

Value added tax (VAT): requirements for payment service providers

2018/0412(CNS) - 12/12/2018 - Legislative proposal

PURPOSE: to solve the problem of VAT fraud in e-commerce by strengthening cooperation between tax authorities and payment service providers.

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: this proposal is part of the package of legislation on the mandatory transmission and exchange of VAT-relevant payment information. It is part of the EU's broader agenda to **tackle VAT fraud and improve VAT collection of internet sales**.

E-commerce VAT fraud is a common problem for all Member States. Member States alone do not have the information necessary to ensure that the e-commerce VAT rules are correctly applied and to tackle e-commerce VAT fraud.

The exchange of payment data between tax authorities is not always possible due to legal limitations, which makes existing administrative cooperation tools relatively ineffective with regard to VAT fraud in e-commerce.

For payment providers, the adoption of a **single centralised EU-wide system** of collecting VAT-relevant payment data would reduce the risks and costs of reporting the same information in multiple formats, in every EU Member State.

In recent years, more than 90 % of online purchases by European customers were made through credit transfers, direct debits and card payments, i.e. through an intermediary involved in the transaction (a payment service provider), and this is a trend that will continue in the future.

IMPACT ASSESSMENT: the impact assessment attached to the present proposal identified three main cases of crossborder e-commerce VAT fraud: (i) intra-EU supplies of goods and services, (ii) imports of goods from businesses established in a third country or third territory (i.e. a country or territory outside the EU) to consumers in the Member States, and (iii) supplies of services from businesses established in a third country to consumers in the Member States.

It is estimated that Member States suffer VAT losses on cross-border supplies of goods amounting to EUR 5 billion per year.

The impact assessment showed that a central repository (to be developed by the Commission) was the option that best addressed the objective of fighting e-commerce VAT fraud. The exchange of information through a central repository would also better reduce market distortion.

CONTENT: this proposal complements the current VAT regulatory framework as recently modified by the [VAT E-commerce Directive](#) in the context of the Commission's Digital Single Market Strategy. Furthermore, this initiative strengthens the administrative cooperation framework to better tackle e-commerce VAT fraud and restore fair competition.

New record keeping requirements

Under the new provisions, Member States shall ensure that payment service providers keep sufficiently detailed records of the payees and of the payment transactions in relation to payment services they execute for each calendar quarter to enable the competent authorities of the Member States to carry out controls of the supplies of goods and services which are deemed to take place in a Member State.

The requirement shall apply in circumstances where both of the following conditions are met:

- where funds are transferred by a payment service provider from a payer located in one Member State to a payee located in another Member State, in a third territory or in a third country;
- in respect of the transfer of funds, where a payment service provider executes more than 25 payment transactions to the same payee in the course of a calendar quarter.

The records shall be kept in electronic format by the payment service provider for a period of two years from the end of the year during which the payment transaction was executed.

Information to be kept

The proposal specifies that payment service providers must keep records of any VAT or tax identification number of the payee, if applicable. In addition, they must keep information on the payment transaction itself, such as the amount, currency, date, origin of the payment and indication of any payment refund.

BUDGETARY IMPLICATIONS: it is expected that the investment costs of the Commission and of the tax authorities will be outweighed by the increase in VAT revenues collected.

The costs of this initiative will be spread among several years starting in 2019. The first part of these costs (until 2020) will be covered by existing allocations in the current [Fiscalis 2020](#) programme. The majority of the costs will nevertheless take place after the year 2020.

The budgetary implications have been estimated to a one-off cost of **EUR 11.8 million for setting-up the system**, and an annual running cost of EUR 4.5 million once the system is fully operational. It was estimated that these running costs would only start in 2022 once the system is operational. Their impact on the budget was calculated over a five year period for a total (including the one-off cost) of **EUR 34.3 million** to set-up and run the system until 2027.