/>	<input type="text" value="Removed"/>

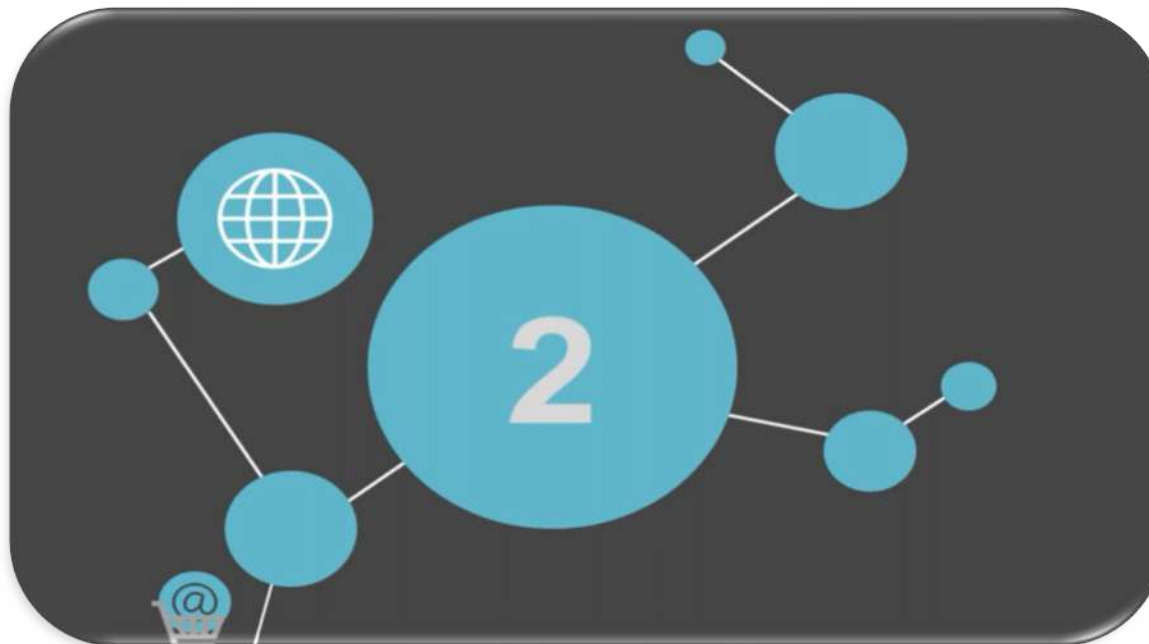
Add row

Total sales tax from Austria and third countries: € 21.63

Total sales tax: € 21.63

*Ejemplo del sitio web austriaco





Consignment value < 150 EUR

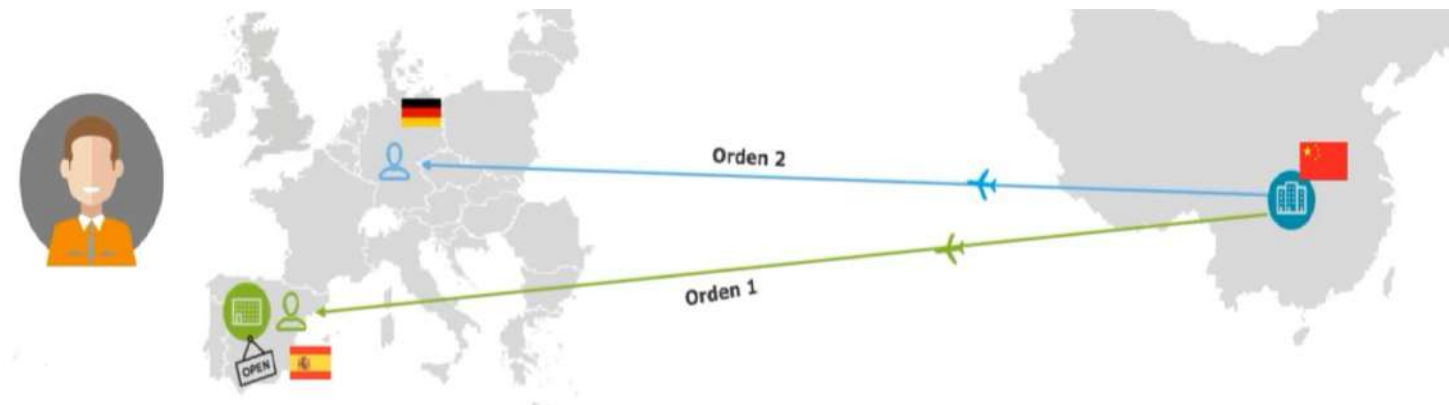
Consignment value > 150 EUR

01



02

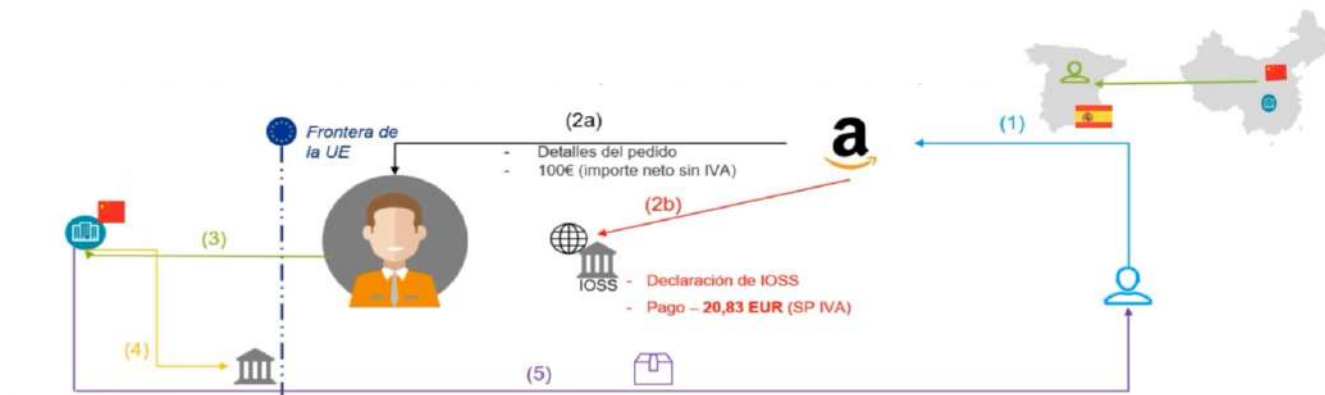
VAT APPLICATION REGULATIONS



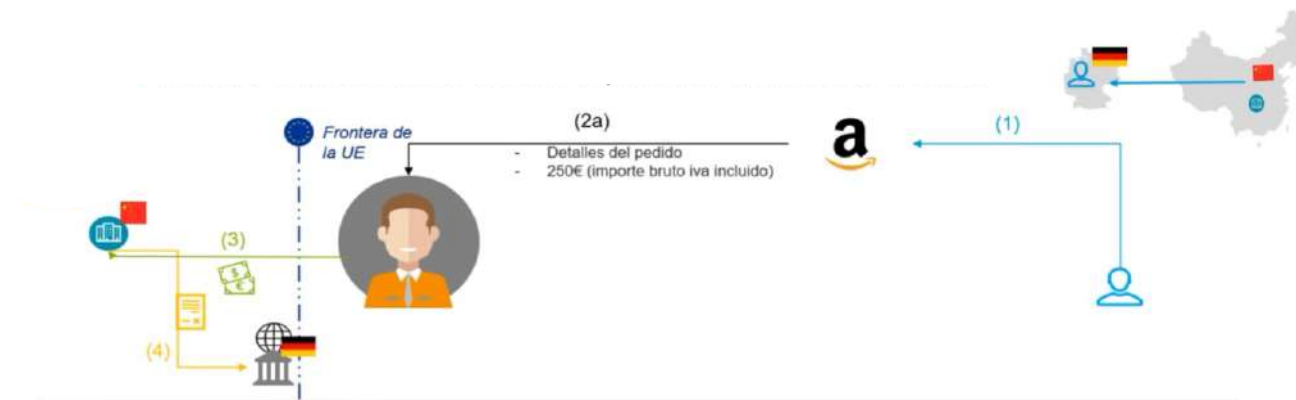
VAT APPLICATION REGULATIONS



VAT to be paid by AMZ: 20,83€.
VAT to be paid by Peter: 0,00€



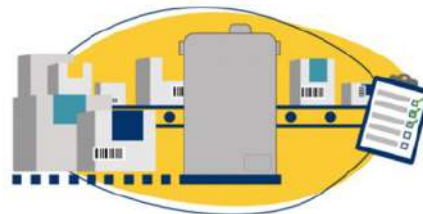
VAT APPLICATION REGULATIONS





WHAT IS CUSTOMS TAX?

This customs tax is that part of the taxes that are accrued as a result of the import or export of the products. And, depending on the intended use of the package, customs officials may add additional taxes and charges for handling such merchandise.



WHAT IS CUSTOMS TAX?

	Valor del envío (sin incluir transporte y seguro)	Impuestos a pagar	Porcentaje general aplicable
Compras por internet (cuyo remitente es una empresa)	Menor o igual que 22€	Exento de arancel e IVA	0% arancel 0% IVA
	Mayor que 22€ y menos o igual que 150€	Exento de arancel pero sujeto a IVA	0% arancel 21% IVA
