

22.11.2017

A8-0307/ 001-021

AMENDMENTS 001-021

by the Committee on Economic and Monetary Affairs

Report

Cătălin Sorin Ivan

A8-0307/2017

Value added tax obligations for supplies of services and distance sales of goods

Proposal for a directive (COM(2016)0757 – C8-0004/2017 – 2016/0370(CNS))

Amendment 1

Proposal for a directive

Recital -1 (new)

Text proposed by the Commission

Amendment

(-1) The difference between expected VAT revenues and VAT actually collected (the 'VAT gap') in the Union was approximately EUR 152 billion in 2015 and cross-border fraud amounts to a VAT revenue loss in the Union of approximately EUR 50 billion a year, all of which makes VAT an important issue to be addressed at Union level and the adoption of a definitive VAT regime based on the destination principle essential.

Amendment 2

Proposal for a directive

Recital 3

Text proposed by the Commission

Amendment

(3) The assessment of those special schemes as introduced on 1 January 2015

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has identified a number of areas for improvement. First, the burden for micro-businesses established in a Member State occasionally supplying such services to other Member States of having to comply with VAT obligations in Member States other than their Member State of establishment should be reduced. A Community-wide threshold should therefore be introduced up to which these supplies remain subject to VAT in their Member State of establishment. Second, the requirement of having to comply with the invoicing *and record keeping* requirements of all Member States to which supplies are made is very burdensome. Hence, to minimise burdens on business, the rules concerning invoicing *and record keeping* should be those applicable in the Member State of identification of the supplier making use of the special schemes. Third, taxable persons not established in the Community but having a VAT registration in a Member State (e.g. because they carry out occasional transactions subject to VAT in that Member State) can use neither the special scheme for taxable persons not established in the Community, nor the special scheme for taxable persons established in the Community. As a consequence, it is proposed that such taxable persons should be permitted to use the special scheme for taxable persons not established within the Community.

Amendment 3

Proposal for a directive Recital 3 a (new)

Text proposed by the Commission

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Amendment

(3a) While the assessment of the Mini-One Stop Shop (MOSS) has been largely positive, 99 % of the VAT revenue processed via the MOSS is declared by only 13 % of the businesses registered,

demonstrating the need for Member States to promote the MOSS to a wider range of small and medium sized enterprises, in order to overcome barriers to cross-border e-commerce.

Amendment 4

Proposal for a directive Recital 9 a (new)

Text proposed by the Commission

Amendment

(9a) This amending Directive could lead to an increase in administrative costs for small consignments, since relevant packages require a distinguishing mark indicating that the VAT import scheme has been used and the postal sector is required to sort the packages based on whether the VAT import scheme is used. Member States and the Commission should pay close attention to the impact on the postal sector.

Amendment 5

Proposal for a directive Recital 14

Text proposed by the Commission

Amendment

(14) The date of application of the provisions of this Directive **shall**, where relevant, take account of the time needed to put in place the measures necessary to implement this Directive and for **the** Member States to adapt their IT system for registration and for declaration and payment of the VAT.

(14) The date of application of the provisions of this Directive **should**, where relevant, take account of the time needed to put in place the measures necessary to implement this Directive and for Member States **and businesses** to adapt their IT system for registration and for declaration and payment of the VAT.

Amendment 6

Proposal for a directive Recital 17 a (new)

Text proposed by the Commission

Amendment

(17a) The Commission's proposal is only a building block for closing the VAT gap; further measures are needed to effectively combat VAT fraud in the Union;

Amendment 7

Proposal for a directive

Article 1 – paragraph 1 – point -1 (new)

Directive 2006/112/EC

Article 14 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

(-1) In Article 14, the following paragraph is added:

‘3a. Where a taxable person, acting in its own name but on behalf of another person, participates in a distance sale of goods imported from third countries or territories in a consignment having an intrinsic value of less than EUR 150, or the equivalent in national currency, and has an annual turnover exceeding EUR 1 000 000, or the equivalent in national currency, in the current calendar year, and including cases where a telecommunications network, an interface or a portal is used for the purpose of the distance sale, that taxable person shall be deemed to have received and supplied those goods itself.’

