

The future of VAT

**European Parliament resolution of 13 October 2011 on the future of VAT
(2011/2082(INI))**

The European Parliament,

- having regard to the European Commission’s Green Paper on the Future of VAT (COM(2010)0695),
 - having regard to the European Commission’s Staff Working Document (SEC(2010)1455),
 - having regard to the ‘Small Business Act’ for Europe (COM(2008)0394),
 - having regard to the Commission communication entitled ‘A Digital Agenda for Europe’ (COM(2010)0245),
 - having regard to the PWC Study on the feasibility of alternative methods for improving and simplifying the collection of VAT through the means of modern technologies and/or financial intermediaries,
 - having regard to Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax¹,
 - having regard to the OECD Guidelines on the Neutrality of VAT,
 - having regard to the EC publication ‘Taxation Trends in the EU’ (2010 Edition),
 - having regard to the OECD Consumption Tax Trends 2010,
 - having regard to the European Parliament report on a coordinated strategy to improve the fight against fiscal fraud from 2008,
 - having regard to Court of Auditors Special Report No 8/2007 concerning administrative cooperation in the field of value added tax, together with the Commission’s replies²,
 - having regard to Rule 48 of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs and the opinions of the Committee on Budgetary Control, the Committee on the Internal Market and Consumer Protection and the Committee on Transport and Tourism (A7-0318/2011),
- A. whereas the current VAT system in the EU, which has been in place for 17 years, has been described as provisional with an expectation to move to a new system in due course; whereas the new initiative of the Commission's Green Paper is only the beginning of a

¹ OJ L 347, 11.12.2006, p. 1.

² OJ C 20, 25.1.2008, p. 1.

procedure which is likely to be long, difficult and complex, and whose success will depend on real determination by Member States to develop a 'simpler, more robust and efficient' system that is more transparent and is based on close cooperation and exchange of best practices between Member States whilst respecting the principle of subsidiarity,

- B. whereas the aim of a common VAT system is to enhance the efficient functioning of the Internal Market, a crucial tool for the EU to remain competitive,
- C. whereas 99% of all businesses in the European Union are SMEs (small and medium-sized enterprises),
- D. whereas the European Union is seeking, by means of the 'Small Business Act', to help SMEs to grow by taking advantage of the opportunities and benefits offered by the single market,
- E. whereas the VAT exemption threshold for SMEs varies from Member State to Member State and applies at national level only,
- F. whereas the OECD recognises the presence of a global trend indicating a shift from direct to indirect taxation, with an increasing role for VAT systems; whereas Parliament also recognises this trend but at the same time stresses the importance of direct taxation for the progressivity of the tax system; whereas the OECD also notes a broad variation in VAT efficiency in OECD countries, indicating a broad scope for increasing VAT efficiency; whereas, however, any measures aimed at increasing VAT efficiency should also be accompanied by measures to tackle fraud and to consider ending the VAT exemption on financial transactions following an analysis of the implications involved, while taking into consideration the proposal for a Council Directive (2007/0267(CNS)),

General considerations

1. Welcomes the Commission's Green paper on overhauling and reforming the current VAT system, and agrees that a comprehensive VAT system should reduce operational costs for users and administrative charges for authorities while combating fraud, which is a considerable burden on public finances and on consumers;
2. Emphasises that rendering the VAT system fraud-proof must be a key priority, given the massive losses incurred by Member States, possibly amounting to EUR 100 billion; particular attention needs to be paid to "carousel" fraud; recalls the detailed suggestions contained in its resolution of 2 September 2008 on a coordinated strategy to improve the fight against fiscal fraud¹ which are still valid and should be implemented without delay;
3. Notes that definitions such as "social wellbeing" or "principles of social reasons" which define services that are eligible for exemption or reductions of the VAT rate, are very vague due to the fact that they are determined by national courts in the light of Member States' law and therefore harbour the risk of a permanent distortion of competition;
4. Considers that Member States in the current VAT system find themselves in a prisoner's dilemma: the abolishment of fiscal border controls in 1993 has not been replaced by a sufficient degree of cooperation between Member States; notes that, as a result, they have

¹ OJ C 295 E, 4.12.2009, p. 13.

lost a significant amount of potential income from VAT and other tax revenues because some legitimate businesses may refrain from entering the Single Market and because fraudsters exploit the existing fragmented VAT system;

