Basic information

2016/0406(CNS) CNS - Consultation procedure Directive	Procedure completed
Common system of value added tax (VAT): temporary application of a generalised reverse charge mechanism in relation to supplies of goods and services above a certain threshold Amending Directive 2006/112/EC 2004/0079(CNS) **Subject** 2.70.02 Indirect taxation, VAT, excise duties	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
ECON Economic and Monetary Affairs	MATO Gabriel (PPE)	15/12/2016
	Shadow rapporteur MAUREL Emmanuel (S&D) LUCKE Bernd (ECR) JEŽEK Petr (ALDE) LÓPEZ BERMEJO Paloma (GUE/NGL) SCOTT CATO Molly (Verts/ALE) KAPPEL Barbara (ENF)	

Committee for opinion	Rapporteur for opinion	Appointed
JURI Legal Affairs	The committee decided not to give an opinion.	

Council of the European Union

Council configuration	Meetings	Date
Economic and Financial Affairs ECOFIN	3619	2018-05-25
Economic and Financial Affairs ECOFIN	3515	2017-01-27
Economic and Financial Affairs ECOFIN	3527	2017-03-21
Economic and Financial Affairs ECOFIN	3549	2017-06-16
Environment	3666	2018-12-20

European Commission	Commission DG	Commissioner
	Taxation and Customs Union	MOSCOVICI Pierre

Key events

Date	Event	Reference	Summary
21/12/2016	Legislative proposal published	COM(2016)0811	Summary
27/01/2017	Debate in Council		
01/02/2017	Committee referral announced in Parliament		
21/03/2017	Debate in Council		
16/06/2017	Debate in Council		
25/05/2018	Debate in Council		
02/10/2018	Debate in Council		
27/11/2018	Vote in committee		
30/11/2018	Committee report tabled for plenary, 1st reading/single reading	A8-0418/2018	Summary
11/12/2018	Decision by Parliament	T8-0496/2018	Summary
11/12/2018	Results of vote in Parliament		
20/12/2018	Act adopted by Council after consultation of Parliament		
20/12/2018	End of procedure in Parliament		
27/12/2018	Final act published in Official Journal		

Technical information

Procedure reference	2016/0406(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Directive
Amendments and repeals	Amending Directive 2006/112/EC 2004/0079(CNS)
Legal basis	Treaty on the Functioning of the European Union TFEU 113
Stage reached in procedure	Procedure completed
Committee dossier	ECON/8/08864

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE604.776	09/10/2018	

Amendments tabled in committee		PE629.753	06/11/2018	
Committee report tabled for plenary, 1st reading/single reading		A8-0418/2018	30/11/2018	Summary
Text adopted by Parliament, 1st reading/single reading		T8-0496/2018	11/12/2018	Summary

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2016)0811	21/12/2016	Summary
Document attached to the procedure	SWD(2016)0457	23/12/2016	
Document attached to the procedure	SWD(2016)0458	23/12/2016	
Commission response to text adopted in plenary	SP(2019)44	23/01/2019	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	DE_BUNDESRAT	COM(2016)0811	21/02/2017	
Contribution	ES_PARLIAMENT	COM(2016)0811	09/03/2017	
Contribution	CZ_SENATE	COM(2016)0811	04/05/2017	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES0072/2017	31/05/2017	

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Directive 2018/2057
OJ L 329 27.12.2018, p. 0003 Summary

Common system of value added tax (VAT): temporary application of a generalised reverse charge mechanism in relation to supplies of goods and services above a certain threshold

2016/0406(CNS) - 30/11/2018 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Economic and Monetary Affairs adopted, under the consultation procedure, the report by Gabriel MATO (EPP, ES) on the proposal for a Council directive amending Directive 2006/112/EC on the common system of value added tax as regards the temporary application of a generalised reverse charge mechanism in relation to supplies of goods and services above a certain threshold.

The committee responsible recommended that the European Parliament approve the Commission's proposal subject to the following amendments:

Application of the generalised reverse charge mechanism (GRCM): Member States shall be allowed to derogate from the common value added tax system in order to apply a generalised reverse charge mechanism (GRCM) to supplies exceeding an invoicing threshold of **EUR 25 000** (instead of a threshold of EUR 10 000 in the Commission's proposal).

To benefit from this derogation, a Member State should:

- in 2014, in accordance with the method and figures set out in the 2016 final report dated 23 August 2016 on the VAT gap published by the Commission, a VAT gap, expressed as a percentage of the VAT Total Tax Liability, of at least 15 percentage points above the Community median VAT gap;
- register a carousel fraud level within its total VAT gap of more than 25 %;
- establish that other control measures are not sufficient to combat carousel fraud on its territory, in particular by specifying the control measures applied and the particular reasons for their lack of effectiveness, as well as the reasons why VAT administrative cooperation has proven insufficient;
- establish that the estimated gains in tax compliance and collection expected as a result of the introduction of the GRCM outweigh the expected overall additional burdens on businesses and tax administrations by at least 25 %;
- establish that businesses and tax administrations will not incur, as a result of the introduction of the GRCM, costs that are higher than those incurred as a result of the application of other control measures.

