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Value Added Tax

**Group on the future of VAT
19th meeting – 22 January 2018**

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GROUP ON THE FUTURE OF VAT

GFV N^o 063

Council Directive EU 2017/2455 of 5 December 2017 amending Directive 2006/112/EC and Directive 2009/132/EC as regards certain value added tax obligations for supplies of services and distance sales of goods

Article 2, points (21) to (29) – Provisions with effect from 1 January 2021

Special scheme for intra-Community distance sales of goods and for services supplied by taxable persons established within the Community but not in the Member State of consumption (Union scheme)

Need for implementing provisions

1 PURPOSE OF THE DOCUMENT

On 5 December 2017, the Council adopted Council Directive EU 2017/2455 of 5 December 2017 amending Directive 2006/112/EC and Directive 2009/132/EC as regards certain value added tax obligations for supplies of services and distance sales of goods.

Points (21) to (29) of Article 2 of this Directive amend or complete Section 3 of Chapter 6 of Title XII of the VAT Directive following the extension of the scope of the special scheme for telecommunications, broadcasting or electronic services ('TBE services') supplied by taxable person not established within the Community (Union scheme), to other services as well as to intra-Community distance sales of goods. Those provisions take effect from 1 January 2021.

The purpose of this working document is to determine whether or not these provisions:

- require detailed measures to be laid down in implementing legislation; and
- have an IT impact.

For the purpose of this work, the following implementing rules were considered:

- Council Implementing Regulation (EU) No 282/2011 laying down implementing measures for Directive 2006/112/EC on the common system of VAT (hereafter 'VAT IR');
- Commission Implementing Regulation (EU) No 815/2012 laying down detailed rules for the application of Council Regulation (EU) No 904/2010, as regards special schemes for non-established taxable persons supplying telecommunications, broadcasting or electronic services to non-taxable persons (hereafter 'COM IR').

The table in Annex 1 sets out the Commission's view, for discussion with delegations at the meeting of 22 January 2018.

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	VAT Directive	Impact on VAT IR?	Impact on COM IR?	IT impact?
1	<p><i>Article 369a – Definition of 'Member State of consumption' is added to this Article:</i></p> <p>'(3) Member State of consumption' means the Member State in which the supply of services is deemed to take place according to Chapter 3 of Title V or, in the case of intra-Community distance sales of goods, the Member State where the dispatch or transport of the goods to the customer ends.'</p>	<p>No</p> <p>The definition of 'Member State of consumption' does not require any implementing provisions. Furthermore, the extension of the scope does not require any changes to Articles 57b determining which Member State is the Member State of identification.</p>	No	No
2	<p><i>Article 369b – amended following the extension of the scope:</i></p> <p>Member States shall permit any taxable person carrying out intra-Community distance sales of goods and any taxable person not established in the Member State of consumption supplying services to a non-taxable person, to use this special scheme. This special scheme applies to all those goods or services supplied in the Community.</p>	<p>Yes</p> <p>The definition of the 'Union scheme' in Article 57a, point (2) must be amended following the extension of its scope to services other than TBE services.</p> <p>Article 57c excluding TBE services supplied in a MS where the taxable person has his business establishment or has a fixed establishment from the scope of the Union scheme should be amended adding 'other services' to the provision. There is no need to add a reference to supplies of goods as local sales (from a warehouse in</p>	Yes	No

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		a MS to a consumer in the same MS) do not fall within the definition of intra-Community distance sales of goods.		
3	<p><i>Article 369c – amended following the extension of the scope:</i></p> <p>A taxable person shall state to the Member State of identification when he commences and ceases his taxable activities covered by this special scheme, or changes those activities in such a way that he no longer meets the conditions necessary for use of this special scheme. He shall communicate that information electronically.</p>	<p>Yes</p> <p>In the 2nd subparagraph of Article 57d, specifying the date as of which a special scheme applies, the words 'the first supply of services' should be replaced by 'the first supply of goods or services'.</p>	No	<p>No direct impact. However, the number of registrations and VAT returns to be treated will increase following the extension of the scope of the Union scheme. MSs should verify to what extent their current system can support an increase in the number of traders and the related increase in the exchanges of messages between MSs. In general, due to the high number of traders, automatization will be needed in MS (if not yet done).</p>
4	<p><i>Article 369d – VAT identification number (unchanged):</i></p> <p>A taxable person making use of this special scheme shall, for the taxable transactions carried out under this scheme, be identified for VAT purposes in the Member State of identification only. For that purpose the Member State shall use the individual VAT identification number already allocated to the taxable person in respect of his</p>	<p>No</p> <p>The extension of the scope does not require any changes to Article 57e on the VAT identification number and Article 57f concerning the change of Member State of identification.</p>	No	No