5. Calls therefore upon Member States to continue to build relationships based on trust, transparency and cooperation between national tax administrations, and to build 'tax partnerships' with businesses as the 'unpaid tax collectors' for tax authorities;
6. Urges the Commission to develop a coordinated strategy to improve the fight against fiscal fraud, as VAT fraud affects the financial interests of the Community;

VAT design, exemptions and reduced rates

7. Calls upon Member States to move towards a 'broad based' VAT system; also stresses that the current financial climate presents important challenges and that a shift from direct to indirect taxation alone is not sufficient to ensure economic stability; therefore calls also for fair alternative sources of income to be sought;
8. Stresses the importance of looking closely into the consequences for regional autonomy within the Member States when discussing a shift from direct taxation to indirect taxation;
9. Recalls that one of the key features of VAT is the principle of neutrality and therefore that businesses should, as far as is possible, not be made to bear the burden of VAT collection; points out that Member States should ensure that in principle all commercial transactions are taxed as far as possible and that any exemptions are construed narrowly, whilst also ensuring that similar goods and services are subject to the same VAT treatments; underlines, for example, that all books, newspapers and magazines regardless of format should be treated in exactly the same way, which means that downloadable and streamed books, newspapers and magazines should be subject to the same VAT treatment as books, newspapers and magazines on physical means of support and that different cross-border transport services should be given identical VAT treatments irrespective of the mode of transport used; notes that when exemptions present no obstacle to the proper functioning of the internal market Member States should retain the right to grant exemptions based on narrowly construed social and cultural criteria;
10. Calls for a harmonised standard or reduced VAT rate for all intra-EU cross-border travel regardless of the mode of transport, and for harmonised rules on VAT deductability;
11. Takes the view that the VAT rates for cultural goods should be the same, regardless of the method of selling them (online or offline); considers that such an alignment would contribute to the development of e-commerce and would provide the same cultural and educational benefits for consumers by promoting the development of the booming digital sector;
12. Notes that the transport sector is experiencing market distortions, since some modes of transport such as bus and train are subjected VAT while others are exempted; this creates an uneven playing field since all modes of transport are competing for the same cross-border
13. Calls for a Green VAT strategy to be devised, centred on reduced rates for energy-efficient and environmentally friendly products and services, counterbalancing unfair competition which results from externalities not reflected in the price of a good or service;

14. Emphasises that in order to ensure neutrality, VAT on goods and services that are used for taxed economic activities must be deductible; notes that at present the rules on input tax deduction are complex and cause problems for businesses as a result of issues arising from the nature of their activities (scope), type of service (exemptions) or nature of services (deductibility);
15. Notes, with regard to cross-border intra-Community transactions, that the current VAT system has moved away from the initial commitment by Member States to implement the origin principle, due to a lack of political support among Member States to cooperate in order to apply that principle;
16. Agrees therefore with the Commission's proposal to recognise the status quo and move towards a destination principle; considers that a VAT system based on the place of consumption, for both goods and services, appears to be a promising route that should be further analysed and needs to be accompanied by the introduction of well-functioning one-stop shops (OSS) by Member States; emphasises that the introduction of VAT OSS by 1 January 2015 should continue to be a key priority for the EU;
17. In the light of the converging trend of VAT standard rates, calls upon Member States to further narrow the standard-rate band; acknowledges that Member States must be afforded the flexibility to set their own VAT rate in the light of VAT's importance as a budgetary instrument;
18. Calls on the Commission to come up with a proposal by the end of December 2012 on simplifying cross-border taxation;
19. Underlines that non-profit-making organisations play a vital and very beneficial role in furthering democracy, growth and prosperity in Europe; calls on the Commission to propose a mechanism allowing Member States wishing to strengthen civil society to generally exempt from VAT all or most of the activities and transactions carried out by these organisations; stresses that at least the smaller non-profit-making organisations should be covered by such a mechanism;
20. Calls on the Member States to agree by January 2012 on a list of common goods and services that should benefit from tax exemptions or a reduction in the VAT rate;
21. Invites the Member States to work closely with the VAT committee to reach an agreement on a common interpretation of the legal terms that are relevant in this context, whereby in reverse this would mean that all other goods and services on a European level would be excluded from such entitlements;
22. Calls on the Commission to submit by the end of 2013 a report to the European Parliament and the Council comprising a binding list of common goods and services, on the basis of the findings of the Member States and the VAT committee, that are eligible for a reduced VAT rate or an exemption under the VAT Directive;

