Basic information

2017/0248(CNS) CNS - Consultation procedure Regulation	Procedure completed
Strengthening administrative cooperation in the field of value added tax Amending Regulation (EU) No 904/2010 2009/0118(CNS) Amending Regulation (EU) 2017/2454 2016/0371(CNS) See also 2017/0251(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	ZĪLE Roberts (ECR)	14/12/2017
	Shadow rapporteur MATO Gabriel (PPE) LUDVIGSSON Olle (S&D) CORNILLET Thierry (ALDE) URBÁN CRESPO Miguel (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	3626	2018-06-22
Economic and Financial Affairs ECOFIN	3639	2018-10-02
Economic and Financial Affairs ECOFIN	3619	2018-05-25

European

Commission DG	Commissioner

Commission	Taxation and Customs Union	MOSCOVICI Pierre

Key events

Date	Event	Reference	Summary
04/10/2017	Initial legislative proposal published	COM(2017)0567	Summary
26/10/2017	Committee referral announced in Parliament		
30/11/2017	Legislative proposal published	COM(2017)0706	Summary
25/05/2018	Debate in Council		
19/06/2018	Vote in committee		
22/06/2018	Committee report tabled for plenary, 1st reading/single reading	A8-0215/2018	Summary
03/07/2018	Decision by Parliament	T8-0278/2018	Summary
03/07/2018	Results of vote in Parliament		
02/10/2018	Act adopted by Council after consultation of Parliament		
02/10/2018	End of procedure in Parliament		
16/10/2018	Final act published in Official Journal		

Technical information

Procedure reference	2017/0248(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Regulation
Amendments and repeals	Amending Regulation (EU) No 904/2010 2009/0118(CNS) Amending Regulation (EU) 2017/2454 2016/0371(CNS) See also 2017/0251(CNS)
Legal basis	Treaty on the Functioning of the European Union TFEU 113
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	ECON/8/11228

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE619.275	23/04/2018	
Amendments tabled in committee		PE622.080	24/05/2018	

Committee report tabled for plenary, 1st reading/single reading		A8-0215/2018	22/06/2018	Summary
Text adopted by Parliament, 1st reading/single reading		T8-0278/2018	03/07/2018	Summary

European Commission

Document type	Reference	Date	Summary
Initial legislative proposal	COM(2017)0567	04/10/2017	Summary
Legislative proposal	COM(2017)0706	30/11/2017	Summary
Document attached to the procedure	SWD(2017)0428	30/11/2017	
Document attached to the procedure	SWD(2017)0429	30/11/2017	
Commission response to text adopted in plenary	SP(2018)547	12/09/2018	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	PT_PARLIAMENT	COM(2017)0567	07/12/2017	
Contribution	DE_BUNDESRAT	COM(2017)0567	19/12/2017	
Contribution	PT_PARLIAMENT	COM(2017)0706	31/01/2018	
Contribution	RO_SENATE	COM(2017)0706	15/02/2018	
Contribution	CZ_SENATE	COM(2017)0567	23/02/2018	
Contribution	DE_BUNDESRAT	COM(2017)0706	06/03/2018	
Contribution	CZ_SENATE	COM(2017)0706	30/04/2018	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EU	Follow-up document	32018R1909 OJ L 311 07.12.2018, p. 0001	04/12/2018	

Additional information

Source	Document	Date
European Parliament	Briefing	15/01/2019
European Commission	EUR-Lex	

Final act

Regulation 2018/1541
OJ L 259 16.10.2018, p. 0001

Summary

Strengthening administrative cooperation in the field of value added tax

2017/0248(CNS) - 03/07/2018 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted, by 568 votes to 56, with 56 abstentions, following the consultation procedure, a legislative resolution on the amended proposal for a Council regulation amending Regulation (EU) No 904/2010 as regards measures to strengthen administrative cooperation in the field of value-added tax.

The European Parliament approved the Commission proposal subject to amendments.

