Value added tax (VAT): administrative cooperation and combating fraud

2016/0371(CNS) - 01/12/2016 - Legislative proposal

PURPOSE: to modernise the VAT rules in the context of cross-border business to consumer (B2C) e-commerce (administrative cooperation and fight against fraud).

PROPOSED ACT: Council Regulation.

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: this proposal is part of the package of legislation on modernising VAT for cross-border B2C e-commerce. The package includes a proposal for a Council Directive amending 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 proposal to amend Regulation (EU) No 904/2010 on administrative cooperation and combating fraud in the field of value added tax is an important element of the package. It provides the basis for the underlying IT infrastructure and the necessary cooperation by

Member States to ensure the success of the extension of the Mini One Stop Shop (MOSS) to services other than telecommunications, broadcasting and electronically supplied services and to distance sales of goods, both within the Community and from outside the Community.

The overall package is estimated to increase VAT revenues for Member States by EUR 7 billion annually and reduce regulatory costs for business by EUR 2.3 billion annually.

The proposal also results from the Commission 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',

IMPACT ASSESSMENT: in terms of the impact assessment, the preferred option, which included coordination of audits, was estimated to lead to higher reductions in compliance costs for businesses compared to the alternatives.

CONTENT: the proposal aims to **amend and supplement the provisions concerning the Mini One Stop Shop (MOSS)** provided for in Council Regulation (EU) No 904/2010 following the amendments that are being made to the VAT Directive.

These provisions cover the rules and procedures for the exchange by electronic means between taxable persons and their tax administration as well as between Member States' tax administrations of VAT information concerning VAT identification, VAT returns and VAT payments within the MOSS.

The proposal:

- contains the provisions relating to the **exchange of information** between Member States concerning the identification of taxable persons making use of the MOSS, VAT returns and VAT payments. They mirror the existing provisions and extend them to services other than electronic services and to distance sales of goods;
- provides that the **Member State of importation should verify the validity of the VAT identification number** to be provided to the customs authorities upon importation of goods for which VAT is declared and paid using the MOSS. A valid VAT identification number is a condition for the application of the exemption upon importation of such goods;
- provides that requests for records by Member States to taxable persons and administrative inquiries should be **coordinated by the Member State of identification**, so as to avoid uncoordinated requests for records or administrative inquiries by several Member States of consumption;
- provides for the **payment of a fee of 5% to be paid by the Member States of consumption** to the Member State of identification in order to compensate for the investment needed to update the MOSS IT system following the extension of its scope, ongoing maintenance costs and the resources spent controlling business established in that Member State;
- provides for the possibility for the Commission to **automatically access information** related to the MOSS stored in the Member States' electronic systems, with the exception of any personal data;
- confers **implementing powers** on the Commission to determine the data to be included in the information exchanges concerning identification, VAT returns, VAT payments, requests for records or administrative enquiries, etc., between taxable persons and Member States or between Member States as well as the technical means for the submission or transmission of this information.

BUDGETARY IMPLICATIONS: this element of the package is estimated to have important positive budgetary implications. The coordination of audits together with the incentive of the administrative fee should result in risk-based audits. A more efficient audit process which focuses on audit yield should lead to higher compliance rates compared to the alternative of an uncoordinated approach which can needlessly tie up resources.