	Mayor de 150€	Sujeto a arancel e IVA	2,5% arancel 21% IVA
Envíos entre particulares	Menor o igual que 45€	Exento de arancel e IVA	0% arancel 0% IVA
	Mayor que 45€	Sujeto a arancel e IVA	2,5% arancel 21% IVA

Fuente: Agencia Estatal de Administración Tributaria

WHAT IS THE CUSTOMS TAX FOR?

- To monitor and control the entry and exit of goods and means of transport across borders, territorial waters or airspace.
- Determine and collect tax obligations.
- Prevent illegal imports and exports.
- In order to achieve the prevention, prosecution and punishment of customs offenses.
- Guarantee the health and living conditions of citizens.
- Provide statistical information.
- Promote and protect economic development.

WHAT IS THE CUSTOMS TAX FOR?

To apply the customs tax for e-commerce, the merchandise must come from a different customs territory and the merchandise must be definitive, that is, it is intended for consumption and is not something temporary.



WHAT ARE THE CHANGES AS OF JULY 1 2021?

1. New single threshold across the EU.

Existing thresholds for distance sales of goods to buyers from other EU Member States (€35,000 or €100,000, depending on the Member State) will be abolished and replaced by a new threshold of €10,000 for the entire European Union.

Below this threshold, you will still be able to apply the Spanish VAT regulations to your cross-border sales. If your sales exceed this threshold, you will be required to pay VAT in the Member State where your buyers are located. But you can easily register at the Single Window (OSS), where you can declare and pay the VAT due in other Member States.

WHAT ARE THE CHANGES AS OF JULY 1 2021?

2. End of import VAT exemption.

The VAT exemption for the importation of goods whose value does not exceed 22 euros will be eliminated. Consequently, all goods imported into the EU will be subject to VAT.

The Single Import Window (IOSS) was created to facilitate and simplify the declaration and payment of VAT on distance sales of goods imported into the EU whose value does not exceed 150 euros.

By registering with IOSS, your customers will appreciate that the price they pay represents the final price, including VAT, without additional charges or fees.

If you do not register with the IOSS, the VAT will be paid by your customer when importing the goods into the EU.

INDUSTRIAL AND INTELLECTUAL PROPERTY ARE TWO DIFFERENT THINGS...

