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EU VAT REFORMS

New measures to create a single EU VAT area

22 March 2018

Taxation and Customs Union

VAT ACTION PLAN 2016

From a VAT system:

- Based on 25 year old «transitional arrangements»

- Fragmented Single Market

- Extra-compliance cost of 11% for cross-border trade

- EUR 50 bn cross-border fraud and 150 bn VAT gap

towards

A single European VAT area :

- simpler;

- fraud-proof;

- meet the challenges of the 21st century.

VAT ACTION PLAN 2017
Time to act

- *VAT e-commerce (adopted by Council in 2017);*
- *definitive VAT system for intra-Union B2B trade;*
- *reform of the VAT rates;*
- *simplification of the VAT rules for SMEs;*
- *proposal amending the VAT Administrative Cooperation Regulation.*

Definitive VAT system package

- Proposals in October 2017:
  - The notion of Certified Taxable Person (CTP)
  - 4 "quick fixes"
  - The legal cornerstones of the definitive VAT system
- Proposal Spring 2018:
  - Detailed provisions for definitive regime in intra-EU B2B supplies of goods
- Proposal 5 years after application of the definitive regime in goods to cover all cross-border supplies.

Definitive VAT system package - "quick fixes"

- call-off stock arrangements (CTP);
- chain transactions (CTP);
- value of VAT number for exempt supplies of goods (for so-called 'intra-community supplies');
- proof of intra-Community transport of goods (CTP).

Definitive VAT system package

The legal cornerstones of the definitive VAT system (Art 402):

- principle of taxation in the Member State of destination;
- the liability of the supplier (except where the customer is a CTP meaning an attested reliable taxpayer);
- the One Stop Shop notion for both output and input VAT.

VAT rates – Today

- Current rules do not fully take into account technological and economic developments
- Rules were designed to arrive at taxation at origin, although since then VAT developed towards taxation at destination
- Rules are too restrictive for a destination-based VAT system and do not respect the subsidiarity principle
- A reform for more freedom would put an end to unnecessary litigation, i.e. infringement procedures in cases where there is no risk of distortion of competition

VAT rates proposal - Objectives

- Not restricting current flexibility for Member States => Allowing all Member States to keep the VAT rates that were only granted as derogations on a temporary basis
- Establish equal treatment between Member States => Granting the same rights to all Member States
- More flexibility for Member States in setting VAT rates => Granting possibility of derogations to all Member States and limit restrictions mainly to the supply of goods
- Harmonise the current rules and improve the system => Implementing general principles and a VAT classification

VAT rates proposal – Reform

-Standard rate: permanent minimum 15%

-Structure reduced rates: two reduced rates minimum 5%, plus an additional one below, plus 0 rate: always benefit of the final consumer and objectives of general interest

-Scope reduced rates: general freedom reduced rates, excluded (Annex IIIa): review Annex every five years

- Restriction: weighted average rate above 12%

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VAT rates proposal – Negative list

The negative list (Annex IIIa)includes:

- High value and easily transportable goods
  (potential risk: cross-border shopping)
- Excisable products (potential risk: cross-border shopping)
- Exemptions with an option to tax (potential risk: zero rates)
- Special schemes (potential risk: origin-based taxation)

The negative list does not include:

- Most services for final consumption
- Goods and services supplied for intermediate consumption of businesses (generally excluded from reduced rates)

VAT rates proposal – Application date

- The entry into force of the proposed new rules should be when derogations could expire, i.e. with the entry into force of the first part of the definitive system (B2B supplies of goods) to be proposed this spring.
- Urgent demands by Member States (to update the existing Annex III) could be dealt with in a separate proposal beforehand. However, targeted proposals are often controversial and adoption not guaranteed (see e-publications proposal)
- To be noted: Implementing a VAT classification and establishing a web portal require preparatory work.

VAT SMEs - Today

The current SME scheme is:

- **Outdated**: based on origin principle, varying exemption thresholds for different Member States (historical justification)
- **Temporary**: applicable until the definitive arrangements for the VAT system enter into force
- **Inconsistent** with the single market perspective and the principle of taxation at destination; high costs
- **Inadequate**: targeted at businesses trading domestically and mostly in the B2C context

VAT SMEs proposal - Objectives

- **reduce VAT compliance costs** for SMEs
- **reduce distortions of competition**
- reduce the negative impact of **threshold effect**
- facilitate **compliance** by SMEs and **monitoring** by tax administrations

VAT SMEs proposal - Notion of small businesses

- **Small businesses** are defined as businesses with Union annual turnover not exceeding **EUR 2 million:** "micro-enterprises" according to the general EU definition of SMEs (Commission Recommendation 2003/361)
- Consistency with other simplification measures available in the VAT Directive (e.g. cash accounting)

VAT SMEs proposal - Exemption for small businesses

- Member States set national exemption thresholds no higher than **EUR 85 000**: no more derogations
- **Exemption opened to non-established EU enterprises**:
  - not exceeding **EUR 100 000** turnover EU-wide
  - which meet the criteria set by the Member States of destination (e.g. the national threshold)
- Optional for both Member States and businesses with common mandatory features set out in the VAT Directive

