



**COUNCIL OF  
THE EUROPEAN UNION**

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**"I/A" ITEM NOTE**

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from: General Secretariat  
to: Coreper / Council

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Subject: Communication from the Commission on the future of VAT  
- draft Council Conclusions  
- Report to the Council

**COMMON GUIDELINES**

**Consultation deadline for Croatia: 10.5.2012**

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1. On 6 December 2011, the Commission transmitted to the Council the abovementioned Communication (doc. 18288/11 FISC 164).
2. Following the discussions in the Working Party on Tax Questions, the Presidency has drawn up draft Council Conclusions on the future of VAT in general and on the priorities for further work as well as a Report reflecting the state of play of the discussions.
3. The Working Party examined the draft Council Conclusions and the Report to the Council. At their meeting on 4 May 2012, the Fiscal Counsellors/Attachés agreed both as set out respectively in Annex I and in Annex II.

4. Therefore, the Permanent Representatives Committee could suggest that the Council, under the "A" items of its agenda:

- adopt the draft Council Conclusions on the Commission's communication on the future of VAT as set out in Annex I;
  - take note of the Report of the discussions on the Commission's communication on the future of VAT as set out in Annex II.
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**Commission's Communication on the future of VAT  
Draft Council Conclusions**

**A. Council Conclusions on the future of VAT in general**

The Council of the European Union

- RECALLS the Commission's Green Paper on "The future of VAT – Towards a simpler, more robust and efficient VAT system" and ACKNOWLEDGES the wide public consultation of all interested parties conducted during the first half of 2011.
  
- WELCOMES the subsequent Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee on "The future of VAT – Towards a simpler, more robust and efficient VAT system tailored to the single market".
  
- SUPPORTS the objective of an EU VAT system which should be simpler, more efficient and neutral, robust and fraud-proof.

- In this context, EMPHASISES that the current financial and economic situation is difficult and complex and demands a strong fiscal consolidation of national budgets, as reflected in the European Council Conclusions of 1/2 March 2012 (cf. doc. EUCO 4/2/12) and RECALLS that the European Council invited “Member States, where appropriate, to review their tax systems with the aim of making them more effective and efficient, removing unjustified exemptions, broadening the tax base, shifting taxes away from labour, improving the efficiency of tax collection and tackling tax evasion”. This should be taken into account at EU level in the implementation of the objectives of the Communication. Value Added Tax constitutes a major source of revenue for the national budgets and reform of the current EU VAT system should, in particular, aim at making it more effective and efficient, removing unjustified exemptions and broadening the tax base, in order to contribute to fiscal consolidation and growth.
  
- POINTS TO the following principles and legal considerations, which should be taken into account in furtherance of any future action: cost-efficiency, proportionality, unanimity, data protection legislation, compliance with the subsidiarity principle and full respect for the respective competences of the Union and the Member States.
  
- INVITES the relevant Council bodies and the Commission to take into account these conclusions, in their ongoing work and in the implementation of the objectives of the Communication.
  
- INVITES the Presidency and the Commission to update the Council on the progress of work as necessary.

## **B. Council Conclusions on the priorities for further work**

### *1) A simpler VAT system*

The Council of the European Union

- ACKNOWLEDGES the need to simplify the current VAT system in order to reduce VAT compliance costs and administrative burdens for businesses small and large alike, and in particular for businesses working in more than one Member State and SUPPORTS work to ensure the timely implementation of the mini One-Stop-Shop in 2015 as a key priority action. TAKES NOTE of the Commission's view that, in a VAT system based on taxation at destination, a One-Stop-Shop is a crucial instrument to facilitate access to the single market.
- EMPHASISES the importance of ensuring that initiatives designed to arrive at a simpler VAT system for businesses do not impose additional burdens on national authorities; the strategic objective of simplicity should be seen as a two-way concept that applies to businesses and national authorities alike.
- CALLS ON the Commission to further clarify the legal status of the information, as well as content, form, roles and responsibilities in connection with the proposed EU VAT web portal and INVITES Member States to collaborate on the design of such a portal, which should not impose disproportionate administrative burdens on national authorities nor duplicate work.