Reducing Red Tape

23. Calls upon Member States to better coordinate and converge administrative practices by focusing on exchanging best practices and to implement the measures proposed by the Commission in 2009 to reduce the administrative burdens from EU legislation in the area of

VAT, notably by reducing the frequency of the periodic VAT returns, simplifying the proof required for the VAT export exemption, abolishing 'nil' intra-EU sales listings, increasing the use of e-government solutions in line with the Digital Agenda for Europe – in particular for the electronic submission of VAT returns and lists, abolishing interest and penalty payments on VAT related to errors of form if the individual legal entity has not caused the Member State in question to suffer any shortfall in VAT revenue, and considering the introduction of a single VAT reimbursement procedure, VAT identification number and an electronic storage system for VAT for the whole of the EU;

24. Welcomes the Digital Internal Market study; calls on the Commission to improve interoperability of electronic signatures, so as to create a legal framework for recognition of secure e-certification systems, and to consider a revision and extension of the Electronic Signature directive in order to reduce the administrative burden for enterprises, especially SMEs; emphasises the need for mutual recognition of e-identification and e-authentication across the EU;
25. Welcomes the fact that since 2010 a new electronic VAT refund system has been in place within the EU; calls on the Commission to report to Parliament no later than July 2012 on the results, strengths and weaknesses of the new system; stresses that the new rules must always be reviewed in order to ensure that they provide appropriate protection against attempted fraud;
26. Calls on the Commission to present, within a reasonable period of time, a proposal for a Standard European Invoice (paper and electronic) based on a linguistically neutral template that could include information such as full name and address, date of registration and closure of a VAT number and group VAT information, so as to facilitate cross-border transactions and reduce costs for business;
27. Calls upon Member States and the Commission, working with businesses, to take a critical look at the Commission's Action Plan in order to ensure that the primary objective of the 'Better Regulation' agenda – to reduce administrative burdens by 25 % by 2012 – is met; it is clear that the measures in the Commission Action Plan for VAT with the biggest potential impacts have already either been adopted by the Council or are currently under discussion. The remaining measures may reduce some business administrative burdens in the EU, but the benefits may not be universal across the EU;
28. Underlines the importance of increasing and supporting the use of e-government solutions, in particular for the electronic submission of VAT returns and lists;
29. Calls upon Member States to agree at EU level in the short/medium term on a maximum set of standardised VAT obligations that may be imposed on businesses by Member States; calls upon Member States, working with businesses, to examine VAT obligations and administrative practices and identify key business irritants in the current VAT system and to share ideas and 'best practice' approaches in order to simplify it, improve clarity and reduce administrative burdens and trade barriers;
30. Calls on the Commission and Member States to consider introducing a Europe-wide VAT exemption threshold for SMEs, with a view to cutting red tape and costs and facilitating access to the internal market;
31. Calls on the Commission to look carefully into the issue of further reducing VAT red tape

for non-profit-making organisations; underlines that there should be a higher degree of flexibility in the VAT system for Member States wishing to take ambitious measures in order to ease the VAT administration burden for these organisations;

