



Council of the
European Union

Brussels, 1 December 2016
(OR. en)

Interinstitutional File:
2016/0371 (CNS)

14822/16
ADD 2

FISC 209
ECOFIN 1113
IA 128

COVER NOTE

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	1 December 2016
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	SWD(2016) 382 final
Subject:	COMMISSION STAFF WORKING DOCUMENT EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT Accompanying the document Proposals for a Council Directive, a Council Implementing Regulation and a Council Regulation on Modernising VAT for cross-border B2C e-commerce

Delegations will find attached document SWD(2016) 382 final.

Encl.: SWD(2016) 382 final



Brussels, 1.12.2016
SWD(2016) 382 final

COMMISSION STAFF WORKING DOCUMENT
EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT

Accompanying the document

Proposals for a Council Directive, a Council Implementing Regulation and a Council Regulation on

Modernising VAT for cross-border B2C e-commerce

{ COM(2016) 757 final }
{ SWD(2016) 379 final }

Executive Summary Sheet

Impact assessment on modernising VAT for cross-border e-commerce

A. Need for action

Why? What is the problem being addressed?

There are three clear reasons why the VAT system for cross-border e-commerce needs to be reformed. The underlying causes of these problems arise from provisions in the current VAT Directive and therefore Member States cannot address these without action at EU level.

Firstly, the complexity of VAT obligations has consistently been identified as one of the key reasons why a business will not engage in cross-border e-commerce, and therefore it means that the single market cannot be accessed by many businesses. It is been estimated that the costs of complying with VAT obligations costs on average EUR 8 000 annually for each Member State which a business supplies to. This is a significant cost for business, in particular SMEs.

Secondly, the current system is not neutral as EU businesses are at a clear disadvantage to non-EU businesses which can legitimately and otherwise make VAT free supplies into the EU. Given that VAT rates can be as high as 27%, there is a substantial distortion in favour of non-EU business if VAT is not applied.

Thirdly, the complexity of the existing system as well as the current exemption for the importation of small consignments means that Member States lose valuable tax revenues. It is estimated that between VAT foregone and non-compliance from cross-border e-commerce such losses are currently as high as EUR 5 billion annually.

What is this initiative expected to achieve?

The specific objectives of the initiative are i) to minimise burdens attached to cross-border e-Commerce arising from different VAT regimes which act as a barrier to intra-EU trade and unduly limit consumer choices ii) to provide a level playing field for EU businesses whether involved in the traditional economy, engaged in domestic e-commerce or cross-border e-commerce, iii) to facilitate the monitoring of compliance and the fight against fraud for Member States' authorities, and iv) to ensure that VAT revenues accrue to the Member State of consumption.

What is the value added of action at the EU level?

In the absence of a concerted approach at the EU level, action at the national level alone will not address the issues identified above. The underlying drivers of the unlevel playing field for EU business such as the VAT exemption for the importation of small consignments and the intra-EU distance sales thresholds are provided for in the VAT Directive, and therefore this will need to be amended to address these issues. Further, the means for simplifying cross-border VAT obligations such as the extension of the Mini One Stop Shop and greater coordination by Member States to ensure proper taxation can only be achieved at EU level.

B. Solutions

What legislative and non-legislative policy options have been considered? Is there a preferred choice or not? Why?

Six Policy Options were considered. These options were inspired by the 2014 Report of the Commission Expert Group on the taxation of the digital economy and through dialogue with business, including SMEs, with Member States and in the inter-service steering group. The options are designed to build on each other through a minimal intervention to address the neutrality aspect (Option 2), the introduction a cross-border threshold to address the problems facing micro-business and start-ups to the more comprehensive interventions proposed in Options 4, 5 and 6 involve the extension of the Mini One Stop Shop (MOSS) system to allow business to simply account for taxes due in other Member States. Option 5 allows a business to avail of the same obligations as domestic transactions as opposed to the need to apply 28 separate rules depending on the Member State of consumption. Option 6 proposes harmonised rules for businesses who use the extended MOSS for intra-EU B2C transactions. The preferred option is option 5 which will introduce certain simplifications in 2018 with the bulk of the reforms in particular the extension of the MOSS system coming into place in 2021.

