

Tuesday 11 September 2018

P8_TA(2018)0319

Common system of value added tax as regards the special scheme for small enterprises ***European Parliament legislative resolution of 11 September 2018 on the proposal for a Council directive amending Directive 2006/112/EC on the common system of value added tax as regards the special scheme for small enterprises (COM(2018)0021 – C8-0022/2018 – 2018/0006(CNS))****(Special legislative procedure – consultation)**

(2019/C 433/25)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2018)0021),
 - having regard to Article 113 of the Treaty on the Functioning of the European Union, pursuant to which the Council consulted Parliament (C8-0022/2018),
 - having regard to Rule 78c of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs (A8-0260/2018),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to alter its proposal accordingly, in accordance with Article 293(2) of the Treaty on the Functioning of the European Union;
 3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
 4. Asks the Council to consult Parliament again if it intends to substantially amend the Commission proposal;
 5. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

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Amendment 1

Proposal for a directive

Recital 1

Text proposed by the Commission

- (1) Council Directive 2006/112/EC⁽²¹⁾ allows Member States to continue to apply their special schemes to small enterprises in accordance with common provisions and with a view to closer harmonisation. However, those provisions are outdated and do not **reduce** the compliance burden of small enterprises as they were designed for a common system of value added tax (VAT) based on taxation in the Member State of origin.

⁽²¹⁾ OJ L 347, 11.12.2006, p. 1.

Amendment

- (1) Council Directive 2006/112/EC⁽²¹⁾ allows Member States to continue to apply their special schemes to small enterprises in accordance with common provisions and with a view to closer harmonisation. However, those provisions are outdated and do not **fulfil their objective of reducing** the compliance burden of small enterprises as they were designed for a common system of value added tax (VAT) based on taxation in the Member State of origin.

⁽²¹⁾ JO L 347 du 11.12.2006, p. 1.

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Amendment 2**Proposal for a directive****Recital 2***Text proposed by the Commission*

- (2) In its VAT action plan ⁽²²⁾, the Commission announced a comprehensive simplification package for small enterprises aimed at reducing their administrative burden and helping create a fiscal environment to facilitate their growth and the development of cross-border trade. **This would entail** a review of the special scheme for small enterprises as outlined in the Communication on the follow-up to the action plan **on VAT**⁽²³⁾. The review of the special scheme for small enterprises constitutes therefore an important element of the reform package set out in the VAT action plan.

⁽²²⁾ Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee on an action plan on VAT — Towards a single EU VAT area — Time to decide (COM(2016)0148 of 7.4.2016).

⁽²³⁾ Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee on the follow-up to the Action Plan on VAT — Towards a single EU VAT area — Time to act (COM(2017)0566 of 4.10.2017).

Amendment

- (2) In its VAT action plan ⁽²²⁾, the Commission announced a comprehensive simplification package for small enterprises aimed at reducing their administrative burden and helping **to** create a fiscal environment to facilitate their growth and the development of cross-border trade, **as well as to increase VAT compliance. Small enterprises in the Union are particularly active in certain sectors which operate across borders, such as construction, communications, food service and retail trade, and can constitute an important source of employment. To achieve the objectives of the VAT action plan,** a review of the special scheme for small enterprises as outlined in the Communication on the follow-up to the **VAT** action plan⁽²³⁾ **is necessary.** The review of the special scheme for small enterprises constitutes therefore an important element of the reform package set out in the VAT action plan.

⁽²²⁾ Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee on an action plan on VAT — Towards a single EU VAT area — Time to decide (COM(2016)0148 of 7.4.2016).

⁽²³⁾ Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee on the follow-up to the Action Plan on VAT — Towards a single EU VAT area — Time to act (COM(2017)0566 of 4.10.2017).

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Amendment 3**Proposal for a directive****Recital 3***Text proposed by the Commission*

- (3) The review of this special scheme is closely linked to the Commission's proposal setting out the principles for a definitive VAT system for cross-border business-to-business trade between Member States on the basis of the taxation of cross-border supplies of goods in the Member State of destination ⁽²⁴⁾. The VAT system's shift towards destination-based taxation has identified that a number of the current rules are not suited for a destination-based tax system.

⁽²⁴⁾ Proposal for a Council Directive amending Directive 2006/112/EC on the common system of value added tax as regards certain harmonisation and simplification rules within the current value added tax system and introducing the definitive system for the taxation of trade between Member States (COM(2017)0569 of 4.10.2017).