- Industrial property mainly governs products, consumer goods, patents and utility models, distinctive signs and designs.
- Intellectual Property - the most mentioned in movies and television series - governs the authorship of a creation: a composition, a book, a poem, a painting, in short, any "intellectual property", that is, something born of creativity human and with intangible value, that can be considered a creation of the spirit with part of the personality of the creator and that, in principle, is not intended to be mass produced.



To protect the intellectual property rights on the internet of an e-commerce company, it is important to first register the brand, register the domain name and the content of the website, the latter elements protected by copyright. Then, the content of the site must be defined, have a notice that supports ownership, indicate what browsers can or cannot do with the content and, finally, control access to information.



It is also important to carry out an inventory of your intellectual property assets to define what elements the company has as **patents** (active, applications or inventions); elements that constitute copyright such as **computer programs**, designs, works of art, music, photos, among others; **distinctive signs** such as logos, trade names and product names; **trade secrets** such as product formulas, customer lists, technical improvement plans; and, finally, **contracts**.





INTELLECTUAL PROPERTY PROTECTION

for Ecommerce

Intellectual property (IP) refers to something produced – **an invention, brand, or work of art** – through creativity. Selling online can leave you vulnerable to IP theft. Patents, trademarks, and copyrights can protect you, but what's the difference?



TRADEMARK

Protects *logos, words, and phrases* related to a brand, business, or identity. It prevents others from selling or distributing products using the same symbol or brand name.

EXAMPLES:



Logo

i'm lovin' it

Slogan

shopify

Name



COPYRIGHT

Protects *individual works of authorship*, giving the owner exclusive rights to sell, licence, and distribute the material. Used for music, art, photos, books, etc.

EXAMPLES:



Harry Potter



Music



Photo



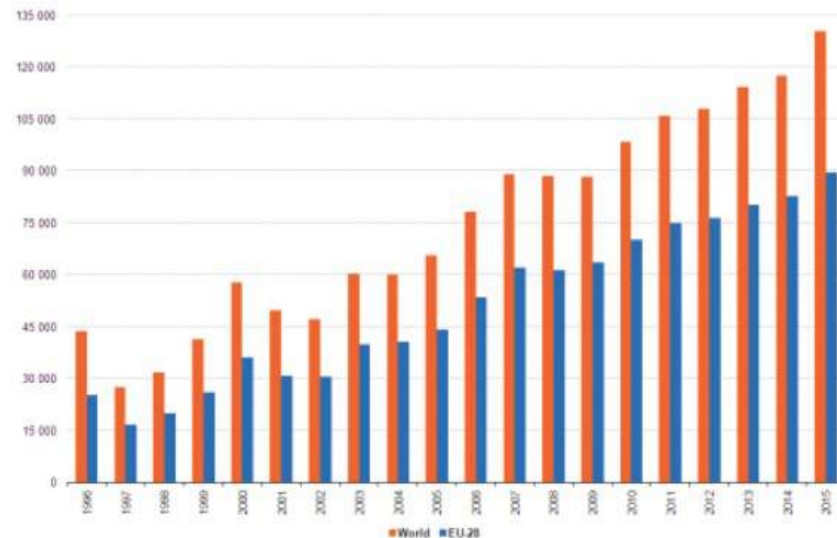
PATENT

Protects *inventions, products or processes*, preventing others from manufacturing or selling the invention in the country in which the patent is held.

EXAMPLE:



A new method for roasting coffee beans



Total number of European Union trademark (EUTM) applications,
1996-2015

Source: Eurostat ([ipr_ta_tot](#))



<https://www.youtube.com/watch?v=EQsZf2G4Sdc>

The electronic signature is a set of electronic data that accompany or are associated with an electronic document and whose basic functions are:

- ❑ **Identify** the signer unequivocally
- ❑ **Ensure** the integrity of the signed document. It ensures that the signed document is exactly the same as the original and that it has not been altered or tampered with.
- ❑ **Ensure** non-repudiation of the signed document. The data used by the signatory to perform the signature is unique and exclusive and, therefore, later, it cannot say that it has not signed the document.



