Basic information

2018/0412(CNS) CNS - Consultation procedure Directive	Procedure completed
Value added tax (VAT): requirements for payment service providers 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	PEREIRA Lídia (EPP)	18/07/2019
	Shadow rapporteur MOLNÁR Csaba (S&D) KOVAŘÍK Ondřej (Renew) SCOTT CATO Molly (Greens/EFA) JURZYCA Eugen (ECR) PAPADIMOULIS Dimitrios (GUE/NGL)	

Former committee responsible	Former rapporteur	Appointed
ECON Economic and Monetary Affairs		

Council of the European Union

Council configuration	Meetings	Date
Economic and Financial Affairs ECOFIN	3749	2020-02-18

European Commission

Commission DG	Commissioner
Taxation and Customs Union	MOSCOVICI Pierre

Key events

Date	Event	Reference	Summary

12/12/2018	Legislative proposal published	COM(2018)0812	Summary
14/01/2019	Committee referral announced in Parliament		
21/10/2019	Resumption of business from the previous parliamentary term		
03/12/2019	Vote in committee		
09/12/2019	Committee report tabled for plenary, 1st reading/single reading	A9-0048/2019	Summary
16/12/2019	Debate in Parliament		
17/12/2019	Decision by Parliament	T9-0090/2019	Summary
17/12/2019	Results of vote in Parliament		
18/02/2020	Act adopted by Council after consultation of Parliament		
18/02/2020	End of procedure in Parliament		
02/03/2020	Final act published in Official Journal		

Technical information

Procedure reference	2018/0412(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
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	ECON/9/00407

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE641.418	15/10/2019	
Amendments tabled in committee		PE643.160	13/11/2019	
Committee report tabled for plenary, 1st reading/single reading		A9-0048/2019	09/12/2019	Summary
Text adopted by Parliament, 1st reading/single reading		T9-0090/2019	17/12/2019	Summary

European Commission

Document type	Reference	Date	Summary
	COM(2018)0812		

Legislative proposal		12/12/2018	Summary
Document attached to the procedure	SWD(2018)0487	12/12/2018	
Document attached to the procedure	SWD(2018)0488	12/12/2018	
Commission response to text adopted in plenary	SP(2020)23	20/02/2020	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	DE_BUNDESTAG	COM(2018)0812	19/03/2019	

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Directive 2020/0284
OJ L 062 02.03.2020, p. 0007 Summary

Value added tax (VAT): requirements for payment service providers

2018/0412(CNS) - 12/12/2018 - Legislative proposal

PURPOSE: to solve the problem of VAT fraud in e-commerce by strengthening cooperation between tax authorities and payment service providers.

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: this proposal is part of the package of legislation on the mandatory transmission and exchange of VAT-relevant payment information. It is part of the EU's broader agenda to **tackle VAT fraud and improve VAT collection of internet sales**.

E-commerce VAT fraud is a common problem for all Member States. Member States alone do not have the information necessary to ensure that the e-commerce VAT rules are correctly applied and to tackle e-commerce VAT fraud.

The exchange of payment data between tax authorities is not always possible due to legal limitations, which makes existing administrative cooperation tools relatively ineffective with regard to VAT fraud in e-commerce.

For payment providers, the adoption of a **single centralised EU-wide system** of collecting VAT-relevant payment data would reduce the risks and costs of reporting the same information in multiple formats, in every EU Member State.

In recent years, more than 90 % of online purchases by European customers were made through credit transfers, direct debits and card payments, i.e. through an intermediary involved in the transaction (a payment service provider), and this is a trend that will continue in the future.

IMPACT ASSESSMENT: the impact assessment attached to the present proposal identified three main cases of crossborder e-commerce VAT fraud: (i) intra-EU supplies of goods and services, (ii) imports of goods from businesses established in a third country or third territory (i.e. a country or territory outside the EU) to consumers in the Member States, and (iii) supplies of services from businesses established in a third country to consumers in the Member States.

It is estimated that Member States suffer VAT losses on cross-border supplies of goods amounting to EUR 5 billion per year.

The impact assessment showed that a central repository (to be developed by the Commission) was the option that best addressed the objective of fighting e-commerce VAT fraud. The exchange of information through a central repository would also better reduce market distortion.

CONTENT: this proposal complements the current VAT regulatory framework as recently modified by the VAT E-commerce Directive in the context of the Commission's Digital Single Market Strategy. Furthermore, this initiative strengthens the administrative cooperation framework to better tackle e-commerce VAT fraud and restore fair competition.

New record keeping requirements

Under the new provisions, Member States shall ensure that payment service providers keep sufficiently detailed records of the payees and of the payment transactions in relation to payment services they execute for each calendar quarter to enable the competent authorities of the Member States to carry out controls of the supplies of goods and services which are deemed to take place in a Member State.

