



VAT Alert Belgium

European Commission announces measures for fair and simple taxation supporting Europe's recovery strategy

On 15 July 2020, the European Commission adopted a [Tax Package](#) consisting of three initiatives: a detailed [Action Plan with 25 distinct actions to make taxation simpler, fairer and better attuned to the modern economy over the coming years](#), a [proposal for changes to the Directive on administrative cooperation in the field of taxation](#), and a [Communication on good tax governance](#). The majority of the proposed changes will impact VAT legislation and the obligations of businesses in the field of VAT. This alert provides an overview of the indirect tax measures.

Background

The Action Plan was initiated as part of the *von der Leyen* Commission political priorities, aiming for fair taxation, by stepping up the fight against fraud, as well as simplifying tax rules for entrepreneurs who create jobs, invest and innovate and then foster the economic growth. According to the Commission, taxation should also adapt and take advantage of technological developments to ensure more effective and easier collection of taxes. This is considered even more important as the EU seeks to recover from the fallout of COVID-19, where the Tax Action Plan is expected to support a sustainable economic recovery and to ensure sufficient public revenue in the EU.

The Action Plan contains 25 sets of measures, 15 of which are directly related to VAT or other indirect taxes. The measures are not yet worked out in detail, but provide a good look into the ambitious EU agenda in this field for the coming years. The publication means to allow business to incorporate these major developments into their tax strategy.

The specific proposal to change the Directive on administrative cooperation (also called "DAC7") also has a significant footprint in the field of VAT. It incorporates new reporting rules for online platform operators pursuant to a global trend to give those platforms a role in securing the collection of VAT.

Changes to VAT rules affecting specific sectors

The Commission plans to continue its work in two areas where work to reform VAT is already underway :

- Update the VAT rules on financial services, where the current exemption for financial and insurance services triggers growing problems as a result of a number of controversial European Court cases, the rise of the digital economy (fintech) and the growing input VAT costs resulting from outsourcing. A broad range of options are currently investigated and could lead to a possible legislative proposal by the end of 2021.
- Evaluate and revise the VAT special scheme for travel agents (so-called TOMS) in the course of 2022.

A new action is a possible change to the VAT rules for passenger transport, to do away with the de facto non taxation of international air and maritime passenger transport. This could entail both a review of the exemptions and a simplified rule to determine the place where such services take place (currently based on distances covered). This is the only "green taxation" measure included in the Action Plan, though it should be mentioned that the Commission will also work on

environmental tax measures such as a levy on the use of plastic waste and a carbon adjustment mechanism as part of the European COVID-19 recovery package to be discussed in July 2020.

Future of Compliance

Through the Action Plan, the Commission states its willingness to play a role in the modernisation of VAT reporting obligations already underway in a number of EU Member States on a domestic level. A key component of the so-called VAT in the Digital Age Package will be a proposal by 2022 to ensure possible real-time and more detailed exchange of VAT information on intra-EU transactions (currently collected through European Sales Lists in the VIES system) as well as to streamline the mechanisms that are deployed for domestic transactions, including a further expanded (mandatory) use of e-invoicing in this context.

A distinct objective in this field is to work towards a single EU VAT registration which would allow taxpayers to provide services and sell goods anywhere in the EU, without having to obtain additional VAT registrations abroad.

The conference on Data Analytics and Digital Solutions (or 'big tax data summit') that the Commission will organise in 2021 would contribute to an active stakeholders' dialogue on how to use technology for smarter taxation.

Platform Economy

In line with ongoing work at OECD level, the Commission plans to do further work to face the taxation challenges linked to the rapidly developing platform economy. On a European level, significant legislative changes were made already, for digital services in 2015 and for B2C supplies of goods in the 2021 e-Commerce VAT Package.

The next steps will focus on the broader platform economy, tackling questions in relation to the VAT treatment of transactions between users facilitated by these platforms, the VAT status of users and the place of taxation of services provided by the platforms.

This is part of the *VAT in the Digital Age* initiative expected to result in proposals in 2022, as well as a proposed further extension of the VAT One Stop Shop (OSS). The intention is to have all B2C transactions performed abroad by a taxpayer to be covered by the OSS and reported through a single VAT return submitted in its Member State of establishment. Also, the Commission will look into the possibility to make the

Import One Stop Shop (IOSS), which is introduced by the e-Commerce Package as of 2021, a mandatory regime and to extend its use to also cover shipments with a value above 150 EUR. This would further streamline the VAT treatment of distance sales of imported goods dispatched from outside the EU to European consumers.

With the e-commerce VAT Package on its way to implementation, the Commission wants to investigate the introduction of an e-Commerce package for excise duties. Such goods are currently not eligible for the One Stop Shop regimes in VAT nor for any simplified import arrangements and hence the administrative burden and cost to achieve compliance for distance sellers of such goods is very high. A proposal to allow distance sellers to report and pay excise duties through a single excise return could follow in 2022.

Lastly, a key change included in the 'DAC7' proposal is a new obligation for mandatory automatic exchange of information by platform operators. This would oblige them to apply due diligence procedures (collection and verification of seller information) and to report certain financial data related to these sellers, on an annual basis. These obligations would cover the following operations by platforms users/sellers: rental of immovable property, "personal services" (time or task based work), sale of goods, rental of any mode of transport, investing and lending in the context of crowdfunding. Based on the Commission proposal, which requires unanimous approval by the Member States in the EU Council, this obligation could apply as from 2022.

Institutional changes affecting EU VAT

A number of actions put forward by the Commission aim to improve the functioning of the VAT system through changes of an organisational nature to further support the way Member States cooperate in the implementation and operation of the VAT system. These include :

- Transforming the status of the VAT Committee, where representatives and Member States meet, from an advisory body to a 'comitology committee' that would oversee the adoption of implementing acts by the Commission and would act by qualified majority. This could replace the current practice of drafting explanatory notes accompanying major VAT Directive changes. A change to the VAT Directive to this end would be proposed at the end of 2020.
- The possible setup of a VAT dispute prevention and resolution mechanism where differing views exist on the implementation of the VAT legislation.

- The further transformation of Eurofisc, the platform of anti-VAT fraud experts from national tax administrations, into an EU capable *Eurofisc 2.0* that becomes an EU hub for tax information serving not only VAT purposes.
- Starting the process to negotiate administrative cooperation agreements in VAT with relevant third countries, similar to the one between the EU and Norway. Post-Brexit UK is clearly intended to be part of this, but it should be noted that this action is planned for 2022/2023. On a practical level, having an agreement such as the one with Norway in place allows non-EU businesses in certain Member States imposing fiscal representation to benefit from a waiver.

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