EUROPEAN COMMISSION

Brussels, 24.6.2022
SEC(2022) 433 final

REGULATORY SCRUTINY BOARD OPINION

Proposal for a COUNCIL DIRECTIVE amending Directive 2006/112/EC as regards VAT rules for the digital age

Proposal for a COUNCIL REGULATION amending Regulation (EU) No 904/2010 as regards the VAT administrative cooperation arrangements needed for the digital age

Proposal for a COUNCIL IMPLEMENTING REGULATION amending Implementing Regulation (EU) No 282/2011 as regards information requirements for certain VAT schemes

{COM(2022) 701 final} - {COM(2022) 703 final} - {COM(2022) 704 final}
{SWD(2022) 393 final} {SWD(2022) 394 final}

Ref. Ares(2022)4634471 - 24/06/2022

EUROPEAN COMMISSION
Regulatory Scrutiny Board

Brussels,
RSB

Opinion

Title: **VAT in the Digital Age**

Overall opinion: **POSITIVE WITH RESERVATIONS**

(A) Policy context

VAT is a major source of revenue for Member States' budgets. However, the current VAT rules are 30 years old and have not kept pace with the digitalisation of the economy. VAT collection and control is suboptimal, and the EU VAT legislative framework is both not fully adapted to deal with the new digital reality and is also prone to fraud. Burdens and compliance costs are increasingly excessive, as the digital economy and new business models create new challenges and costs for tax administrations and businesses.

The VAT in the Digital Age initiative aims to modernise the VAT system in three areas: (i) VAT reporting, (ii) VAT treatment of the platform economy, and (iii) VAT registration. The Commission announced this initiative as part of its Action Plan for fair and simple taxation supporting the recovery and it is included in the 2022 Commission Work Programme.

This opinion concerns a draft impact assessment which may differ from the final version.

Commission européenne, B-1049 Bruxelles - Belgium. Office: BERL 08/010. E-mail: regulatory-scrutiny-board@ec.europa.eu

(B) Summary of findings

The Board notes the useful additional information provided in advance of the meeting and commitments to make changes to the report.

However, the report still contains significant shortcomings. The Board gives a positive opinion with reservations because it expects the DG to rectify the following aspects:

(1) The report does not provide sufficient evidence and detail of the identified problems, in particular in terms of Member State and sectoral perspectives.

(2) The report does not sufficiently set out the evidence base behind the expected impacts. It does not provide a clear description of the modelling behind the VAT revenue estimates and of the methodology used for estimation of costs and benefits in the scope of the One In, One Out approach.

(3) The report does not sufficiently explain the future configuration of the options, in particular the expected structure of the EU digital reporting requirements and the degree of flexibility envisaged for Member States .

(C) What to improve

(1) The problem section should more clearly outline the reasoning behind the problem scope as well as the urgency to act. It should set out clearly why Member States with digital reporting requirements (DRR) apply different methods and better explain why some Member States have not yet introduced DRR. When discussing the VAT treatment of the platform economy, the report should explain to what extent the identified problems are significant for sectors beyond accommodation and transport (such as finance, and professional services). It should also clarify what drives the VAT Gap and how the quantitative level provided was calculated.

(2) The report should explain better how the baseline reflects the other ongoing and existing related initiatives. It should be clear to what extent Member States can be expected to introduce DRR (and similar solutions) domestically in the absence of further EU measures.

(3) The report should provide more information on the methodology, underlying assumptions and sources used in the impact analysis. It should summarise in the main report the key methodological aspects, assumptions, and limitations. It should provide a stronger connection between the impacts presented and the underlying methodology. It should be clear how the two econometric models (C-efficiency and VAT Gap) are applied across the analysis. The same metrics should be used to enable better comparison of impacts. The report should better explain how different options will reduce the estimated VAT Gap.

(4) Given the scale of the the presented estimates in scope of the One In, One Out approach, the report should provide a more detailed description of the method behind the estimates and clearly outline the metrics (in particular one-off versus recurrent costs).