Members recalled that an administrative enquiry is often necessary to combat VAT fraud, in particular when the taxable person is not established in the Member State where the tax is due. Since Member States share responsibility for protecting the VAT revenue of all Member States, the Member State in which the taxable person is established should be obliged to carry out the investigation and the requesting Member State(s) shall be obliged to assist the Member State of establishment by actively taking part in the enquiry.

Enquiries: the amended text stated that where the competent authority of a Member State considers that an administrative enquiry is required, it shall submit a **duly justified request**. The requested authority shall not refuse to undertake the enquiry concerned, and if the information is already available, the requested authority shall supply it to the requesting authority prior to receipt of any request.
Member States shall ensure that arrangements are put in place between the requesting authority and the requested authority whereby officials authorised by the requesting authority shall take part in the administrative enquiry carried out in the territory of the requested authority with a view to collecting the information.
Such administrative enquiry shall be carried out jointly by the officials of the requesting and requested authorities in a cooperative and **productive spirit**. The officials of the requesting authority shall have access to the same information, documents and premises and shall, insofar as permitted under the law of the requested Member State, be able to directly question individuals in order to detect and counter cross-border VAT fraud which is currently eroding national tax bases.

All Member States shall implement a set of **operational targets** for reducing the percentage of late replies and improving the quality of requests for information and shall inform the Commission about those targets.

Eurofisc and exchange of information: the Commission shall provide Eurofisc with the necessary technical and logistical support. Eurofisc working field coordinators may, on their own initiative or on request, forward relevant information on the most serious cross-border VAT offences to Europol and the European Anti-Fraud Office ('OLAF'), as agreed by the working field participant

Stressing that it is vital for there to be a two-way information exchange between Eurofisc and Europol, the amended text stated that Eurofisc working field coordinators may ask Europol and OLAF for relevant information. Eurofisc working field coordinators shall make the information received from Europol and OLAF available to the other participating Eurofisc liaison officials; this information shall be exchanged by electronic means.

Data protection: in order to safeguard the interests of the fundamental rights and freedoms, it appropriate to consider limitations on certain rights and obligations in this respect. Such limitations are **necessary and proportionate** in view of the potential loss of revenue for Member States and the crucial importance of making information available in order to combating fraud effectively. Such limitations, however, should not go beyond what is strictly necessary to achieve that objective and must meet the high standards required by the Charter of Fundamental Rights of the European Union. In addition, any future implementing acts to this Regulation should comply with the data protection requirements.

Statistics: Member States and the Commission shall establish a common system of collecting statistics on intra-Community VAT fraud and shall publish national estimates of VAT losses resulting from that fraud, as well as estimates for the Union as a whole. The Commission shall adopt by means of implementing acts the practical arrangements for such statistical system. Those implementing acts shall be adopted in accordance with the examination procedure.

Relations with third countries: when a Member State provides wider information to a third country than that provided for under this Regulation, that Member State may not refuse to provide that information to any other Member State requesting cooperation or having an interest to receive it.

Strengthening administrative cooperation in the field of value added tax

2017/0248(CNS) - 04/10/2017

PURPOSE: to amend Council Regulation (EU) No 904/2010 on administrative cooperation in the field of VAT as regards the status of certified taxable person.

PROPOSED ACT: Council Regulation.

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

BACKGROUND: in its VAT action plan, the Commission announced its intention to submit a proposal setting out the principles of a **definitive value added tax (VAT) system** for cross-border business-to-business trade between Member States.

The certified taxable person is one of the essential elements of this new definitive VAT system for intra-Union trade. The concept of the certified taxable person should allow or proving that a specific taxable person can be considered as a **reliable taxpayer within the Union**.

In this context, it is essential for businesses and tax administrations that the certified taxable person status of a business can be checked immediately and online.

This proposal is part of the package of legislation to introduce a definitive VAT system for intra-Union cross-border trade based on the principle of taxation in the Member State of destination of the goods in order to create a robust single European VAT area.

