



Brussels, 31 October 2014
(OR. en)

14716/14

Interinstitutional File:
2013/0343 (CNS)

FISC 172
ECOFIN 971

INFORMATION NOTE

From: Presidency
To: Council

No. prev. doc.: 14578/14 FISC 169 ECOFIN 955

Subject: Proposal for a Council Directive amending Directive 2006/112/EC on the common system of value added tax as regards a standard VAT return
- Information note from the Presidency

A. Background

1. In October 2013, the Commission presented its Proposal for a Council Directive amending Directive 2006/112/EC (hereinafter, “the Proposal”) on the common system of value added tax as regards a standard VAT return.
2. The Proposal is aimed at introducing a standardised VAT return throughout the EU. A common VAT return would relief businesses, in particular those operating cross-border, from divergent information requirements and procedures currently in place in the different Member States.

The essential purpose of the Proposal is to reduce administrative burdens for businesses - particularly small and medium-sized enterprises - by removing existing divergences which are an obstacle to EU trade and, hence, encouraging intra – Union activities and taxpayers' voluntary compliance.

3. The Commission tabled its proposal following the advice of the High Level Group on Administrative Burdens (the so called “Stoiber Group”) according to which VAT obligations, especially VAT returns, are at the top in the list of administrative costs for EU businesses and are identified as one of the key-areas where a simplified EU legislation - more efficient and responsive to the needs of companies – could result in a benefit both for businesses and tax authorities.

In its impact assessment accompanying its Proposal, the Commission estimated that a standard VAT return could foster cost savings for EU businesses of up to EUR 15 billion per year.

B. State of play

4. The first reading of the proposal started during the Lithuanian Presidency and was completed by the Hellenic Presidency. During its semester, the Hellenic Presidency advanced the discussion on a number of technical issues such as: payment deadlines for the tax, submission (also by electronic means) of the standard VAT return, tax periods, corrections, and discussed the content of the standard VAT return only in broad terms.

5. At the end of its semester, the Hellenic Presidency submitted a progress report (doc. 10276/14) that was endorsed by the ECOFIN in June 2014. In this report, the Council invited future Presidencies to bring forward the technical work on the Proposal bearing in mind in particular that:
- simplification of VAT return obligations should lead to reductions in administrative burdens, both for businesses and national authorities, as recalled in the May 2012 ECOFIN conclusions;
 - a certain degree of flexibility should be granted to Member States to allow tax controls while preserving the simplification objectives of the Proposal;
 - in the light of the EU web portal, currently developed by the Commission in the context of the Mini-One-Stop-Shop (MOSS), the Council could explore the possibility to extend the use of that portal for the standard VAT return obligations.
6. In the light of the above, the Italian Presidency has continued the technical examination of the Proposal and focussed the discussion especially on: i) the detailed content of the standard VAT return; ii) electronic submission; iii) tax periods and related thresholds for micro-enterprises; iv) payment deadlines; v) adjustments to be made under the standard VAT return; vi) recapitulative annual return; vii) additional information required by Member States for control purposes or prevention of tax frauds, evasion and other abusive practices.

With the aim of reaching a political agreement on the file during its semester, the Presidency tabled a number of Presidency's compromise proposals, lastly on the occasion of the Working Party on Tax Question on 27 October 2014 (doc. 14580/14 FISC 170).

7. As a result of the extensive work done in six Working Parties on Tax Questions devoted to the Proposal, the Presidency has brought closer the positions of Member States on several technical issues discussed and a broader consensus is emerging on the Proposal as a whole. A few delegations however still consider that additional information items are needed. As discussed during the last Working Party on 21 October 2014, the Presidency clarified that a compromise package could consist of the following elements: 1) the Proposal for the Directive itself; 2) the Annex to the Proposal that specifies the legal content of the Standard VAT return with a list of mandatory and optional information/boxes; 3) A more detailed content of the standard VAT return with a list of categories of transactions falling under each mandatory or optional information/box. As also mentioned during the last meeting, this more detailed content could be subject to a Council's statement at the time of adoption of the Proposal and transposed afterwards into unanimous Guidelines of the VAT Committee. The Presidency has also drafted, for merely explanatory purposes, a form of standard VAT return to give Member States the possibility to visualise in concrete the format that should be designed according to the "comitology" procedure (EU Regulation no. 182/2011). Under this procedure, the Commission, assisted by the responsible Committee (SCAC), would be empowered by the Council to design such a common form, as envisaged in the Proposal.