(5) The report should present a more final outline of the options and the sub-option elements. It should clarify to what extent a future harmonised EU DRR system is tied to a specific type of digital reporting requirement, such as SAF-T or e-invoicing. It should also be clear about the future degree of flexibility for the Member States. It

should clarify what political choices exist, and present their differences in terms of costs and benefits.

(6) The report should strengthen the comparison of options. It should present the net benefits and benefit cost ratios and compare them across the option packages, including in terms of proportionality.

(7) The report should better present the views of different stakeholder groups in the main report, for example, stakeholder views on VAT treatment of the platform economy. It should more systematically present the divergent views of different stakeholder groups on the problems, options, and their impacts.

The Board notes the estimated costs and benefits of the preferred option(s) in this initiative, as summarised in the attached quantification tables.

Some more technical comments have been sent directly to the author DG.

(D) Conclusion

The DG must revise the report in accordance with the Board's findings before launching the interservice consultation.

If there are any changes in the choice or design of the preferred option in the final version of the report, the DG may need to further adjust the attached quantification tables to reflect this.

Full title	VAT in the Digital Age Proposal for a Council Regulation supplementing Council Implementing Regulation (EU) No 282/2011 laying down implementing measures for Directive 2006/112/EC - Proposal for a Regulation amending Council Regulation (EU) No 904/2010 on administrative cooperation and combating fraud in the field of VAT
Reference number	PLAN/2021/11943
Submitted to RSB on	25/05/2022
Date of RSB meeting	22/06/2022

ANNEX: Quantification tables extracted from the draft impact assessment report

The following tables contain information on the costs and benefits of the initiative on which the Board has given its opinion, as presented above.

If the draft report has been revised in line with the Board's recommendations, the content of these tables may be different from those in the final version of the impact assessment report, as published by the Commission.

1. Summary of costs and benefits

I.a. Overview of Benefits (total for all provisions) – Enhanced approach		
Description	***Amount***	***Comments***
	Direct benefits	
Compliance cost reductions	Pre-filling of VAT returns: EUR 4.3 billion savings	Businesses will benefit from the savings
	The more widespread use of e-invoicing (due to quicker issuance and the reduction in postage and printing costs) will save EUR 1.9 billion	Businesses will benefit from the savings
	EUR 10.1 billion savings from removal of recapitulative statements	Businesses will benefit from the savings
	EUR 0.5 billion savings in administrative costs resulting from streamlining and clarifications for the from the platform economy	Platforms to benefit from the savings
	VAT registration: almost completely eliminating the need to VAT register for distance sellers will save up to EUR 8.7 billion registration costs	Businesses doing cross-border trade who otherwise have to register will benefit
Reduction of fragmentation costs (costs of non-harmonisation)	EUR 24.2 billion after the 5th year when the full interoperability and convergence is reached)[1].	Businesses will benefit
Additional VAT revenue	Between EUR 134 billion and EUR 171 billion: EUR 111 billion (digital reporting) and EUR 24 billion to EUR 66 billion (platform economy)[2] Being a simplification measure, the VAT registration will only bring minor additional VAT revenue.	Member States will benefit
Tax control	The introduction of DRRs is expected to bring positive impacts on the efficiency and effectiveness of tax control activities	This would mainly result from the improvement of the risk analysis systems, which is the main positive impact acknowledged by tax authorities that will benefit Taxpayers will also benefit because of more targeted audits and sometimes less audits
Levelling the playfield	VAT reporting: reduction of MTIC and intra-Community VAT fraud Platform economy: competition made fairer between actors performing in the same economic reality VAT registration: Benefits on levelling the playing field derived from the extension of the scope	VAT reporting: In particular, it will be more difficult for fraudsters to operate, since the good faith trading partner in the chain will disclose (possibly in real-time) the transactions to the authorities. Platform economy: Part of the increase in VAT collection will come from participants in economic life that are not VAT taxable while enjoying the network effects will make the competition fairer VAT registration may not be responsible for substantial amounts of fraud, regulatory costs and complexity can increase non-compliance, especially among SMEs. Thus, reducing the scope of situations requiring VAT registration for non-established businesses would make compliance simpler and cheaper, and likely to improve

