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VAT EXPERT GROUP

VEG N° 086

Upgrading the EU VAT system - A reflection on possible ways forward

1. INTRODUCTION

Since the adoption of the VAT Action Plan¹, the Commission has submitted to Council several proposals in order to modernise, make fraud-proof and reboot the VAT system, trying to address the challenges posed by the digitalisation and globalisation of the economy.

The Council adopted some of these proposals, which have already entered into force or soon will. For instance, the e-commerce package and the 2020 quick fixes. Others have recently been agreed at the ECOFIN, as it is the case with the proposals on SMEs and payment services providers, or are still being discussed in Council, as it is the case of the definitive system for the taxation of trade between Member States.

The latter proposal equates the treatment of B2B intra-Community transactions to that of domestic transactions, restoring the fractioned payment of VAT in all steps of the commercial chain and eliminating the incentive for committing carousel fraud, which would be reduced, according to the impact assessment accompanying the proposal, by 80% of its amount. Businesses could declare the VAT charged in other Member States to their business customers via a One Stop Shop in their Member State of establishment, without needing to register in those Member States.

Whilst the definitive regime would be an important step forward in the fight against VAT fraud, the proposal targets tackling the problem of Missing Trader Intra Community fraud at its root. The proposal therefore addresses only the weaknesses linked to B2B cross-border supplies of goods².

The on-going discussions on the definitive VAT system however do not stand in the way of improving the VAT system in other areas, in particular when these improvements match up with the key principles of both the definitive and the current VAT system.

The Commission is already working on some of them, as is the case for financial services and travel agents. At this stage, where the new Commission is starting its mandate, it seems appropriate to reflect and evaluate whether there are other aspects where the VAT rules could be revised to achieve a better functioning of the VAT system. In that regard, the Commission would like to request the input of the VEG to identify areas where the VAT system could be upgraded.

2. SIMPLIFICATION OF THE VAT SYSTEM AND REDUCTION OF THE VAT-RELATED BURDEN FOR BUSINESSES

One of the drivers of recent proposals adopted by the Commission, including the one on the definitive VAT system, is the single VAT identification of EU businesses, avoiding registration in Member States where the business is not established, even if it is carrying out taxable transactions in those Member States. To avoid such registration the VAT Directive provides two mechanisms: the One Stop Shop and the reverse charge.

¹ COM(2016) 148 final.

² The definitive regime for supplies of services is foreseen as a second step in the change towards a definitive VAT system. This second step will take place once the definitive regime for the supply of goods is fully implemented.

However, there are still situations where a non-established business needs to register in a Member State where it is carrying out taxable transactions. This is notably the case for domestic B2C supplies of goods such as supplies with installation and assembly governed by Article 36, supplies on board means of transport falling under Article 37 or supplies of gas, electricity, heat or cooling energy covered by Article 39 of the VAT Directive. As these supplies cannot be qualified as intra-Community distance sales of goods, it is not possible to declare them through the One Stop Shop, not even after the extension of its scope as of 1 January 2021. Therefore, a non-established supplier will still need to be registered for VAT in all of the Member States where he is making such type of supplies.

A further case refers to goods supplied B2B successively within the territory of one Member State, when one of the businesses intervening in the chain of supplies is not established within that Member State. In that case, if the Member State has implemented the optional reverse charge provided for in Article 194 of the VAT Directive, the non-established business does not have to register in that Member State and the customer instead declares and pays the VAT due. However, if the Member State has not availed itself of that option, or if it does but the customer of the non-established business is also a non-established business, the non-established business making the supply will have to register in that Member State.

Combining a further extension of the One Stop Shop with the use of the reverse charge mechanism could in view of the Commission services lead to a situation whereby every taxable person would, in principle, only need a single VAT identification throughout the EU.

- *Could moving to the principle of a single VAT identification number result in a significant simplification of the EU VAT system?*
- *Under such a system, should B2B supplies of goods carried out in Member States where the supplier is not established and for which the reverse charge does not apply be covered by the scope of the One Stop Shop?*

Furthermore, the need for businesses to register in different Member States does not exhaust the catalogue of cases where the VAT rules may be simplified.

- *Could you point to other VAT related issues creating difficulties for businesses operating in the Single Market?*

3. KEEPING THE PACE WITH NEW BUSINESS MODELS

The rapid growth of the sharing economy (also known as gig, collaborative or peer-to-peer economy) is a topic that requires further attention in several areas, including taxation. This group already had a first discussion on the VAT treatment of these activities, mainly with the aim of identifying the key elements that require further analysis. This analysis will be continued at expert level.

Besides the sharing economy, there might be other types of economic activities for which the manner in which they are carried out has changed to such an extent that the application of the current VAT rules results in complexity, uncertainty and administrative burdens for businesses and tax authorities.

- *Could you point to other sectors of the economy where the application of the current VAT rules is not adapted to the new business models?*
- *What are in your view the main difficulties for applying VAT in these sectors?*

4. OPPORTUNITIES OFFERED BY THE NEW TECHNOLOGIES

Several Member States are already employing new technologies in order to fight VAT fraud, in particular in areas such as real-time reporting or electronic invoicing. These measures differ from one Member State to another, notably because in the area of VAT obligations Member States enjoy a wide margin of manoeuvre within the boundaries laid down by the VAT Directive.

The multiplication of these measures significantly increases the burden for businesses operating cross-border as they are confronted with a different set of tax obligations in each Member State. The opportunities offered by the new technologies do not facilitate compliance but rather result in an increase of administrative burdens from a global EU point of view for those businesses.

This should not be the case. New technologies should provide for a win-win situation: tax authorities should have improved instruments in the fight against VAT fraud and businesses should benefit from a reduction in the overall compliance costs by the suppression of burdensome reporting obligations and to a reduction in the audits they face.

A streamlined approach at EU level to avoid excessive divergences between Member States regarding the sets of obligations could contribute to this win-win situation.

- *Do you agree that there is a need for reviewing VAT obligations at an EU level, based on the experiences in certain Member States? Do you think they have to be harmonised to some degree?*
- *Should the review go beyond that and also look at the opportunities of using Artificial Intelligence and blockchain?*

5. OTHER

As indicated above, work has already started on the treatment of financial services (area of exemptions) and the scheme for travel agents (area of special schemes).

- *Are there other issues within those areas or in other areas not mentioned above which in your view require a review of the EU VAT law?*

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