Council of the
European Union

Brussels, 1 December 2017
(OR. en)

14893/17
ADD 2

Interinstitutional File:
2017/0248 (CNS)

FISC 308
ECOFIN 1031

COVER NOTE

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	30 November 2017
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	SWD(2017) 429 final
Subject:	COMMISSION STAFF WORKING DOCUMENT EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT Accompanying the document Amended proposal for a Council Regulation amending Regulation (EU) No 904/2010 as regards mesures to strengthen administrative cooperation in the field of value added tax

Delegations will find attached document SWD(2017) 429 final.

Encl.: SWD(2017) 429 final

EUROPEAN
COMMISSION

Brussels, 30.11.2017
SWD(2017) 429 final

COMMISSION STAFF WORKING DOCUMENT

EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT

Accompanying the document

Amended proposal for a Council Regulation

amending Regulation (EU) No 904/2010 as regards mesures to strengthen administrative cooperation in the field of value added tax

{COM(2017) 706 final} - {SWD(2017) 428 final}

EN EN

Executive Summary Sheet

Impact assessment of the proposal for a Council Regulation amending Regulation (EU) No 904/2010 as regards measures to strengthen administrative cooperation in the field of value added tax

A. Need for action

Why? What is the problem being addressed?

VAT fraud is a constant concern at EU level with a gap estimated at EUR 160 billion of which 40 to 60 billion would be due to cross-border VAT fraud. The situation finds its roots in the endemic weaknesses of the 'transitional arrangements' provided for in the VAT Directive which allow goods and services to be sold VAT-free in intra-EU trade. Three main problems are addressed by the proposal:

- 'missing trader intra-community fraud' (MTIC also known as 'carousel fraud') that occurs when a customer of a cross-border supply purchases goods or services VAT-free and charges VAT without remitting it to tax authorities while his customer can deduct it;
- fraud on sale of second-hand cars where only the margin is taxed instead of the whole amount of sale; and
- fraud in relation to customs procedures No 42/63 under which VAT is not due in the country of import as this is the case under normal VAT arrangements as the goods are delivered to a business in another Member States

What is this initiative expected to achieve?

The objectives of the initiatives are to provide tax administrations with more efficient and effective instruments to fight the three main sources of VAT fraud taking place in cross-border situations. A better use and sharing of information between authorities and the reinforcement of Eurofisc will enable Member States' tax administrations to better identify fraudsters, to put an end to fraud and ultimately to ensure a level playing field for businesses.

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

Although the management, collection and control of VAT are first and foremost a national competence of the Member States, VAT fraud is often linked to cross-border transactions within the single market. It has negative impact on the functioning of the single market and cause serious losses to the EU budget. Therefore, the EU has implemented cooperation instruments organising exchanges of information between tax administrations and supporting common audit activities and Eurofisc. Improving the efficiency of these tools at EU level in particular by strengthening Eurofisc would offer value over and above what could be achieved at Member State level.

B. Solutions

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

5 main options with sub-options have been identified. All options, taken together as a package, would improve the current situation with regard to cross-border VAT fraud:

- Implementing a joint processing and analysis of data in Eurofisc;
- Implementing new joint actions in audit for tax administrations and improving their coordination by Eurofisc;
- Developing the exchange of information and intelligence between Member States tax administrations in Eurofisc and law enforcement authorities at EU level;
- Improving access to vehicle registration data;
- Sharing VAT registration and customs information in relation to the CP42/63 between customs and tax authorities.

Who supports which option?

The Member States support the implementation of a joint processing of data and the introduction of measures to fight fraud in relation to CP42/CP63 frauds. Access to car registration data also received support from the Member States but to a lesser extent.
Other stakeholders are in favour of implementing new automated exchanges of information and new ways of collaboration between tax and law enforcement authorities. They support a greater role for Eurofisc. They also expressed an overall positive opinion on joint audits.

C. Impacts of the preferred option

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

It is not possible per se to precisely assess and quantify the benefits of the main preferred options.
Member States: the main options covered by the initiative are expected to swiftly and efficiently improve the situation when it relates to cross-border VAT fraud and therefore should increase VAT revenues.
Business: a better targeting of fraudsters could reduce compliance costs of businesses involved in intra-EU trade.
Single market: it is expected a positive impact on its functioning as fighting VAT fraud would ensuring a level playing field for compliant businesses across the EU.
Environmental and social impacts are not significant.

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

Business: no additional costs. The proposal will provide the conditions for a better use and analysis of already available information.
Member States: the implementation of the joint process of data will not trigger any additional costs as they are borne by the Fiscalis programme. Vehicle registration data and customs data are already available. Granting tax administration an automated access to the information would require IT developments albeit limited. However, costs could not be estimated as no recent comparable could be found out or provided by the Member States.

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

Businesses, SMEs and micro-enterprises should not be negatively affected by the initiative as it should not trigger any additional administrative burdens and compliance costs.
They should benefit from a better level playing field and a better functioning of the single market.

Will there be significant impacts on national budgets and administrations?

Although some options entail development costs, Member States' budgets will derive benefits from the new instruments put in place to fight VAT fraud. It is not possible to precisely quantify these gains although net benefits are envisaged.

Will there be other significant impacts?

This proposal will trigger new exchange and joint processing of VAT information, which could include personal data. That may have an impact on fundamental rights. However, the new exchanges of information and data processing envisaged by the initiative will be strictly targeted and restricted to what is needed to achieve the objectives of the initiative i.e. combat cross-border VAT fraud in an effective way.

D. Follow up

When will the policy be reviewed?

Pursuant to Article 59 of Regulation (EU) 904/2010, its application is reviewed every five years. In addition, Member States must communicate to the Commission any available information relevant to the application of the Regulation (Article 49) and inter alia annual statistics.