Basic information

2001/0133(CNS) CNS - Consultation procedure Regulation	Procedure completed
Value added tax VAT: administrative cooperation (repeal. Regulation (EEC) No 218/92) Repealed by 2009/0118(CNS) Amended by 2004/0262(CNS) Amended by 2008/0059(CNS) **Subject** 2.70.02 Indirect taxation, VAT, excise duties 2.80 Cooperation between administrations	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
ECON Economic and Monetary Affairs	KAUPPI Piia-Noora (PPE-DE)	10/07/2001

Former committee responsible	Former rapporteur	Appointed
ECON Economic and Monetary Affairs	KAUPPI Piia-Noora (PPE-DE)	10/07/2001

Committee for opinion	Rapporteur for opinion	Appointed
JURI Legal Affairs and Internal Market	GIL-ROBLES GIL-DELGADO José María (PPE-DE)	21/05/2003

Former committee for opinion	Former rapporteur for opinion	Appointed
CONT Budgetary Control	The committee decided not to give an opinion.	
LIBE Citizens' Freedoms and Rights, Justice and Home Affairs	The committee decided not to give an opinion.	
JURI Legal Affairs and Internal Market	GIL-ROBLES GIL-DELGADO José María (PPE-DE)	21/05/2003

Council of the European Union	

Council configuration	Meetings	Date
Economic and Financial Affairs ECOFIN	2432	2002-06-04
Economic and Financial Affairs ECOFIN	2530	2003-10-07

European Commission	

Commission DG	Commissioner
Taxation and Customs Union	

Key events

Date	Event	Reference	Summary
18/06/2001	Legislative proposal published	COM(2001)0294	Summary
02/07/2001	Committee referral announced in Parliament		
19/12/2001	Vote in committee		
19/12/2001	Committee report tabled for plenary, 1st reading/single reading	A5-0466/2001	
05/02/2002	Debate in Parliament		
06/02/2002	Decision by Parliament	T5-0040/2002	Summary
08/11/2002	Formal reconsultation of Parliament		
08/11/2002	Amended legislative proposal for reconsultation published	N5-0535/2002	
06/03/2003	Legislative proposal published	06522/2003	Summary
08/07/2003	Vote in committee		
08/07/2003	Committee report tabled for plenary, reconsultation	A5-0262/2003	
02/09/2003	Decision by Parliament	T5-0350/2003	Summary
07/10/2003	Act adopted by Council after consultation of Parliament		
07/10/2003	End of procedure in Parliament		
15/10/2003	Final act published in Official Journal		

Technical information

Procedure reference	2001/0133(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Regulation
Amendments and repeals	Repealed by 2009/0118(CNS) Amended by 2004/0262(CNS) Amended by 2008/0059(CNS)
Legal basis	EC Treaty (after Amsterdam) EC 093
Stage reached in procedure	Procedure completed

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		A5-0466/2001	19/12/2001	
Text adopted by Parliament, 1st reading/single reading		T5-0040/2002 OJ C 284 21.11.2002, p. 0121-0178 E	06/02/2002	Summary
Committee final report tabled for plenary, reconsultation		A5-0262/2003	08/07/2003	
Text adopted by Parliament after reconsultation		T5-0350/2003 OJ C 076 25.03.2004, p. 0036-0080 E	02/09/2003	Summary

Council of the EU

Document type	Reference	Date	Summary
Amended legislative proposal for reconsultation	N5-0535/2002	08/11/2002	
Legislative proposal	06522/2003	06/03/2003	Summary

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2001)0294	18/06/2001	Summary
Follow-up document	COM(2009)0428	18/08/2009	Summary
Follow-up document	SEC(2009)1121	18/08/2009	Summary

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES0037/2002 OJ C 080 03.04.2002, p. 0076	16/01/2002	

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Regulation 2003/1798
OJ L 264 15.10.2003, p. 0001-0011 Summary

Value added tax VAT: administrative cooperation (repeal. Regulation (EEC) No 218/92)

2001/0133(CNS) - 02/09/2003 - Text adopted by Parliament after reconsultation

The European Parliament adopted a resolution drawn up by Piia-Noora KAUPPI (EPP-ED, Finland) confirming its opinion at first reading concerning the change of legal basis of the proposal. (Please see the summary dated 08/07/03.)

