



2016/0406(CNS)

9.10.2018

DRAFT REPORT

on the proposal for a Council directive amending Directive 2006/112/EC on the common system of value added tax as regards the temporary application of a generalised reverse charge mechanism in relation to supplies of goods and services above a certain threshold
(COM(2016)0811 – C8-0023/2017 – 2016/0406(CNS))

Committee on Economic and Monetary Affairs

Rapporteur: Gabriel Mato

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the ■ symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a Council directive amending Directive 2006/112/EC on the common system of value added tax as regards the temporary application of a generalised reverse charge mechanism in relation to supplies of goods and services above a certain threshold (COM(2016)0811 – C8-0023/2017 – 2016/0406(CNS))

(Special legislative procedure – consultation)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2016)0811),
 - having regard to Article 113 of the Treaty on the Functioning of the European Union, pursuant to which the Council consulted Parliament (C8-0023/2017),
 - having regard to Rule 78c of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs (A8-0000/2017),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to alter its proposal accordingly, in accordance with Article 293(2) of the Treaty on the Functioning of the European Union;
 3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
 4. Asks the Council to consult Parliament again if it intends to substantially amend the Commission proposal;
 5. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a directive

Recital 4

Text proposed by the Commission

(4) In order to limit the risk of fraud shifting between Member States, all Member States that fulfil certain criteria as regards their fraud level, in particular in relation to carousel fraud, and who are able to establish that other control measures are not sufficient to combat that fraud, should

Amendment

(4) In order to limit the risk of fraud shifting between Member States, all Member States that fulfil certain criteria as regards their fraud level, in particular in relation to carousel fraud, and who are able to establish that other control measures are not sufficient to combat that fraud, should

be allowed to use a GRCM.

be allowed to use a GRCM. ***In addition, they should establish that estimated gains in tax compliance and collection expected as a result of the introduction of the GRCM outweigh the estimated overall additional burdens on businesses and tax administrations and that businesses and tax administrations will not incur costs that are higher than those incurred as a result of the application of other control measures.***

Or. en

Amendment 2

Proposal for a directive

Recital 5

Text proposed by the Commission

(5) ***In addition, also bordering Member States that encounter a serious risk of shift of fraud to their territory, because of the authorisation of that mechanism in another Member State, should be allowed to use the GRCM, where other control measures would be insufficient to combat that risk of fraud.***

Amendment

deleted

Or. en

Amendment 3

Proposal for a directive

Recital 6

Text proposed by the Commission

(6) If Member States choose to apply the GRCM, they should apply it to all supplies of goods and services above a defined threshold per ***invoice***. The GRCM should not be restricted to any specific sector.

Amendment

(6) If Member States choose to apply the GRCM, they should apply it to all ***non-cross-border*** supplies of goods and services above a defined threshold per ***transaction***. The GRCM should not be restricted to any specific sector.

Amendment 4

Proposal for a directive

Recital 7 a (new)

Text proposed by the Commission

Amendment

(7 a) In order to be able to assess whether the introduction of the GRCM in one Member State results in fraud shifting towards other Member States and to be able to assess the degree of possible disturbances to the functioning of the internal market, it is appropriate to provide for a specific obligation to exchange information between Member States that apply the GRCM and other Member States. All such exchanges of information should be subject to applicable personal data protection and confidentiality provisions. Those provisions provide exemptions and restrictions for safeguarding the interests of Member States and of the Union in the area of taxation.

Or. en

Amendment 5

Proposal for a directive

Article 1 – paragraph 1

Directive 2006/112/EC

Article 199c – paragraph 1 – subparagraph 1

Text proposed by the Commission

Amendment

Until 30 June 2022 a Member State may, as a Generalised Reverse Charge Mechanism (GRCM), provide that the person liable for payment of VAT is the taxable person to whom supplies of goods and services are made above a threshold of EUR **10 000 per invoice**, by derogation

Until 30 June 2022, a Member State may, as a Generalised Reverse Charge Mechanism (GRCM) **on non-cross-border supplies**, provide that the person liable for payment of VAT is the taxable person to whom **all** supplies of goods and services are made above a threshold of EUR **17 500**

from Article 193.

per transaction, by derogation from Article 193.

Or. en

Amendment 6

Proposal for a directive

Article 1 – paragraph 1

Directive 2006/112/EC

Article 199c – paragraph 1 – subparagraph 2 – point a

Text proposed by the Commission

(a) it *has* a VAT gap, expressed as a percentage of the VAT Total Tax Liability, of at least 5 percentage points above the Community median VAT gap;

Amendment

(a) it *had, according to the method and figures set out in the 2016 final report dated 23rd August 2016 on the VAT gap published by the Commission*, a VAT gap *in 2014*, expressed as a percentage of the VAT Total Tax Liability, of at least 5 percentage points above the Community median VAT gap; *and*

Or. en

Amendment 7

Proposal for a directive

Article 1 – paragraph 1

Directive 2006/112/EC

Article 199c – paragraph 1 – subparagraph 2 – point b

Text proposed by the Commission

(b) it has a carousel fraud level within its total VAT gap of more than 25%;

Amendment

(b) it has, *based on the impact assessment that accompanied the legislative proposal for this Article, in the year covered by the report referred to in point (a)* a carousel fraud level within its total VAT gap of more than 25 %; *and*

Or. en

Amendment 8

Proposal for a directive

Article 1 – paragraph 1

Directive 2006/112/EC

Article 199c – paragraph 1 – subparagraph 2 – point c

Text proposed by the Commission

(c) it establishes that other control measures are not sufficient to combat carousel fraud on its territory.

