

Common system of value added tax (VAT): extension of the application period of the optional reverse charge mechanism in relation to supplies of certain goods and services susceptible to fraud and of the Quick Reaction Mechanism against VAT fraud

2022/0027(CNS) - 10/02/2022 - Legislative proposal

PURPOSE: to extend the application period of the optional reverse charge mechanism for supplies of certain goods and services susceptible to fraud and of the Quick Reaction Mechanism against VAT fraud.

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: tax fraud in the field of value added tax (VAT) leads to considerable budget losses and has an impact on the operation of the internal market.

Article 199a of Council Directive 2006/112/EC provides for Member States to use, on an optional basis, the reverse charge mechanism for the payment of VAT on supplies of pre-defined goods and services that are susceptible to fraud, and in particular, Missing Trader Intra-Community (MTIC) fraud.

The **Quick Reaction Mechanism** (QRM) special measure set out in Article 199b of that Directive offers Member States, under certain strict conditions, a faster procedure that allows for the introduction of the reverse charge mechanism, resulting in a more adequate and effective response to sudden and massive fraud.

Both Articles expire on 30 June 2022.

In order to deal with the issue of (MTIC) fraud in a more structural manner, the Commission made a proposal for the introduction of the so-called definitive VAT system, a simpler and fraud-proof system for intra-Union trade of goods. However, the state of play of the ongoing negotiations in the Council indicates that it will not be possible for the definitive VAT system to enter into force on 1 July 2022.

To allow the negotiations on the definitive system to continue, without putting at risk the available tools in order to combat VAT fraud, the Commission considers it necessary to extend the anti-fraud measures provided for in Articles 199a and 199b for a further limited period.

CONTENT: this proposal for a Directive amending Council Directive 2006/112/EC on the common system of value added tax (the VAT Directive) seeks to prolong until 31 December 2025:

(1) the possibility for Member States to apply the reverse charge mechanism to combat existing fraud in supplies of goods and services included in Article 199a(1) of the VAT Directive and;

(2) the possibility to use the Quick Reaction Mechanism (QRM), as set out in Article 199b of the VAT Directive, to combat fraud via the application of the reverse charge mechanism in very specific cases.

This seems to be a reasonable period in order to allow Council negotiations on the definitive VAT system to continue. If the definitive VAT system does not enter into force before that date, the arrangements in Article 199a of the VAT Directive might, because of the sunset clause, come to an end in 2025. If the definitive VAT system would enter into force before 2025, Articles 199a and 199b will be amended and therefore replace the current rules which are being extended.

Similarly, this extension is also linked to the development and adoption of a Commission proposal concerning VAT in the digital age, for which a date of entry into force cannot be provided at this stage. The adoption of the proposal itself by the Commission is scheduled for 2022.