

# EU and International TAX COLLECTION NEWS

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Reference recommendation: *EU & Int. Tax Coll. News*

## LEGISLATION

On 19 October 2023, the Trade Specialised Committee on administrative cooperation in VAT and recovery of taxes and duties, established by the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, adopted several decisions implementing this Trade and Cooperation Agreement.

- Decision No 1/2023 of 19 October 2023 on the procedure for the conclusion of a service level agreement [2023/2472], PUB/2023/1565, *OJ L, 2023/2472, 09.11.2023*
- Decision No 2/2023 of 19 October 2023 on the amount and modalities of the financial contribution to be made by the United Kingdom of Great Britain and Northern Ireland to the general budget of the Union in respect of the cost generated by its participation in the European Information Systems [2023/2473], PUB/2023/1602, *OJ L, 2023/2473, 09.11.2023*
- Decision No 3/2023 of 19 October 2023 laying down implementing rules for provisions relating to recovery assistance of the Protocol on administrative cooperation and combating fraud in the field of value added tax and on mutual assistance for recovery of claims [2023/2474], PUB/2023/1603, *OJ L, 2023/2474, 09.11.2023*
- Decision No 4/2023 of 19 October 2023 on standard forms for the communication of information and statistical data, the transmission of information via the Common Communication Network and the practical arrangements for the organisation of contacts between central liaison offices and liaison departments [2023/2475], PUB/2023/1604, *OJ L, 2023/2475, 09.11.2023*

Note: the Trade and Cooperation Agreement itself has been published in Vol. 9, p. 65 (ed. 2022-2) of *EU & International Tax Collection News*.

**EU - UK**

**DECISION NO 3/2023 OF THE  
TRADE SPECIALISED COMMITTEE  
ON ADMINISTRATIVE  
COOPERATION IN VAT AND  
RECOVERY OF TAXES AND DUTIES  
ESTABLISHED BY THE TRADE AND  
COOPERATION AGREEMENT  
BETWEEN THE EUROPEAN UNION  
AND THE EUROPEAN ATOMIC  
ENERGY COMMUNITY, OF THE ONE  
PART, AND THE UNITED KINGDOM  
OF GREAT BRITAIN AND  
NORTHERN IRELAND, OF THE  
OTHER PART OF 19 OCTOBER  
2023 LAYING DOWN  
IMPLEMENTING RULES FOR  
PROVISIONS RELATING TO  
RECOVERY ASSISTANCE OF THE  
PROTOCOL ON ADMINISTRATIVE  
COOPERATION AND COMBATING  
FRAUD IN THE FIELD OF VALUE  
ADDED TAX AND ON MUTUAL  
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COOPERATION AND COMBATING  
FRAUD IN THE FIELD OF VALUE  
ADDED TAX AND ON MUTUAL  
ASSISTANCE FOR RECOVERY OF  
CLAIMS [2023/2474]**

THE TRADE SPECIALISED COMMITTEE,

Having regard to the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and

Northern Ireland, of the other part,<sup>(1)</sup> and in particular its Protocol on administrative cooperation and combating fraud in the field of value added tax and on mutual assistance for recovery of claims ('the Protocol'), in particular Article PVAT.39(2)(j) thereof,

Whereas:

1. It is necessary to adopt practical arrangements for the implementation of Article PVAT.39(2)(j) of the Protocol.
2. Detailed rules should be adopted with regard to the practical arrangements and the time periods for communication between the requested and the applicant authorities, in order to ensure a fast communication between them.
3. In order to ensure legal certainty, it is appropriate to state expressly the legal effect of the notifications made by the requested State at the request of the applicant State.
4. In order to ensure legal certainty, it is appropriate to provide specific rules with regard to the use of the uniform instrument permitting enforcement in the requested State.
5. It is appropriate to adopt specific rules on the transfer and the reimbursement of recovered amounts.