Efficiency of VAT collection

32. Agrees with the Commission that the efficiency of VAT collection needs to be improved in order to reduce the VAT gap and limit the possibility of fraud, as well as to protect bona fide traders against VAT fraud; stresses that combating tax fraud in the European Union is a priority, and calls for closer cooperation between the Member States, Europol, Eurojust and OLAF in this area, also calls for clarification of terms and definitions, such as 'country of consumption' and 'country of establishment';
33. Underlines the need to improve cross-border prosecution of intra-Community VAT fraud in the Member States and to increase accountability and risk awareness in this area;
34. In order to establish effective cross-border investigations on, and juridical persecution of, such fraud, stresses the importance of having a comprehensive and uniform definition in EU legislation of a VAT-fraudulent scheme or VAT carousel, the most widely used form of VAT fraud, as well as harmonised administrative penalties;
35. Notes that accurate estimates of the extent of VAT-carousel fraud are unavailable; urges the development of an accurate valuation tool for VAT fraud, which would also enable relevant comparisons to be made in this area between the EU Member States;
36. Stresses the importance of more intensive and rapid cooperation between Member States, better monitoring of exchanges of information and more direct contacts between local tax offices by means of a common online information portal, so as to ensure that Member States provide efficient assistance to each other; urges that cooperation between the judicial authorities of the Member States, Eurojust, Europol and OLAF be enhanced;
37. Calls on the Commission to propose a simplification and consolidation of Community anti-fraud legislation, and to address the weaknesses in cooperation between the Commission and the Member States in the framework of this process;
38. Calls on the Commission to ensure that the recently established (November 2010) EUROFISC functions as a practical added value to Member States' cross-border VAT fraud investigations, to report regularly to Parliament on its functioning and to make these reports public;
39. Stresses that opportunities for VAT fraud can be significantly reduced by increased use of new technologies and innovative solutions; urges the Commission to further strengthen the Value Added Information Exchange System (VIES) by shortening the timescale for collecting and capturing data and by granting broader direct access to data;
40. Considers, however, that the discussion of VAT collection methods is secondary to solving the underlying shortcomings and problems inherent in the current rules and procedures, and that at this stage the highest priority should be given to addressing the lack of harmonisation and the need to standardise procedures and reduce linguistic barriers, while reducing the system's vulnerability to fraud;

41. Points out the need for a clear European interpretation body where Member States can get binding answers with a view to a common tax methodology and equal application of the VAT rules;
42. Recalls that while international operators are often equipped to cope with problems that arise from conducting business on a global basis, tax administrations often do not have the same level of expertise; highlights the fact, therefore, that cooperation has to be designed in a way that helps to sort out the honest from the fraudsters and to make the system understandable to both sides;
43. Considers that the limited Data Warehouse Model (with a Standard Audit File¹), combined with the Certified Taxable Person model, are the most promising of the VAT collection models currently being examined by the Commission study, as they are already successfully implemented in some Member States and have proven to increase the efficiency of VAT collection;

Legal Process

44. Considers that the business community requires clear VAT rules that increase legal certainty and the likelihood of uniform interpretation by Member States; considers also that current Council Directives contain unclear provisions that increase the possibility of multiple interpretations, while the resulting complex VAT system hinders cross-border activities and leads to unnecessary administrative burdens; takes the view that VAT rules should not undermine EU policies in other areas, such as sustainability;
45. Calls therefore upon Member States to increase the level of harmonisation by:
 - using Regulations instead of Directives, as far as possible, as they create immediate harmonisation and legal certainty;
 - alternatively, allowing the Commission to issue a ‘Common EU VAT Rulebook’ in the form of Implementing Decisions with the consent of the majority of Member States², changing the role of the VAT Committee;
 - setting up a process of streamlining and coordinating the national implementation process at EU level, giving a stronger role to the Commission;
 - generally involving stakeholders and businesses in the drafting and implementation process for VAT legislation both at EU and national level, and in particular involving external experts in the work of the VAT Committee at EU level;
46. Considers that businesses need clear and unambiguous EU VAT rules to support cross-border activities and minimise administrative burdens and therefore costs for business; calls upon Member States and the Commission to increase quality and clarity by:
 - producing comprehensive and high-quality impact assessments, with EU businesses involved as part of that process, to support legislative proposals;
 - keeping in touch with businesses at the national level during the negotiations and in the

¹ As defined/ recommended by the OECD Guidelines.

² As proposed by the European Commission in COM(1997)0325 of 25.6.1997.

implementation phases;

- using Council Regulations to support Council Directives in areas where this would provide additional clarity;
- providing excellent, timely and accessible information and guidance on national rules, including at EU level, particularly in areas where treatment is not uniform;
- looking to opportunities to use technology to disseminate information on an EU-wide basis; sharing ‘best practice’ ideas and approaches in the EU Forum or VAT Committee;
- involving business, possibly in the role of external experts, in support of aspects of the work of the VAT Committee at EU level;
- in general terms, increasing the involvement of businesses in the processes, thereby utilising the knowledge they have gained by operating as unpaid tax-collectors and dealing with intra-community transactions on a daily basis;

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47. Instructs its President to forward this resolution to the Council, the Commission and the national parliaments.