Basic information

2017/0251(CNS) CNS - Consultation procedure Directive	Procedure completed
Value added tax (VAT) system: harmonising and simplifying certain rules and definitive system for the taxation of intra-Union trade Amending Directive 2006/112/EC 2004/0079(CNS) See also 2017/0248(CNS) **Subject** 2.70.02 Indirect taxation, VAT, excise duties	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
ECON Economic and Monetary Affairs	KOFOD Jeppe (S&D)	14/12/2017
	Shadow rapporteur MALETIĆ Ivana (PPE) LOONES Sander (ECR) CORNILLET Thierry (ALDE) PAPADIMOULIS Dimitrios (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	3659	2018-12-04

European Commission

Commission DG	Commissioner
Taxation and Customs Union	MOSCOVICI Pierre

Key events

Date	Event	Reference	Summary
04/10/2017	Legislative proposal published	COM(2017)0569	Summary
26/10/2017	Committee referral announced in Parliament		
03/09/2018	Vote in committee		
07/09/2018	Committee report tabled for plenary, 1st reading/single reading	A8-0280/2018	Summary
02/10/2018	Debate in Parliament		
03/10/2018	Decision by Parliament	T8-0366/2018	Summary
03/10/2018	Results of vote in Parliament		
04/12/2018	Act adopted by Council after consultation of Parliament		
04/12/2018	End of procedure in Parliament		
07/12/2018	Final act published in Official Journal		

Technical information

Procedure reference	2017/0251(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Directive
Amendments and repeals	Amending Directive 2006/112/EC 2004/0079(CNS) See also 2017/0248(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/8/11226

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE621.119	03/05/2018	
Amendments tabled in committee		PE622.095	06/06/2018	
Committee report tabled for plenary, 1st reading/single reading		A8-0280/2018	07/09/2018	Summary
Text adopted by Parliament, 1st reading/single reading		T8-0366/2018	03/10/2018	Summary

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2017)0569	04/10/2017	Summary
Document attached to the procedure	SWD(2017)0325	04/10/2017	
Document attached to the procedure	SWD(2017)0326	04/10/2017	
Commission response to text adopted in plenary	SP(2018)755	21/11/2018	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	RO_CHAMBER	COM(2017)0569	13/12/2017	
Contribution	DE_BUNDESRAT	COM(2017)0569	19/12/2017	
Contribution	RO_SENATE	COM(2017)0569	20/12/2017	
Contribution	CZ_SENATE	COM(2017)0569	23/02/2018	

Additional information

Source	Document	Date
European Parliament	Briefing	
European Commission	EUR-Lex	

Final act

Directive 2018/1910
OJ L 311 07.12.2018, p. 0003 Summary

Value added tax (VAT) system: harmonising and simplifying certain rules and definitive system for the taxation of intra-Union trade

2017/0251(CNS) - 04/10/2017 - Legislative proposal

PURPOSE: to improve the Union VAT system in the context of cross-border business-to-business (B2B) trade between Member States and to define the principles for a definitive VAT system.

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: the European Commission has long-standing commitment to implementing a definitive VAT system that is well-suited to the functioning of the single market. The main idea in this regard was that doing business across the European Union should be as simple and as secure as engaging in purely domestic activities.

In its April 2016 action plan on VAT, the Commission announced, *inter alia*, its intention to adopt 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.

The **Council** reiterated its view that the principle of 'taxation in the Member State of origin of the supply of goods or services' should be replaced by the principle of 'taxation in the Member State of destination'.

In its resolution of 24 November 2016, **Parliament** also welcomed the Commission's intention to propose a definitive VAT system by 2017 that is simple, fair, robust, efficient and less susceptible to fraud.

On 8 November 2016, the Council stated that, while the Commission is working on the definitive VAT system for intra-Union trade, **improvements to the current VAT system should be made in the meantime**.

IMPACT ANALYSIS: the preferred option, chosen in the impact assessment, would reduce cross border VAT fraud by **EUR 41 billion** and compliance costs for businesses by EUR 1 billion.

CONTENT: this proposal to amend Directive 2006/112/EC (VAT Directive) is a **step** forward to replacing the transitional arrangements, applicable since 1 January 1993, by a definitive VAT system for intra-Union B2B trade under which domestic and cross-border transactions of goods will be treated in the same way.