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	obligations under the internal system. On the basis of the information used for that identification, Member States of consumption may have recourse to their own identification systems.			
5	<p><i>Article: 369e – deletion from the register (amended following the extension of the scope):</i></p> <p>The Member State of identification shall exclude a taxable person from the special scheme in any of the following cases:</p> <p>(a) if he notifies that he no longer carries out intra-Community distance sales of goods and supplies of services covered by this special scheme;</p> <p>(b) if it may otherwise be assumed that his taxable activities covered by this special scheme have ceased;</p> <p>(c) if he no longer meets the conditions necessary for use of this special scheme;</p> <p>(d) if he persistently fails to comply with the rules relating to this special scheme.</p>	<p>Yes</p> <p>The extension of the scope does not require any fundamental changes to Articles 57g and 57h detailing the obligations of the taxable person in case of cessation or change of activities and Articles 58 to 58c regarding exclusion from a special scheme.</p> <p>However, the reference to services or TBE services in Article 57g, 1st and 2nd subparagraphs and Article 58c should be replaced by a reference to 'goods or services'.</p>	<p>Yes</p> <p>Annex II, point (1) needs to be adapted to reflect the extension of the scope of the Union scheme.</p>	<p>No</p>
6	<p><i>Article 369f – VAT return. The main change concerns the extension of the period for submitting the VAT return.</i></p>	<p>Yes</p> <p>The extension does not require any fundamental changes to the</p>	<p>No</p>	<p>Yes</p> <p>National applications and trans-European system to be adapted</p>

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	<p>The taxable person making use of this special scheme shall submit by electronic means to the Member State of identification a VAT return for each calendar quarter, whether or not intra-Community distance sales of goods have been carried out or services covered by this special scheme have been supplied. The VAT return shall be submitted by the end of the month following the end of the tax period covered by the return.</p>	<p>detailed provisions regarding VAT returns (Articles 59 to 60a). However, the reference to services in Article 59a should be replaced by 'goods or services'.</p> <p>Furthermore, detailed provisions could be laid down stipulating by when the VAT return should be submitted and payments should be made in case the last day of the month is Saturday or Sunday or a public holiday (question raised by Sweden during Council discussions).</p>		<p>following the extension of the deadline to submit VAT returns. This also affects deadlines for sending VAT return reminders.</p>
7	<p><i>Article 369g – content of VAT return. The main changes concern corrections which can be made in a subsequent return (paragraph 4) and the introduction of detailed rules for distance sales of goods made from fixed establishments (paragraph 2).</i></p> <p>1. The VAT return shall show the VAT identification number referred to in Article 369d and, for each Member State of consumption in which VAT is due, the total value, exclusive of VAT, of intra-Community distance sales of goods as well as of supplies of services covered by this special scheme carried out during the</p>	<p>Yes</p> <ul style="list-style-type: none"> - Article 61(1) stipulating that changes to a VAT return cannot be made by adjustments to a subsequent return should be deleted or reformulated. - In Article 61a, the words '<i>any corrections to or</i>' should be deleted. - Corrections to pre-2021 return made as from Q1 2021 could be handled in two ways: 	<p>Yes</p> <p>Article 7 concerning corrections to VAT returns should be deleted.</p> <p>The extension to other services does not affect the content of the VAT return.</p> <p>However, the content of the VAT return (column C of Annex III) will have to be amended to allow for corrections of previous VAT returns.</p> <p>This would require the following</p>	<p>Yes</p> <p>IT systems will have to be adapted to allow for corrections to previous returns, as explained in the column showing the impact on the COM IR.</p> <p>It should be analysed with MSs if, from an IT perspective, they would prefer to keep the previous correction mechanism for the 3 years previous to 01/01/2021 or to allow corrections to previous returns to be made in a subsequent return already from the first return to be submitted in 2021 (i.e. the</p>

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	<p>tax period and the total amount per rate of the corresponding VAT. The applicable rates of VAT and the total VAT due must also be indicated on the return. The VAT return shall also include amendments relating to previous tax periods as provided in paragraph 4 of this Article.</p> <p>2. Where, in the case of intra-Community distance sales of goods covered by this special scheme, goods are dispatched or transported from Member States other than the Member State of identification, the VAT return shall also include the total value of such sales for each Member State where the goods are dispatched or transported from, together with the individual VAT identification number or the tax reference number allocated by each such Member State. The VAT return shall include this information for each Member State other than the Member State of identification, broken down by Member State of consumption.</p> <p>3. Where the taxable person supplying services covered by this special scheme has one or more fixed</p>	<p>1) by correcting the initial returns;</p> <p>2) or allowing taxable persons to make corrections in a subsequent return as from the first return to be submitted in 2021 (i.e. the return related to Q42020). For this option, a provision in the VAT IR might be needed.</p> <p>This will have to be decided by Member States taking into account the IT impact of both options (see comment in the column 'IT impact').</p>	<p>changes to column C of Annex III:</p> <ul style="list-style-type: none"> - Introduce a new Part 3 in the VAT return which allows entering corrections for the 12 preceding quarters, per MSC concerned. The current boxes 4.1 to 11.1, 13.1, 14.1 and 16.1 to 21.1 will have to be repeated in this part 3 and it will have to be possible to enter negative amounts in boxes 7.1 to 11.1 and 16.1 to 21.1 in which taxable amount, VAT amount and VAT payable have to be declared. The total VAT amount per MSC resulting from the corrections should also be displayed. - Introduce a new Part 4 in the VAT return showing the balance between Part 2 (supplies related to the period concerned) and Part 3 (corrections related to previous tax periods) for each MSC. A negative balance for a MSC cannot be compensated with a positive balance in other MSCs and will result in a refund by the MSC concerned. - Introduce a new part 5 in the 	<p>return related to Q42020).</p> <p>The VAT rates module of the Tax Information Communication database (TIC) will have to be completed with VAT rates applicable to goods and services other than TBE services.</p>

