

July 2021

## Portals as „deemed“ supplier of goods – as of 1 July 2021

As of 1 July 2021 taxable persons who use electronic interfaces, such as marketplace, platform, portal or similar means (hereinafter: „portals“), for facilitating a supply of goods by other persons, may be treated as so called „deemed“ suppliers of goods instead such other persons (i.e. instead of actual suppliers of goods).

Even though the relevant provision, which allows such tax treatment, is quite short (Art 7b of Croatian VAT Act, as an implementation of Art 14.a of EU Directive 2006/112), actually this is a quite complex provision. In addition to that, certain provisions in this respect are contained in the EU Implementing Regulation 2011/282.

This provision on portals as „deemed“ suppliers has been introduced in order to ensure effective VAT collection and to reduce some administrative obligations for certain persons. Because of that, taxable persons **who facilitate supply of distance sale of goods through the use of electronic portals** have become involved in VAT collection, and in order to enable that, such taxable persons have **the status of „deemed“ suppliers of goods**.

The provision on portals as „deemed“ suppliers is split in two parts, so different rules apply depending on whether the use of electronic portal facilitates a distance sale of imported goods or distance sale of goods not imported. However, in order to answer the question if a taxpayer who uses electronic portal has the status of „deemed“ supplier, many aspects (e.g. what kind of electronic interface is used and how/for what activities/functions is it used, who are customers of goods using the portal, etc.) should be taken into account and analysed in the context of the relevant provision of VAT regulations. Below we provide a **simplified schematic overview of the most important aspects that have an impact on a conclusion should some portal (i.e. a taxable person using the electronic portal) be treated as so called „deemed“ supplier of goods or not**.

*Note: The presented schematic overview is just a simplified overview, the purpose of which is to present major (but not all) relevant aspects to be taken into account when determining if certain „portal“ (i.e. a taxable person using the portal) should be treated as „deemed“ supplier of goods. This simplified overview should not be used for determining VAT treatment in a concrete case, as this requires detailed analysis of all relevant circumstances of a concrete case and all relevant provisions of VAT regulations based on the actual circumstances of the concrete case.*

srpanj 2021.

## Portali kao „smatrani“ isporučitelji robe – od 1. srpnja 2021.

Od 1. srpnja 2021. porezni obveznici koji koriste elektronička sučelja, kao što je mjesto trgovanja, platforma, portal ili slično (dalje: „portali“), na način da omogućavaju isporuku dobara drugih osoba, mogu biti tretirani kao tzv. „smatrani“ isporučitelji dobara umjesto tih drugih osoba (odnosno, umjesto stvarnih isporučitelja dobara).

