



Council of the
European Union

Brussels, 23 December 2016
(OR. en)

Interinstitutional File:
2016/0406 (CNS)

15817/16
ADD 2

FISC 241
IA 145

COVER NOTE

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	22 December 2016
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	SWD(2016) 458 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 on the common system of value added tax, as regards the temporary application of the generalised reverse charge mechanism in relation to supplies of goods and services above a certain threshold

Delegations will find attached document SWD(2016) 458 final.

Encl.: SWD(2016) 458 final



Brussels, 21.12.2016
SWD(2016) 458 final

COMMISSION STAFF WORKING DOCUMENT
EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT

Accompanying the document

Proposal for a Council Directive

amending Directive 2006/112/EC on the common system of value added tax, as regards the temporary application of the generalised reverse charge mechanism in relation to supplies of goods and services above a certain threshold

{ COM(2016) 811 final }
{ SWD(2016) 457 final }

Executive Summary Sheet
Impact assessment - Generalised reverse charge mechanism (GRCM)
A. Need for action
Why? What is the problem being addressed?
Some Member States (MS) are more heavily affected by carousel fraud (€ 50 billion in the EU) which finds its roots in the endemic weakness of the current VAT system (intended to be transitional), that allows for goods being bought cross-border VAT-free. A long-term solution is foreseen for 2017 as announced in the Action Plan on VAT. Meanwhile, the Commission accepted to consider temporary derogating measures to the VAT Directive as suggested by some MS ¹ .
What is this initiative expected to achieve?
<ol style="list-style-type: none"> 1) Reduce the VAT fraud, in particular carousel fraud, in certain MS. 2) Minimize the general increase in administrative burden (for businesses and tax administrations (TA)). 3) Avoid fraud shifting by ensuring that tax fraud does not move from one sector to another or between MS.
What is the value added of action at the EU level?
The application by MS of a GRCM cannot be granted under the current VAT legislation ² and needs an amendment to the VAT Directive.
B. Solutions
What legislative and non-legislative policy options have been considered? Is there a preferred choice or not? Why?
<ol style="list-style-type: none"> 1) Baseline, which includes a definitive system for intra-EU trade, offers a coherent and EU-wide solution to carousel fraud but its positive effects can only be expected in the medium to long term. 2) Option 2b: derogation to apply the GRCM to preselected MS on a voluntary basis. 3) Option 3b: derogation to apply the GRCM to any MS on a voluntary basis and on the basis on predefined criteria. <p>Discarded options: a GRCM without threshold and options 2a and 3a, based on a sectorial/optional approach.</p> <p>3b is the preferred option as it offers a short term solution to MS particularly affected by carousel fraud. It minimises negative impacts on the internal market (IM) by limiting fraud shifting between MS. Its safeguard clause would help if the experiment has negative impacts on the IM.</p>
Who supports which option?
Most business organisations do not support the application of a GRCM in individual MS as this would significantly increase compliance costs ³ . MS' views are divergent: some are favourable while others expressed doubts on its efficiency ⁴ .
C. Impacts of the preferred option
What are the benefits of the preferred option (if any, otherwise main ones)?
3b is expected to reduce carousel fraud in the MS applying the GRCM (GRCM MS) in the short term and to limit fraud shifting to other MS. This remains, however, conditional upon the MS' ability to control the GRCM and to prevent new types of fraud.
What are the costs of the preferred option (if any, otherwise main ones)?

¹ See COM statement to ECOFIN Minutes 17/6/16.

² 'Normal' derogations can be granted to MS (Article 395 of the VAT Directive). However a GRCM cannot be considered as a 'normal derogation' as it entails a fundamental change to the VAT system.

³ E.g. VAT Expert Group opinion of 20/5/16 and REFIT platform.

⁴ E.g. Group on the Future of VAT meeting of 5/2/16.

Businesses' compliance costs are expected to increase in the short and longer term. Administrative costs to TAs will highly depend upon their actual level of efficiency which is dependent on their structure, organisation and level of computerisation.

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

Businesses in a GRCM MS will have to adapt and comply with the new obligations. When also active in a non-GRCM MS, they will have to comply with the normal VAT rules. Businesses in the GRCM MS will have a different cash-flow situation⁵ compared to businesses in other MS.

Will there be significant impacts on national budgets and administrations?

Reduction of carousel fraud in the GRCM MS can be expected in the short term if sufficient controls are in place. Fraud shifting to other MS would be curbed. New fraud risks are likely to develop in the GRCM MS in case of insufficient controls, but at an unpredictable speed.. Final impact on fraud is hard to assess without a real experience.

Will there be other significant impacts?

No.

D. Follow up

When will the policy be reviewed?

The initiative has a sunset clause (5 years). The Commission might repeal it (safeguard clause) in case of negative impact on the IM..

⁵ Under GRCM, VAT is only collected at the end of the supply chain instead of at each stage.