HAS ADOPTED THIS DECISION:

*Article 1*

**Communication**

1. A request sent by electronic means for the application of Title III of the Protocol shall be sent by the CCN network, between the CCN mailboxes that are set up for the type of tax or duty to which the request relates, unless the central liaison offices of the applicant and requested States agree that one of the mailboxes can be used for requests concerning different types of taxes or duties.

However, if a request for notification of documents relates to more than one type of tax or duty, the applicant authority shall send that request to a mailbox set up for at least one of the types of claims mentioned in the documents to be notified.

2. A request for information, recovery or precautionary measures may relate to any of the following persons:

- a) the principal debtor or a co-debtor;
- b) a person other than a (co-)debtor, liable for the

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<sup>1</sup> OJ L 149, 30.04.2021, p. 10.

claims under the law in force in the applicant State;

c) any third party holding assets belonging to or having debts towards one of the persons referred to in points (a) or (b).

3. A request for notification may relate to any person who, in accordance with the law in force in the applicant State, is required to be informed of any document which concerns that person.

#### *Article 2*

##### **Implementing rules relating to the standard form**

With regard to the information mentioned in the standard form referred to in Article PVAT.23(1) of the Protocol, the following shall apply:

- a) the amount of the claim shall be mentioned where already established;
- b) the indication of the period within which notification is to be effected may be done by an indication of the date before which the applicant authority intends the notification to take place.

#### *Article 3*

##### **Implementing rules relating to the uniform instrument or the revised uniform instrument permitting enforcement in the requested State**

1. The uniform instrument or the revised uniform instrument permitting enforcement in the requested State accompanying the request for recovery or for precautionary measures shall be completed by or under the responsibility of the applicant authority, on the basis of the initial instrument permitting enforcement in the applicant State.

2. The administrative penalties, fines, fees and surcharges and the interest and costs referred to in point (b) of Article PVAT.2(1) of the Protocol which, in accordance with the rules in force in the applicant State, may be due from the date of the initial instrument permitting enforcement until the day before the date on which the recovery request is sent, may be added in the uniform instrument or the revised uniform instrument permitting enforcement in the requested State.

3. A single uniform instrument or revised uniform instrument permitting enforcement in the requested State may be issued in respect of several claims and several persons, corresponding to the initial instrument or instruments permitting enforcement in the applicant State.

4. In so far as initial instruments permitting enforcement for several claims in the applicant

State have already been replaced by a global instrument permitting enforcement for all those claims in that State, the uniform instrument or revised uniform instrument permitting enforcement in the requested State may be based on the initial instruments permitting enforcement in the applicant State or on that global instrument regrouping those initial instruments in the applicant State.

5. Where the initial instrument referred to in paragraph 2 or the global instrument referred to in paragraph 3 contains several claims, one or more of which have already been collected or recovered, the uniform instrument or revised uniform instrument permitting enforcement in the requested State shall only refer to those claims for which recovery assistance is requested.

6. Where the initial instrument referred to in paragraph 2 or the global instrument referred to in paragraph 3 contains several claims, the applicant authority may list those claims in different uniform instruments or revised uniform instruments permitting enforcement in the requested State, in line with the tax type related division of competences of the respective recovery offices in the requested State.

7. If a request cannot be transmitted by CCN network and is transmitted by post, the uniform instrument or revised uniform instrument permitting enforcement in the requested State shall be signed by a duly authorised official of the applicant authority.

8. The addressee of a request for recovery or precautionary measures may not rely on the notification or communication of the uniform instrument permitting enforcement in the requested State to claim a prolongation or a re-opening of the time period to contest the claim or the initial instrument permitting enforcement if that has been validly notified.

#### *Article 4*

##### **Conversion of the sums to be recovered**

1. The applicant authority shall express the amount of the claim to be recovered in the currency of the applicant State and in the currency of the requested State.

2. For requests sent to the United Kingdom, the exchange rate to be used for the purposes of the recovery assistance shall be the exchange rate published by the European Central Bank on the day before the date on which the request is sent. Where there is no such rate available on that date, the exchange rate used shall be the latest exchange rate published by the European Central Bank before the date the request is sent.

