

Operation of the definitive VAT system for the taxation of trade between Member States

2018/0164(CNS) - 25/05/2018 - Legislative proposal

PURPOSE: to implement the definitive VAT system to improve the operation of VAT arrangements for cross-border B2B trade on goods within the Union.

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 its opinion.

BACKGROUND: the creation of a **simple, modern and fraud-proof VAT system** is one of the fiscal priorities set out by the Commission. In its 2016 [VAT action plan](#), the Commission announced its intention to propose a definitive VAT system for the EU.

This proposal is part of a package of measures aimed at **radically changing VAT rules** by ending 25 years of a 'transitional' VAT system in the single market. This arrangement, as far as Business-to-Business (B2B) transactions on goods are concerned, split the cross-border movement of goods into two different transactions: an exempt supply in the Member State of departure of the goods and an intra-Community acquisition taxed in the Member State of destination

The proposal presented by the Commission puts an end to this artificial split of a single commercial transaction.

Besides the change to the definitive VAT system for cross-border trade, this move includes two other proposals to modify [Directive 2006/112/EC](#) (VAT Directive): one as regards [VAT rates](#) and one as regards the special scheme for [small enterprises](#). In addition, it includes a [proposal](#) for a Council Regulation on combating fraud in the field of VAT.

As regards the change towards a definitive VAT system based on the principle of taxation in the Member State of destination a gradual two-step approach was announced: a first step settling intra-Union B2B supplies of goods and a second step covering supplies of services.

The first step was further divided into two sub-steps. The first sub-step, presented simultaneously with the Communication, was a legislative [proposal](#) which outlined the cornerstones for a simpler and fraud-proof definitive VAT system for intra-Union trade.

The current proposal represents the second sub-step. It contains the detailed arrangements to put these cornerstones in place for intra-Union B2B supplies of goods.

IMPACT ASSESSMENT: a back to back impact assessment and evaluation was carried out which covered both the setting of the cornerstones of the definitive VAT system and the detailed arrangements for putting these cornerstones into place. The preferred option would **reduce cross-border VAT fraud by up to EUR 41 billion per annum** and reduce compliance costs for businesses by EUR 938 million per annum.

The Regulatory Scrutiny Board gave a positive opinion to the impact assessment with some recommendations, in particular on the link of the proposal to other elements of the VAT Action Plan, the need for a staged approach and the concept of certified taxable person, that have been taken on board.

CONTENT: this proposal amends the VAT Directive as regards the introduction of detailed technical measures for the operation of the definitive VAT system for the taxation of trade between Member States. It is intended to replace the transitional arrangements applicable since 1 January 1993 by a **definitive VAT system for intra-Union B2B** trade under which domestic and cross-border transactions involving goods will be treated in the same way.

The main elements of the proposal are as follows:

Simplifying how goods are taxed: in the current VAT system, trade in goods between businesses is split into two transactions: a VAT-exempt sale in the Member State of origin and a taxed acquisition in the Member State of destination.

It is proposed that cross-border B2B supplies of goods within the Union should be combined into a single type of transaction for VAT purposes: an intra-Union supply of goods. A definition of the concept of intra-Union supply of goods is integrated.

Place of supply rules: the combination of the definition of intra-Union supplies of goods and the new proposed place of supply rule ensures the taxation of cross-border B2B supply of goods in the Union in the Member State of destination.

Chargeability of the tax: an amendment is proposed that determines a **single rule** for the chargeability of VAT on intra-Union supplies. According to this rule VAT shall become chargeable on issue of the invoice, or on expiry of the time limit if no invoice has been issued by that time (fifteenth day of the month following that in which the chargeable event occurs).

Person liable for payment of VAT: the principle remains that VAT shall be payable by any taxable person carrying out a taxable supply of goods or services, unless in other provisions, it is stipulated that VAT is payable by another person.

As an exception, a new Article is proposed according to which VAT shall be payable by the person to whom the goods are supplied insofar he is a **certified taxable person** if the goods are supplied by a taxable person not established within the territory of the Member State in which the VAT is due.

As regards intra-Union supplies of goods, the supplier shall, in principle, be liable for the payment of the VAT in the Member State of arrival of the goods except where the supplier is not established in the Member State of taxation and the customer is a certified taxable person. In the latter case, the customer will pay the VAT due by way of reverse charge in the Member State of arrival of the goods.

Identification: an amendment is proposed according to which Member States shall take the measures necessary to ensure that a non-taxable legal person who is the recipient of an intra-Union supply is identified by means of an **individual number**.

Reduced administrative formalities: the changes reboot the **self-policing character** of VAT and will reduce the amount of administrative steps that need to be taken by businesses when they sell to other companies in other Member States

Intra-Union supplies of goods should under the proposed system no longer be included in the recapitulative statements. The principle of VAT being charged by the supplier on the intra-Union supply re-

installs the self-policing character of VAT. Consequently, ensuring an administrative follow-up to the physical flow of goods through the recapitulative statement within the Union is no longer justified.

Single online portal: in order to make the change to VAT rules as seamless as possible for businesses, the proposed amendments would introduce the necessary provisions to put in place an online portal or '**One Stop Shop**' for all business-to-business (B2B) EU traders to sort out their VAT. This system will also be available to companies outside the EU who want to sell to other businesses within the Union and who would otherwise have to register for VAT in every Member State. Once in force, these businesses will simply have to appoint one intermediary in the EU to take care of VAT for them.