

Opinion of the European Committee of the Regions — Action Plan on VAT — Towards a single EU VAT area

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POLICY RECOMMENDATIONS

THE EUROPEAN COMMITTEE OF THE REGIONS

Introduction

1. welcomes the action plan which is a Commission initiative setting out the path to be followed for proposing to establish a single value added tax (VAT) area in the EU by 2017;
2. recognises that the VAT system is an essential part of the single market and should be reformed to make it simpler, fairer, more effective and less exposed to fraud in order to improve competition conditions between enterprises, reduce discrimination among consumers and optimise revenue collection;
3. notes the importance that the single VAT area in the Union has for local and regional authorities, due to the fact that, in some Member States, they are responsible for levying VAT and that the redistribution of VAT revenue is central to the implementation of financial equalisation schemes for the benefit of local and regional authorities; however, Member States' systems of national redistribution of VAT revenues falls outside the EU's sphere of responsibility;
4. points out that VAT is also a major source of income for the EU's own resources as it accounted for EUR 17,6 billion in 2014, or 12,3 % of the EU's total revenue;
5. also supports the Commission's aim of combating fraud. The huge levels of fraud reflect the shortcomings in the current systems and lead to significant losses of revenue for Member States every year; the estimated loss for the EU is EUR 170 billion per annum. This has a negative impact on public sector budgets, including those of local and regional authorities in some Member States, and their ability to provide quality services; in this respect urges Member States to collect and circulate statistics on cross-border VAT fraud;
6. points out that the fragmentation and complexity of the VAT system result in major compliance costs for businesses involved in cross-border trade. These costs are disproportionately high for small and medium-sized enterprises, which form the backbone of the economy and the basis for employment at regional level. Notes that the Action Plan on VAT equally needs to lead to a simplification for legitimate businesses undertaking in cross-border trade. The VAT system must not impose undue barriers on cross-border trade;
7. draws attention to the fact that differences in the VAT rules and the rates set have a particular impact on border regions and the activities of small and medium-sized enterprises (SMEs) in these regions. It is therefore necessary to assess the territorial impact of the proposals which offer greater flexibility in setting VAT rates;
8. notes that the VAT directive includes provisions on VAT rates aimed at protecting the single market and preventing distortions in competition; considers that these are essential principles and that all proposals for allowing Member States greater leeway in setting rates should be carefully scrutinised in order to ascertain what effect they might have on the internal market and competition;

9. supports the reform of the VAT system which can provide the basis for future growth, competitiveness and employment, by allowing the digital and mobile economy, new economic models and service enterprises to thrive. In this respect, welcomes the Commission's proposal to extend the VAT one-stop-shop for electronic services to the provision of goods, on the basis of a pilot scheme aimed at improving cooperation between tax administrations and enterprises involved in trading in the electronics sector;

10. considers that Member States' effectiveness in the field of tax administration is very variable. There is not enough cooperation and trust between tax administrations; believes that banks should fully cooperate with tax authorities in cases of suspected VAT fraud, within the limits of the applicable data protection legislation;

11. recommends looking at Member States' best practices for allocating part of the VAT revenue to local and regional authorities or alternatively granting them the power to levy it;

12. calls for representatives of local and regional authorities at national level and of the CoR at European level to be included in consultations on any changes to the VAT system, bearing in mind the direct impact of these decisions on the welfare of the population, on the competitiveness of enterprises and on the revenue of the public authorities;

Single EU VAT area

13. when examining the principle whereby VAT payments for cross-border transactions are subject to the same requirements as those for national transactions, calls for particular consideration to be given to the impact on SMEs when different VAT rates are maintained at the same time;

14. shares the view that the new system should be based on the principle of destination and should make provision for VAT on sales to a customer established in another EU Member State to be levied in accordance with the legislation of the supplier country, and at the rate applied in the country of destination, and that the VAT revenue of the levying state be transferred to the competent authority in the state of consumption;

15. welcomes the intention of ensuring that enterprises carrying out commercial transactions within the single market will be able to settle any VAT-related issues with the competent authority in their country of origin and that they will not be required to register for VAT, to submit returns and pay charges in all the EU Member States in which they conduct business transactions. These simplifications must not result in any compromise to VAT revenues and influence fiscal sovereignty of Member States;

16. considers that the Commission's action plan is ambitious and will need time to be implemented; therefore supports the principle of a gradual phasing-in;

17. urges the Commission and the Member States to adopt measures to improve tax efficiency and combat fraud in order to reduce the amount of VAT that is uncollected by the Member States. Such measures could help significantly with efforts to build confidence in the tax administrations and establish effective cooperation, which is needed for the new system to function properly. The Committee stresses the fact that the introduction of new reporting and audit tools must not impose an undue burden on businesses, particularly SMEs;

18. calls on Member States to adopt practical decisions on the regulations governing VAT in the European Union, especially to abolish the differences observed to date between Member States regarding the derogations from the VAT directive granted to individual countries, and to encourage all Member States to implement these derogations;

