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Indirect Taxation and Tax administration
Value added tax

**Group on the Future of VAT
12th meeting – 7 November 2014**

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GROUP ON THE FUTURE OF VAT

GFV N° 050

SUMMARY MINUTES

**12TH MEETING
– 7 NOVEMBER 2014 –**

1. PARTICIPANTS

DG TAXUD and delegates from the EU Member States.

2. RESULTS FROM THE DISCUSSION OF THE AGENDA ITEMS

The Agenda (*taxud.c.1(2014)3867329*) was adopted as proposed and the following points were discussed:

2.1. GFV N^o 047: B2B supplies of goods – Taxation at destination – Feasibility and economic study on implementing the ‘destination principle’ to intra-EU B2B supplies of goods – State of play

Representatives of the contractor which undertook the study were invited to present to the group the state of play of the work carried out so far and the next steps. Comments and questions from the group were taken throughout the presentation.

The presentation started with background information to the study, followed by an overview of the five options for implementing the destination principle and a high level summary of the qualitative analysis findings in relation to the impacts (costs and benefits) on businesses (customer and supplier respectively) and on the Member States of each option in comparison to the current system.

Replying to a question posed by one delegation, the contractor clarified that the presented high level qualitative assessment of each option is based on feedback received from businesses and VAT experts from the contractor’s network in every Member State.

Several delegations stressed that the budgetary impacts of each option should be thoroughly assessed as well as the risk of new opportunities for fraud.

In the framework of Option 2a *Adapting current rules whilst still following the flow of the goods with the supplier charging the VAT of the Member State of destination* and Option 5a *Aligning with the contractual flows with the supplier charging the VAT of the Member State of destination*, several delegations emphasised that the workings of the enhanced One-Stop-Shop (OSS) should be explained in great depth. It was stressed that the study should take account of the fact that with an OSS Member States would become more dependent upon each other for the collection of their VAT revenues. Additionally, some delegations took the view that using resources in auditing and controlling the collection of VAT payments due in other Member States would give rise to additional costs for each Member State.

Several delegations pointed out that it is simplistic to say that the OSS would decrease the burden for business as the differences in Member States’ rules on rates, exemptions and obligations would on the contrary add to their compliance costs. Some delegations further suggested that because of differences in trade patterns between Member States, the cash-flow impact could vary between Member States so that export oriented countries might be in a comparative disadvantage compared to the ones with more imports. One delegate

stressed that the study should also refer to the costs for Member States of establishing a form of clearing system to redistribute the VAT revenues collected for other Member States.

Some delegations could not agree with the statement that there were no significant obstructions in the national legislation that would prevent any of the five options examined in the study from being implemented. In particular, it was referred to the fact that right now it is uncertain how the mini-OSS would function in practice and whether it would be successful.

Regarding the Member State survey, the contractor provided an overview of the process, the results and the next steps, pointing out the overall low response rate and the unwillingness, in some cases, of Member States to provide estimates of the changes in their costs for administering the proposed alternative options. Several delegations stressed that whilst they were willing and did their best to answer the survey questions, the lack of data prevented them from completing the survey. It was considered unfortunate that the survey was launched over the summer break, namely on 5 August 2014, with a deadline for replies by 12 September 2014. Some delegates also expressed criticism as to the wording of the questions which in their view failed to reflect how tax administrations function.

The contractor recalled the importance of the survey for obtaining good quality primary data to ensure the robustness of the results of the subsequent analysis.

Some delegates suggested that the lack of replies might also be due to the fact that the administration competent to provide the replies perhaps did not receive the survey. Some delegates stated their readiness to verify this and cooperate with the contractor.

On the economic assessment of impacts and in particular the determination of the expected changes in the VAT fraud gap, some delegations stressed that the method for calculating the VAT gap is considered controversial and that it is not possible to say how much of the VAT gap is attributable to fraud. The contractor recognised the difficulty and stressed that this was exactly the reason why in the survey they asked Member States to provide their own estimates of the drivers of their VAT fraud gap.

In conclusion, the Chair informed the delegates that the Commission services currently explore the possibility of organising, in cooperation with Austria, a joint meeting of the Group on the Future of VAT and the VAT Expert Group, to take place in the second half of 2015 in Vienna, to discuss the results of the final report of this Study.

2.2. GFV N° 048: Commission Staff Working Document on the implementation of the definitive VAT regime for intra-EU trade

The Commission services explained that the purpose of the document was to present the state of play of the work on the destination principle. It was stressed that the document was included on the Agenda for information purposes only.

The delegates did not have comments to make on the document and the discussion was closed without further exchanges.

2.3. VEG N° 049: VAT treatment of Bitcoin

The Commission services presented the main points of the working document, stressing that the VAT treatment of Bitcoin and its related activities depends on the legal status of the digital currency, in particular whether Bitcoin could be regarded, for VAT purposes, as (i) electronic money; (ii) currency; (iii) a negotiable instrument; (iv) a security; (v) a voucher; or (vi) a digital product. As regards its legal status, the Commission services believe that whilst it is doubtful that Bitcoin could be considered electronic money, currency, securities or vouchers, it is yet not clear whether Bitcoin could be seen as a negotiable instrument or a digital product.

Additionally, in order to determine the VAT treatment of Bitcoin, the Commission services consider that not only do payments in this digital currency need to be looked at, but also all the different specific transactions carried out in relation to Bitcoin. To this end, four different scenarios were analysed, namely: (i) supplies of goods and services, subject to VAT, remunerated by way of Bitcoin; (ii) services concerning the arrangement of transactions in Bitcoin; (iii) services concerning the verification of transactions in Bitcoin (mining activities); and (iv) services concerning the exchange of Bitcoin.

Regarding supplies of goods and services subject to VAT and remunerated by way of Bitcoin, the Commission services take the view that (a) if Bitcoin was used as a means of payment, like money, it should be seen as out of scope of VAT; (b) should Bitcoin be seen as a digital product, the transaction could become a barter and the payment in Bitcoin itself would be an electronically supplied services; (c) should Bitcoin be considered to be a negotiable instrument, the payment itself would be exempt under Article 135(1)(d) of the VAT Directive.

Less than half of the delegations asked for the floor to express their position.

Most of these delegations took the view that Bitcoin should be regarded as a negotiable instrument and that the related activities would fall under the exemption provided for in Article 135(1)(d) of the VAT Directive. As regards the services concerning the verification of transactions in Bitcoin, several delegations pointed that that these services could possibly be considered taxable.

Some delegations were of the opinion that Bitcoin could be considered to be a currency and when used as a means of payment should be treated as out of scope.

One delegation considered Bitcoin a digital product and took the view that the related activities should be subject to VAT.

The Chair concluded that the discussion would continue in the VAT Committee in order to reach to the extent possible a common interpretation on the VAT treatment of Bitcoin and similar digital currencies.

2.4. Info update

a. Standard VAT return: state of play of the negotiation process in the Council

The Commission services pointed out that the ECOFIN was at the moment discussing the progress report on this file.

b. Vouchers: state of play of the negotiation process in the Council

The Chair informed delegates that the Italian Presidency of the Council intends to organise another meeting on this file by the end of November 2014 as a half day discussion. A date for the meeting however was not confirmed yet.