Value added tax VAT: administrative cooperation (repeal. Regulation (EEC) No 218/92)

2001/0133(CNS) - 06/03/2003 - Legislative proposal

The Council has changed the legal basis of both the proposed Directive and Regulation by changing them from the co-decision procedure, based on Article 95 of the EC Treaty, to the consultation procedure, based on Article 93 of the EC Treaty, for the proposed Regulation and on Articles 93 and 94 for the proposed Directive. In this context, the Council requests the consultation of the European Parliament for purposes of the final adoption of the two proposals.

Value added tax VAT: administrative cooperation (repeal. Regulation (EEC) No 218/92)

2001/0133(CNS) - 18/08/2009 - Follow-up document

This Commission Staff Working Document analyses and summarises Member States' replies to the questionnaire relating the application of Council Regulation (EC) No 1798/2003 concerning administrative cooperation in the field of value added tax.

Method used: since the practical use of the different instruments of administrative cooperation is made by the national tax authorities, evidently this evaluation can only be done on the basis of substantial input from the Member State. Therefore, the Commission was of the opinion that the information for making a comprehensive assessment of administrative cooperation under the new Regulation had to be collected by way of a **questionnaire** launched to the Member States. 25 Member States replied to the questionnaire.

This document has been an important source of information for the Commission's report on the application of Council Regulation 1798/2003 concerning administrative cooperation in the field of VAT but it was not the only one.

Indeed, other sources of information, like existing reports, discussions with Member States on a bilateral basis or during meetings have been used when drafting the Commission's report in order to complement the results of this questionnaire.

Member States' replies: Member States were specifically asked whether they had any suggestions for improvements to make.

The main suggestions are the following:

- direct access to data would lead to quicker exchange of information,
- on-line conversation through CCN-network would be useful for simultaneous control purposes (conference calls, chat),
- closer cooperation with Customs authorities in particular for the goods moving through the 4200-procedure (exempted from taxation at import),
- organising annual CLO meetings for the heads of CLO, to make contacts and cooperation easier and more efficient (due to personal contact),
- amend the Regulation in order to provide for a legal framework for the project Eurocanet,
- the set up of a structure at community level to coordinate and facilitate the use of the existing cooperation instruments,
- better relations between the existing discussion groups (ATFS, SCAC, SCIT) enabling more coherence of the mission attributed to the discussion groups and more regular and formal contacts between them,
- the mandatory use of XML as unique standard,
- Review of the Standing Committee on Administrative Cooperation 2004 form,
- a computer system to ensure that requests are logged to a central record and statistical data could be extracted electronically from the system,
- harmonisation of legal terms/expressions,
- sanctions on Member States that do not comply with the time limits to send the reply to a request.

Value added tax VAT: administrative cooperation (repeal. Regulation (EEC) No 218/92)

2001/0133(CNS) - 18/08/2009 - Follow-up document

Council Regulation No 1798/2003 on administrative cooperation in the field of VAT provides that the Commission shall present every three years a report to the European Parliament and the Council on the application of this Regulation. In the past, there have been five reports which describe the functioning of the administrative cooperation in the field of value added tax, but this is the first report since the adoption of the Council Regulation No 1798/2003 in January 2004.

In particular, the Regulation introduced improvements relating to: (i) clearer and binding rules governing cooperation between Member States; (ii) more direct contacts between services with a view to making cooperation more efficient and faster; (iii) more automatic or spontaneous exchanges of information between Member States in order to combat fraud more effectively. This report assesses the **functioning of administrative cooperation within the current legal framework** and focuses in particular on the use that is made of these newly introduced arrangements in order to evaluate whether these changes have been effective.

This report assesses the functioning of administrative cooperation within the current legal framework and focuses in particular on the use that is made of these newly introduced arrangements in order to evaluate whether these changes have been effective.