19. notes that when making proposals for improving the efficiency of tax administration, the Commission must respect national and/or regional administrative powers;

20. encourages more effective use of IT tools by using all the electronic information available for combating fraud, whilst ensuring that data is protected;

21. in the light of the reverse and split VAT payment systems ⁽¹⁾ set up in several countries, stresses the need for boosting people's confidence in the fact that the VAT paid actually goes into the national, regional or local budgets, since individuals are among the primary real sources of VAT payments; recommends looking at the possibility of bringing in a voluntary electronic payment system for transferring the VAT on people's purchases to the budget of the competent authority and the amount of the purchase minus VAT to the vendor's account, as is the case at present;

VAT rates

22. stresses the fact that there is insufficient proof of distortions of competition in the non-levying of VAT on certain types of public sector bodies' activities, inter-municipal cooperation or on activities deemed to be in the public interest. The decision not to consider public bodies as taxable for VAT purposes met objective and harmonised criteria at European level and was not at the discretion of Member States;

23. calls for the interests of local and regional authorities to be taken into account in the Commission's impact assessment, which is due to be published in 2017; in this connection, the concepts of '(significant) distortions of competition' need to be clarified, in consultation with local and regional authorities;

24. considers it urgent that all Member States should be able to apply all derogations established in the past by any Member State;

25. calls for the VAT rate on school buildings to be reduced to 6 %;

26. emphasises that the current list of reduced VAT rates is particularly opaque and does not have a well-defined rationale. Is therefore disappointed that the Commission has not made an exhaustive and transparent inventory of the reduced VAT rates that have been granted; considers it necessary to review the list of reduced VAT rates, taking into account technical, economic and other developments, and the distortions created by different VAT rates for similar goods and services; this review should, to the extent possible, lead towards a harmonisation in order to avoid distortion of competition within the single market for SMEs;

27. considers, moreover, that those bodies that carry out activities in the public interest could have a greater economic incentive to deduct VAT *ex post* rather than being non-taxable *ex ante*;

28. believes that option 1 (extension and regular review of the list of goods and services eligible for reduced rates) is liable to entail less serious risks than option 2 (abolition of the list of goods and services eligible for reduced rates);

29. feels that giving Member States more leeway in setting rates will inevitably lead to greater differences in rates which might distort the single market and impose burdens on businesses, particularly SMEs; points out that the Commission should make a thorough assessment in order to look at the impact its proposals might have on competition and the administrative burdens for businesses, together with their impact on the regions, and particularly on border regions;

30. notes that the Communication also refers to other costs and shortcomings connected with the transfer of responsibilities for reducing rates to the Member States, particularly the risk associated with falling revenues and the complexity of VAT, as well as the increased costs and legal uncertainty for businesses; considers that this risk should be fully assessed;

31. in line with its opinion on food waste (June 2016), supports the proposal to make the VAT on donated unsold food tax-deductible for large retailers;

⁽¹⁾ For example, the European Commission approved Italy's request for setting up a split VAT payment system for public administrations that are subject to VAT. When public administrations settle an invoice for goods or services, part of the VAT is paid directly to the Treasury. This system is in force from 1 January 2015 to 31 December 2017, when it is planned to replace it entirely by an electronic invoicing system within the public administration. According to some estimates, Italy has lost EUR 900 million a year in VAT payments from public administrations.

E-commerce

32. points out that complicated VAT rules that differ in each Member State are one of the main barriers to e-commerce; recognises that the VAT system must be simplified and compliance costs for SMEs be reduced, mainly by addressing the aspects that are less favourable to businesses based in the European Union than to suppliers from third countries;

33. is in favour of an extension of the one-stop-shop mechanism covering trade in goods and the introduction or increase of VAT thresholds for start-ups and micro-enterprises;

34. supports the proposal to remove the VAT exemption for imports of small consignments from third countries and to allow for checks via a single audit of cross-border businesses, as European SMEs are currently at a competitive disadvantage compared to third-country SMEs;

VAT package for SMEs

35. points out that the economic development of local and regional authorities is based on SMEs and that the costs the latter incur to ensure compliance with the VAT rules are proportionately higher than for large businesses: SMEs are consequently obliged to operate at a disadvantage in terms of competition;

36. draws attention to the fact that measures apparently based on improving the business environment have been adopted in several states to simplify registration for new companies, whereas they often encourage the creation of enterprises that make it possible to set up the so-called 'carousel' fraud systems;

37. notes that the relevant national institutions (including tax administrations) should take the responsibility to monitor activities of enterprises, which are operating legally; this responsibility should not be delegated to counterparties, other enterprises, as the Court of Justice of the EU has stated repeatedly in the judgments regarding the VAT;

38. advocates that the Commission provide for the appropriate simplification measures in the package for SMEs that it will put forward in 2017.

Brussels, 12 October 2016.

*The President
of the European Committee of the Regions*

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