The basic process followed for the electronic signature is as follows:

1. The user has an electronic document (a spreadsheet, a pdf, an image, even a form on a web page) and a certificate that belongs to him and identifies him.
2. The application or digital device used for the signature makes a summary of the document. The summary of a large document can be as short as a few lines. This summary is unique and any modification of the document also implies a modification of the summary.
3. The application uses the private key to encrypt the digest.
4. The application creates another electronic document containing that encrypted summary. This new document is the electronic signature.

The result of this entire process is an electronic document obtained from the original document and the signer's passwords. The electronic signature, therefore, is the same resulting electronic document.

It provides three characteristics in Internet communication: signer identification, data integrity and non-repudiation.

Some examples of operations that can currently be performed using the digital signature are:

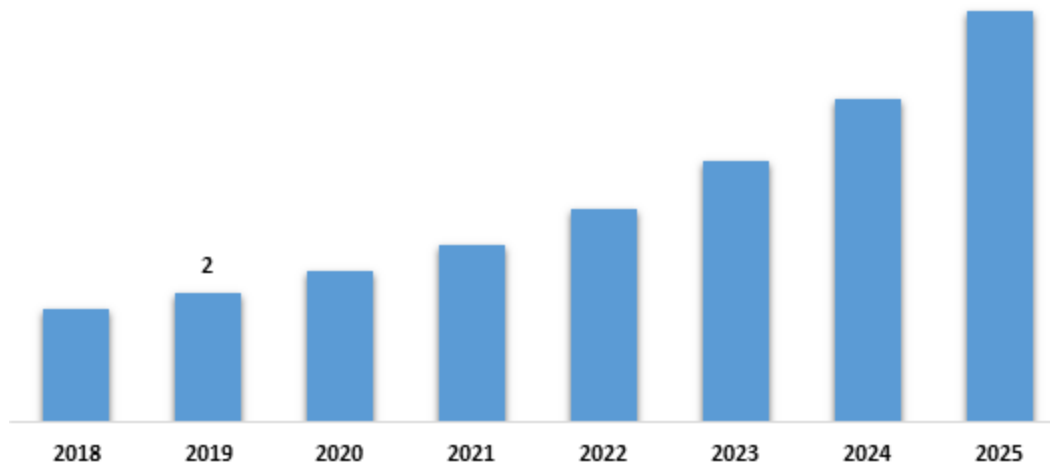
- ✓ Realization of the Declaration of Income through the Internet.
- ✓ Applications in the electronic administrative records
- ✓ Work life request.
- ✓ Reception of electronic notifications.
- ✓ Email signature.
- ✓ Signature of electronic invoices.



THE ELECTRONIC SIGNATURE



Global Digital Signature Market, 2018-2025 (USD Billion)



Source: Adroit Market Research ©2020

THE ELECTRONIC SIGNATURE



AGROSMARTglobal
 INTERREG SUDOE
 SOE3/P2/E0897
 MOOC Agrosmart Global

ecommerce**news**

3 Key e-Signature Statistics You Should Know


FinancesOnline
REVIEWS FOR BUSINESS

1 Top e-signature benefits for financial institutions

Source: Statista/BMO Insights



cut scanning errors



achieve audit efficiency



reduce missing files

2 Leading drivers for the adoption of e-signature

Source: Attention



3 Average implementation time of e-signature by organization size

Source: eSignLive



large enterprises



medium-sized businesses



small businesses

The US agri-food market is, quantitatively and qualitatively, among the most important in the world: with more than 310 million potential customers -50 of them Spanish-speaking-, it is also a benchmark in the introduction of novelties and sets trends both from the consumer as well as distribution and marketing perspective.



- There are regulations on 168,000 products.
- Technical development is very exhaustive and there are specific protocols for shellfish, juices and pulps, low-acid packaging, acidified foods... It is not enough to say 'I want to export cheese': you have to find out if it is white or blue, what animal the milk comes from , since all these factors will condition the procedures for your import/export.



