

Common system of value added tax (VAT): treatment of vouchers

2012/0102(CNS) - 10/05/2012 - Legislative proposal

PURPOSE: to clarify and harmonise the rules in EU legislation on the VAT treatment of vouchers.

PROPOSED ACT: Council Directive.

BACKGROUND: the world has moved on since common VAT rules were adopted in 1977 and the increased use of vouchers is just one of many changes which have transformed the way in which business is done, introducing complexities which were not envisaged at the time.

Neither the Sixth VAT Directive (Council Directive 77/388/EEC) nor the VAT Directive (Council Directive 2006/112/EC) provide for rules on the treatment of transactions involving vouchers.

For the purposes of the VAT rules, a **voucher** is an instrument which gives the holder a right to goods or services, or to receive a discount or rebate in relation to a supply of goods or services. The issuer assumes an obligation to supply goods or services, to give a discount or pay a rebate.

A voucher may be in electronic or physical form and generally has an underlying commercial or promotional objective, which may be to promote the supply of particular goods or services or to expedite the payment for particular goods or services. Vouchers come in different types. Some are issued against consideration and today can be taxed either at sale or at redemption, depending on the approach of individual Member States. A voucher may also be issued for free and entitle the holder to the supply of goods or services without further charge.

The absence of common rules has obliged Member States to develop their own solutions, inevitably uncoordinated. The resultant mismatches in taxation cause **problems such as double or non-taxation** but also contribute to **tax avoidance** and form barriers to business innovation.

The **Court of Justice of the European Union** ('CJEU') has on several occasions been asked to explain how the VA Directives should apply in such circumstances. For vouchers, this process has given some guidance but has left other problems unresolved. The objective of this proposal is to deal with these issues by clarifying and harmonising the rules in EU legislation on the VAT treatment of vouchers.

IMPACT ASSESSMENT: the proposal is accompanied by an Impact Assessment. It concludes that the only realistic way to deal with the identified shortcomings is a **modernisation of the VAT Directive by inserting new provisions which deal with vouchers**. A study undertaken made by Deloitte is included as an annex to the Impact Assessment. It sustains the economic justification for making this legislative proposal, in particular the actual and potential consequences from mismatches between Member States.

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

CONTENT: the proposal consists of **several amendments to the VAT Directive aimed to define clearly the different types of vouchers and to harmonise their VAT treatment**. In making this legislative proposal, the search is for clarity. This should extend to the tax consequences of the different types of vouchers when issued, distributed or redeemed, either within a single Member State or in operations which extend to more than one Member State.

To solve these problems, changes to the VAT Directive are envisaged. They fall under **five headings**:

1. Defining vouchers for VAT purposes: the VAT Directive needs to be clear about which vouchers are to be taxed when issued and which are to be taxed only when redeemed. The former are described as ‘single-purpose vouchers’ and the latter as ‘multi-purpose vouchers’. This distinction hinges on whether the information is available to tax on issue or whether, because their end-use is subject to choice, taxation has to await redemption.

2. Time of taxation: the current rules on the time of chargeability of the tax (in Article 65) should be adjusted to ensure that single-purpose vouchers (SPVs) are subject to VAT at the time they are issued and paid for.

To avoid confusion, the supply of the right which is inherent in a voucher and the underlying supply of goods or services cannot be regarded as separate transactions. SPVs are taxed from the outset so this potential problem will not arise. For vouchers which are not taxed when issued because the place and level of taxation cannot yet be established, tax should only be charged when the underlying goods or services are supplied. To make sure this happens, and that only this happens, a new Article 30b is proposed. This makes it clear that the issue of a voucher and the subsequent supply of goods or services constitute a single transaction for VAT.

3. Rules for distribution: once the VAT Directive has established that multi-purpose vouchers (MPVs) are to be taxed on redemption, some issues which relate to their distribution need to be addressed.

Since distribution chains for MPVs can extend across several Member States, common rules are necessary for identifying and measuring this distribution service. An additional point makes clear that the distribution is a supply of a service for the purposes of the VAT Directive. The computation of the taxable amount for this service is dealt with in a new Article.

The proposal aims to ensure that the totality of the taxable operations associated with an MPV – the supply of a distribution service and the supply of the underlying goods or services – are described and taxed in a manner which is comprehensive, neutral and transparent.

4. Discount vouchers: difficulties arise with discount vouchers when the discount is ultimately met by the issuer rather than the redeemer. To avoid a complex series of adjustments, it is proposed to treat this discount as a separate supply of a service by the redeemer to the issuer.

5. Other technical or consequential changes: some further technical changes to the VAT Directive will be required to ensure the proper functioning of these solutions, notably as regards the right of deduction (Article 169), the person liable for payment of the tax (Article 193) and other obligations (Article 272). Technical changes are needed to deal correctly with MPVs and SPVs respectively.

BUDGETARY IMPLICATIONS: the proposal has no implication for the European Union budget.