Justification

Online platforms should be liable for the VAT due on imports where there is a risk that the VAT is not paid by suppliers based in third countries. A full customs declaration is compulsory for imports of goods of more than 150€, thereby reducing the risk of VAT not paid. A threshold of 1.000.000 € turnover is introduced in order to not impose the liability burden on SMEs or start ups.

Amendment 8

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2006/112/EC

Article 58 – paragraph 2 – point b

Text proposed by the Commission

(b) services are provided to customers located in any Member State other than the Member State referred to in point (a);

Amendment

(b) services are provided to customers located in any Member State other than the Member State referred to in point (a); **and**

Amendment 9

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2006/112/EC

Article 58 – paragraph 2 – point c

Text proposed by the Commission

(c) the total value, exclusive of VAT, of such supplies does not in the current calendar year exceed EUR **10 000**, or the equivalent in national currency, and did not do so in the course of the preceding calendar year.

Amendment

(c) the total value, exclusive of VAT, of such supplies does not in the current calendar year exceed EUR **35 000**, or the equivalent in national currency, and did not do so in the course of the preceding calendar year.

Amendment 10

Proposal for a directive

Article 1 – paragraph 1 – point 6

Directive 2006/112/EC

Article 369 – paragraph 2 – subparagraph 2

Text proposed by the Commission

‘The Member State of identification shall determine the period throughout which those records shall be kept by the taxable person not established within the Community.’

Amendment

‘Those records shall be kept for a period of five years from the end of the calendar year during which the transaction was carried out.’

Justification

Five years is sufficient in order to reduce the burden on honest taxpayers.

Amendment 11

Proposal for a directive Article 2 – title

Text proposed by the Commission

Amendments to Directive 2006/112/EC with effect from 1 **January** 2021.

Amendment

Amendments to Directive 2006/112/EC with effect from 1 **April** 2021.

Amendment 12

Proposal for a directive Article 2 – paragraph 1

Text proposed by the Commission

With effect from 1 **January** 2021, Directive 2006/112/EC is amended as follows:

Amendment

With effect from 1 **April** 2021, Directive 2006/112/EC is amended as follows:

Amendment 13

Proposal for a directive Article 2 – paragraph 1 – point 6

Directive 2006/112/EC

Title V – Chapter 3a – Article 59c – paragraph 1 – point c

Text proposed by the Commission

(c) the total value, exclusive of VAT, of the supplies covered by these provisions does not in the current calendar year exceed EUR **10 000**, or the equivalent in national currency, nor did it do so in the course of the preceding calendar year.

Amendment

(c) the total value, exclusive of VAT, of the supplies covered by these provisions does not in the current calendar year exceed EUR **35 000**, or the equivalent in national currency, nor did it do so in the course of the preceding calendar year.

Amendment 14

Proposal for a directive Article 2 – paragraph 1 – point 7

Directive 2006/112/EC

Article 143 – paragraph 1 – point ca

Text proposed by the Commission

‘(ca) the importation of goods where the

Amendment

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VAT is declared under the special scheme in Chapter 6, Section 4, of Title XII and where, at the latest upon lodging of the import declaration, the VAT identification number of the supplier or of the intermediary acting on his behalf allocated under Article 369q has been provided to the competent customs office in the Member State of importation;’

VAT is declared under the special scheme in Chapter 6, Section 4, of Title XII and where, at the latest upon lodging of the import declaration, the VAT identification number of the supplier or of the intermediary acting on his behalf allocated under Article 369q has been provided to the competent customs office in the Member State of importation, **while the Commission shall specify in an act the precise nature of the import declaration;**’

Amendment 15

Proposal for a directive

Article 2 – paragraph 1 – point 21

Directive 2006/112/EC

Article 369b – paragraph 1

Text proposed by the Commission

Member States shall permit any taxable person carrying out intra-Community distance sales of goods and any taxable person not established in the Member State of consumption supplying services to a non-taxable person **who** is established or has his permanent address or usually resides **in that Member State, to use this special scheme**. This special scheme applies to all those goods or services supplied in the Community.