Amendment

- (3) The review of this special scheme is closely linked to the Commission's proposal setting out the principles for a definitive VAT system for cross-border business-to-business trade between Member States on the basis of the taxation of cross-border supplies of goods in the Member State of destination ⁽²⁴⁾. The VAT system's shift towards destination-based taxation has identified that a number of the current rules are not suited for a destination-based tax system. ***The main difficulties of enhanced cross-border trade for small enterprises arise because of the complex and diverse rules across the Union relating to VAT, as well as the fact that the national exemption for small enterprises only benefits small enterprises in the Member State in which they are established.***

⁽²⁴⁾ Proposal for a Council Directive amending Directive 2006/112/EC on the common system of value added tax as regards certain harmonisation and simplification rules within the current value added tax system and introducing the definitive system for the taxation of trade between Member States (COM(2017)0569 of 4.10.2017).

Amendment 4**Proposal for a directive****Recital 4***Text proposed by the Commission*

- (4) In order to address the issue of the disproportionate compliance burden faced by small enterprises, simplification measures should be available not only to enterprises that are exempt under the current rules, but also to those considered small in economic terms. For the purposes of the simplification of the VAT rules, enterprises would be considered 'small' if their turnover qualifies them as micro enterprises under the general definition provided for in Commission Recommendation 2003/361/EC ⁽²⁵⁾.

⁽²⁵⁾ Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

Amendment

- (4) In order to address the issue of the disproportionate compliance burden faced by small enterprises, simplification measures should be available not only to enterprises that are exempt under the current rules, but also to those considered small in economic terms. ***The availability of such measures is particularly relevant as a majority of small enterprises, whether exempted or not, are in practice obliged to use the services of advisors or external consultants in order to assist them in complying with their VAT obligations, which adds a financial burden on those enterprises.*** For the purposes of the simplification of the VAT rules, enterprises would be considered 'small' if their turnover qualifies them as micro enterprises under the general definition provided for in Commission Recommendation 2003/361/EC ⁽²⁵⁾.

⁽²⁵⁾ Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

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Amendment 5**Proposal for a directive****Recital 6***Text proposed by the Commission*

- (6) Small enterprises may only benefit from the exemption where their annual turnover is below the threshold applied by the Member State in which the VAT is due. In setting their threshold, Member States should abide by the rules on thresholds laid down by Directive 2006/112/EC. Those rules, most of which were put in place in 1977, are no longer suitable.

Amendment

- (6) Small enterprises may only benefit from the exemption where their annual turnover is below the threshold applied by the Member State in which the VAT is due. In setting their threshold, Member States should abide by the rules on thresholds laid down by Directive 2006/112/EC. Those rules, most of which were put in place in 1977, are no longer suitable. **For reasons of flexibility and to ensure that it is possible for Member States to set appropriate lower thresholds proportional to the size and the needs of their economy, only maximum thresholds should be set at Union level.**

Amendment 6**Proposal for a directive****Recital 8***Text proposed by the Commission*

- (8) Member States should be left to set their national threshold for the exemption at the level that suits their economic and political conditions best, subject to the upper threshold provided for under this Directive. In this regard, it should be clarified that where Member States apply different thresholds, this would need to be based on objective criteria.

Amendment

- (8) Member States should be left to set their national threshold for the exemption at the level that suits their economic and political conditions best, subject to the upper threshold provided for under this Directive. In this regard, it should be clarified that where Member States apply different thresholds, this would need to be based on objective criteria. **In order to facilitate cross-border business, the list of national thresholds for exemption should be easily accessible to all small enterprises willing to operate in several Member States.**

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Amendment 7

Proposal for a directive

Recital 12

Text proposed by the Commission

- (12) Where an exemption applies, small enterprises availing themselves of the exemption should, at a minimum, have access to simplified VAT registration, invoicing, accounting and reporting obligations.

Amendment

- (12) Where an exemption applies, small enterprises availing themselves of the exemption should, at a minimum, have access to simplified VAT registration, invoicing, accounting and reporting obligations. ***In order to avoid confusion and legal uncertainty in Member States, the Commission should produce guidelines on simplified registration and accounting, explaining in more detail the procedures to be simplified and to what extent. By ... [three years after the date of entry into force of this Directive], that simplification should be subject to evaluation by the Commission and Member States to assess whether it has an added value for, and a real positive impact on, enterprises and consumers.***

Amendment 8

Proposal for a directive

Recital 13

Text proposed by the Commission

- (13) Furthermore, in order to ensure compliance with conditions for exemption granted by a Member State to enterprises not established there, it is necessary to require prior notification of their intention to use the exemption. Such notification should be made by the ***small enterprise to the*** Member State ***where it is established. That Member State*** should thereafter, based on the information declared on the turnover of that enterprise, ***provide that information to*** the other Member States concerned.