VAT SMEs proposal - Simplified VAT obligations for Exempt SMEs

- Optional for Member States to release established SMEs that **trade only domestically** from **registration** and the business starting declaration or (where this option is not exercised) mandatory to provide for a simplified registration procedure
- Obligatory for Member States to release from **invoicing** obligations
- Optional for Member States to provide for **simplified VAT record keeping**
- Optional for Member States to release from the obligation to submit a **VAT return** or (where this option is not exercised) obligatory to allow simplified VAT return covering a calendar year (optional for businesses)
- Optional for Member States **to release from certain other or all obligations referred to in Articles 217-271**

VAT SMEs proposal - Simplified VAT obligations for Non-Exempt SMEs

- Obligatory for Member States to provide for **simplified registration** procedure

- Obligatory for Member States to provide for simplified obligations relating to the **storage of invoices**

- Obligatory for Member States to put in place **less frequent VAT returns** covering a calendar year (optional for businesses)

- Obligatory for Member States **not to require interim payments**

VAT SMEs proposal - Smooth transition to full taxation

Problem: Exempt businesses limit their sales to remain below the threshold and avoid the sudden change to full taxation and full set of VAT obligations: "threshold effect‟

Proposal: to allow a gradual passage from exemption to taxation

Businesses exceeding the national threshold in a subsequent calendar year by no more than 50% are allowed to continue to benefit from the exemption for that year (transition period).

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VAT Administrative Cooperation - Today

- High levels of VAT fraud, especially cross-border VAT fraud
  - Revenue losses for MS and EU budgets: EUR 50 billion/year
  - Unfair tax competition between compliant and non-compliant businesses
  - Short term measures needed pending the implementation of the definitive VAT system
  - Need to support and complement e-commerce proposals

VAT Administrative Cooperation

- Media revelations: Paradise, Panama papers, etc.
  - ➢ Wealthy individuals committing VAT evasion
  - ➢ Fraud funding organised crime, including terrorism
  - ➢ Oxfam 2018 report ("Reward work, not wealth"): need to end the inequality crisis, notably by eradicating the use of tax havens
  - ➢ Unacceptable situation for the public - MS and EU under high political and media pressure

Strengthening Eurofisc and cooperation between Member States

- New features for **Eurofisc:**
  - **Joint** processing and **analysis** of data = TNA
  - Coordination of **audits**
- New instrument: **Joint audits**
  - Single audit teams
  - For **active** participation of tax officials
  - On a voluntary basis
- **Mandatory administrative enquiries** (including joint audits) to tackle **e-commerce** fraud

Working with other law enforcement bodies

- New lines of communication and **data exchange** between tax authorities and **OLAF** & **Europol** to cross-check information

- Disclosure of **serious fraud cases** to the **EPPO*** to protect the EU financial interests

**Responsible for investigating and prosecuting crimes against the EU budget, such as fraud, corruption, or cross-border VAT fraud above EUR 10 million.*

Sharing key information on imports under CP42/63

- Automated access to **customs declarations** for **tax** and **Eurofisc** officials to detect fraudsters
- Access to **VIES** for customs officials to check the conditions for CP42/63 (VAT Numbers)

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Sharing key information on cars

- Access to vehicle registration data for **Eurofisc** officials
- Through **EUCARIS**
- For **quicker** reaction

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VAT Reform

- Ambitious step-by-step proposals to create an EU single VAT area and to make sure that the tax system is sustainable and resilient, modern and simpler.
- To find an approach that will best combine the principle of subsidiarity and the objectives of the proper functioning of the Single Market, including fair competition.

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Digital Tax Package - Why

- Global corporate tax rules have not kept pace with the digital economy: ‘brick-and-mortar’ businesses, physical presence in a country to be taxed there.
- Many digital companies make profit from new services created largely from users’ input and data – huge user and consumer bases within the EU.
- Digitalised businesses face an effective tax rate of only 9.5%, compared to 23.2% for traditional business models.
- G20, OECD, EU Council, European Parliament, Member States.

Digital Tax Package - Content

1. A **comprehensive reform** of corporate tax rules for digital companies in the EU:

- **Directive on a taxable digital presence –** MSs to tax profits made in their territory even if a company has no physical presence (definition of 'significant' digital presence through thresholds). To be incorporated in the Common Consolidated Corporate Tax Base.
- **Recommendation** to MSs to amend their Double Taxation Treaties, so that the same rules apply to EU and non-EU companies

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Digital Tax Package - Content

2. A new **Digital Services Tax** (interim measure, targets the most urgent gaps and eliminates fragmentation in the EU):

a) Apply to services where the main value is created by user participation:
- Placing on a digital interface of targeted advertising
- Supply of a digital platform where users can interact with other users
- Sale of data generated from users' activities on digital interfaces

b) Tax where value is created, where users are located

c) Apply to companies with total annual wordlwide revenues of EUR750 million and EU taxable revenues of EUR50 million

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THANK YOU FOR YOUR ATTENTION