Amendment

Member States shall permit any taxable person carrying out intra-Community distance sales of goods and any taxable person not established in the Member State of consumption supplying **any** services to a non-taxable person **to use the special scheme under this chapter, regardless of where such non-taxable person** is established or has his permanent address or usually resides. This special scheme applies to all those goods or services supplied in the Community.

Amendment 16

Proposal for a directive

Article 2 – paragraph 1 – point 29

Directive 2006/112/EC

Article 369l – paragraph 1 – point 5 a (new)

Text proposed by the Commission

Amendment

(5a) The value of the goods, which may not exceed EUR 150 in accordance with this paragraph, shall be determined by the currency conversion pursuant to Article

53 of the Union Customs Code, provided that the goods are being traded in foreign currencies.

Amendment 17

Proposal for a directive

Article 2 – paragraph 1 – point 30

Directive 2006/112/EC

Article 369y – paragraph 1

Text proposed by the Commission

Where the ***person for whom the imported goods in consignments of an intrinsic value not exceeding EUR 150 are destined does not opt*** for the ***application of the standard arrangements*** for importation of goods, ***including for the application of a reduced VAT rate in accordance with Article 94(2)***, the Member State of importation shall permit the person presenting the goods to customs within the territory of the Community to make use of special arrangements for declaration and payment of import VAT in respect of goods for which the dispatch or transport ends in that Member State.

Amendment

Where the ***special scheme referred to in Section 4 of Chapter 6 is not used*** for the importation of goods ***in consignments having an intrinsic value not exceeding EUR 150***, the Member State of importation shall permit the person presenting the goods to customs ***on behalf of the person for whom the goods are destined*** within the territory of the Community to make use of special arrangements for declaration and payment of import VAT in respect of goods for which the dispatch or transport ends in that Member State.

Amendment 18

Proposal for a directive

Article 2 – paragraph 1 – point 30

Directive 2006/112/EC

Article 369z – paragraph 1 – point b

Text proposed by the Commission

(b) the person ***presenting*** the goods to customs within the territory of the Community shall be responsible for collecting the VAT from the person for whom the goods are destined.

Amendment

(b) the person ***declaring*** the goods to customs within the territory of the Community shall be responsible for collecting the VAT from the person for whom the goods are destined.

Amendment 19

Proposal for a directive

Article 2 – paragraph 1 – point 30

Directive 2006/112/EC

Article 369z – paragraph 2

Text proposed by the Commission

Member States shall provide that the person **presenting** the goods to customs within the territory of the Community takes appropriate measures to ensure that the correct tax is paid by the person for whom the goods are destined.

Amendment

Member States shall provide that the person **declaring** the goods to customs within the territory of the Community takes appropriate measures to ensure that the correct tax is paid by the person for whom the goods are destined.

Amendment 20

Proposal for a directive

Article 3 – paragraph 1

Text proposed by the Commission

With effect from 1 **January** 2021, Title IV of Directive 2009/132/EC is deleted.

Amendment

With effect from 1 **April** 2021, Title IV of Directive 2009/132/EC is deleted.

Amendment 21

Proposal for a directive

Article 4 – paragraph 1 – subparagraph 4

Text proposed by the Commission

They shall apply the provisions necessary to comply with Articles 2 and 3 of this Directive **with** from 1 **January** 2021.

Amendment

They shall apply the provisions necessary to comply with Articles 2 and 3 of this Directive from 1 **April** 2021.

Justification

The Commission and Member States have a legal obligation to allow business to register to the new OSS by 31 December 2020. The rapporteur however considers that business should be given 3 additional months to adapt their own IT systems to connect with the new OSS as developed by the COM and MS. This amendment is particularly addressed to ease the access to the OSS by SMEs. The rapporteur considers useful to give three extra months for business, notably taken into account the difficulties that arose at the entry into force of MOSS.