Value added tax (VAT): certain obligations for supplies of services and distance sales of goods

2016/0370(CNS) - 01/12/2016 - Legislative proposal

PURPOSE: to modernise the VAT rules in the context of cross-border business to consumer (B2C) e-commerce.

PROPOSED ACT: Council Directive.

ROLE OF THE EUROPEAN PARLIAMENT: the Council adopts the act after consultation with the European Parliament but without needing to follow the latter's opinion.

BACKGROUND: In its communication of May 2015 entitled 'Strategy for Digital Single Market for Europe' and its communication of April 2016 on an action plan on VAT entitled 'Towards a single EU VAT area', the Commission placed a high priority to **overcoming barriers to cross-border e-commerce** arising from onerous VAT obligations as well as an inherent lack of neutrality which harms EU business.

It feels that there are three reasons to take action:

- it has been estimated that **the costs of complying with VAT obligations are on average EUR 8 000 annually** for each Member State to which a business supplies. This is a significant cost for business, in particular SMEs;
- **the current system is not neutral** as EU businesses are at a clear disadvantage to non-EU businesses which can legitimately and through high levels of noncompliance make VAT-free supplies into the EU;
- the complexity of the existing system as well as the **current exemption for the importation of small consignments** means that Member States lose valuable tax revenues. It is estimated that between VAT foregone and non-compliance from cross-border e-commerce such losses are currently as high as EUR 5 billion annually.

In preparing this proposal the Commission carried out a **regulatory fitness check** of the existing Mini One Stop Shop (MOSS), which applies to B2C supplies of electronic services as well as the 2015 changes to the place of supply rules for such services.

The proposal takes due account of this assessment. In particular, the proposal will address shortcomings and barriers faced by SMEs and micro-businesses.

IMPACT ASSESSMENT: the impact assessment on the proposal was examined in June 2016 by the Regulatory Scrutiny Board. The Board gave a positive opinion to the proposal with some recommendations that have been taken on board.

CONTENT: the proposal aims to amend 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. The main provisions in the proposal are as follows:

- **extension of MOSS from 1 January 2021 to intra-Community distance sales** of tangible goods and services other than electronic services as well as to distance sales of goods from third countries;
- the introduction of a **simplified arrangements for global declaration and payment of import VAT** for importers of goods destined for final consumer where VAT has not been paid through the

MOSS system; it is proposed that VAT will be collected from customers on importation and a simple monthly declaration to customs will be transmitted by the transporter;

- the **removal of the existing intra-Community distance sales thresholds** which are a cause of distortions in the single market;
- the **removal of the existing VAT exemption** for the importation of small consignments (total value between EUR 10 and EUR 22) from suppliers in third countries which disadvantages EU sellers;
- the introduction of a **new annual threshold of EUR 10 000** below which the place of supply of services that may be covered by the intra-Community special scheme for electronic services remains in the Member State of the supplier; and the introduction of an annual threshold of **EUR 100 000** below which simplified rules will apply to determine the place of establishment; these thresholds may be applied from 2018 to ecommerce and 2021 at the latest for distance sales;
- allowing for EU sellers to apply **home country rules** in areas such as invoicing and record keeping; and
- **greater coordination between Member States** when auditing of cross-border businesses who use the VAT system to ensure high compliance rates.

In quantitative terms, the introduction of an intra-EU cross-border threshold in 2018 will take 6 500 businesses out of the current MOSS system leading to a potential cost saving for these businesses of EUR 13 million. The introduction in 2018 of simplified evidence requirements will benefit an additional 1 000 businesses. The threshold which will also apply to goods when the MOSS is extended in 2021 will benefit 430 000 businesses with potential savings to these businesses of up to EUR 860 million.

BUDGETARY IMPLICATIONS: the proposal is expected to increase VAT revenues for Member States by **EUR 7 billion per year**. It is estimated that the proposal will reduce administration burdens for business by **EUR 2.3 billion annually**.