IMPACT ASSESSMENT: the impact assessment for the proposal was considered by the Regulatory Scrutiny Board on 14 July 2017. The Board gave a positive opinion to the proposal with some recommendations that have been taken into account.

CONTENT: the proposal seeks to amend Council Regulation (EU) No 904/2010 so as to **give a practical effect to the certified taxable person status**, which is a basic component of the definitive VAT regime for intra-Union trade based on the principle of taxation in the Member State of destination of the goods, as announced in the VAT action plan.

Under this proposal, the **certified taxable person status shall be integrated into the VIES system** (VAT Information Exchange System).

To that end, it is necessary that all Member States **store information** on businesses and their certified taxable person status in an electronic system and that the competent authorities of each Member State ensure that **confirmation** is provided of the certified taxable person status of any business.

The proposal simply defines a framework regarding the certified taxable person status, while operational control and application measures remain the **responsibility of the Member States**. In particular, the granting or repealing of the certified taxable person status of individual taxable persons, based upon commonly agreed conditions, remains the sole competence of the Member States.

Strengthening administrative cooperation in the field of value added tax

2017/0248(CNS) - 30/11/2017

PURPOSE: to strengthen cooperation between Member States in the field of value added tax (VAT).

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 the opinion of the European Parliament.

BACKGROUND: **fighting tax fraud and evasion** to help secure national and EU revenues and prevent distortion of competition has been a top Commission priority in recent years. It is estimated that in total about **EUR 152 billion** was lost in 2015 due to shortcomings in VAT collection, including fraud. Earlier estimates had put the losses due to cross-border fraud alone at EUR 50 billion.

In its VAT action plan of 7 April 2016, the Commission outlined the need to put in place a **single European VAT area** comprising of key measures to be adopted in the short and medium term to modernise the EU VAT system and make it simpler, more fraud-proof and business-friendly.

The European Parliament resolution of 24 November 2016 welcomed the VAT Action Plan.

Among the short-term measures, the Commission announced its intention to **improve the exchange and analysis of information by tax administrations** and with other law enforcement bodies, to strengthen Eurofisc and to introduce new tools such as joint audits.

The **three main types of cross-border fraud** are still the most widespread and most significant across the EU: (i) ‘carousel fraud’ (or missing trader intra-Community fraud — MTIC fraud); (ii) used car fraud; and (iii) fraud involving customs procedures.

This initiative would add measures specifically designed to tackle these fraud schemes, to Council Regulation (EU) No 904/2010, the reference legal basis for administrative cooperation and the fight against VAT fraud. It is part of the ‘fair taxation package for the creation of a single EU value added tax area’ set out in the roadmap for a more united, stronger and more democratic Union.

IMPACT ASSESSMENT: five main options were examined:

- jointly processing and analysing data in Eurofisc;
- improving the operational framework for coordinated checks between Member States;
- developing the exchange of information and intelligence between Member States’ tax administrations in Eurofisc and law enforcement authorities at EU level;
- tackling fraud involving the dual VAT regime applicable to cars by improving access to vehicle registration data;
- sharing information on customs procedures 42 and 63 between customs and tax authorities.

It was not possible to precisely assess and quantify the benefits of the main preferred options. However, the main options covered by this initiative could help make fighting cross-border VAT fraud quicker and more efficient, and should therefore increase VAT revenues.

CONTENT: the proposed amendment of **Council Regulation (EU) No 904/2010** aims to improve cooperation between Member States, giving them the means to fight VAT fraud faster and more effectively, including fraud which occurs online.

Its main elements are:

Strengthening cooperation between Member States: in order to boost the capacity of Member States to control cross-border supplies, **joint audits** would allow officials from two or more tax administrations to form a single audit team to combat fraud. This team would examine the cross-border transactions of one or more related taxable persons (both legal entities and individuals) engaged in cross-border activities. Eurofisc could **coordinate joint open administrative enquiries** launched on the basis of its risk analyses.