- INVITES the Commission, in close cooperation with Member States and in consultation with stakeholders, to continue its work on the setting up of an EU VAT forum for Member States and stakeholders, facilitated by the Commission.
- TAKES NOTE of the intention of the Commission to present a proposal for creating a standardised VAT declaration, and in this context CALLS ON the Commission to ensure a broad based dialogue and a thorough cost-benefit analysis beforehand.

2) *A more efficient VAT system*

The Council of the European Union

- CONSIDERS revenue generating capacity and the ability to sustain economic growth to be inherent features of a more efficient VAT system.
- CONCURS with the need to examine in further detail the present EU rules on the application of VAT to the public sector, in so far as there is competition between the public and private sectors.
- ACKNOWLEDGES the desire to clarify the rules concerning non-profit-making organisations.

- RECALLS the ECOFIN Council Conclusions of 10 March 2009, which settled the issue of: “the possibility, for the Member States that so wish, of applying reduced VAT rates in certain sectors” and “at the same time acknowledged that reduced VAT rates may, depending on the circumstances, have positive and negative economic effects, so that more efficient alternative solutions should always be considered before a Member State decides to use the option to apply reduced VAT rates”.
- TAKES NOTE that the Commission favours a restricted use of reduced rates in order to increase the efficiency of the VAT system, and that it intends to launch in 2012 an assessment of the current VAT rates structure in the light of the various guiding principles set out in its Communication. COMMITS ITSELF to examine the findings of that assessment.

3) *A more robust and fraud-proof VAT system*

The Council of the European Union

- Fully ACKNOWLEDGES that continued work is needed to improve the robustness and resilience of the EU VAT system, including taking into account new technological developments.
- TAKES NOTE of the intention of the Commission to analyse the feasibility of new tax collection methods.

- TAKES NOTE of the intention of the Commission to come forward with a concrete proposal for a Quick Reaction Mechanism which, with a view to combating sudden fraud, will enable the adoption at national level of temporary measures derogating from the Directive, pending the outcome of the procedures for the adoption of appropriate measures at Union level.

4) *A VAT system tailored to the single market*

The Council of the European Union

- CONCURS with the Commission that the principle of “taxation in the Member State of origin of the supply of goods or services”, as envisaged in article 402 of Directive 2006/112/EC on the common system of value added tax, remains unlikely to be politically achievable.
- INVITES the Commission to proceed with in-depth technical work and a broadly based dialogue with Member States to examine in detail the different possible ways to implement the destination principle.



**Commission's Communication on the future of VAT  
Report to the Council of discussions during the Danish Presidency**

The future priority actions proposed by the Commission are grouped into four broad themes. The text below summarises the state of discussions on each of these themes within the Working Party on Tax Questions.

*1) A simpler VAT system*

Under this theme the Commission establishes the introduction of the mini One-Stop-Shop in 2015 as a key future action. The Commission also envisages the broadening of the concept over time. The vast majority of Member States that expressed an opinion on the latter point agreed that such steps should only be envisaged after 2015, based on the experience from the mini One-Stop-Shop for certain sectors<sup>1</sup>.

The discussions at Working Party level showed wide support for the setting up of an EU VAT web portal, although some clarification of its content, form and the legal status of the content was called for. Some delegations also pointed out that the operation of the proposed web portal should not impose disproportionate administrative burdens on national authorities.

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<sup>1</sup> I.e. taxable persons established abroad supplying telecommunications, radio and television broadcasting or electronic services to non-taxable persons (final consumers).

In its Communication, the Commission invites the Council to consider how to best improve the governance of VAT at EU level. The discussions on this point showed clear overall support for the setting up of an EU VAT forum for Member States and stakeholders, facilitated by the Commission. Furthermore, enhanced stakeholder consultation in the pre-Council stage of the legislative process was viewed favourably by most delegations, although it was felt that the benefits of stakeholder engagement were already, to a large extent, recognised and incorporated by both national administrations and the Commission. There was general support for wider publication of VAT Committee guidelines, although the majority of delegations expressed considerable reservations about publication of material which had not been adopted by unanimous agreement.

While the proposed plan for an optional standardised VAT declaration was generally well received, there were reservations on how it would work in practice and whether the benefits would outweigh the costs involved for both businesses and tax authorities.