It makes improvements to the current VAT system and lays the foundations for the definitive system for intra-Union B2B exchanges. Its main elements are:

1) Certified taxable person: the Commission proposed introducing the concept of the certified taxable person which would allow for an attestation that a particular business can globally be considered to be a **reliable taxpayer**. The concept is important because certain simplification rules, which could be fraud-sensitive, will apply only where a certified taxable person is involved in the relevant transaction.

The provision sets out the **overall criteria** on the basis of which the Member States will be able to certify taxable persons.

In parallel, a proposal to amend the Regulation on administrative cooperation is presented in order to enable the certified taxable person status of taxable persons being integrated in the VIES (VAT information and exchange system).

2) Call-off stock: the proposal provides for a **simplification and uniform treatment for call-off stock arrangements** in cross-border trade. The proposed solution consists in considering the call-off stock arrangements as giving rise to a single supply in the Member State of departure and to an intra-Community acquisition in the Member State where the stock is situated. This simplification is limited to certified taxable persons who will no longer need to register and pay VAT in another Member State when they store goods there.

3) VAT identification number: the proposed amendments provide as a substantive condition for the application of the exemption, that the acquirer has to be identified for VAT purposes in a Member State other than that in which dispatch or transport of the goods begins. The correct filing of the VIES listing becomes a substantive condition which can lead, where that condition is not met, to the rejection by the tax administration of an applied exemption

4) Chain transactions: VAT rules when determining the VAT treatment of chain transactions would be **further harmonised**. The Commission proposed that the simplification for those elements of a chain transaction which do not involve the physical movement of goods, for example when goods are sold via several traders, but physically the goods move directly from the original seller to the final buyer. This simplification is limited to certified taxable persons.

5) Definitive system for intra-Union trade: the main foundations of the new single and definitive VAT area shall be:

VAT shall be levied on cross-border business-to-business exchanges within the Union;

- the definitive VAT system for intra-Union trade is based on the **principle of taxation in the Member State of destination** of the supply of goods or services; of liability for VAT of the supplier, or the acquirer if he is a certified taxable person, and of a single registration scheme for the declaration, payment and deduction of the tax;
- where the person liable for VAT is not established in the Member State where the tax is due, he shall be able to settle his declaration and payment obligations via a so-called **One-Stop Shop system**. Use of that system shall also be possible for the deduction of input VAT.

Lastly, although at this stage not yet explicitly stipulated, the system could or should further be based on the **abolition of the recapitulative statement** (the so-called VIES listing), the application of the overall invoicing rules of the Member State of the supplier, and the harmonisation of certain rules related to invoicing (such as the time of issuing of invoices).

Value added tax (VAT) system: harmonising and simplifying certain rules and definitive system for the taxation of intra-Union trade

2017/0251(CNS) - 07/09/2018 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Economic and Monetary Affairs adopted, following the consultation procedure, a report by Jeppe KOFOD (S&D, DK) on the proposal for a Council directive amending Directive 2006/112/EC as regards harmonising and simplifying certain rules in the value added tax system and introducing the definitive system for the taxation of trade between Member States.

As a reminder, the proposal to amend the VAT Directive is a step forward to replacing the transitional arrangements by a definitive VAT system for intra-Union B2B trade under which domestic and cross-border transactions of goods will be treated in the same way.

The proposal sets out a set of fundamental principles or ‘cornerstones’ for the future definitive VAT system, and four ‘quick fixes’ to improve the day-to-day functioning of the current VAT system, tackling the VAT identification number, chain transactions, call-off stock situations and proof of intra-Community supply.

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

Certified taxable person: Members specified that **strict criteria, applied in a harmonised way** by all Member States, need to be put in place to determine which enterprises can benefit from the status of the certified taxable person, and common rules and provisions resulting in **fines and penalties** for those who do not comply with them should be established.

The general criteria on the basis of which Member States may certify taxable persons shall include:

- **the absence of any serious infringement or repeated infringements** of taxation rules and customs legislation in the last three years of economic activity, the absence of any serious tax adjustment by tax administrations, or no record of serious criminal offences relating to his or her economic activity, regardless of whether the activity has taken place within the Union or elsewhere;
- **the absence of any record of serious criminal offences** relating to the economic activity of the applicant, such as, but not limited to: money laundering; tax evasion and tax fraud; abuse of Union funds and programmes; bribery and/or corruption; cybercrime; participation in a criminal organisation or in terrorist activities.

