Value added tax VAT: refund to taxable persons established in another Member State

2010/0205(CNS) - 15/07/2010 - Legislative proposal

PURPOSE: extend the deadline for submission of a refund application under Directive 2008/9/EC laying down detailed rules for the refund of value added tax to 31 March 2011.

PROPOSED ACT: Council Directive.

BACKGROUND: Council Directive 2008/9/EC (the Refund Directive) allows for non-established taxable persons to reclaim VAT on business expenses incurred in another Member State (the Member State of refund) via an electronic web portal set up in their own Member State (the Member State of establishment).

The Refund Directive states that applications should be submitted to the Member State of establishment at the latest on 30 September of the calendar year following the refund period. As the Directive came into force on 1 January 2010, any applications concerning 2009 are to be submitted to the Member State of establishment by 30 September 2010 at the latest.

Some Member States opened their web portals very late (up to the middle of May 2010) and there have been various technical problems with the operability and access to certain portals. Member States have also had divergent views of how the system should operate from a technical point of view, which have only come to light once the system has been operational. This has also contributed to a number of delays and problems in the submission and processing of applications.

Following a number of problems incurred in the practical application of the procedure at the level of several Member States, it is proposed to amend the Refund Directive in order to: (i) give taxable persons more time to submit applications relating to refund periods in 2009; (ii) provide that the Commission can adopt the necessary implementing measures following the opinion of the Standing Committee on Administrative Co-operation.

IMPACT ANALYSIS: as this measure does not significantly amend the existing measure, no impact assessment is necessary.

LEGAL BASIS: Article 113 of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: the proposal will extend the deadline for submission of a refund application under Directive 2008/9/EC to 31 March 2011 exceptionally for applications concerning refund periods in 2009, and provide for certain implementing measures to be adopted under the procedure provided for in Council Regulation (EC) No 1798/2003 on administrative cooperation in the field of value added tax.

This would allow the Member States and the Commission to agree on the necessary technical aspects of application of the Directive, and hence improve the running of the system.

BUDGETARY IMPLICATION: the proposal has no negative impact on the EU budget.