IT IS IMPORTANT TO KNOW THE CHANNELS...

Distribution is “very professional, micro-segmented and with a significant commitment to marketing.

The majority of sales are made in retail stores, known as the 'off site channel', while the rest are produced in the food service or 'on site' channel, which encompasses all the points where the product is consumed directly, as is the case of bars, restaurants, etc.



AFTER HAVING THE PRODUCT AND KNOWING THE CHANNELS, THE FDA COMES INTO PLAY...

The **FDA** (Food and Drug Administration). This body regulates the entry of pharmaceutical products, vaccines, medical devices, cosmetics, biologicals, medicines and animal feed.

The FDA has offices outside the United States (in Europe it is in Brussels), although almost all procedures are centralized in the US. All food offered for importation into the United States must meet the same requirements as domestic products and any other specific requirements related to the product, labeling, registration...

Depending on our product, we may also have to take into account another body, the **USDA**, which regulates part of the food, specifically everything that has to do with poultry, meat or food that contains more than 2% meat.

PRODUCTS

What basic requirements will the FDA require of our products?

- If they are innocuous (safe);
- If they are free from contamination (microbial, chemical, dirt,...);
- If they have been manufactured under good practices;
- If they are properly labeled
- and if they comply with the required administrative rules and procedures (registration, prior notice,...).



REGISTRATION OF ESTABLISHMENTS

The business must also register with the **Food and Drug Administration's** registry of establishments.

Who has to sign up?

Each of the facilities. If you have two factories, or if one factories and the other packs, you have to register both. If you sell your product under another brand, the brand name is also required to register. However, if you have several brands, then a single registration is fine because they all belong to the same manufacturer.

Registration is free if done by the same company.

- They need a “US resident agent”. A person who functions as the point of contact between the FDA and the exporting company. The Spain-US Chamber of Commerce offers this service.
- Renew registration every 2 years. There is a registration period in even years.

PRIOR NOTICE

- ☐ The '**prior notice**' or prior notice is the communication to United States Customs that a product is going to arrive.
- ☐ All entries that include food or dietary supplements, including samples and entries to the Free Zone or en route to another country, require prior notice.
- ☐ For international mail tickets, notice is given before shipment is made and a confirmation receipt must accompany the ticket.
- ☐ Prior notice can be sent electronically.

PRIOR NOTICE

In the event that the authorities consider that the product cannot enter the US, an AD (Administrative Detention) will be made.

- If it has occurred because the product has a prohibited ingredient, you should try to send the product back or destroy it.
- If it has been caused by a labeling error, it will have to be corrected. New labels can be printed and attached to the product.
- An AD review can also be done if the company believes the product is safe.

LABELLING

The products need to be correctly labelled. The information on the labels can be divided into four sections:

- PDP (Principal Display Panel). The face of the product. It must clearly indicate what is being sold.
- Information Panel. You must inform about the ingredients, place of origin, etc.
- Nutrition information panel.
- Allergen information.