## 2) *A more efficient VAT system*

Initially, on the theme of efficiency, a number of delegations felt compelled to underline the importance of VAT as a major source of revenue for national budgets. They emphasised that the current financial and economic situation has highlighted the need for a more efficient VAT system which will aid revenue accrual and make economic growth more sustainable.

On the basis of the discussions in the Working Party, it was clear that the delegations generally concurred with the need to examine in further detail the problems created by the present EU rules on the application of VAT to the public sector including the right to deduct the input VAT. Many delegations were concerned about issues of distortions of competition between the private and the public sector and a few clearly stated that they were in favour of taxing public bodies to a larger extent than under the current rules.

On the subject of taxation of passenger transport services, no clear orientation emerged. Some delegations stressed the practical difficulties of applying the current rules, others expressed concerns about the discrimination in VAT treatment between different modes of transport, and others again indicated they were in favour of maintaining the status quo.

In its Communication, the Commission calls on Member States to make use of existing options to alleviate the burden of VAT on non-profit-making organisations. The vast majority of delegations concurred with the view that the current VAT rules provide an adequate framework to address appropriately the specific needs of non-profit-making organisations. A few delegations however, requested a clarification of the rules concerning exemptions for non-profit-making organisations and many supported the Commission's suggestion to provide Member States with more guidance on the subject.

The discussions on rates showed a divergence of opinions between the delegations on what is the most appropriate approach to the issue of reduced VAT rates. A few delegations argued in favour of a more limited use of reduced rates, whereas others pointed out that the current financial and economic crisis has led to a movement towards convergence of VAT rates, and that, consequently, it would be premature to take up the question of rates at this point. Still others highlighted the use of reduced VAT rates as a policy instrument for Member States and some delegations stressed the need to adjust the list of goods and services in Annex III of Directive 2006/112/EC to take into account the latest technological developments. All delegations agreed though, that reduced VAT rates remain a politically very sensitive issue, and many stressed that, at present, revisiting reduced VAT rates is not a priority issue for the Council.

### 3) *A more robust and fraud-proof VAT system*

On the theme of robustness, several delegations stressed that VAT fraud causes substantial losses of revenue for both Member States and the EU as a whole, and that the fight against VAT fraud has been, and continues to be, a key priority.

The majority of delegations that took the floor supported, in principle, a proposal for a Quick Reaction Mechanism to deal with sudden fraud with major implications for tax revenues, although they reserved the position of their governments until the presentation of a detailed legislative proposal. Some delegations expressed concerns about the possibility of new administrative burdens being created for both businesses and tax administrations, and a few drew attention to article 113 of the TFEU and stressed that the proposed Quick Reaction Mechanism should not result in any dilution of the principle of unanimous voting.

In Chapter 5.3.2 of the Communication, the Commission proposes nine actions to help combat VAT fraud, namely monitoring the implementation and reporting on the efficiency of already agreed measures, broadening the automated access to information, exploring the possibility of setting up a EU cross border audit team to facilitate and improve multilateral controls, strengthening the monitoring of the efficiency of tax administrations, intensifying the exchange of best practices to tackle fraud, reinforcing EUROFISC, enhancing voluntary compliance, better cooperation with third countries and better cooperation between tax and customs authorities.

The Working Party held a first exchange of views on these actions from which the following considerations emerged: Member States need to ensure that any new action (i) is cost-efficient, (ii) does not impose disproportionate administrative burdens on national authorities and tax payers alike, (iii) complies with data protection legislation, and (iv) falls within the scope of Community powers.

On the topic of reviewing the way VAT is collected and monitored, no clear orientation was achieved.

#### *4) A VAT system tailored to the single market*

The discussions in the Working Party showed wide support for the possible abandonment of the origin principle and the ensuing move towards a properly functioning destination-based EU system of VAT.

A large number of delegations declared themselves immediately ready to abandon the origin principle. However, a few delegations thought it would be premature to come to such a decision based on the available data, because first, the specifics of a revised VAT system based on the destination principle have yet to be determined and second, because significant technological progress has been made since the origin principle was last examined.

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