To speed up the joint processing and analysis of data within Eurofisc, the Commission is currently developing **TNA software** for voluntary use by the Member States as of 2018. In order to maximise TNA's potential to identify fraudulent networks across the whole EU, Regulation (EU) No 904/2010 would make clearer provision for the joint processing and **analysis of data within Eurofisc**. Involvement in such processing and analysis will remain voluntary. However, all Member States should grant Eurofisc officials access to their VIES data on intra-Union transactions through TNA; in that way the software can identify all potential fraud networks, including those involving traders established in non-participating Member States. The software could thus identify possible fraud networks. This would make for a swifter and more effective reaction to the TNA results and the information from such enquiries could be immediately processed by TNA.

Collaboration with law enforcement authorities: the proposal provides Eurofisc liaison officials with the opportunity to forward information on VAT fraud trends, risks and serious cases to Europol and the European Anti-Fraud Office (OLAF) and to disclose such cases to the European Public Prosecutor's Office. This possibility would concern, in particular, the most serious cases of VAT fraud involving activities in two or more Member States and resulting in damage of a total amount of at least EUR 10 million.

Sharing customs procedures and vehicle registration data with tax authorities (measure applicable from 1 January 2020): the proposal would allow the exchange of data in order to **combat the misuse of the VAT system when importing VAT-free goods** (customs procedures 42 and 63), in cases where the goods, supposed to be delivered in another Member State, were diverted to the black market.

The car trade is sometimes also affected by fraud because VAT is applied differently depending on whether the sale relates to new vehicles or used vehicles. Eurofisc officials may share information to **tackle cross-border fraud involving the sale of second-hand cars**. In particular it would allow them to identify swiftly who has committed the fraudulent transactions and where. In practice, this access would be granted through the EUCARIS platform.

Strengthening administrative cooperation in the field of value added tax

2017/0248(CNS) - 30/11/2017 - Legislative proposal

PURPOSE: to strengthen cooperation between Member States in the field of value added tax (VAT).

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 the opinion of the European Parliament.

BACKGROUND: **fighting tax fraud and evasion** to help secure national and EU revenues and prevent distortion of competition has been a top Commission priority in recent years. It is estimated that in total about **EUR 152 billion** was lost in 2015 due to shortcomings in VAT collection, including fraud. Earlier estimates had put the losses due to cross-border fraud alone at EUR 50 billion.

In its VAT action plan of 7 April 2016, the Commission outlined the need to put in place a **single European VAT area** comprising of key measures to be adopted in the short and medium term to modernise the EU VAT system and make it simpler, more fraud-proof and business-friendly.

The European Parliament resolution of 24 November 2016 welcomed the VAT Action Plan.

Among the short-term measures, the Commission announced its intention to **improve the exchange and analysis of information by tax administrations** and with other law enforcement bodies, to strengthen Eurofisc and to introduce new tools such as joint audits.

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This initiative would add measures specifically designed to tackle these fraud schemes, to Council Regulation (EU) No 904/2010, the reference legal basis for administrative cooperation and the fight against VAT fraud. It is part of the 'fair taxation package for the creation of a single EU value added tax area' set out in the roadmap for a more united, stronger and more democratic Union.

IMPACT ASSESSMENT: five main options were examined:

- jointly processing and analysing data in Eurofisc;
- improving the operational framework for coordinated checks between Member States;

- developing the exchange of information and intelligence between Member States' tax administrations in Eurofisc and law enforcement authorities at EU level;
- tackling fraud involving the dual VAT regime applicable to cars by improving access to vehicle registration data;
- sharing information on customs procedures 42 and 63 between customs and tax authorities.

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The car trade is sometimes also affected by fraud because VAT is applied differently depending on whether the sale relates to new vehicles or used vehicles. Eurofisc officials may share information to **tackle cross-border fraud involving the sale of second-hand cars**. In particular it would allow them to identify swiftly who has committed the fraudulent transactions and where. In practice, this access would be granted through the EUCARIS platform.