For requests sent to a Member State, the exchange rate to be used for the purposes of the recovery assistance shall be the exchange rate published by the Bank of England on the day before the date on which the request is sent. Where there is no such rate available on that date, the exchange rate used shall be the latest exchange rate published by the Bank of England before the date the request is sent.

3. In order to convert the amount of the claim resulting from the adjustment referred to in Article PVAT.30(2) of this Protocol into the currency of the State of the requested authority, the applicant authority shall use the exchange rate used in its initial request.

#### *Article 5*

##### **Time limits for replies**

1. The requested authority shall acknowledge receipt of each request for assistance as soon as possible and in any event within fourteen calendar days of such receipt.

Upon receipt of the request the requested authority shall, where appropriate, ask the applicant authority to provide any additional information necessary, or to complete the uniform notification form or the uniform instrument or revised uniform instrument permitting enforcement in the requested State, if required. The applicant authority shall provide all additional necessary information to which it normally has access.

2. Where the requested authority refuses to handle a request for assistance under Articles PVAT.20(4) or PVAT.33(5) of the Protocol, it shall notify the applicant authority of the reasons for its refusal as soon as it has taken its decision and in any event within 1 month of the date of the acknowledgement of the receipt of the request.

#### *Article 6*

##### **Execution of the requests**

1. When executing a request for information under Article PVAT.20 of the Protocol, the requested authority shall transmit each item of requested information to the applicant authority as and when it is obtained.

Where, with respect to the particularity of a case, all or some of the requested information cannot be obtained within a reasonable time the requested authority shall inform the applicant authority thereof and state the reasons.

In any event, at the end of 6 months from the date of acknowledgement of receipt of the request, the requested authority shall inform the applicant authority of the outcome of the investigations which

it has conducted in order to obtain the information requested.

On the basis of the information received from the requested authority, the applicant authority may request the requested authority to continue its investigation. That request shall be made within 2 months of the receipt of the notification of the outcome of the investigations carried out by the requested authority, and shall be treated by the requested authority in accordance with the provisions applying to the initial request.

2. When executing a request for notification under Article PVAT.23 of the Protocol, the requested authority shall take the necessary measures to effect notification in accordance with the law in force in the State in which it is situated. The requested authority shall inform the applicant authority of the date and the manner of notification as soon as this has been effected, by certifying the notification in the request form returned to the applicant authority.

A notification made by the requested State in accordance with the national laws, regulations and administrative practices in force in that State, shall be deemed to have the same effect in the applicant State as if it had been made by the applicant State itself in accordance with the national laws, regulations and administrative practices in force in the applicant State.

A notification of a document relating to more than one type of tax, duty or other measure, shall be deemed valid if it is made by an authority of the requested State which is competent for at least one of the taxes, duties or other measures mentioned in the notified document, provided that it is allowed under the national law of the requested State.

The uniform notification form accompanying the request pursuant to the second subparagraph of Article PVAT.23(1) of the Protocol shall be completed by or under the responsibility of the applicant authority. It shall provide information to the addressee with regard to the documents for which notification assistance has been requested. For the purposes of notification, the requested State may use this uniform notification form in its official language or in one of its official languages in accordance with its national law.

3. When executing a request for recovery or precautionary measures under Article PVAT.25 or 31 of the Protocol, the requested State may use the uniform instrument permitting enforcement in that State in its official language or in one of its official languages in accordance with its national law, in order to enforce the claims for which recovery assistance is requested.

Where, with respect to the particularity of a case, all or part of the claim cannot be recovered or

precautionary measures cannot be taken within a reasonable time, the requested authority shall inform the applicant authority thereof and state the reasons.

On the basis of the information received from the requested authority, the applicant authority may request the latter to re-open the procedure for recovery or for precautionary measures. That request shall be made within 2 months of the receipt of the notification of the outcome of that procedure, and shall be treated by the requested authority in accordance with the provisions applying to the initial request.