The Commission shall adopt **implementing acts and guidelines** facilitating harmonisation and administrative cooperation between the authorities and ensuring interoperability among Member States whilst verifying the proper application by Member States of such harmonised criteria across the Union. Those guidelines shall be closely aligned to the criteria of the Authorised Economic Operator under the **EU Customs Code**.

With particular focus on the higher compliance costs for SMEs, the Commission shall present **simplified administrative procedures for SMEs** to obtain the status of certified taxable person. Information on whether an economic operator is a certified taxable person should be accessible via the VIES system.

Tax authorities of the Member States having granted the status of certified taxable person shall **review that decision, at least every two years**, to ensure that the conditions are still met. If the taxable person has not informed the tax authorities of any factor possibly affecting the certified taxable person status as laid out in the implementing act or has purposefully concealed it, it shall be subject to proportionate, efficient and dissuasive sanctions, including the loss of the certified taxable person status.

VAT dispute resolution mechanism: Members proposed that this shall be set up by **1 June 2020** to resolve disputes between Member States of claimed or filed or suspected erroneous cross-border VAT payments. The mechanism shall be composed of Member States’ competent authorities and shall be applied where the Mutual Agreement Procedure does not lead to a result within two years.

The VAT dispute resolution mechanism shall also encompass an online VAT dispute resolution platform.

Automated notification mechanism: Members proposed to set up an automated notification mechanism by **1 June 2020**. That mechanism shall ensure automatic notifications to tax payers on changes and updates to the VAT rates of Member States. This mechanism shall be based on open and standardised data formats and fields to ensure its interoperability.

Reports: one year after the entry into force of the Directive, and every three years thereafter, the Commission shall report on the exemption scheme for imports from third countries and its compatibility with the European framework and on cooperation with the competent authorities of third States, in particular as regards the combating of fraud.

Two years after the entry into force of this Directive, and every three years thereafter, the Commission shall report on national practices as regards the imposition of administrative and criminal penalties on legal and natural persons found guilty of VAT fraud.

In keeping with the public interest and the financial interests of the Union, **whistle blowers** shall enjoy effective legal protection, in order to facilitate the detection and prevention of all forms of fraud.

Value added tax (VAT) system: harmonising and simplifying certain rules and definitive system for the taxation of intra-Union trade

2017/0251(CNS) - 03/10/2018 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 536 votes to 19, with 110 abstentions, under a special legislative procedure (consultation), a legislative resolution on the proposal for a Council directive amending Directive 2006/112/EC as regards harmonising and simplifying certain rules in the value added tax system and introducing the definitive system for the taxation of trade between Member States.

The European Parliament approved the Commission proposal subject to the following amendments.

Reforming the VAT system: Members stressed that the VAT gap, i.e. the difference between the amount of VAT revenue actually collected and the theoretical amount that is expected to be collected, has been increasing, reaching **EUR 151.5 billion** in 2015 in the EU-28. They stressed the need for an urgent and comprehensive reform of the VAT system towards a definitive VAT regime, to facilitate and simplify cross-border intra-Union trade and make the system more fraud-proof.

Certified taxable person: Parliament specified that **strict criteria, applied in a harmonised way** by all Member States, need to be put in place to determine which enterprises can benefit from the status of the certified taxable person, and common rules and provisions resulting in **fines and penalties** for those who do not comply with them should be established.

The **general criteria** on the basis of which Member States may certify taxable persons shall include:

- **the absence of any serious infringement or repeated infringements** of taxation rules and customs legislation in the last three years of economic activity, the absence of any serious tax adjustment by tax administrations, or no record of serious criminal offences relating to his or her economic activity, regardless of whether the activity has taken place within the Union or elsewhere;
- **the absence of any record of serious criminal offences** relating to the economic activity of the applicant, such as, but not limited to: money laundering; tax evasion and tax fraud; abuse of Union funds and programmes; bribery and/or corruption; cybercrime; participation in a criminal organisation or in terrorist activities;
- evidence of the **applicant's financial solvency** during the last three years and the requirement for the applicant to have a bank account in a financial institution established in the Union.

The Commission shall adopt **implementing acts and guidelines** facilitating harmonisation and administrative cooperation between the authorities and ensuring interoperability among Member States whilst verifying the proper application by Member States of such harmonised criteria across the Union. Those guidelines shall be closely aligned to the criteria of the Authorised Economic Operator under the EU **Customs Code**.

The Commission shall present **simplified administrative procedures** for SMEs to obtain the status of certified taxable person. Information on whether an economic operator is a certified taxable person should be accessible via the VIES system.