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	<p>establishments, other than that in the Member State of identification, from which the services are supplied, the VAT return shall also include the total value of such supplies, for each Member State in which he has an establishment, together with the individual VAT identification number or the tax reference number of this establishment, broken down by Member State of consumption.</p> <p>4. Where any amendments to the VAT return are required after its submission, such amendments shall be included in a subsequent return within three years of the date on which the initial return was required to be submitted pursuant to Article 369f. That subsequent VAT return shall identify the relevant Member State of consumption, the tax period and the amount of VAT for which any amendments are required.</p>		<p>VAT return showing the net amount payable (total of VAT to be paid for supplies in all MSCs). Negative balances in MSCs cannot be taken into account in the calculation of this amount.</p>	
8	<p><i>Article 369h – currency of VAT return. Amended following the extension of the scope:</i></p> <p>1. The VAT return shall be made out in euro.</p>	<p>No</p> <p>No impact on Article 61b.</p>	<p>No</p>	<p>No</p>

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	<p>Member States which have not adopted the euro may require the VAT return to be made out in their national currency. If the supplies have been made in other currencies, the taxable person making use of this special scheme shall, for the purposes of completing the VAT return, use the exchange rate applying on the last date of the tax period.</p> <p>2. The conversion shall be made by applying the exchange rates published by the European Central Bank for that day, or, if there is no publication on that day, on the next day of publication.</p>			
9	<p><i>Article 369i – Amended following the extension of the scope:</i></p> <p>The taxable person making use of this special scheme shall pay the VAT, making reference to the relevant VAT return, at the latest at the expiry of the deadline by which the return must be submitted.</p> <p>Payment shall be made to a bank account denominated in euro, designated by the Member State of identification. Member States which have not adopted the euro may require the payment to be made to a bank account denominated in their own</p>	<p>No</p> <p>The extension of the scope does not require any changes to the detailed provisions regarding payments (Articles 62 to 63b)</p>	No	<p>Yes</p> <p>National applications and trans-European system to be adapted following the extension of the deadline to submit VAT returns and, hence, to pay the corresponding VAT amount. This also affects deadlines for sending payment reminders.</p> <p>Due to the increase of the number of registered traders in the scheme, the split of the payment messages may be needed.</p>

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	VAT Directive	Impact on VAT IR?	Impact on COM IR?	IT impact?
	currency.			
10	<p><i>Article 369j – right of deduction:</i></p> <p>The taxable person making use of this special scheme may not, in respect of his taxable activities covered by this special scheme, deduct VAT incurred in the Member State of consumption pursuant to Article 168 of this Directive. Notwithstanding Article 2(1), Article 3 and point (e) of Article 8(1) of Directive 2008/9/EC, the taxable person in question shall be refunded in accordance with that Directive.</p> <p>If the taxable person making use of this special scheme is required to be registered in a Member State for activities not covered by this special scheme, he shall deduct VAT incurred in that Member State in respect of his taxable activities which are covered by this special scheme in the VAT return to be submitted pursuant to Article 250 of this Directive.</p>	No	No	No
11	<p><i>Article 369k – records. Amended following the extension of the scope:</i></p> <p>1. The taxable person making use of this</p>	<p>Yes</p> <p>References to services in Article 63c(1), points (a), (b), (c) and (i) have to be replace by a</p>	No	No

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	<p>special scheme shall keep records of the transactions covered by this special scheme. Those records must be sufficiently detailed to enable the tax authorities of the Member State of consumption to verify that the VAT return is correct.</p> <p>2. The records referred to in paragraph 1 must be made available electronically on request to the Member State of consumption and to the Member State of identification.</p> <p>Those records must be kept for a period of 10 years from 31 December of the year during which the transaction was carried out.</p>	reference to 'goods and services'.		