		it.
Indirect benefits		
Quicker introduction of a DRR for domestic transactions across Member States, due to the model-role played by the EU DRR	Some specific benefits under option 4b (introduction of domestic digital reporting requirement) will also materialise because the voluntarily adoption of domestic DRRs.	Member States will benefit
Interoperability and reduction of fragmentation	Under selected option, any new introduction of domestic reporting obligation must ensure the compatibility and interoperability with existing intra-EU solution	Member States and businesses will benefit
Indirect compliance benefits are very likely under the deemed supplier regime.	First, the reduction of the number of taxpayers in charge of paying VAT from millions of providers to hundreds of (sometimes very large) platforms will markedly increase the ability of tax administrations to monitor VAT liability in the platform economy. Secondly, the understatement of turnover to remain below the VAT Scheme threshold, which is one of the main sources of non-compliance in the platform economy pointed out by tax authorities, will no longer lead to the evasion of the VAT due on their supplies.	Businesses and member States to benefit
Benefits from business automation	An important benefit is the automation of business processes driven by the introduction of digital reporting requirements, due to the electronic handling of transactional data	Larger, more structured, business entities are likely to obtain more savings due to larger scale of their invoicing and accounting processes and because they have more means and know-how to invest in business automation
Environmental benefits, i.e. the monetary value of the CO2 saved	Between EUR 0.01 billion and EUR 0.5 billion	

Administrative cost savings related to the 'one in, one out' approach*		
Direct cost	Pre-filling of VAT returns	EUR 4.3 billion
Direct cost	E-invoicing related savings	EUR 1.9 billion
Direct cost	Removal of recapitulative statements	EUR 10.1 billion
Direct cost	VAT registration costs	EUR 8.7 billion
Direct cost	Fragmentation costs for MNCs	EUR 24.2 billion

I.b. Overview of Benefits (total for all provisions) – Maximal approach		
Description	***Amount***	***Comments***
Direct benefits		
Compliance cost reductions	Pre-filling of VAT returns: EUR 7 billion savings	Businesses will benefit from the savings
	The more widespread use of e-invoicing (due to quicker issuance and the reduction in postage and printing costs) will save EUR 14.5 billion	Businesses will benefit from the savings
	EUR 10.1 billion savings from removal of recapitulative statements	Businesses will benefit from the savings
	EUR 0.5 billion savings in administrative costs resulting from streamlining and clarifications for the from the platform economy	Platforms to benefit from the savings
	VAT registration: almost completely eliminating the need to VAT register for distance sellers will save up to EUR 8.7 billion registration costs	Businesses doing cross-border trade who otherwise have to register will benefit
Reduction of fragmentation	EUR 24.2 billion after the 5th year when the full interoperability and convergence is reached)[3].	Businesses will benefit