The requirement shall apply in circumstances where both of the following conditions are met:

- where funds are transferred by a payment service provider from a payer located in one Member State to a payee located in another Member State, in a third territory or in a third country;

- in respect of the transfer of funds, where a payment service provider executes more than 25 payment transactions to the same payee in the course of a calendar quarter.

The records shall be kept in electronic format by the payment service provider for a period of two years from the end of the year during which the payment transaction was executed.

Information to be kept

The proposal specifies that payment service providers must keep records of any VAT or tax identification number of the payee, if applicable. In addition, they must keep information on the payment transaction itself, such as the amount, currency, date, origin of the payment and indication of any payment refund.

BUDGETARY IMPLICATIONS: it is expected that the investment costs of the Commission and of the tax authorities will be outweighed by the increase in VAT revenues collected.

The costs of this initiative will be spread among several years starting in 2019. The first part of these costs (until 2020) will be covered by existing allocations in the current Fiscalis 2020 programme. The majority of the costs will nevertheless take place after the year 2020.

The budgetary implications have been estimated to a one-off cost of **EUR 11.8 million for setting-up the system**, and an annual running cost of EUR 4.5 million once the system is fully operational. It was estimated that these running costs would only start in 2022 once the system is operational. Their impact on the budget was calculated over a five year period for a total (including the one-off cost) of **EUR 34.3 million** to set-up and run the system until 2027.

Value added tax (VAT): requirements for payment service providers

2018/0412(CNS) - 09/12/2019 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Economic and Monetary Affairs adopted, under a special legislative procedure (consultation of Parliament), the report by Lídia PEREIRA (EPP, PT) on the proposal for a Council directive amending Directive 2006/112/EC as regards introducing certain requirements for payment service providers.

As a reminder, this proposal complements the current VAT regulatory framework as recently modified by the VAT E-commerce Directive in the context of the Commission's Digital Single Market Strategy. Furthermore, this initiative strengthens the administrative cooperation framework to better tackle e-commerce VAT fraud and restore fair competition.

The committee recommends that the European Parliament approve the Commission's proposal subject to amendments.

Better tackle VAT fraud

Members stressed the need for more transnational cooperation in order to better combat VAT e-commerce fraud in particular, as well as VAT fraud more generally (including carousel fraud).

The report recalled that according to the Commission, the VAT gap (the difference between the expected VAT revenue and the amount actually collected) in the Union amounted to EUR 137.5 billion in 2017, representing a loss of 11.2 % of the total expected VAT revenue and EUR 267 of lost revenue per person in the Union. There are, however, big differences between Member States, with VAT gaps ranging from 0.6% up to 35.5%.

Virtual currencies exchange platforms

Given that payments are executed only in a limited number of cases through virtual currencies exchange platforms, such platforms are not considered to be payment services providers as defined in Directive (EU) 2015/236 of the European Parliament and of the Council. The risk of VAT fraud, although currently limited, does however exist. The Commission shall therefore evaluate within three years whether virtual currencies exchange platforms should be included in the scope of this Directive.

New record keeping requirements

The proposed Directive requires payment service providers to retain, for each calendar quarter, sufficiently detailed records of beneficiaries and payment transactions corresponding to the payment services they provide, in order to assist Member States fight e-commerce VAT fraud.

Members proposed that this obligation shall apply when a payment service provider executes more than 25 payment transactions to the same payee in the course of a calendar quarter or executes a transfer of funds with a monetary value of at least EUR 2500 in a single payment transaction.

In addition, records shall be kept in electronic format by the payment service provider for a period of three years (instead of the proposed two years) from the end of the year during which the payment transaction was executed.

The payer's place of establishment shall be considered to be in the Member State that corresponds to the IBAN of the payer's payment account or any other identifier which unambiguously identifies the payer and the payer’s location.

The record keeping and reporting obligation should also arise in cases where a payment service provider receives funds or acquires payment transactions on behalf of the payee and not only where a payment service provider transfers funds or issues payments instruments for the payer.

It is necessary to adopt an ambitious mandate for the European Public Prosecutor's Office (EPPO) in collaboration with national judicial authorities in order to ensure the efficient prosecution of fraudsters before the national courts. Organised cross-border VAT fraud should be duly prosecuted and the fraudsters should be penalised.

Strategy for fighting against VAT fraud

Members stated that this strategy should evolve in parallel with the increasing modernisation and digitalisation of the economy while rendering the VAT system as simple as possible for businesses and citizens. Member States should therefore continue to invest in technology-led tax collection, notably by automatically linking corporate cash registers and sales systems to VAT returns.

In addition, tax authorities should continue their efforts towards closer cooperation and exchange of best practices.

Tax authorities should work towards an effective communication and interoperability between all databases regarding fiscal matters at Union level. Blockchain technology could also be used in order to better protect personal data and improve the online exchange of information between tax authorities.

Value added tax (VAT): requirements for payment service providers

2018/0412(CNS) - 02/03/2020 - Final act

PURPOSE: to facilitate the detection of tax fraud in cross-border e-commerce transactions.