No later than at the end of each six-month period following the date of acknowledgement of the receipt of the request for recovery or precautionary measures, the requested authority shall inform the applicant authority of the state of progress or the outcome of the procedure for recovery or for precautionary measures.

A claim shall be deemed recovered in proportion to the recovery of the amount expressed in the national currency of the requested authority, on the basis of the exchange rate referred to in Article 4(2) above.

#### *Article 7*

##### **Follow-up on contestations**

1. Any action contesting the claim or the instrument permitting its enforcement which is taken in the State of the applicant authority shall be notified to the requested authority by the applicant authority immediately after the applicant authority has been informed of such action.

2. If the laws, regulations and administrative practices in force in the requested State do not permit precautionary measures or the recovery requested under the second and third subparagraphs of Article PVAT.29(4) of the Protocol, the requested authority shall notify the applicant authority thereof as soon as possible and in any event within 1 month of the receipt of the notification referred to in paragraph 1.

3. The requested authority shall notify any action taken in the requested State for reimbursement of sums recovered or for compensation in relation to recovery of contested claims to the applicant authority immediately after the requested authority has been informed of such action.

4. The requested authority shall as far as possible involve the applicant authority in the procedures for settling the amount to be reimbursed and the compensation due. Upon receipt of a reasoned request from the requested authority, the applicant authority shall transfer the sums reimbursed and

the compensation paid within two months of the receipt of that request.

#### *Article 8*

##### **Adjustments of the amounts for which assistance is requested**

1. If the request for recovery or for precautionary measures becomes devoid of purpose as a result of payment of the claim or of its cancellation or for any other reason, the applicant authority shall immediately inform the requested authority so that the latter may stop any action which it has undertaken.

2. Where the amount of the claim which is the subject of the request for recovery or for precautionary measures is adjusted by a decision of the competent body referred to in Article PVAT.29(1) of the Protocol, the applicant authority shall inform the requested authority of that decision and, if recovery is requested, communicate a revised uniform instrument permitting enforcement in the requested State. This revised uniform instrument permitting enforcement in the requested State shall be made by or under the responsibility of the applicant authority, on the basis of the decision adjusting the amount of the claim.

3. If the adjustment referred to in paragraph 2 entails a reduction in the amount of the claim, the requested authority shall continue its action to take recovery or precautionary measures, but that action shall be limited to the amount still outstanding.

If, at the time when the requested authority is informed of the reduction in the amount of the claim, an amount exceeding the amount still outstanding has already been recovered by it but the transfer procedure referred to in Article 9 of this decision has not yet been initiated, the requested authority shall repay the amount overpaid to the person entitled thereto.

4. Where the adjustment referred to in paragraph 2 entails an increase in the amount of the claim, the applicant authority may address to the requested authority an amended request for recovery or for precautionary measures.

That amended request shall, as far as possible, be dealt with by the requested authority at the same time as the initial request from the applicant authority. Where, in view of the state of progress of the existing procedure, consolidation of the amended request with the initial request is not possible, the requested authority shall comply with the amended request only if it concerns an amount not less than that referred to in Article PVAT.33(4) of the Protocol.

5. In order to convert the amount of the claim resulting from the adjustment referred to in paragraph 2 into the currency of the requested State, the applicant authority shall use the exchange rate used in its initial request.

#### *Article 9*

##### **Transfer of recovered amounts**

1. The transfer of the recovered amounts shall take place within two months of the date on which recovery was effected, unless otherwise agreed between the States.

2. However, if recovery measures applied by the requested authority are contested for a reason not falling within the responsibility of the applicant State, the requested authority may wait to transfer any sums recovered in relation to the applicant State's claim, until the dispute is settled, if the following conditions are simultaneously fulfilled:

a) the requested authority finds it likely that the outcome of this contestation will be favourable to the party concerned; and

b) the applicant authority has not declared that it will reimburse the sums already transferred if the outcome of that contestation is favourable to the party concerned.