Amendment

- (13) Furthermore, in order to ensure compliance with conditions for exemption granted by a Member State to enterprises not established there, it is necessary to require prior notification of their intention to use the exemption. Such notification should be made ***through an online portal to be set up*** by the ***Commission. The*** Member State ***of establishment*** should thereafter, based on the information declared on the turnover of that enterprise, ***inform*** the other Member States concerned. ***Small enterprises can at any time notify their Member State of registration of their wish to revert back to the general VAT system.***

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Amendment 9**Proposal for a directive****Recital 15***Text proposed by the Commission*

- (15) To reduce the compliance burden of small enterprises that are not exempted, Member States should be required to simplify VAT registration and record keeping **and to prolong tax periods so as to provide for less frequent** filing of VAT returns.

Amendment

- (15) To reduce the compliance burden of small enterprises that are not exempted, Member States should be required to simplify VAT registration and record keeping. **Moreover, a one-stop shop for filing VAT returns in different Member States should be established by the Commission.**

Amendment 10**Proposal for a directive****Recital 17***Text proposed by the Commission*

- (17) The objective of this Directive is to reduce the compliance burden of small enterprises, which cannot be sufficiently achieved by the Member States and can therefore be better achieved at Union level. As a result, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on the European Union. In accordance with the principle of proportionality as set out in Article 5, this Directive does not go beyond what is necessary in order to achieve these objectives.

Amendment

- (17) The objective of this Directive is to reduce the compliance burden of small enterprises, which cannot be sufficiently achieved by the Member States and can therefore be better achieved at Union level. As a result, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on the European Union. In accordance with the principle of proportionality as set out in Article 5, this Directive does not go beyond what is necessary in order to achieve these objectives. **Nonetheless, VAT controls arising as a result of compliance processes are valuable anti-tax fraud instruments and easing the compliance burden for small enterprises is not to be done at the expense of the fight against VAT fraud.**

Amendment 11**Proposal for a directive****Article 1 – paragraph 1 – point 12**

Directive 2006/112/EC

Article 284 – paragraph 4 – subparagraph 1

Text proposed by the Commission

Prior to availing itself of the exemption in **other Member States, the small enterprise shall notify the Member State in which it is established.**

Amendment

The Commission shall set up an online portal through which small enterprises that wish to avail themselves of the exemption in **another Member State shall register.**

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Amendment 12

Proposal for a directive

Article 1 – paragraph 1 – point 12

Directive 2006/112/EC

Article 284 – paragraph 4 – subparagraph 2

Text proposed by the Commission

Where a small enterprise avails itself of the exemption in Member States other than that in which it is established, the Member State of establishment shall take all measures necessary to ensure the accurate declaration of the Union annual turnover and the Member State annual turnover by the small enterprise and shall inform the tax authorities of the other Member States concerned in which the small enterprise carries out a supply.

Amendment

Where a small enterprise avails itself of the exemption in Member States other than that in which it is established, the Member State of establishment shall take all measures necessary to ensure the accurate declaration of the Union annual turnover and the Member State annual turnover by the small enterprise and shall inform the tax authorities of the other Member States concerned in which the small enterprise carries out a supply. **Member States shall also ensure that they have sufficient knowledge of the status of small enterprises and of their shareholding or ownership relationships, so as to be able to confirm their status as small enterprises.**

Amendment 13

Proposal for a directive

Article 1 – paragraph 1 – point 15

Directive 2006/112/EC

Article 288a – paragraph 1

Text proposed by the Commission

Where during a subsequent calendar year the Member State annual turnover of a small enterprise exceeds the exemption threshold referred to in Article 284(1), the small enterprise shall be able to continue to benefit from the exemption for **that year**, provided that its Member State annual turnover during **that year** does not exceed the threshold set out in Article 284(1) by more than **50 %**.

Amendment

Where during a subsequent calendar year the Member State annual turnover of a small enterprise exceeds the exemption threshold referred to in Article 284(1), the small enterprise shall be able to continue to benefit from the exemption for **two further years**, provided that its Member State annual turnover during **those two years** does not exceed the threshold set out in Article 284(1) by more than **33 %**.

Amendment 14

Proposal for a directive

Article 1 – paragraph 1 – point 17

Text proposed by the Commission

(17) Articles 291 **to 294** are deleted;

Amendment

(17) Articles 291 **and 292** are deleted;

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Amendment 15**Proposal for a directive****Article 1 – paragraph 1 – point 17 a (new)**

Directive 2006/112/EC

Article 293 – paragraph 1

Present text

Every four years starting from the adoption of this Directive, the Commission shall present to the Council, on the basis of information obtained from the Member States, a report on the application of this Chapter, together, where appropriate and taking into account the need to ensure the long-term convergence of national regulations, with proposals on the following subjects:

- (1) improvements to the special scheme for small enterprises;
- (2) the adaptation of national systems as regards exemptions and **graduated tax relief**;
- (3) the adaptation of the ceilings provided for in Section 2.