Given that VAT is an EU tax with the broad legislative framework determined by the VAT Directive (2006/EC/112), it is not considered that the objectives can be achieved without a legislative proposal to amend this Directive and associated Regulations.

Who supports which option?

Broadly speaking business are in favour of options 4, 5 and 6, with a preference for Option 5 as it addresses the distortions but introduces simplifications for tax collection and obligations. SMEs and start-ups strongly favour the introduction of an intra-EU threshold to minimise the burden on such businesses – option 5 will allow such businesses to benefit from the threshold in the start-up stage of trading intra-EU with substantial simplifications available to such businesses when the threshold is exceeded. Postal service operators are concerned about the removal of the small consignments exemption due to the difficulties they expect in the short term in collecting

taxes on import of a significant number of additional packages. Option 5 therefore proposes a number of different simplification methods to specifically mitigate the burden they will face. It should be acknowledged that the trade off for taxing such consignments is the unlevel playing field that EU business face in addition to the significant loss of tax revenues for Member States. Express couriers are broadly in favour of options 4, 5 and 6 whereby importers of goods destined for end consumers up to the customs threshold can avail of the MOSS.

C. Impacts of the preferred option

What are the benefits of the preferred option (if any, otherwise main ones)?

There are substantial benefits from this option: 1) it reduces overall compliance costs for business by 55% (or EUR 2.3 billion) compared to the status quo and indeed for a business who wishes to start trading cross-border it will be 95% less costly than the alternative of direct registration, 2) it increases the competitiveness of EU business in the traditional and digital economies by delivering a level playing field as non-EU suppliers will be required to charge VAT on all transactions into the EU, 3) the measures increase intra-EU e-commerce trade, and 4) it will increase VAT revenues for Member States by EUR 7 billion (as of 2021) annually driven by higher compliance and the removal of the VAT exemption for the importation of small consignments.

What are the costs of the preferred option (if any, otherwise main ones)?

In terms of costs for Member States, a significant positive to this option is that the infrastructure is already in place (in the form of the existing "Mini-One Stop Shop") and therefore the technical challenges for the extension of the MOSS to tangible goods should be quite straightforward.

How will businesses, SMEs and micro-enterprises be affected?

Another important benefit is that the initiative is SME friendly – the introduction of a threshold for the changes foreseen in 2021 will ensure that upwards of 400 000 businesses can trade cross-border without having to register to the MOSS. This will enable them to grow their cross-border business. When their businesses grow and the threshold is exceeded they will be able to continue to apply home country rules except for VAT rates and utilise the MOSS to simply account for VAT due in other Member States. Micro-businesses will benefit from the introduction of a new EU cross-border threshold for electronic services in 2018 as well as simplified requirements to enable them to identify the Member State of end consumers.

Stakeholders such as the public postal providers will need time to adapt their systems for these changes particularly as all commercial deliveries into the EU will now be subject to VAT. Non-EU vendors will have the means to account for VAT through the MOSS as is currently the case for electronic services which will bring significant simplifications to clearance procedures for goods coming from outside EU. Even in cases where the MOSS will not be used by non-EU vendors, simplified VAT import requirements will be put in place notably to meet the specific needs of postal operators. It is proposed that the implementation date will be 2021. This will enable various stakeholders to effectively address any challenges arising from the removal of the import exemption for small consignments.

Will there be significant impacts on national budgets and administrations?

As indicated above, Member States will benefit from increased tax revenues. The changes to the import procedures whereby all consignments will be subject to VAT will cause some challenges to customs administrations but this will be mitigated by investment in IT solutions through EU programmes. The implementation date of 2021 will also assist in providing the necessary time to make adjustments.

Will there be other significant impacts?

No other significant impacts

D. Follow up

When will the policy be reviewed?

Ongoing implementation will be monitored by the Standing Committee on Administrative cooperation in particular the indicators on business-take-up, compliance and VAT revenues through the MOSS.