3. If the applicant authority has made a declaration to reimburse in accordance with point (b) of the paragraph 2, it shall return the recovered amounts already transferred by the requested authority within one month of the receipt of the request for reimbursement. Any other compensation due shall, in that case, be borne solely by the requested authority.



**EU - UK**

**DECISION NO 4/2023 OF THE  
TRADE SPECIALISED COMMITTEE  
ON ADMINISTRATIVE  
COOPERATION IN VAT AND  
RECOVERY OF TAXES AND DUTIES  
ESTABLISHED BY THE TRADE AND  
COOPERATION AGREEMENT  
BETWEEN THE EUROPEAN UNION  
AND THE EUROPEAN ATOMIC  
ENERGY COMMUNITY, OF THE ONE  
PART, AND THE UNITED KINGDOM  
OF GREAT BRITAIN AND  
NORTHERN IRELAND, OF THE  
OTHER PART  
OF 19 OCTOBER 2023  
ON STANDARD FORMS FOR THE  
COMMUNICATION OF  
INFORMATION AND STATISTICAL  
DATA, THE TRANSMISSION OF  
INFORMATION VIA THE COMMON  
COMMUNICATION NETWORK AND  
THE PRACTICAL ARRANGEMENTS  
FOR THE ORGANISATION OF  
CONTACTS BETWEEN CENTRAL  
LIAISON OFFICES AND LIAISON  
DEPARTMENTS [2023/2475]**

THE TRADE SPECIALISED COMMITTEE,

Having regard to the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, ('the Trade and Cooperation Agreement') and in particular its Protocol on administrative cooperation and combating fraud in the field of value added tax and on mutual assistance for recovery of claims ('the Protocol'), and in particular points (d), (e), (f), (h) and (i) of Article PVAT.39(2) thereof,

Whereas:

1. Administrative cooperation under the Protocol involves mutual exchange of information and

statistical data.

2. Tools for the communication of information, such as standard forms and electronic communication systems, are already implemented within the framework of Council Regulation (EU) No 904/2010 and Council Directive 2010/24/EU and only require minor amendments in order to serve for administrative cooperation and recovery assistance under the Protocol.

3. It is necessary to adopt practical arrangements for the implementation of points (d), (e), (f), (h) and (i) of Article PVAT.39(2) of the Protocol,

HAS ADOPTED THIS DECISION:

*Article 1*

**Standard forms for communication**

1. For the communication of requests, information and feedback under Title II of the Protocol, the competent authorities shall make use of the standard forms attached in Annex I to this Decision.
2. For the communication of requests and further communication with regard to requests under Title III of the Protocol, the uniform notification form and the uniform instrument permitting enforcement in the State of the requested authority or the revised uniform instrument permitting enforcement in the State of the requested authority, the competent authorities shall make use of the standard forms attached in Annex II to this Decision.
3. The structure and layout of the standard forms may be adapted to any new requirements and capabilities of the communication and information exchange systems, provided that the data and information contained therein are not substantially altered.

*Article 2*

**Transmission of information via CCN**

All information communicated pursuant to Titles II and III of the Protocol shall be transmitted only by electronic means via the Common Communication Network (CCN), unless this is impracticable for technical reasons.

*Article 3*

**Organisation of contacts**

1. Until further notice, the central liaison offices having the principal responsibility for the application of Title II of the Protocol are:
  - a) for the United Kingdom: His Majesty's Revenue and Customs, UK VAT Central Liaison Office;
  - b) for the Member States: the central liaison offices

designated for administrative cooperation between the Member States in the area of VAT.

2. Until further notice, the central liaison offices having the principal responsibility for the application of Title III of the Protocol are:

a) for the United Kingdom: His Majesty's Revenue and Customs, Debt Management;

b) for the Member States: the central liaison offices designated for recovery assistance between the Member States.

3. The Parties shall exchange any changes with regard to the central liaison offices via the Secretariat of the Trade Specialised Committee.

