



VAT alert

Belgium

European Commission releases proposals for reform of VAT system for intra-EU trade

On 4 October 2017, the European Commission published details of its plan for reform of the EU VAT system. This is the first set of proposals of two (introducing the main principles), with the second set providing more details expected in Spring 2018. It puts forward a 'definitive system' that will replace the intra-Community supply regime introduced in 1993. While the proposals give an interesting view of what these reforms will look like, the ultimate impact on business will depend upon the detailed proposals. The proposals and related documents can be found on the [Single VAT Area page](#) of the Commission's website.

Background

In its 2016 VAT Action Plan, the European Commission outlined immediate and urgent actions to tackle the VAT Gap and combat VAT fraud. The current VAT regime for cross-border intra-EU trade allows goods and services to circulate VAT-free across borders, facilitating so-called missing trader fraud or carousel fraud.

The proposals include a series of fundamental principles or 'cornerstones' for a definitive VAT regime for cross-border trade. They also propose four 'quick fixes' to come into force by 2019, and introduce the concept of a 'certified taxable person'.

Fundamental principles

The fundamental principles or 'cornerstones' for a definitive VAT regime, are as follows:

- The principle of **taxation at destination for intra-EU cross-border supplies of goods**. As a result, the VAT exemption on cross-border trade will be abolished.
- The confirmation that, as a general rule, the **vendor is liable for charging and collecting the VAT** of the member State of destination. However, if the buyer is a reliable taxpayer, a so-called '**certified taxable person**' ('CTP'), he will be liable for payment of the VAT due by way of a reverse charge.
- The '**One Stop Shop**' ('OSS') online portal currently existing for e-services will be extended, allowing businesses to take care of their cross-border VAT obligations in their own country in their own language. The extended portal will also allow to deduct input VAT outside a business' home country. Member States will settle the VAT to each other directly.

The proposal does not discuss specifically cross-border transfers of own goods (eg. stock transfers), but it would be beneficial if such situations, which today create significant administrative obligations for businesses, could be handled within the OSS reporting. The new regime should also do away with the Intra-Community Sales Listing requirement for intra-EU supplies.

A new concept of 'Certified Taxable Person'

A business established in the EU and that carries out or intends to carry out cross-border goods trade can apply to its national tax authority and become a Certified Taxable Person (CTP) by proving compliance with certain pre-defined criteria. Surprisingly, non-EU established traders, even from EEA countries, will not be able to obtain CTP status.

Criteria for CTP status cover the absence of a prior history or record of infringements on taxation and customs rules or serious criminal offences, the demonstration of a high level of control and evidence of financial solvency (or production of financial guarantees). These are similar to the criteria to obtain Authorized Economic Operator (AEO) status for customs purposes and AEO certified operators are by law deemed to meet the CTP criteria.

Both the CTP and the companies that do business with it will enjoy a number of simplified procedures for the declaration and payment of cross-border VAT. The CTP status will be mutually recognized by all Member States.

Quick fixes

The Commission also presented four 'quick fixes' to improve the day-to-day functioning of the current VAT system, until the definitive regime is fully agreed and implemented :

- **Simplification** of VAT rules for cross-border “call-off stock arrangements” - only available for certified taxable persons;
- **Simplification** for chain transaction situations identifying the supply with which the intra-Community transport of goods should be linked - only available for certified taxable persons;
- **Simplification** of the proof of transport of goods between two Member States needed for the application of the exemption of intra-Community supplies - only available for certified taxable persons;
- **Clarification** that, in addition to the proof of transport, the VAT number of the commercial partners recorded in the electronic EU VAT-number verification system (VIES) is a material condition to apply the cross-border VAT exemption under the current rules. A reference in the Intra-Community Sales Listing of the person acquiring the goods is also required.

Next steps

The proposals will be forwarded to the European Parliament and the European Economic and Social Committee for consultation, and to the Council for their agreement. They will require unanimous agreement from all Member States in the Council before they can enter into force.

Upon the ‘agreement in principle’ by the Member States on the fundamental principles of the definitive VAT regime, a proposal for detailed technical adaptation of the VAT directive will follow in the Spring of 2018.

While no date is set in the current proposal for final adoption of the definitive VAT regime, the Commission intends for these rules to enter into force in 2022. In its Communication accompanying the proposals, the Commission also states that after due monitoring of the implementation for cross-border supplies of goods, an extension to all cross-border services may be envisaged, completing the Single VAT Area.

Practical consequences

In the longer term, the definitive VAT regime constitutes a major overhaul of the EU VAT system for businesses, with drastic changes to systems and processes to be expected. The ultimate impact will depend upon the detailed proposals.

The quick fixes put forward in the short term are a step towards a uniform simplified VAT system. From a Belgian perspective, they are not bringing that much change : a call off stock simplification is already in place (like in 17 other Member States) and the so-called ‘destination document’ arrangement adopted in 2016 provides simplified proof of cross-border transport. As the quick fixes require CTP status, the actual application of those simplifications may even be reduced.

In the following weeks we will keep you updated with our in-depth analyses and points of view regarding the practical

consequences of the quick fixes and the definitive VAT regime in a series of VAT Alerts.

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