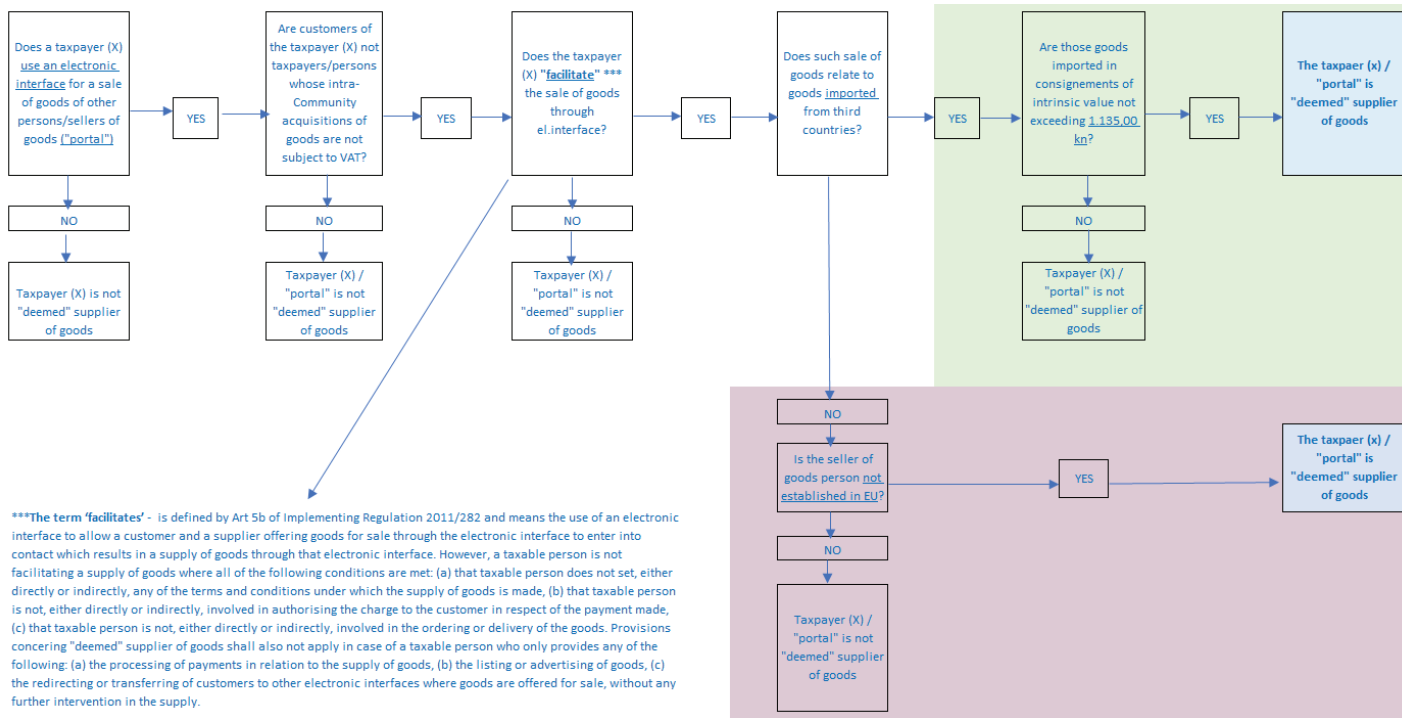
Iako je relevantna odredba, koja omogućuje takav porezni tretman, u suštini vrlo kratka (čl. 7.b. hrvatskog Zakona o PDV-u, čime je implementiran čl. 14.a. EU Direktive 2006/112), zapravo se radi o dosta kompleksnoj odredbi. Uz to, određene odredbe u vezi s time sadržane su i u EU Provedbenoj uredbi 2011/282.

Ova odredba o portalima kao „smatranim“ isporučiteljima je uvedena kako bi se osiguralo efikasno prikupljanje PDV-a i smanjile određene administrativne obveze određenim osobama. Zbog toga, porezni obveznici **koji omogućuju isporuku robe na daljinu korištenjem elektroničkih portala** uključeni su u naplatu PDV-a, a da bi se to moglo provesti, takvi porezni obveznici imaju **status „smatranih“ isporučitelja dobara**.