However, the present report cannot be dissociated from the broader context of the coordinated strategy to improve the fight against VAT fraud set out in the recent Commission's Communication, A coordinated strategy to improve the fight against VAT fraud in the EU, COM(2008)0807.

. This Communication announces a range of measures which will substantially affect the way administrative cooperation in the field of VAT between tax authorities will function in the future.

ain conclusions: the Commission's Communication of 31 May 2006 concerning the need to develop a co-ordinated strategy to improve the fight against fiscal fraud already expressed the view that the legal framework for administrative cooperation in the field of VAT has been reinforced, but that Member States do not make sufficient use of it and the level of administrative cooperation is not commensurate with the size of intra-Community trade.

This report does not come to a different conclusion; the new arrangements introduced in 2004 with Regulation 1798/2003 offered **improved possibilities** , but the intensity of the administrative cooperation between Member States to cope with intra-Community VAT evasion and fraud is **still unsatisfactory**.

As concerns the **practical functioning**, the willingness to improve the application of the administrative cooperation arrangements should be reflected in the management support and organisation of the tax administration through the following actions:

- an appropriate number of resources should be allocated to administrative cooperation and tax controls;
- training should be provided for tax officials to raise their awareness as regards the instruments available and the spontaneous exchange of information;
- a proactive and open-minded approach should be adopted towards the application of the instruments available and obstacles should be avoided at national level;
- local officials should be given instructions on how to prioritise the requests for information;
- the software should be adjusted in order to use the XML-format for sending requests;
- efficient procedures should be implemented to collect data to be exchanged;
- direct contacts between local tax auditors should be encouraged (via CCN mail II bis).

These recommendations are in fact not new; they can already be found in previous reports presented several years ago. The fact that they need to be repeated is a worrying signal as concerns the level of follow up that has been given to them in the past.

The **political importance** given within a Member State to ensuring that a service of good quality is provided to the partner authorities in the other Member States is a key factor for substantial improvements.

The ECOFIN Council has had, in the past two years, several discussions about combating VAT fraud. The conclusions which have been drawn on these occasions point out the need for a **common approach at EU level**. The emphasis has been put on the so-called "conventional measures" which aim at strengthening the capacity of tax authorities to tackle VAT fraud within the context of the current VAT system.

Reinforcing administrative cooperation is essential in this context and the proposal for a recast of the Regulation 1798/2003 that is presented today contains substantial changes such as automated access to databases and will provide the legal base to set up EUROFISC. This report demonstrates the **need for further amendments to the legal framework** which are taken on board in this proposal.

However, improving the practical functioning is equally important and the Commission counts on the political willingness of the Member States to put the necessary efforts in this objective.

The willingness has to come from the Member States but the Commission is prepared to provide its assistance to these efforts. A number of actions to be taken could be coordinated at EU level and the Fiscalis 2013 programme provides appropriate tools for supporting the development and implementation of these actions.

Value added tax VAT: administrative cooperation (repeal. Regulation (EEC) No 218/92)

2001/0133(CNS) - 06/02/2002 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted the resolution on administrative cooperation in the field of value added tax, drafted by Piia-Noora KAUPI (EPP/ED, Fin). The proposal was approved with some amendments on data protection and provisions for flexibility on electronic communications and data protection.

Value added tax VAT: administrative cooperation (repeal. Regulation (EEC) No 218/92)