Amendment

(17a) in Article 293, paragraph 1 is replaced by the following:

'Every four years starting from the adoption of this Directive, the Commission shall present to **the European Parliament and** the Council, on the basis of information obtained from the Member States, a report on the application of this Chapter, together, where appropriate and taking into account the need to ensure the long-term convergence of national regulations, with proposals on the following subjects:

- (i) improvements to the special scheme for small enterprises;
- (ii) the adaptation of national systems as regards exemptions and **the possibility of harmonising exemption thresholds across the Union**;
- (iii) the adaptation of the ceilings provided for in Section 2.'

Amendment 16**Proposal for a directive****Article 1 – paragraph 1 – point 17 b (new)***Text proposed by the Commission**Amendment*

(17b) Article 294 is deleted;

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Amendment 17**Proposal for a directive****Article 1 – paragraph 1 – point 18**

Directive 2006/112/EC

Article 294e

*Text proposed by the Commission**Article 294e*

Member States **may** release exempt small enterprises from the obligation to submit a VAT return laid down in Article 250.

Where this option is not exercised, Member States shall allow such exempt small enterprises to submit a simplified VAT return to cover the period of a calendar year. However, small enterprises may opt for the application of the tax period set in accordance with Article 252.

*Amendment**Article 294e*

Member States **shall either** release exempt small enterprises from the obligation to submit a VAT return laid down in Article 250 **or they** shall allow such exempt small enterprises to submit a simplified VAT return – **that includes at least the following information: chargeable VAT, deductible VAT, net VAT amount (payable or receivable), total value of input transactions and total value of output transactions** – to cover the period of a calendar year. However, small enterprises may opt for the application of the tax period set in accordance with Article 252.

Amendment 18**Proposal for a directive****Article 1 – paragraph 1 – point 18**

Directive 2006/112/EC

Article 294i

*Text proposed by the Commission**Article 294i*

For small enterprises the tax period to be covered in a VAT return shall be the period of a calendar year. However, small enterprises may opt for application of the tax period set in accordance with Article 252.

*Amendment**deleted*

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Amendment 19**Proposal for a directive****Article 1 – paragraph 1 – point 18**

Directive 2006/112/EC

Article 294i a (new)

Text proposed by the Commission

*Amendment***Article 294i a**

The Commission shall establish a one-stop shop through which small enterprises can file VAT returns of the different Member States in which they are operating. The Member State of establishment shall be responsible for VAT collection.

Amendment 20**Proposal for a directive****Article 1 – paragraph 1 – point 18**

Directive 2006/112/EC

Article 294j

Text proposed by the Commission

*Amendment***Article 294j****deleted**

Notwithstanding Article 206, Member States shall not require interim payments to be made by small enterprises.

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Amendment 21

Proposal for a directive

Article 1a (new)

Regulation (EU) No 904/2010

Article 31 – paragraph 1

Present text

1. 1. The competent authorities of each Member State shall ensure that persons involved in the intra-Community supply of goods or of services and non-established taxable persons supplying telecommunication services, broadcasting services and electronically supplied services, in particular those referred to in Annex II to Directive 2006/112/EC, are allowed to obtain, for the purposes of such transactions, confirmation by electronic means of the validity of the VAT identification number of any specified person as well as the associated name and address. This information shall correspond to the data referred to in Article 17.

Amendment

Article 1a

Regulation (EU) No 904/2010 is amended as follows:

In Article 31, paragraph 1 is replaced by the following:

‘1. The competent authorities of each Member State shall ensure that persons involved in the intra-Community supply of goods or of services and non-established taxable persons supplying telecommunication services, broadcasting services and electronically supplied services, in particular those referred to in Annex II to Directive 2006/112/EC, are allowed to obtain, for the purposes of such transactions, confirmation by electronic means of the validity of the VAT identification number of any specified person as well as the associated name and address. This information shall correspond to the data referred to in Article 17. **The VAT information exchange system (VIES) shall specify whether or not eligible small enterprises avail themselves of the VAT exemption for small enterprises.**’

Amendment 22

Proposal for a directive

Article 2 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Member States shall adopt and publish, by **30 June 2022** at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall communicate to the Commission the text of those provisions without delay.

Amendment

Member States shall adopt and publish, by **31 December 2019** at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall communicate to the Commission the text of those provisions without delay.

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Amendment 23**Proposal for a directive****Article 2 – paragraph 1 – subparagraph 2***Text proposed by the Commission*They shall apply those provisions from **1 July 2022**.*Amendment*They shall apply those provisions from **1 January 2020**.