Strengthening administrative cooperation in the field of value added tax

2017/0248(CNS) - 04/10/2017 - Initial legislative proposal

PURPOSE: to amend Council Regulation (EU) No 904/2010 on administrative cooperation in the field of VAT as regards the status of certified taxable person.

PROPOSED ACT: Council Regulation.

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

BACKGROUND: in its VAT action plan, the Commission announced its intention to submit a proposal setting out the principles of a **definitive value added tax (VAT) system** for cross-border business-to-business trade between Member States.

The certified taxable person is one of the essential elements of this new definitive VAT system for intra-Union trade. The concept of the certified taxable person should allow or proving that a specific taxable person can be considered as a **reliable taxpayer within the Union**.

In this context, it is essential for businesses and tax administrations that the certified taxable person status of a business can be checked immediately and online.

This proposal is part of the package of legislation to introduce a definitive VAT system for intra-Union cross-border trade based on the principle of taxation in the Member State of destination of the goods in order to create a robust single European VAT area.

IMPACT ASSESSMENT: the impact assessment for the proposal was considered by the Regulatory Scrutiny Board on 14 July 2017. The Board gave a positive opinion to the proposal with some recommendations that have been taken into account.

CONTENT: the proposal seeks to amend Council Regulation (EU) No 904/2010 so as to **give a practical effect to the certified taxable person status**, which is a basic component of the definitive VAT regime for intra-Union trade based on the principle of taxation in the Member State of destination of the goods, as announced in the VAT action plan.

Under this proposal, the **certified taxable person status shall be integrated into the VIES system** (VAT Information Exchange System).

To that end, it is necessary that all Member States **store information** on businesses and their certified taxable person status in an electronic system and that the competent authorities of each Member State ensure that **confirmation** is provided of the certified taxable person status of any business.

The proposal simply defines a framework regarding the certified taxable person status, while operational control and application measures remain the **responsibility of the Member States**. In particular, the granting or repealing of the certified taxable person status of individual taxable persons, based upon commonly agreed conditions, remains the sole competence of the Member States.

Strengthening administrative cooperation in the field of value added tax

2017/0248(CNS) - 22/06/2018 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Economic and Monetary Affairs adopted the report by Roberts ZĪLE (ECR, LV) on the amended proposal for a Council regulation amending Regulation (EU) No 904/2010 as regards measures to strengthen administrative cooperation in the field of value-added tax.

The committee recommended that the European Parliament approve the Commission proposal subject to amendments.

The report recalled that VAT fraud is often linked with organised crime and a very small number of those organised networks can be responsible for billions of euro in cross-border VAT fraud, affecting not only revenue collection in Member States but also having a negative impact on the Union's own resources. Therefore, Member States have a shared responsibility for the protection of the VAT revenue of all Member States.

Enquiries: the amended text stated that where the competent authority of a Member State considers that an administrative enquiry is required, it shall submit a **reasoned request**. The requested authority shall not refuse to undertake that enquiry and, if the information is already available, the requested authority shall supply it to the requesting authorities without delay. If the requesting Member State is not satisfied with the information received, it shall inform the requested Member State that it is to press ahead with the administrative inquiry. That administrative enquiry shall be carried out in accordance with the **rules in force in the requested Member State** by officials of the requesting and requested authorities. The officials of the requesting authority shall exercise the same powers of inspection as those conferred on officials of the requested authority. The officials of the requesting authority shall have access to the same information, documents and premises and shall, insofar as permitted under the law of the requested Member State, be able to directly question individuals in order to detect and counter cross-border VAT fraud which is currently eroding national tax bases.

All Member States shall implement a set of **operational targets** for reducing the percentage of late replies and improving the quality of requests for information and shall inform the Commission about those targets.