4. The central liaison offices designated pursuant to Article PVAT.4(2) of the Protocol shall keep the list of liaison departments and competent officials designated pursuant to Article PVAT.4(3) and (4) up to date. The Parties shall exchange the lists and the updates via the Secretariat of the Trade Specialised Committee.

#### Article 4

##### Content and format of the statistical data

1. The content and the format of the statistical data on the application of Title II to be communicated in accordance with Article PVAT.18 of the Protocol are defined in the standard form in Annex III to this Decision.

2. The content and the format of the statistical data on the application of Title III to be communicated in accordance with Article PVAT.37 of the Protocol are defined in the standard form in Annex IV to this Decision.

#### Article 5

This Decision shall enter into force on the date of its adoption.

#### Annex I

**Standard forms for the communication of requests, information and feedback under Title II [Administrative cooperation and combating VAT fraud]**

(...)

#### Annex II

**Standard forms for the communication of requests and further communication with regard to requests under Title III [Recovery Assistance]**

##### Model A

**Uniform notification form providing information about notified document(s)**

*(not reproduced here)*

##### Model B

**Uniform instrument permitting enforcement of claims covered by Article PVAT.27 of the Protocol on administrative cooperation and combating fraud in the field of Value Added Tax and on mutual assistance for the recovery of claims relating to taxes and duties between the European Union and the United Kingdom <sup>(2)</sup>**

*(not reproduced here)*

##### Model form C – request for information

*(not reproduced here)*

##### Model form D – request for notification

*(not reproduced here)*

##### Model form E – request for recovery or precautionary measures

*(not reproduced here)*

#### ANNEX III

**Statistical data on the application of Title II [Administrative cooperation and combating VAT fraud]**

(...)

#### ANNEX IV

**Model standard forms for the communication of the statistics on the use of mutual recovery assistance**

*(not reproduced here)*

## NEWS

### Parliamentary question EU

#### Priority question for written answer

**P-002791/2023**

**to the Commission**

**Bergur Løkke Rasmussen (Renew)**

Submitted: 22.9.2023

Subject: Debt collection for European public sector creditors among individual European debtors

Recent revelations in the Danish press have showcased the rise in individual foreign debtors owing money to the Danish state from 120 000 to 167 000 over the last five years, among whom the majority are European citizens. Altogether, these debtors owe DKK 16.5 billion in unpaid debt to the Danish state, with a sizeable part of this debt consisting of unpaid student loans. In the light of this development, I find it relevant to enquire of the Commission:

1. Whether the Commission is planning to take action to ensure a functioning framework for public sector debt collection among European debtors, similar to those already in place for cross-border tax collection and tax fraud?
2. Whether and, if so, how the work of the Commission on developing a toolkit for public sector debt collection among European debtors has commenced, following the dialogue with the Danish Government on this matter in 2018?
3. What does the Commission regard as the main obstacles inhibiting the development of a European debt collection framework for the Member States' public sectors among European debtors?

P-002791/2023

Answer given by Mr Gentiloni  
on behalf of the European Commission  
(30.11.2023)

The adoption of cross-border enforcement rules for public sector debts must be done separately for different categories of debts, in accordance with the

specific legislative process that applies to the category concerned.

With regard to the debt consisting of unpaid student loans, reference is made to the answer given by the Commissioner for Economic and Financial Affairs, Taxation and Customs on behalf of the Commission on 8 November 2017 to question E-005789/2017: claims for repayment of students' loans can be regarded as civil claims and as such they can be pursued effectively throughout the EU by using the instruments for Judicial Cooperation in Civil and Commercial Matters. Following the conclusion of the Agreement between the European Community and the Kingdom of Denmark on the jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, the mechanism of recognition and enforcement of judgments provided for in Regulation (EU) No 1215/2012 can also be used in Denmark.

Note: the parliamentary question E-005789/2017 has been published in Vol. 4, p. 28 (ed. 2017-2) of *EU & International Tax Collection News*.