

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

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The Committee on Economic and Monetary Affairs adopted, under a special legislative procedure (consultation of Parliament), the report by Lídia PEREIRA (EPP, PT) on the proposal for a Council directive amending Directive 2006/112/EC as regards introducing certain requirements for payment service providers.

As a reminder, 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.

The committee recommends that the European Parliament approve the Commission's proposal subject to amendments.

Better tackle VAT fraud

Members stressed the need for more transnational cooperation in order to better combat VAT e-commerce fraud in particular, as well as VAT fraud more generally (including carousel fraud).

The report recalled that according to the Commission, the VAT gap (the difference between the expected VAT revenue and the amount actually collected) in the Union amounted to EUR 137.5 billion in 2017, representing a loss of 11.2 % of the total expected VAT revenue and EUR 267 of lost revenue per person in the Union. There are, however, big differences between Member States, with VAT gaps ranging from 0.6% up to 35.5%.

Virtual currencies exchange platforms

Given that payments are executed only in a limited number of cases through virtual currencies exchange platforms, such platforms are not considered to be payment services providers as defined in Directive (EU) 2015/236 of the European Parliament and of the Council. The risk of VAT fraud, although currently limited, does however exist. The Commission shall therefore evaluate within three years whether virtual currencies exchange platforms should be included in the scope of this Directive.

New record keeping requirements

The proposed Directive requires payment service providers to retain, for each calendar quarter, sufficiently detailed records of beneficiaries and payment transactions corresponding to the payment services they provide, in order to assist Member States fight e-commerce VAT fraud.

Members proposed that this obligation shall apply when a payment service provider executes more than 25 payment transactions to the same payee in the course of a calendar quarter or executes a transfer of funds with a monetary value of at least EUR 2500 in a single payment transaction.

In addition, records shall be kept in electronic format by the payment service provider for a period of three years (instead of the proposed two years) from the end of the year during which the payment transaction was executed.

The payer's place of establishment shall be considered to be in the Member State that corresponds to the IBAN of the payer's payment account or any other identifier which unambiguously identifies the payer and the payer's location.

The record keeping and reporting obligation should also arise in cases where a payment service provider receives funds or acquires payment transactions on behalf of the payee and not only where a payment service provider transfers funds or issues payments instruments for the payer.

It is necessary to adopt an ambitious mandate for the European Public Prosecutor's Office (EPPO) in collaboration with national judicial authorities in order to ensure the efficient prosecution of fraudsters before the national courts. Organised cross-border VAT fraud should be duly prosecuted and the fraudsters should be penalised.

Strategy for fighting against VAT fraud

Members stated that this strategy should evolve in parallel with the increasing modernisation and digitalisation of the economy while rendering the VAT system as simple as possible for businesses and citizens. Member States should therefore continue to invest in technology-led tax collection, notably by automatically linking corporate cash registers and sales systems to VAT returns.

In addition, tax authorities should continue their efforts towards closer cooperation and exchange of best practices.

Tax authorities should work towards an effective communication and interoperability between all databases regarding fiscal matters at Union level. Blockchain technology could also be used in order to better protect personal data and improve the online exchange of information between tax authorities.