

Value added tax (VAT) system: harmonising and simplifying certain rules and definitive system for the taxation of intra-Union trade

2017/0251(CNS) - 03/10/2018 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 536 votes to 19, with 110 abstentions, under a special legislative procedure (consultation), a legislative resolution on the proposal for a Council directive amending Directive 2006/112/EC as regards harmonising and simplifying certain rules in the value added tax system and introducing the definitive system for the taxation of trade between Member States.

The European Parliament approved the Commission proposal subject to the following amendments.

Reforming the VAT system: Members stressed that the VAT gap, i.e. the difference between the amount of VAT revenue actually collected and the theoretical amount that is expected to be collected, has been increasing, reaching **EUR 151.5 billion** in 2015 in the EU-28. They stressed the need for an urgent and comprehensive reform of the VAT system towards a definitive VAT regime, to facilitate and simplify cross-border intra-Union trade and make the system more fraud-proof.

Certified taxable person: Parliament specified that **strict criteria, applied in a harmonised way** by all Member States, need to be put in place to determine which enterprises can benefit from the status of the certified taxable person, and common rules and provisions resulting in **finances and penalties** for those who do not comply with them should be established.

The **general criteria** on the basis of which Member States may certify taxable persons shall include:

- **the absence of any serious infringement or repeated infringements** of taxation rules and customs legislation in the last three years of economic activity, the absence of any serious tax adjustment by tax administrations, or no record of serious criminal offences relating to his or her economic activity, regardless of whether the activity has taken place within the Union or elsewhere;
- **the absence of any record of serious criminal offences** relating to the economic activity of the applicant, such as, but not limited to: money laundering; tax evasion and tax fraud; abuse of Union funds and programmes; bribery and/or corruption; cybercrime; participation in a criminal organisation or in terrorist activities;
- evidence of the **applicant's financial solvency** during the last three years and the requirement for the applicant to have a bank account in a financial institution established in the Union.

The Commission shall adopt **implementing acts and guidelines** facilitating harmonisation and administrative cooperation between the authorities and ensuring interoperability among Member States whilst verifying the proper application by Member States of such harmonised criteria across the Union. Those guidelines shall be closely aligned to the criteria of the Authorised Economic Operator under the **EU Customs Code**.

The Commission shall present **simplified administrative procedures** for SMEs to obtain the status of certified taxable person. Information on whether an economic operator is a certified taxable person should be accessible via the VIES system.

Tax authorities of the Member States having granted the status of certified taxable person shall **review that decision, at least every two years**, to ensure that the conditions are still met. If the taxable person

has not informed the tax authorities of any factor possibly affecting the certified taxable person status as laid out in the implementing act or has purposefully concealed it, it shall be subject to proportionate, efficient and dissuasive sanctions, including the loss of the certified taxable person status.

VAT dispute resolution mechanism: Parliament proposed that this shall be set up by **1 June 2020** to resolve disputes between Member States of claimed or filed or suspected erroneous cross-border VAT payments. The mechanism shall be composed of Member States' competent authorities and shall be applied where the Mutual Agreement Procedure does not lead to a result within two years.

The VAT dispute resolution mechanism shall also encompass an online VAT dispute resolution platform.

Automated notification mechanism: Members proposed to set up an automated notification mechanism by **1 June 2020**. That mechanism shall ensure automatic notifications to tax payers on changes and updates to the VAT rates of Member States. This mechanism shall be based on open and standardised data formats and fields to ensure its interoperability.

One-stop shop: stressing that the one-stop shop for businesses was at the core of the new destination-based system, Members suggested that proposals to improve the current system shall include the extension of the network of mini one-stop shops to cover all services and sales of B2B goods. The one-stop shop shall operate in conjunction with a harmonised computer system between the different Member States, based on common standards and allowing automatic data extraction and entry, for example by means of standardised unified forms.

To ensure interoperability, ease of use and future fraud-proofing, the one-stop shop for businesses should operate with a harmonised cross-border IT system, based on common standards and allowing for automatic retrieval and input of data, for example, through the use of **unified standard forms**.

Reports: one year after the entry into force of the Directive, and every three years thereafter, the Commission shall report on the exemption scheme for imports from third countries and its compatibility with the European framework and on cooperation with the competent authorities of third States, in particular as regards the combating of fraud.

Two years after the entry into force of this Directive, and every three years thereafter, the Commission shall report on national practices as regards the imposition of administrative and criminal penalties on legal and natural persons found guilty of VAT fraud.

In keeping with the public interest and the financial interests of the Union, **whistle blowers** shall enjoy effective legal protection, in order to facilitate the detection and prevention of all forms of fraud.