Members opposed allowing a Member State that shares a border with a Member State that applies the GRCM to also be authorised to apply the GRCM, under certain conditions.

Presentation of information: in order to be able to assess whether the introduction of the GRCM in one Member State results in fraud shifting towards other Member States and to be able to assess the degree of possible disturbances to the functioning of the internal market, it is appropriate to provide for a **specific obligation to exchange information** between Member States that apply the GRCM and other Member States. All such exchanges of information should be subject to applicable personal data protection and confidentiality provisions.

Member States applying the GRCM shall submit an interim report to the Commission no later than one year after the start of application of the GRCM. This report shall provide a detailed assessment of the effectiveness of the GRCM.

The Directive shall apply **until 30 June 2022**.

Common system of value added tax (VAT): temporary application of a generalised reverse charge mechanism in relation to supplies of goods and services above a certain threshold

2016/0406(CNS) - 11/12/2018 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 337 votes to 100, with 222 abstentions, under the consultation procedure, a legislative resolution on the proposal for a Council directive amending Directive 2006/112/EC on the common system of value added tax as regards the temporary application of a generalised reverse charge mechanism in relation to supplies of goods and services above a certain threshold.

The European Parliament approved the Commission's proposal subject to the following amendments:

Application of the generalised reverse charge mechanism (GRCM): Member States shall be allowed to derogate from the common value added tax system in order to apply a generalised reverse charge mechanism (GRCM) to supplies exceeding an **invoicing threshold of EUR 25 000** (instead of a threshold of EUR 10 000 in the Commission's proposal).

To benefit from this derogation, a Member State should:

- in 2014, in accordance with the method and figures set out in the 2016 final report on the VAT gap published by the Commission, a VAT gap, expressed as a percentage of the VAT Total Tax Liability, of at least 15 percentage points above the Community median VAT gap;
- register a carousel fraud level within its total VAT gap of more than **25 %**;

- establish that other control measures are not sufficient to combat carousel fraud on its territory, in particular by specifying the control measures applied and the particular reasons for their lack of effectiveness, as well as the reasons why VAT administrative cooperation has proven insufficient;
- establish that the estimated gains in tax compliance and collection expected as a result of the introduction of the GRCM outweigh the expected overall additional burdens on businesses and tax administrations **by at least 25 %;**
- establish that businesses and tax administrations will not incur, as a result of the introduction of the GRCM, costs that are higher than those incurred as a result of the application of other control measures.

Members opposed allowing a Member State that shares a border with a Member State that applies the GRCM to also be authorised to apply the GRCM, under certain conditions.

Presentation of information: in order to be able to assess whether the introduction of the GRCM in one Member State results in fraud shifting towards other Member States and to be able to assess the degree of possible disturbances to the functioning of the internal market, it is appropriate to provide for a specific obligation to **exchange information** between Member States that apply the GRCM and other Member States.

Member States applying the GRCM shall submit in electronic format to all Member States, at the latest three months after the introduction of GRCM, the **names of those persons** who, in the twelve months preceding the date of application of the GRCM, have been subject to proceedings, whether criminal or administrative, for VAT fraud or the names of those persons, including in the case of legal persons the names of their directors, whose VAT registration in their Member State was terminated upon the introduction of the GRCM.

All such exchanges of information should be subject to applicable **personal data protection and confidentiality provisions**.

Member States applying the GRCM shall submit an interim report to the Commission no later than one year after the start of application of the GRCM. This report shall provide a detailed assessment of the effectiveness of the GRCM.

The Directive shall apply until **30 June 2022**.

Common system of value added tax (VAT): temporary application of a generalised reverse charge mechanism in relation to supplies of goods and services above a certain threshold

2016/0406(CNS) - 21/12/2016 - Legislative proposal

PURPOSE: to amend Directive 2006/112/EC on the common system of value added tax as regards the temporary application of a generalised reverse charge mechanism in relation to supplies of goods and services above a certain threshold.

PROPOSED ACT: Council Decision.

ROLE OF THE EUROPEAN PARLIAMENT: the Council adopts the act after consulting the European Parliament but without being obliged to follow its opinion.

BACKGROUND: the creation of a robust single European VAT area is one of the key actions announced by the Commission in its VAT action plan. It will require the setting up of the definitive VAT system for intra-EU business-to-business (B2B) cross-border trade in order to replace the current system which was intended to be transitional.