LEGISLATIVE ACT: Council Directive (EU) 2020/284 amending Directive 2006/112/EC as regards introducing certain requirements for payment service providers.

CONTENT: VAT fraud is a problem common to all Member States, but not every Member State has the information necessary to ensure the correct application of VAT rules in cross-border e-commerce or to combat fraud in this area.

This Directive, together with Council Regulation (EU) 2020/283, completes the VAT regulatory framework for e-commerce that entered into force in January 2021, which introduced new VAT obligations for online marketplaces and simplified VAT compliance rules for online businesses.

New record keeping requirements

The Directive introduces amendments to the VAT Directive requiring payment service providers to keep records of cross-border payments relating to e-commerce. This information shall then be made available to national tax authorities under strict conditions, including data protection, to enable the competent authorities of the Member States to carry out checks on supplies of goods and services which are deemed to take place in a Member State.

The requirements shall only apply to payment services provided in respect of cross-border payments. It shall apply to payment service providers where, in the course of a calendar quarter, a payment service provider provides payment services corresponding to more than 25 cross-border payments to the same payee.

Records shall be kept in electronic format by the payment service provider for a period of 3 years from the end of the calendar year in which the payment was made.

Information to be retained

The information to be retained by the payment service providers is to be collected by and exchanged between the Member States in accordance with Council Regulation (EU) No 904/2010 which lays down the rules for administrative cooperation and exchange of information in order to combat VAT fraud.

The Directive specifies that payment service providers shall keep records of any VAT number or tax identification number of the payee, where applicable. In addition, they shall retain information relating to the payment transaction itself, such as the amount, currency, date, origin of payment and indication of any refunds of payment.

ENTRY INTO FORCE: 22.3.2020.

TRANSPOSITION: by 31.12.2023 at the latest.

APPLICATION: from 1.1.2024.

Value added tax (VAT): requirements for payment service providers

2018/0412(CNS) - 17/12/2019 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 590 votes to 19, with 81 abstentions, under the consultation procedure, a legislative resolution on the proposal for a Council directive amending Directive 2006/112/EC as regards the introduction of certain requirements for payment service providers.

The European Parliament approved the Commission proposal subject to amendments.

Deepening transnational cooperation to combat VAT fraud

Parliament recalled that the existence of significant differences between Member States, with VAT gaps ranging from 0.6% to 35.5%, underlined the need to deepen transnational cooperation to better combat VAT fraud, in the context of e-commerce in particular, but also in a more general context (including carousel fraud). Indeed, according to the Commission, the difference between the expected VAT revenue and the amount actually collected, in the Union amounted to EUR 137 billion in 2017, representing EUR 267 of lost revenue per person in the Union.

New record keeping requirements

The proposed Directive requires payment service providers to retain, for each calendar quarter, sufficiently detailed records of beneficiaries and payment transactions corresponding to the payment services they provide, in order to assist Member States fight e-commerce VAT fraud.

Parliament proposed that this obligation shall apply when a payment service provider executes more than 25 payment transactions to the same payee in the course of a calendar quarter or executes a transfer of funds with a monetary value of at least EUR 2500 in a single payment transaction.

In addition, records shall be kept in electronic format by the payment service provider for a period of three years (instead of the proposed two years) from the end of the year during which the payment transaction was executed.

The payer's place of establishment shall be considered to be in the Member State that corresponds to the IBAN of the payer's payment account or any other identifier which unambiguously identifies the payer and the payer’s location.

The record keeping and reporting obligation should also arise in cases where a payment service provider receives funds or acquires payment transactions on behalf of the payee and not only where a payment service provider transfers funds or issues payments instruments for the payer.

Virtual currencies exchange platforms

By 31 December 2022, the Commission shall present a report on the need to include virtual currencies exchange platforms in the scope of the Directive. That report shall be accompanied, where appropriate, by a legislative proposal.

Strategy for fighting against VAT fraud

Parliament stated that this strategy should evolve in parallel with the increasing modernisation and digitalisation of the economy while rendering the VAT system as simple as possible for businesses and citizens. Member States should therefore continue to invest in technology-led tax collection, notably by automatically linking corporate cash registers and sales systems to VAT returns.

In addition, tax authorities should continue their efforts towards closer cooperation and exchange of best practices.

Tax authorities should work towards an effective communication and interoperability between all databases regarding fiscal matters at Union level. Blockchain technology could also be used in order to better protect personal data and improve the online exchange of information between tax authorities.

Prosecuting fraudsters

Parliament stressed the need to adopt an ambitious mandate for the European Public Prosecutor's Office in cooperation with national judicial authorities in order to ensure the efficient prosecution of fraudsters in national courts. Organised cross-border VAT fraud shall be duly prosecuted and fraudsters shall be punished.

Transposition and application

Members proposed that the transposition date shall be set at 31 December 2023 (instead of 2021) and that the provisions shall apply from 1 January 2024 (instead of 2022).