2001/0133(CNS) - 07/10/2003 - Final act

PURPOSE : to incorporate in one Regulation all provisions appertaining to administrative cooperation in the field of value added tax (VAT). LEGISLATIVE ACT : Council Regulation 1798/2003/EC on administrative cooperation in the field of value added tax and repealing Regulation 218/92 /EC. CONTENT : Combating VAT evasion calls for close cooperation between the administrative authorities in each Member State responsible for the application of the provisions in that field. The tax harmonisation measures taken to complete the internal market must therefore include the establishment of a common system for the exchange of information between the Member States. The latter's administrative authorities must assist each other and cooperate with the Commission. Regulation 218/92/EEC supplements Council Directive 77/799/EEC concerning mutual assistance by the competent authorities of the Member States in the field of direct and indirect taxation. Those two legal instruments have proved to be effective but are no longer able to meet the new requirements of administrative cooperation resulting from the ever-closer integration of economies within the internal market. The existence of two separate instruments for cooperation on VAT has, moreover, hampered effective cooperation between tax administrations. This Regulation lays down the conditions under which the administrative authorities in the Member States responsible for the application of the laws on VAT on supplies of goods and services, intra-Community acquisition of goods and importation of goods are to cooperate with each other and with the Commission to ensure compliance with those laws. To that end, it lays down rules and procedures to enable the competent authorities of the Member States to cooperate and to exchange with each other any information that may help them to effect a correct assessment of VAT. This Regulation also lays down rules and procedures for the exchange of certain information by electronic means, in particular as regards VAT on intra-Community transactions. For the period provided for in Article 4 of Directive 2002/38/EC, it also lays down rules and procedures for the exchange by electronic means of VAT information on services supplied electronically in accordance with the special scheme provided for in Article 26c of Directive 77/388/EEC, and also for any subsequent exchange of information and, as far as services covered by that special scheme are concerned, for the transfer of money between Member States' competent authorities. It should be noted that this Regulation places limitations of certain rights and obligations laid down by Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data in order to safeguard the interests referred to in Article 13(1)(e) of that Directive. ENTRY INTO FORCE : 01/01/04.

Value added tax VAT: administrative cooperation (repeal. Regulation (EEC) No 218/92)

2001/0133(CNS) - 18/06/2001 - Legislative proposal

PURPOSE: To incorporate under one Regulation all provisions appertaining to administrative cooperation in the field of value added tax CONTENT: Currently, there are two legal bases governing administrative cooperation in the field of value added tax, Directive 77/799/EEC and Regulation No 218 /92. The first dates back to 1977 and initially only related to taxes on income and capital. Value added tax was not covered by the Directive. In order to make up for this shortfall and in light of the removal of tax borders between Member States as of 1993, Regulation No 218/92 was adopted to supplement the 1977 Directive and to put in place a strengthened system of information exchange for intra-Community supplies and acquisitions of goods in so far as VAT is concerned. In practice, however, the existence of two legal bases has led to confusion, inefficiency and a low uptake amongst national tax authorities. For example, Directive 77/799/EEC refers to intra-Community supplies of services and other VAT transactions, whereas Regulation No 218/92 applies only to intra-Community supplies and acquisitions of goods. With both the Directive and the Regulation laying down disparate provisions and deadlines the objectives of both are being undermined. The Commission notes that most Member States have a preference for the Directive but that the Directive is too weak a framework for truly effective cooperation since it was not designed to deal with VAT in the first place. Given the current inadequacy in EU legislation the Council requested the Commission to prepare a proposal streamlining administrative cooperation in the field of value added tax. The Commission's response is a single, reinforced Regulation, which would have the specific remit of dealing with all administrative cooperation - in so far as value added tax is concerned. This new Regulation is designed to replace, strengthen and modernise the provisions of the 1992 Regulation as well as incorporating the provisions of the 1977 Directive under its remit. As such the Commission proposes repealing Regulation No 218/92. The aim of the reform is to create a synergy between the authority responsible for VAT application and control, removing borders between tax authorities and encouraging officials to cooperate as if they belonged to the same administration. The Commission concludes that these measures are imperative in the fight against fraudsters who operate unhindered by borders. Essentially, the proposed Regulation establishes a single legal framework which sets out clear and binding rules governing cooperation between Member States. The framework provides for more direct contact between services with a view to making cooperation more efficient and faster. The Regulation aims to establish an effective system of mutual assistance and information exchange in order to ensure the proper functioning of the VAT system. Under the proposal the Commission sees its role as one of coordination and stimulation, whilst the Member States would retain responsibility for investigation and the proper operation of the common system of VAT.