The European Parliament and the Council agreed that this definitive VAT system will be based on the principle of taxation in the country of destination of the goods (the so-called “destination principle”) whereas the current system is based on exemption of supplies of goods in the Member State of departure.

Given the current level of VAT fraud and the fact that not all Member States are equally affected by this fraud, and given the fact that it will take several years for the definitive VAT regime to be implemented, some **urgent and specific measures may be necessary**.

In this context, certain Member States have asked to be allowed to implement a temporary generalised reverse charge mechanism (GRCM) with a certain threshold per invoice which would derogate from one of the general principles of the current VAT system, as regards the fractionated payment system, in order to **address endemic carousel fraud**.

IMPACT ASSESSMENT: the impact assessment identified, as preferred option, a derogation to apply the GRCM by certain Member States fulfilling pre-defined criteria, on a voluntary basis and to all goods and services with an invoice threshold of more than EUR 10 000.

CONTENT: this proposal to amend Directive 2006/112/EC (VAT Directive) seeks to authorise Member States to derogate from the common system of value added tax so as to apply a **generalised reverse charge mechanism** (**GRCM**) to domestic supplies with an **invoice threshold of more than EUR 10 000** and to preserve the Internal Market.

The granting of the GRCM is subject to **pre-defined criteria** aiming to limit the scope of the measure to Member States which are particularly affected by carousel fraud.

In this context:

- a VAT gap excess of 5 percentage points above the EU median;
- a carousel fraud level within a Member States' total VAT gap of more than 25%;
- other control measures are not sufficient to combat carousel fraud on its territory.

Moreover, a Member State having a **common border** with a Member State that applies the GRCM, should also be authorised to apply the GRCM under certain conditions.

A **safeguard clause** provides that the Commission should be empowered to repeal, without retroactive effect, derogations in case the impact on the internal market would be negative.

This Directive shall apply until 30 September 2022.

Common system of value added tax (VAT): temporary application of a generalised reverse charge mechanism in relation to supplies of goods and services above a certain threshold

2016/0406(CNS) - 20/12/2018 - Final act

PURPOSE: to allow temporary derogations from the common VAT rules in order to better prevent VAT fraud.

LEGISLATIVE ACT: Council Directive (EU) 2018/2057 amending Directive 2006/112/EC on the common system of value added tax as regards the temporary application of a generalised reverse charge mechanism in relation to supplies of goods and services above a certain threshold.

CONTENT: in light of the current level of VAT fraud and pending the introduction of a definitive VAT system, certain Member States have asked to be allowed to implement a temporary generalised reverse charge mechanism (‘GRCM’) with a certain threshold per transaction which would derogate from one of the general principles of the current VAT system, as regards the fractionated payment system, in order to address endemic carousel fraud.

This Directive will allow a Member State, until 30 June 2022, to introduce a generalised reverse charge mechanism (‘GRCM’) on non-cross-border supplies, providing that the person liable for payment of VAT is the taxable person to whom all supplies of goods and services are made above a threshold of EUR 17 500 per transaction.

A Member State wishing to introduce the GRCM shall comply with all of the following conditions:

- it has, based on the impact assessment that accompanied the legislative proposal, a carousel fraud level within its total VAT gap of more than 25 %;

- it establishes that other control measures are not sufficient to combat carousel fraud on its territory, in particular by specifying the control measures applied and the particular reasons for their lack of effectiveness, as well as the reasons why administrative cooperation in the field of VAT has proven insufficient;

- it establishes that the estimated gains in tax compliance and collection expected as a result of the introduction of the GRCM outweigh the expected overall additional burden on businesses and tax authorities by at least 25 %; and

- it establishes that the introduction of the GRCM will not result in businesses and tax authorities incurring costs that are higher than those incurred as a result of the application of other control measures.

Member States that apply the GRCM shall establish appropriate and effective electronic reporting obligations for all taxable persons and, in particular, for taxable persons who supply or receive goods or services to which the GRCM applies to ensure the effective functioning and monitoring of the application of the GRCM.

Member States wishing to apply the GRCM shall submit a request to the Commission. Where the Commission considers that a request complies with the admission requirements, it shall, no later than three months after it has received all the necessary information, submit a proposal to the Council. The Council, acting unanimously on such a proposal from the Commission, may authorise the requesting Member State to apply the GRCM. It shall, within the same deadline, communicate its reasons to the requesting Member State and to the Council.

Member States that apply the GRCM shall submit an interim report to the Commission no later than one year after the start of application of the GRCM. Three months after the end of the application of the GRCM, Member States that apply the GRCM shall submit a final report on its overall impact.

ENTRY INTO FORCE: 16.1.2019. The Directive is applicable until 30.6.2022.