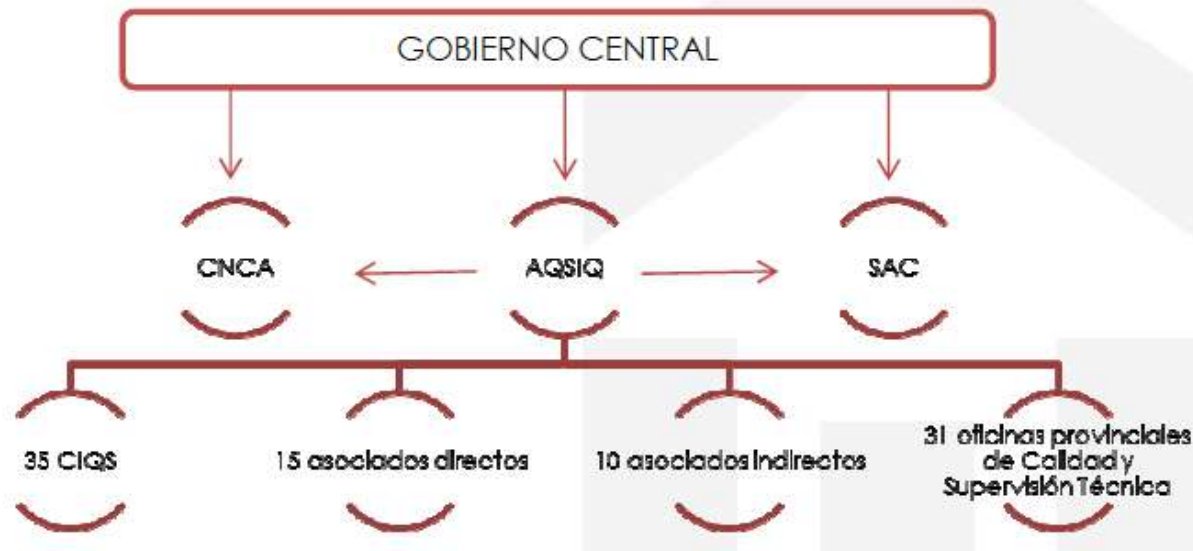
TRADEMARK PROTECTION IN EEUU AND EUROPE

If the company decides to register its trademark, they recommend that a lawyer be used to guide a little on what can be registered and what cannot. The presentation makes it very clear.

Tabla 1: Organismos Implicados en la normativa agroalimentaria en China

ACRÓNIMO	NOMBRE COMPLETO	COMPETENCIAS PRINCIPALES
MOA	Ministerio de Agricultura	Supervisión y regulación de la calidad y seguridad de los productos agroalimentarios, aditivos y otros productos agrícolas (pesticidas, fertilizantes, etc.)
AQSIQ	Administración General para la Supervisión de la Calidad, Inspección y Cuarentena	Supervisión de la producción, elaboración, importación y exportación de alimentos y otros productos relacionados (<i>packaging</i> , herramientas de procesado, envases y embalajes, etc.)
NHFPC	Comisión Nacional de Salud y Planificación Familiar (antiguo Ministerio de Salud, disuelto en 2013)	Supervisión de alimentos y aditivos en el punto de consumo, planificación familiar y concienciación, control de los servicios de salud
CFDA	Administración Nacional de Alimentos y Medicamentos de China	Análisis de la situación general de inocuidad Participación en la elaboración de normativas de inocuidad de alimentos Supervisión de la implementación de las regulaciones
CNCA	Administración de Certificación y Acreditación	Gestión, supervisión y coordinación de las actividades de certificación y acreditación

Esquema sobre la coordinación entre organismos implicados en normativa agroalimentaria en China



WHAT PRODUCTS CANNOT BE EXPORTED TO CHINA?

- Products that require a bilateral protocol that has not been reached or those whose ingredients have to pass a risk analysis cannot be exported.
- With all products whose ingredients require traceability controlled by the Chinese authorities, dairy or meat, the exporter must be authorized by said authorities to introduce their products in China. The process takes a little over a year from the start until the authorized companies are published

WHAT PRODUCTS CAN BE EXPORTED TO CHINA?

- In general terms, products with reduced sanitary risk or products with previous export history.
- For food products with higher risk such as meat, fresh produce, live animals and plants, etc.; The opening of the Chinese market implies the need to establish bilateral negotiations between the Chinese health authorities and those of the exporting country.
- The AQSIQ, competent agency, does not negotiate more than one product per country at the same time

SANITARY AND PHYTOSANITARY MEASURES

- Food Safety Law or Food Safety Law 2015
- Entry and Exit Animal and Vegetable Quarantine Law
- Law on Supervision and Management of the Inspection and Quarantine of Import and Export Food
- Specific Regulation of the Supervision and Management of Food Safety and Other Products of the Council of State