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'A' ITEM NOTE

From:	General Secretariat of the Council
To:	Council
Subject:	Draft Directive amending Directive 2006/112/EC as regards VAT rules relating to taxable persons who facilitate distance sales of imported goods and the application of the special scheme for distance sales of goods imported from third territories or third countries for declaration and payment of import VAT - General approach

I. BACKGROUND

1. On 17 May 2023, the Commission issued a package of proposals as part of a broad and comprehensive reform of the customs union, accompanied by a communication entitled: "Customs reform: Taking the Customs Union to the next level"[1]. This package also included a proposal on value added tax, namely a proposal for a Council Directive amending Directive 2006/112/EC as regards VAT rules relating to taxable persons who facilitate distance sales of imported goods and the application of the special scheme for distance sales of goods imported from third territories or third countries and special arrangements for declaration and payment of import VAT (the 'Directive on distance sales of imported goods and import VAT').[2]

[1] Doc. 9622/23.
[2] Doc. 9638/23.

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2. One of the aims of the customs reform was to remove the customs exemption for goods worth up to a threshold of EUR 150[3]. Currently, this EUR 150 threshold also exists for the application of the deemed supplier provision in the VAT Directive, and for the use of the VAT import one-stop-shop (IOSS): its application is limited to distance sales of imported goods not exceeding EUR 150. The VAT proposal in the package aims to remove this threshold also for the purposes of VAT, in order to align the customs and VAT rules regarding e-commerce.

3. The European Economic and Social Committee issued its opinion on the file on 13 December 2023[4]. The European Parliament adopted its opinion at its plenary session on 22 November 2023[5]. Should the Council reach a general approach on the draft amending Directive, the European Parliament will be invited to give its opinion again.

III. DELIBERATIONS IN THE COUNCIL

4. The proposal was examined in the Working Party on Tax Questions (Indirect Taxation – VAT). A suggestion was made to insert into the text a provision to extend the definition of 'distance sales of goods imported from third territories or third countries' to supplies from customs warehouses for distance sales, given the possible benefits for customs control purposes. A parallel provision creating special customs warehouses for distance sales was agreed between the co-legislators in the framework of the Union Customs Code (UCC) reform[6]. Furthermore, the entry into application of the provisions was aligned with the entry into operation of the EU Customs Data Hub. Finally, Article 369o was amended to provide for harmonisation of intermediaries through a Council Implementing Regulation to be submitted by the Commission by 31 December 2027.

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3 This aim was achieved with the adoption of Council Regulation (EU) 2026/382 of 11 February 2026 amending Regulation (EC) No 1186/2009 as regards the elimination of the threshold-based customs duty relief.

4 OJ C, C/2024/1579, 5.3.2024, ELI: http://data.europa.eu/eli/C/2024/1579/oj.

5 OJ C, C/2024/4246, 24.7.2024, ELI: http://data.europa.eu/eli/C/2024/4246/oj.

6 Regulation (EU) 2026/2108 of the European Parliament and of the Council of 16 September 2026 establishing the Union Customs Code and the European Union Customs Authority, and repealing Regulation (EU) No 952/2013 (Text with EEA relevance).

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III. CONCLUSION

5. In the light of this background, the Council is invited to reach a general approach on the text in the annex to this note at the meeting of the Council (Economic and Financial Affairs) on 9 November 2026 and to decide to invite the European Parliament to give its opinion on that text.

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ANNEX

Draft

COUNCIL DIRECTIVE

amending Directive 2006/112/EC as regards VAT rules relating to taxable persons who facilitate distance sales of imported goods and the application of the special scheme for distance sales of goods imported from third territories or third countries for declaration and payment of import VAT

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 113 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Parliament[7],

Having regard to the opinion of the European Economic and Social Committee[8] ,

Acting in accordance with a special legislative procedure,

Whereas:

(1) Article 14a (1) of Council Directive 2006/112/EC provides for the ‘deemed supplier regime’. Pursuant to that Article, where a taxable person facilitates, through the use of an electronic interface, distance sales of imported goods from third territories or third countries, that taxable person is to be the deemed supplier of those goods.

[7] OJ C… p..
[8] OJ C... p..

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(2) The application of the ‘deemed supplier’ regime is currently limited to distance sales of goods imported from third territories or third countries in consignments of an intrinsic value not exceeding EUR 150. To reduce the compliance burden for traders selling via electronic interfaces, such as marketplaces, and to support a single value added tax (VAT) registration in the Union, the EUR 150 limit should be deleted. Consequently, the deemed supplier regime should cover all distance sales of goods imported from third territories or third countries into the Union, irrespective of their value.

(3) Title XII, Chapter 6, Section 4, of Directive 2006/112/EC lays down a special scheme for distance sales of goods imported from third territories or third countries known as the Import One-Stop Shop (IOSS) scheme. Taxable persons who opt to register for the IOSS do not need to register for VAT in each Member State in which their eligible supplies of goods to consumers take place. Instead, the VAT due on those supplies can be declared and paid in a single Member State via the IOSS scheme. In relation to this scheme, Council Directive (EU) 2025/516 of 11 March 2025 amending Directive 2006/112/EC as regards VAT rules for the digital age obliges the Commission to adopt an implementing act to introduce special measures to prevent certain forms of tax evasion or avoidance by, inter alia, linking the unique consignment number with the corresponding individual VAT identification number.