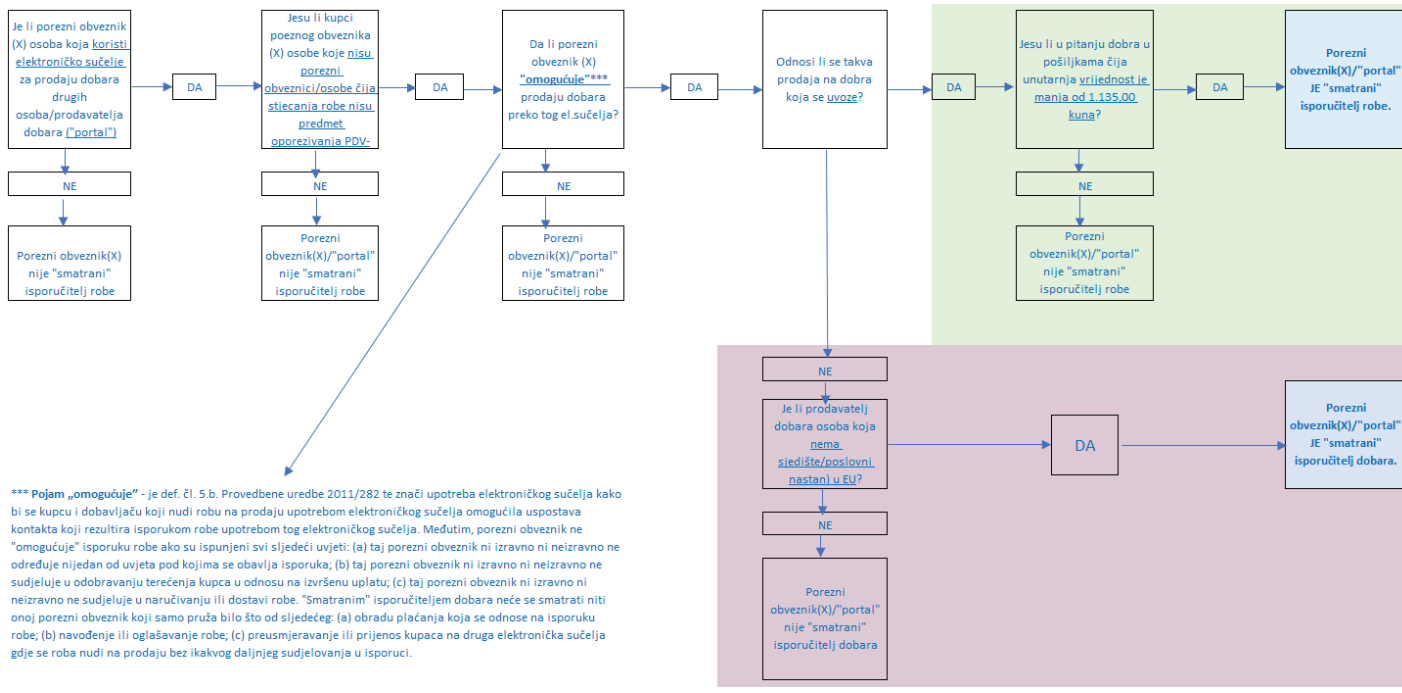
Ova odredba o portalima kao „smatranim“ isporučiteljima je podijeljena na dva dijela, pa su tako primjenjiva različita pravila ovisno o tome omogućava li se preko elektroničkog portala isporuka na daljinu robe koja se uvozi ili isporuka na daljinu robe koja se ne uvozi. No, da bi se odgovorilo na pitanje ima li neki porezni obveznik koji koristi elektronički portal status „smatranog“ isporučitelja, brojni aspekti (npr. o kakvom se elektroničkom portalu radi i na koji način se koristi/za koje aktivnosti/funkcije se koristi, tko su kupci dobara koji koriste portal, itd.) trebaju biti uzeti u obzir i analizirani u kontekstu relevantne odredbe PDV propisa. U nastavku prikazujemo **pojednostavljeni shematski prikaz najbitnijih aspekata koji utječu na zaključak o tome treba li neki portal (tj. porezni obveznik koji koristi elektronički portal) biti tretiran kao tzv. „smatrani“ isporučitelj dobara ili ne**.

*Napomena: Prikazani shematski prikaz je samo pojednostavljeni prikaz čija je svrha prikazati glavne (ali ne sve) relevantne aspekte koje treba uzeti u obzir kada se određuje treba li se neki „portal“ (tj. porezni obveznik koji koristi portal) tretirati kao „smatrani“ isporučitelj dobara. Ovaj pojednostavljeni prikaz ne bi trebalo koristiti da bi se na temelju njega odredio PDV tretman u pojedinom konkretnom slučaju, jer je za to bitno provesti detaljnu analizu svih relevantnih okolnosti pojedinog slučaja i svih relevantnih odredbi PDV propisa temeljem stvarnih okolnosti konkretnog slučaja.*

Simplified schematic overview of the most important aspects that have an impact on a conclusion should some portal (i.e. a taxable person using the electronic portal) be treated as so called “deemed” supplier of goods or not.



Pojednostavljeni shematski prikaz najbitnijih aspekata koji utječu na zaključak o tome treba li neki portal (tj. porezni obveznik koji koristi elektronički portal) biti tretiran kao tzv. „smatrani“ isporučitelj dobara ili ne.



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