Tax authorities of the Member States having granted the status of certified taxable person shall **review that decision, at least every two years**, to ensure that the conditions are still met. If the taxable person has not informed the tax authorities of any factor possibly affecting the certified taxable person status as laid out in the implementing act or has purposefully concealed it, it shall be subject to proportionate, efficient and dissuasive sanctions, including the loss of the certified taxable person status.

VAT dispute resolution mechanism: Parliament proposed that this shall be set up by **1 June 2020** to resolve disputes between Member States of claimed or filed or suspected erroneous cross-border VAT payments. The mechanism shall be composed of Member States' competent authorities and shall be applied where the Mutual Agreement Procedure does not lead to a result within two years.

The VAT dispute resolution mechanism shall also encompass an online VAT dispute resolution platform.

Automated notification mechanism: Members proposed to set up an automated notification mechanism by **1 June 2020**. That mechanism shall ensure automatic notifications to tax payers on changes and updates to the VAT rates of Member States. This mechanism shall be based on open and standardised data formats and fields to ensure its interoperability.

One-stop shop: stressing that the one-stop shop for businesses was at the core of the new destination-based system, Members suggested that proposals to improve the current system shall include the extension of the network of mini one-stop shops to cover all services and sales of B2B goods. The one-stop shop shall operate in conjunction with a harmonised computer system between the different Member States, based on common standards and allowing automatic data extraction and entry, for example by means of standardised unified forms.

To ensure interoperability, ease of use and future fraud-proofing, the one-stop shop for businesses should operate with a harmonised cross-border IT system, based on common standards and allowing for automatic retrieval and input of data, for example, through the use of **unified standard forms**.

Reports: one year after the entry into force of the Directive, and every three years thereafter, the Commission shall report on the exemption scheme for imports from third countries and its compatibility with the European framework and on cooperation with the competent authorities of third States, in particular as regards the combating of fraud.

Two years after the entry into force of this Directive, and every three years thereafter, the Commission shall report on national practices as regards the imposition of administrative and criminal penalties on legal and natural persons found guilty of VAT fraud.

In keeping with the public interest and the financial interests of the Union, **whistle blowers** shall enjoy effective legal protection, in order to facilitate the detection and prevention of all forms of fraud.

Value added tax (VAT) system: harmonising and simplifying certain rules and definitive system for the taxation of intra-Union trade

2017/0251(CNS) - 04/12/2018 - Final act

PURPOSE: to adopt short-term solutions to improve the functioning of the VAT system in the context of trade between cross-border companies.

LEGISLATIVE ACT: Council Directive (EU) 2018/1910 amending Directive 2006/112/EC as regards the harmonisation and simplification of certain rules in the value added tax system for the taxation of trade between Member States.

CONTENT: Pending the future definitive VAT system, the Directive lays down certain rules to improve the day-to-day operation of the current VAT system in the following areas:

1) Call-off stocks

Call-off stock refers to the situation where, at the time of the transport of goods to another Member State, the supplier already knows the identity of the person acquiring the goods, to whom these goods will be supplied at a later stage and after they have arrived in the Member State of destination. This currently gives rise to a deemed supply (in the Member State of departure of the goods) and a deemed intra-Community acquisition (in the Member State of arrival of the goods), followed by a 'domestic' supply in the Member State of arrival, and requires the supplier to be identified for VAT purposes in that Member State.

To avoid this, such transactions, where they take place between two taxable persons should be, under certain conditions, considered to give rise to one exempt supply in the Member State of departure and one intra-Community acquisition in the Member State of arrival.

2) Chain operations

Chain transactions refer to successive supplies of goods which are subject to a single intra-Community transport. In order to avoid different approaches amongst Member States, which may lead to double taxation or non-taxation, and in order to enhance legal certainty for operators, a common rule should be established that, provided certain conditions are met, the transport of the goods should be attributed to one supply within the chain of transactions.

3) The VAT identification number

The inclusion of the VAT identification number of the person acquiring the goods in the VAT Information Exchange System (VIES), assigned by a Member State other than that in which the transport of the goods begins, become, in addition to the condition of transport of the goods outside the Member State of supply, a substantive condition for the application of exemption rather than a formal requirement.

4) Proof of intra-EU delivery

A common framework is established for the supporting documents necessary to apply for VAT exemption for intra-EU supplies.

ENTRY INTO FORCE: 27.12.2018.

TRANSPOSITION: no later than 31.12.2019.

APPLICATION: from 1.1.2020.