Apart from technical fine-tuning of the Proposal, notably on technical details of the content of the standard VAT return, there are essentially four outstanding issues that would require political guidance in order to ensure further technical progress and finalise the legal text, as follows:

a) Content of the standard VAT return

Over the last months, the Presidency has discussed and examined thoroughly with Member States the content of the standard VAT return to identify a common set of information (mandatory and optional) that taxable persons would be required to fill in when submitting such a declaration. Many Member States demanded to include additional information/boxes for purposes of tax control, whilst some others stressed that including further information/boxes would put at risk the ultimate goal of the Proposal in terms of costs reduction for businesses. The Presidency has therefore tried to strike the balance between two opposite needs: a simple content of the standard VAT return, on the one hand; the inclusion of limited information necessary to calculate and control VAT, on the other. It is important to recall in this respect that Member States would retain the possibility to ask for an annual recapitulative return provided that information required annually comply with - and do not go beyond - the common set of information/boxes of the standard VAT return.

Despite that some Member States consider that additional information should be included in the standard VAT return, the Presidency is of the view that the last compromise text (doc. 14580/14 FISC 170) responds to the needs of VAT calculation and control while preserving the simplification objectives of the Proposal.

b) Form of the standard VAT return

The majority of Member States has welcomed a common form of the standard VAT return. However, they still have different views on the degree of standardisation of such a form. Many Member States have emphasised that standardising the form, together with the content, would be essential to foster costs reduction for businesses given that one single standard would be in place all over the EU. Some others are stressing the need for more flexibility. The Commission pointed out several times that a standardised content of the standard VAT return without a common form (i.e., same numbering/format) would not be beneficial for EU businesses. It is also clear that the form needs to remain simple so that standardisation can be achieved. It should be kept in mind on this issue that Member States will have enough time to adapt their IT systems, as the envisaged transposition date for Member States is 1 January 2020.

c) Thresholds for micro-enterprises

Under the Presidency's compromise text, Member States would allow micro-enterprises below a certain threshold (EUR 2 million in the Commission's proposal; EUR 500 000 in turnover or EUR 50 000 in VAT liability, as an alternative calculation method requested by a number of Member States, in the Presidency's compromise text) to submit returns on periods higher than monthly for simplification purposes. During the debate at technical level, it has been apparent that the thresholds are considered a politically sensitive issue for a number of Member States. Whilst some Member States consider the thresholds proposed too high compared to their respective economies and asked for a further reduction of their values with a view to limiting the number of beneficiary micro-enterprises, some others generally oppose the idea that taxable persons (all subject at domestic level to a monthly obligation regardless of any threshold) may submit the standard VAT return on a quarterly basis (at least). Bearing that in mind, the Presidency has decided to put in square brackets the threshold values, in view of a political decision.

d) The EU VAT web portal

The Commission has developed the EU web portal in the context of the mini one-stop-shop scheme (MOSS) that will enter into force as from 1 January 2015. Along the lines drawn up in the June ECOFIN conclusions, the Presidency has discussed further the possibility to extend the use of that web portal to VAT return obligations and only one delegation is not in favour about this opportunity. Under the Proposal, the web portal could be used to effectively complement the standard VAT return for the purpose of disseminating country-specific information on national (i.e., non-standardised) VAT return obligations, thus ensuring transparency and promoting greater tax compliance by EU businesses.

8. The Presidency, supported by the Commission, takes the view that the Proposal for a standard VAT return should be agreed as a package consisting of three main elements: the content, the form and - as a complementary information platform for non-standardised VAT obligations, as outlined in the same conclusions of the June ECOFIN meeting - the EU web portal. Thus, any possible future agreement should be based only on that basis.

C. The way forward

9. The debate at COREPER 30 October 2014 confirmed that positions of Member States remain broadly divergent as described above.
10. The Presidency also noted that most delegations agreed that, in principle, a standard VAT return could achieve a significant reduction of administrative burdens for businesses.

11. The most fundamental question to be answered at this stage seems to be how to achieve the right balance between attaining an economically viable level of standardisation and simplification on the content and the form for the VAT return and the degree of flexibility that most Member States intend to maintain.

 12. In the light of the views expressed by Member States, the Presidency will reconsider its approach before taking a decision on how to carry forward the negotiations on the Proposal.
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