Strengthening administrative cooperation in the field of value added tax

2017/0248(CNS) - 30/11/2017

PURPOSE: to strengthen cooperation between Member States in the field of value added tax (VAT).

PROPOSED ACT: Council Directive.

ROLE OF THE EUROPEAN PARLIAMENT: the Council adopts the act after consulting the European Parliament but without being obliged to follow the opinion of the European Parliament.

BACKGROUND: **fighting tax fraud and evasion** to help secure national and EU revenues and prevent distortion of competition has been a top Commission priority in recent years. It is estimated that in total about **EUR 152 billion** was lost in 2015 due to shortcomings in VAT collection, including fraud. Earlier estimates had put the losses due to cross-border fraud alone at EUR 50 billion.

In its VAT action plan of 7 April 2016, the Commission outlined the need to put in place a **single European VAT area** comprising of key measures to be adopted in the short and medium term to modernise the EU VAT system and make it simpler, more fraud-proof and business-friendly.

The European Parliament resolution of 24 November 2016 welcomed the VAT Action Plan.

Among the short-term measures, the Commission announced its intention to **improve the exchange and analysis of information by tax administrations** and with other law enforcement bodies, to strengthen Eurofisc and to introduce new tools such as joint audits.

The **three main types of cross-border fraud** are still the most widespread and most significant across the EU: (i) 'carousel fraud' (or missing trader intra-Community fraud — MTIC fraud); (ii) used car fraud; and (iii) fraud involving customs procedures.

This initiative would add measures specifically designed to tackle these fraud schemes, to Council Regulation (EU) No 904/2010, the reference legal basis for administrative cooperation and the fight against VAT fraud. It is part of the 'fair taxation package for the creation of a single EU value added tax area' set out in the roadmap for a more united, stronger and more democratic Union.

IMPACT ASSESSMENT: five main options were examined:

- jointly processing and analysing data in Eurofisc;
- improving the operational framework for coordinated checks between Member States;
- developing the exchange of information and intelligence between Member States' tax administrations in Eurofisc and law enforcement authorities at EU level;
- tackling fraud involving the dual VAT regime applicable to cars by improving access to vehicle registration data;
- sharing information on customs procedures 42 and 63 between customs and tax authorities.

It was not possible to precisely assess and quantify the benefits of the main preferred options. However, the main options covered by this initiative could help make fighting cross-border VAT fraud quicker and more efficient, and should therefore increase VAT revenues.

CONTENT: the proposed amendment of **Council Regulation (EU) No 904/2010** aims to improve cooperation between Member States, giving them the means to fight VAT fraud faster and more effectively, including fraud which occurs online.

Its main elements are:

Strengthening cooperation between Member States: in order to boost the capacity of Member States to control cross-border supplies, **joint audits** would allow officials from two or more tax administrations to form a single audit team to combat fraud. This team would examine the cross-border transactions of one or more related taxable persons (both legal entities and individuals) engaged in cross-border activities. Eurofisc could **coordinate joint open administrative enquiries** launched on the basis of its risk analyses.

To speed up the joint processing and analysis of data within Eurofisc, the Commission is currently developing **TNA software** for voluntary use by the Member States as of 2018. In order to maximise TNA' s potential to identify fraudulent networks across the whole EU, Regulation (EU) No 904/2010 would make clearer provision for the joint processing and **analysis of data within Eurofisc**. Involvement in such processing and analysis will remain voluntary. However, all Member States should grant Eurofisc officials access to their VIES data on intra-Union transactions through TNA; in that way the software can identify all potential fraud networks, including those involving traders established in non-participating Member States. The software could thus identify possible fraud networks. This would make for a swifter and more effective reaction to the TNA results and the information from such enquiries could be immediately processed by TNA.

Collaboration with law enforcement authorities: the proposal provides Eurofisc liaison officials with the opportunity to forward information on VAT fraud trends, risks and serious cases to Europol and the European Anti-Fraud Office (OLAF) and to disclose such cases to the European Public Prosecutor's Office. This possibility would concern, in particular, the most serious cases of VAT fraud involving activities in two or more Member States and resulting in damage of a total amount of at least EUR 10 million.

Sharing customs procedures and vehicle registration data with tax authorities (measure applicable from 1 January 2020): the proposal would allow the exchange of data in order to **combat the misuse of the VAT system when importing VAT-free goods** (customs procedures 42 and 63), in cases where the goods, supposed to be delivered in another Member State, were diverted to the black market.

The car trade is sometimes also affected by fraud because VAT is applied differently depending on whether the sale relates to new vehicles or used vehicles. Eurofisc officials may share information to **tackle cross-border fraud involving the sale of second-hand cars**. In particular it would allow them to identify swiftly who has committed the fraudulent transactions and where. In practice, this access would be granted through the EUCARIS platform.