costs (costs of non-harmonisation)		
Additional VAT revenue	Between EUR 284.4 billion and EUR 367.4 billion: EUR 221.4 billion (digital reporting) and EUR 63 billion to EUR 146 billion (platform economy)[4] Being a simplification measure, the VAT registration will only bring minor additional VAT revenue.	Member States will benefit
Tax control	The introduction of intra EU and domestic DRRs is expected to bring maximum positive impacts on the efficiency and effectiveness of tax control activities	This would mainly result from the improvement of the risk analysis systems, which is the main positive impact acknowledged by tax authorities that will benefit Taxpayers will also benefit because of more targeted audits and sometimes less audits
Levelling the playfield	VAT reporting: reduction of MTIC and intra-Community VAT fraud Platform economy: competition made fairer between actors performing in the same economic reality VAT registration: Benefits on levelling the playing field derived from the extension of the scope	VAT reporting: In particular, it will be more difficult for fraudsters to operate, since the good faith trading partner in the chain will disclose (possibly in real-time) the transactions to the authorities. By inclusion of domestic DRRs the chain of transaction will be complete. Platform economy: Part of the increase in VAT collection will come from participants in economic life that are not VAT taxable while enjoying the network effects will make the competition fairer VAT registration may not be responsible for substantial amounts of fraud, regulatory costs and complexity can increase non-compliance, especially among SMEs. Thus, reducing the scope of situations requiring VAT registration for non-established businesses would make compliance simpler and cheaper, and likely to improve it. The removal of EUR 150 threshold will help the competition by putting on equal footing the businesses inside and outside EU for certain transactions under the scope
Indirect benefits		
Interoperability and reduction of fragmentation	Under selected option, the domestic reporting obligation must ensure the compatibility and interoperability with existing intra-EU solution	Member States and businesses will benefit
Indirect compliance benefits are very likely under the deemed supplier regime.	First, the reduction of the number of taxpayers in charge of paying VAT from millions of providers to thousands of platforms will markedly increase the ability of tax administrations to monitor VAT liability in the platform economy. Secondly, the understatement of turnover to remain below the VAT Scheme threshold, which is one of the main sources of non-compliance in the platform economy pointed out by tax authorities, will no longer lead to the evasion of the VAT due on their supplies.	Businesses and member States to benefit

Benefits from business automation	An important benefit is the automation of business processes driven by the introduction of digital reporting requirements, due to the electronic handling of transactional data. This is maximised by the inclusion of domestic DRRs	Larger, more structured, business entities are likely to obtain more savings due to larger scale of their invoicing and accounting processes and because they have more means and know-how to invest in business automation
Environmental benefits, i.e. the monetary value of the CO2 saved	Between EUR 0.01 billion and EUR 0.6 billion	

Administrative cost savings related to the 'one in, one out' approach*		
Direct cost	Pre-filling of VAT returns	EUR 7 billion
Direct cost	E-invoicing related savings	EUR 14.5 billion
Direct cost	Removal of recapitulative statements	EUR 10.1 billion
Direct cost	VAT registration costs	EUR 8.7 billion
Direct cost	Fragmentation costs for MNCs	EUR 24.2 billion

*(1) Estimates are gross values relative to the baseline for the preferred option as a whole (i.e. the impact of individual actions/obligations of the preferred option are aggregated together); (2) Please indicate which stakeholder group is the main recipient of the benefit in the comment section;(3) For reductions in regulatory costs, please describe details as to how the saving arises (e.g. reductions in adjustment costs, administrative costs, regulatory charges, enforcement costs, etc.;); (4) Cost savings related to the 'one in, one out' approach are detailed in Tool #58 and #59 of the 'better regulation' toolbox. * if relevant*

II.a. Overview of costs – Enhanced approach (total costs 2023-2032)							
		Citizens/Consumers		**Businesses**		**Administrations**	
		One-off	**Recurrent**	**One-off**	**Recurrent**	**One-off**	**Recurrent**
Introduction of intra-EU digital reporting obligation	Direct costs	No cost impact	No cost impact	EUR 7.53 billion compliance costs for businesses[5]	EUR 3.77 billion compliance costs for businesses	EUR 0.43 billion implementation costs for tax authorities[6]	EUR 1.7 billion implementation costs for tax authorities
	Indirect costs	No cost impact	No cost impact	No cost impact	Data confidentiality: more data will be collected, stored, and exchanged	Familiarisation and training costs; Awareness campaigns	Data confidentiality
Deemed supplier for accommodation and transport services	Direct costs	No cost impact	No cost impact	Initial higher costs related to the clarification of taxable status of the existing users	New burdens for platforms linked to the administration of the deemed supplier regime	No cost impact	No cost impact
	Indirect costs	No cost impact	Price variation (VAT/part of VAT currently not paid may be passed on the consumer)	No cost impact	No cost impact	No cost impact	No cost impact
Extension of the	Direct costs	No cost impact	No cost impact	No cost impact	No cost impact	Minimal costs related to	No cost impact