(3a) The IOSS special scheme is limited to distance sales of imported goods in consignments with an intrinsic value not exceeding EUR 150. To support a single VAT registration in the Union, the threshold of EUR 150 should be deleted, so that taxable persons who make distance sales of goods imported from third territories or third countries into the Union are not obliged to register for import VAT in each Member State of destination of the goods.

(3b) In recognition of the close operational alignment of customs and VAT, the deletion of the VAT threshold should correspond with the introduction of the operation of the full customs regime on all imports as provided for by Regulation (EU) 2026/2108 of the European Parliament and of the Council of 16 September 2026 establishing the Union Customs Code and the European Union Customs Authority, and repealing Regulation (EU) No 952/2013.

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(3c) In order to limit the risk of VAT fraud arising from the use of the special IOSS scheme, it is deemed necessary to harmonize the control procedures carried out by Member States. Where taxable persons established outside the Union in territories that have not concluded with the Union agreements on mutual assistance in the field of VAT appoint an intermediary, the controls carried out by Member States are currently not subject to any harmonization. It is therefore deemed necessary to establish minimum criteria, which can be verified by Member States, relating to the financial solvency, administrative capacity and probity of taxable persons applying to be designated as intermediaries, thereby taking account of Member States' different national regulations and practices. Such criteria shall be set out in an implementing act adopted by the Council acting unanimously on a proposal from the Commission. Such a proposal shall be submitted by 31 December 2027 at the latest.

(4) In order to level the playing field as regards the use of the IOSS for goods dispatched from third territories or third countries and those that are dispatched from special customs warehouses for distance sales, the definition of distance sales of goods imported from third territories or third countries should be amended accordingly. The IOSS special scheme can be applied only for supplies from special customs warehouses for distance sales as provided for in Regulation (EU) 2026/2108 of the European Parliament and of the Council of 16 September 2026 establishing the Union Customs Code and the European Union Customs Authority, and repealing Regulation (EU) No 952/2013. For other customs warehouses, the normal VAT rules remain applicable.

(4a) To ensure the integrity of IOSS is maintained after the removal of the threshold such that VAT collection does not suffer, the Commission will undertake a complete review of the scheme by 1 December 2030, publish a report and submit a legislative proposal if necessary.

(5) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.

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(6) Since the objective of this Directive, namely to advance the concept of a single VAT registration in the Union, can only be achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

(7) Directive 2006/112/EC should therefore be amended accordingly,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Amendments to Directive 2006/112/EC

Directive 2006/112/EC is amended as follows:

(1) the introductory words of paragraph 2 of Article 14(4), are replaced by the following:

‘distance sales of goods imported from third territories or third countries’ means supplies of goods dispatched or transported by or on behalf of the supplier, including where the supplier intervenes indirectly in the transport or dispatch of the goods, from a third territory or third country, or a customs warehouse for distance sales as laid down in Article 145 of Regulation (EU) 2026/2108, in the customs territory of the Union, to a customer in a Member State, where the following conditions are met:’;

(2) in Article 14a, paragraph 1 is replaced by the following:

‘1. Where a taxable person facilitates, through the use of an electronic interface such as a marketplace, platform, portal or similar means, distance sales of goods imported from third territories or third countries that taxable person shall be deemed to have received and supplied those goods himself.’;

(3) in Article 369l, the first paragraph is replaced by the following:

‘For the purposes of this Section, distance sales of goods imported from third territories or third countries shall not include products subject to excise duty.

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(4) the following Article is inserted:

"Article 369la

1. By 1 December 2030, the Commission shall submit to the European Parliament and to the Council, on the basis of information obtained from the Member States, an assessment report on the functioning of Article 1 of Directive (EU) XXXX/XXXX [*OJ: insert reference to this Directive*], including its impact on the functioning of the internal market and the effectiveness of VAT collection on distance sales imported from third territories and third countries, and, where appropriate, submit a legislative proposal in this respect.";

(5) Article 369o is replaced by the following:

"1. The taxable person making use of this special scheme or an intermediary acting on his behalf, shall state to the Member State of identification when he commences or ceases his activity under this special scheme, or changes that activity in such a way that he no longer meets the conditions necessary for use of this special scheme. That information shall be communicated electronically.

2. Where an intermediary appointed by a taxable person who is not established in the Community but in a third country with which the Union has not concluded an agreement on mutual assistance similar in scope to Council Directive 2010/24/EU and Regulation (EU) No 904/2010, informs the Member State of identification that they intend to use this special scheme in accordance with the first paragraph, the Member State of identification shall ensure that the intermediary has sufficient administrative capacity, financial solvency and probity. The requirements for an intermediary to be deemed compliant with these criteria shall be defined by the Council in accordance with Article 397, on a proposal from the Commission which shall be submitted by 31 December 2027.".

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Article 2

Transposition

1. Member States shall adopt and publish, by 30 June 2028 at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

   They shall apply those provisions from 1 July 2028**.**

   Where the functionality relevant for the IOSS scheme as referred to in Article 285(2) of the Regulation (EU) 2026/2108 of the European Parliament and of the Council of 16 September 2026 establishing the Union Customs Code and the European Union Customs Authority, and repealing Regulation (EU) No 952/2013, is not operational by 1 June 2028, they shall apply those provisions from the date the transitional solution established pursuant to Article 285(7) of that Regulation is no longer in place.

   When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

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Article 4

Addressees

This Directive is addressed to the Member States.

Done at Brussels,

For the Council

The President

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