Eurofisc and exchange of information: the Commission shall provide Eurofisc with the necessary **technical and logistical support**. Eurofisc working field coordinators may, on their own initiative or on request, forward relevant information on the most serious cross-border VAT offences to Europol and the European Anti-Fraud Office ('OLAF'), as agreed by the working field participant

Stressing that it is vital for there to be a **two-way information exchange** between Eurofisc and Europol, the amended text stated that Eurofisc working field coordinators may ask Europol and OLAF for relevant information. Eurofisc working field coordinators shall make the information received from Europol and OLAF available to the other participating Eurofisc liaison officials; this information shall be exchanged by electronic means.

Limitations and data protection: in order to safeguard the interests of the fundamental rights and freedoms, it appropriate to consider **limitations** on certain rights and obligations in this respect. Such limitations are necessary and proportionate in view of the potential loss of revenue for Member States and the crucial importance of making information available in order to combating fraud effectively. Such limitations, however, should not go beyond what is strictly necessary to achieve that objective and must meet the high standards required by the Charter of Fundamental Rights of the European Union. In addition, any **future implementing acts** to this Regulation should comply with the data protection requirements.

Relations with the Commission: Member States and the Commission shall establish a **common system of collecting statistics** on intra-Community VAT fraud and shall publish national estimates of VAT losses resulting from that fraud, as well as estimates for the Union as a whole. The Commission shall adopt by means of **implementing acts** the practical arrangements for such statistical system. Those implementing acts shall be adopted in accordance with the examination procedure.

Relations with third countries: when a Member State provides wider information to a third country than that provided for under this Regulation, that Member State may not refuse to provide that information to any other Member State requesting cooperation or having an interest to receive it.

Strengthening administrative cooperation in the field of value added tax

2017/0248(CNS) - 16/10/2018 - Final act

PURPOSE: to strengthen administrative cooperation between Member States in the area of VAT and to combat cross-border VAT fraud.

LEGISLATIVE ACT: Council Regulation (EU) 2018/1541 amending Regulations (EU) No 904/2010 and (EU) 2017/2454 as regards measures to strengthen administrative cooperation in the field of value added tax.

CONTENT: this Regulation amends Council Regulations (EU) No 904/2010 and (EU) 2017/2454 with a view to strengthening administrative cooperation to tackle more effectively the most common forms of cross-border VAT fraud.

Enhanced cooperation between Member States: where at least two Member States consider it necessary to carry out an administrative enquiry concerning sums declared by a taxable person who is not established in their territory but who is taxable in their territory, the Member State in which the taxable person is established shall carry out the enquiry, unless it is in a position to provide the requested information. Requesting Member States should be prepared to assist the Member State of establishment by actively participating in the investigation.

Officials in the requesting Member States (who are likely to have a better knowledge of the facts) may be **present during the administrative investigation** provided that the conditions laid down by the national law of the requested Member State are met. They will then have access to the same premises and documents as the officials of the requested Member State.

In all cases, officials of the requesting Member States, where they consider it necessary, shall be given the opportunity to be **present for consultation on the investigation** in the requested Member State with the officials of that Member State after informing them.

VAT on cars: to combat fraud resulting from the dual VAT regime applicable to cars, Eurofisc liaison officers will be able to **access vehicle registration data automatically**. This access will be provided through the computer application of the European Vehicle and Driving Licence Information System (Eucaris).

Combating the most serious cross-border fraud: the amending regulation clarifies and strengthens Eurofisc's governance, tasks and functioning. Eurofisc liaison officers will thus be able to consult, exchange, process and analyse all the information they need quickly and coordinate any follow-up action.

The Regulation also strengthens the fight against VAT fraud at EU level, in particular by allowing Eurofisc business area coordinators to request targeted information from the European Union Agency for Law Enforcement Cooperation (**Europol**) and the European Anti-Fraud Office (**OLAF**).

The information collected and exchanged under the Regulation should not relate to **sensitive data**. Such information may not be further processed in a way that is incompatible with such purposes, including the prohibition of processing for commercial purposes.

ENTRY INTO FORCE: 5.11.2018. Some provisions are applicable from 1.1.2020.