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## **WORKING DOCUMENT**

on ECA Special Report 12/2019 (Discharge 2018): E-commerce: many of the challenges of collecting VAT and customs duties remain to be resolved

Committee on Budgetary Control

Rapporteur: Tamás Deutsch

## **E-commerce: many of the challenges of collecting VAT and customs duties remain to be resolved**

### Summary

E-commerce is the sale or purchase of goods or services conducted via the internet or other online communication networks. The Union encourages e-commerce to ensure that businesses and consumers can buy and sell internationally on the internet as they do on their local markets. Member States are responsible for the collection of Value added tax (VAT) and customs duties due on e-commerce cross-border transactions. The Court carried out this audit because any shortfall in the collection of VAT and customs duties affects the budgets of the Member States and the Union, as they must compensate for it in proportion to their Gross National Income. The Court examined whether the Commission has established a sound regulatory and control framework for e-commerce with regard to the collection of VAT and customs duties, and whether Member States' control measures help ensure the complete collection of VAT and customs duties on e-commerce. The Court found that despite recent positive developments the Union is not currently dealing adequately with these issues.

The Commission carries out inspections of VAT and customs duties collected. It is also responsible for setting customs and taxation policies and for strategies and legislation in these areas. The European anti-fraud office is responsible for investigating fraud, corruption and other offences against the Union's financial interests.

While there is a risk of irregularities occurring in the collection of VAT and customs duties in cross-border e-commerce, there are no estimates available of how much VAT has not been collected on cross-border supplies of services. However, the Commission estimates losses on supplies of low value goods from non-EU countries to be as high as €5 billion per year.

### The Court's conclusions and recommendations

The Court found that despite recent positive developments the Union is not addressing all the challenges in collecting the correct amounts of VAT and customs duties for goods and services traded over the internet.

The Court found that:

- (a) the regulatory framework follows international best practice promoted by the Organization for Economic Cooperation and Development and the World Customs Organization in most respects;
- (b) the new provisions that will enter into force in 2021 aim to resolve some of the weaknesses in the current framework but undervaluation remains to be addressed;
- (c) administrative cooperation arrangements between Member States and non-EU countries are not being fully exploited;
- (d) the controls carried out by national tax authorities are weak and those of the Commission are insufficient;
- (e) there are weaknesses in the current customs clearance systems and that there is a risk

that the EU cannot prevent abuse by the intermediaries involved; and

(f) enforcement of collection of VAT and customs duties is not effective.

In light of these findings, the Court recommended to:

- strengthen the use of the administrative cooperation agreements;

Timeframe: by the end of 2020.

- increase the effectiveness of controls;

Timeframe: by the end of 2020.

- improve the enforcement of collection;

Timeframe: by the end of 2021.

- enhance the effectiveness of the regulatory framework.

Timeframe: by the end of 2020.

In order to reach these objectives, the Court addressed a number of recommendations to the Commission and to Member States.

Notably, the Commission should:

- (a) monitor to what extent non-EU countries meet the requests sent by Member States pursuant to the mutual administrative assistance agreements concluded with them in both customs and tax matters and make use of structures and frameworks set up in the context of these agreements to address specific challenges resulting from trade in goods through e-commerce;
- (b) carry out inspections on Member States' controls of the low value consignment relief;
- (c) monitor the functioning of the intra-EU distance sales of goods and of Mini One Stop Shop (MOSS), which is a trade facilitation measure for traders supplying e-commerce services within and to the EU;
- (d) assist Member States to develop a methodology to be able to produce periodic estimates of the compliance VAT gap on e-commerce; and
- (e) explore the use of suitable "technology-based" collection systems, including the use of digital currencies, to tackle VAT fraud on e-commerce.

Member States should:

- (a) provide timely feedback to the fraud signals received from other Member States in Eurofisc;
- (b) increase their audit activity on MOSS traders and distance sellers; and

- (c) carefully monitor traders' compliance with the new threshold of €10 000 for intra-EU supplies of services.

The rapporteur's recommendations

The European Parliament,

Welcomes the Court's special report, its findings and the Commission's readiness to implement the recommendations;

-Highlights the role of the Member States in the implementation of administrative cooperation agreements, the effectiveness of controls, the enforcement of data collection and the monitoring of traders' compliance with the regulatory framework;

-Is aware that the enforcement of VAT collection is a national competence;

-Emphasises the importance of the use of exchanges of information between Member States and with non-EU countries;

-Invites the Member States to increase their exchange of information about possible fraudulent companies and transactions through Eurofisc;

-Calls on the tax authorities of the Member States to reinforce their control activity on MOSS;

-Urges the Commission to carry out sufficient control and monitoring activities in the Member States;

-Is concerned about the risk of undervaluation of supplies of e-commerce goods from third countries; welcomes steps taken in order to solve the problem of e-commerce VAT fraud;

-Calls for a swift adoption of the proposed legislation on VAT for e-commerce in order to address the weaknesses of the distance sales regime;

-Invites OLAF to inform the Parliament on the outcome of its investigations related to e-commerce import of low value garments and to suspected import via e-commerce transactions of potentially sensitive goods by air transport;