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COVER NOTE

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
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To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	SWD(2016) 393 final
Subject:	COMMISSION STAFF WORKING DOCUMENT EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT Accompanying the document Proposal for a Council Directive amending Directive 2006/112/EC, as regards rates of value added tax applied to books, newspapers and periodicals

Delegations will find attached document SWD(2016) 393 final.

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Brussels, 1.12.2016
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COMMISSION STAFF WORKING DOCUMENT
EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT

Accompanying the document

Proposal for a Council Directive

**amending Directive 2006/112/EC, as regards rates of value added tax applied to books,
newspapers and periodicals**

{ COM(2016) 758 final }
{ SWD(2016) 392 final }

Executive Summary Sheet
Impact assessment on VAT rates applied to books, newspapers and periodicals
A. Need for action
Why? What is the problem being addressed?
<p>Council Directive 2006/112/EC (VAT Directive) explicitly excludes electronically supplied services, including electronically supplied books, newspapers and periodicals ('e-publications'), from the scope of reduced VAT rates, whereas Member States can apply a reduced VAT rate to books, newspapers and periodicals on all physical means of support.</p> <p>This leads to a situation whereby Member States are allowed to apply reduced VAT rates, or even lower rates than 5% (super-reduced and zero rates), to certain printed publications, while having to apply the standard VAT rate to e-publications. This results in a markedly less favourable VAT treatment of e-publications compared to printed publications. Furthermore, owing to the operation of a number of derogations to the VAT Directive, only 10 out of 28 Member States can apply super-reduced and zero rates to certain printed publications, whereas the other Member States do not have the same possibility.</p> <p>The lack of equal treatment between formats is enshrined in the VAT Directive and does not allow Member States to lower VAT rates on e-publications.</p>
What is this initiative expected to achieve?
The specific objectives of the initiative is to allow Member States to align VAT rates for e-publications with the VAT rates they currently apply to printed publications.
What is the value added of action at the EU level?
Member States are obliged to comply with the VAT Directive and it is the VAT Directive that prevents Member States from granting electronically supplied publications the same VAT rates that currently apply to printed publications. This was confirmed by the CJEU in its C-479/13 and C-502/13 judgements of 5 March 2015. The Court clearly stated that Member States cannot apply a reduced VAT rate to e-books under the current VAT Directive and therefore, a mere interpretation of the VAT Directive, or soft-law initiatives, cannot remedy the situation. Thus, an EU-level legislative initiative to amend the VAT Directive is indispensable in order to tackle the problem.
B. Solutions
What legislative and non-legislative policy options have been considered? Is there a preferred choice or not? Why?
<p>Two policy options were considered. As explained in the previous section, non-legislative policy options are ineffective, hence all options require a change of the VAT Directive.</p> <p>Option 1 would enable Member States to apply reduced rates to e-publications and enable 19 out of 28 Member States to align VAT rates for publications. Under option 2, which would enable Member States also to apply super-reduced and zero rates to e-publications, all 28 Member States would be able to align VAT rates for publications. The selected option 2 has the further advantage that it is fully in line with the Action Plan on VAT, namely that derogations (super-reduced and zero rates) only available to a few Member States should be granted to all Member States in a definitive VAT regime.</p>
Who supports which option?
Respondents to the Open Public Consultation supported nearly unanimously the possibility for Member States to apply reduced VAT rates to e-publications, which is granted by both options. The support for enabling all Member States to apply super-reduced and zero rates to all publications was lower at 40% of all respondents,, but was still the preferred option, particularly for stakeholders from the printing and the publishing industry (66%).
C. Impacts of the preferred option
What are the benefits of the preferred option (if any, otherwise main ones)?
The selected option successfully removes restrictions on Member States that are no longer justified under destination-based taxation (taxation where the customer resides) and enables Member States to align VAT rates for publications, independently of the format.
What are the costs of the preferred option (if any, otherwise main ones)?
<p>If Member States reduce the VAT rates applied to e-publications, VAT revenue will decrease. If all Member States applied the same rates to them as they currently apply to printed publications, the loss in VAT revenue under the selected option could amount to a maximum of 4.7 billion euro annually.</p> <p>There is no impact on the EU own resources.</p>

How will businesses, SMEs and micro-enterprises be affected?
Businesses in the publishing industry, of which 99% are SMEs, would see increased profitability under lower VAT rates. A limited substitution of physical by electronic publications may put some pressure on the printing and the (non-digital) retail sector, but both sectors have already been putting in place strategies to cope with the challenge from e-publications.
Will there be significant impacts on national budgets and administrations?
As indicated above, Member States would face a decrease in VAT revenues, if they decided to align VAT rates for e-publications with the VAT rates currently in place for printed publications. However, the selected options does not oblige them to change any VAT rates. Hence, Member States will determine any budgetary impact or even avoid it completely.
Will there be other significant impacts?
The implementation of either option, and particularly of the selected option, would lead to increased complexity of the VAT system because of less harmonisation of VAT rates at the EU level.
D. Follow up
When will the policy be reviewed?
The correct application of the VAT Directive will be monitored and a proposal for a general VAT rate reform was announced by the Commission in its Action Plan on VAT already for the end of 2017.