OSS, reverse charge						updates of the existing OSS schemes	
	Indirect costs	No cost impact	No cost impact	No cost impact	No cost impact	No cost impact	No cost impact
Removal of the optional character of the IOSS	Direct costs	No cost impact	No cost impact	No cost impact	No cost impact	Marginal costs related to small increase in capacity of current systems in place	No cost impact
	Indirect costs	No cost impact	No cost impact	No cost impact	No cost impact	No cost impact	No cost impact
Costs related to the 'one in, one out' approach							
Total	Direct adjustment costs	No cost impact	No cost impact	No cost impact	No cost impact		
	Indirect adjustment costs	No cost impact	No cost impact	No cost impact	No cost impact		
	Administrative costs (for offsetting)	No cost impact	No cost impact	EUR 7.53 billion	EUR 3.77 billion		

II.b. Overview of costs – Maximal approach (total costs 2023-2032)							
		Citizens/Consumers		**Businesses**		**Administrations**	
		One-off	**Recurrent**	**One-off**	**Recurrent**	**One-off**	**Recurrent**
Introduction of intra-EU digital reporting obligation	Direct costs	No cost impact	No cost impact	EUR 29 billion compliance costs for businesses	EUR 14.5 billion compliance costs for businesses	EUR 0.7 billion implementation costs for tax authorities	EUR 2.7 billion implementation costs for tax authorities
	Indirect costs	No cost impact	No cost impact	No cost impact	Data confidentiality: much more data will be collected, stored, and exchanged	Familiarisation and training costs; Awareness campaigns	Data confidentiality
Deemed supplier for accommodation and transport services	Direct costs	No cost impact	No cost impact	Initial higher costs related to the clarification of taxable status of the existing users	New burdens for platforms linked to the administration of the deemed supplier regime	No cost impact	No cost impact
	Indirect costs	No cost impact	Price variation (VAT/part of VAT currently not paid may be passed on the	No cost impact	No cost impact	No cost impact	No cost impact

			consumer)				
Extension of the OSS, reverse charge	Direct costs	No cost impact	No cost impact	No cost impact	No cost impact	Minimal costs related to updates of the existing OSS schemes	No cost impact
	Indirect costs	No cost impact	No cost impact	No cost impact	No cost impact	No cost impact	No cost impact
Removal of the optional character of the IOSS	Direct costs	No cost impact	No cost impact	No cost impact	No cost impact	Costs related to small increase in capacity of current systems in place and the IT systems for	No cost impact
	Indirect costs	No cost impact	No cost impact	No cost impact	No cost impact	No cost impact	No cost impact
Costs related to the 'one in, one out' approach							
Total	Direct adjustment costs	No cost impact	No cost impact	No cost impact	No cost impact		
	Indirect adjustment costs	No cost impact	No cost impact	No cost impact	No cost impact		
	Administrative costs (for offsetting)	No cost impact	No cost impact	EUR 29 billion	EUR 14.5 billion		

(1) Estimates (gross values) to be provided with respect to the baseline; (2) costs are provided for each identifiable action/obligation of the preferred option otherwise for all retained options when no preferred option is specified; (3) If relevant and available, please present information on costs according to the standard typology of costs (adjustment costs, administrative costs, regulatory charges, enforcement costs, indirect costs;). (4) Administrative costs for offsetting as explained in Tool #58 and #59 of the 'better regulation' toolbox. The total adjustment costs should equal the sum of the adjustment costs presented in the upper part of the table (whenever they are quantifiable and/or can be monetised). Measures taken with a view to compensate adjustment costs to the greatest extent possible are presented in the section of the impact assessment report presenting the preferred option.