Amendment

(c) it establishes that other control measures are not sufficient to combat carousel fraud on its territory, ***in particular by specifying the control measures applied and the particular reasons for their lack of effectiveness, as well as the reasons why VAT administrative cooperation has proven insufficient; and***

Or. en

Amendment 9

Proposal for a directive

Article 1 – paragraph 1

Directive 2006/112/EC

Article 199c – paragraph 1 – subparagraph 2 – point c a (new)

Text proposed by the Commission

Amendment

(c a) it establishes that the estimated gains in tax compliance and collection expected as a result of the introduction of the GRCM outweigh the expected overall additional burdens on businesses and tax administrations by at least 25 %; and

Or. en

Amendment 10

Proposal for a directive

Article 1 – paragraph 1

Directive 2006/112/EC

Article 199c – paragraph 1 – subparagraph 2 – point c b (new)

Text proposed by the Commission

Amendment

(c b) it establishes that businesses and tax administrations will not incur, as a result of the introduction of the GRCM, costs that are higher than those incurred as a result of the application of other control measures.

Or. en

Amendment 11

Proposal for a directive

Article 1 – paragraph 1

Directive 2006/112/EC

Article 199c – paragraph 1 – subparagraph 3

Text proposed by the Commission

The Member State shall attach to the request referred to in paragraph 4 the calculation of the VAT gap according to the method and figures available in the *latest* report on the VAT gap published by the Commission.

Amendment

The Member State shall attach to the request referred to in paragraph 4 the calculation of the VAT gap according to the method and figures available in the report on the VAT gap published by the Commission, ***as referred to in point (a) of the second subparagraph.***

Or. en

Amendment 12

Proposal for a directive

Article 1 – paragraph 1

Directive 2006/112/EC

Article 199c – paragraph 2

Text proposed by the Commission

2. Until 30 June 2022, a Member State may provide that the person liable for payment of VAT is the taxable person to whom supplies of goods and services are made above a threshold of EUR 10

Amendment

deleted

000 per invoice where this Member State:

(a) has a common border with a Member State that is authorised to apply the GRCM;

(b) establishes that a serious risk of shift of fraud towards its territory exists because of the authorisation of the GRCM to that Member State;

(c) establishes that other control measures are not sufficient to combat fraud on its territory.

Or. en

Amendment 13

Proposal for a directive

Article 1 – paragraph 1

Directive 2006/112/EC

Article 199c – paragraph 3

Text proposed by the Commission

3. Member States that apply the GRCM shall establish appropriate and effective electronic reporting obligations on all taxable persons and, in particular, on taxable persons who supply or receive the goods or services to which this mechanism applies.

Amendment

3. Member States that apply the GRCM shall establish appropriate and effective electronic reporting obligations on all taxable persons and, in particular, on taxable persons who supply or receive the goods or services to which this mechanism applies ***to ensure the effective functioning and monitoring of the application of the GRCM.***

Or. en

Amendment 14

Proposal for a directive

Article 1 – paragraph 1

Directive 2006/112/EC

Article 199c – paragraph 4 – subparagraph 1 – point a

Text proposed by the Commission

(a) a detailed justification that the conditions referred to in paragraph 1 *or* 2 are fulfilled;

Amendment

(a) a detailed justification that the conditions referred to in paragraph 1 are fulfilled; *and*

Or. en

Amendment 15

Proposal for a directive

Article 1 – paragraph 1

Directive 2006/112/EC

Article 199c – paragraph 4 – subparagraph 1 – point b

Text proposed by the Commission

(b) the starting date of the application of the GRCM and the period to be covered by it;

Amendment

(b) the starting date of the application of the GRCM and the period to be covered by it; *and*

Or. en

Amendment 16

Proposal for a directive

Article 1 – paragraph 1

Directive 2006/112/EC

Article 199c – paragraph 4 – subparagraph 1 – point c

Text proposed by the Commission

(c) actions to be taken to inform taxable persons of the introduction of the application of the GRCM;

Amendment

(c) actions to be taken to inform taxable persons of the introduction of the application of the GRCM; *and*

Or. en

Amendment 17

Proposal for a directive

Article 1 – paragraph 1

Text proposed by the Commission

(d) a detailed description of the accompanying measures referred to in paragraph 3.

Amendment

(d) a detailed description of the accompanying measures referred to in paragraph 2.

Or. en

Amendment 18

Proposal for a directive

Article 1 – paragraph 1

Directive 2006/112/EC

Article 199c – paragraph 7 – subparagraph 1

Text proposed by the Commission

Member States applying the GRCM shall submit an interim report to the Commission no later than *two years* after the start of application of the GRCM. This report shall provide a detailed assessment of the effectiveness of the GRCM.

Amendment

Member States applying the GRCM shall submit in electronic format to all Member States:

(a) the names of those persons who, in the twelve months preceding the date of application of the GRCM, have been subject to proceedings, whether criminal or administrative, for VAT fraud; and

(b) the names of those persons, including in the case of legal persons the names of their directors, whose VAT registration in their Member State was terminated upon the introduction of the GRCM; and

(c) the names of those persons, including in the case of legal persons the names of their directors, who have failed to submit a VAT return for two consecutive tax periods after the introduction of the GRCM.

The information referred to in points (a) and (b) shall be submitted no later than three months after the introduction of

GRCM and shall be updated every three months thereafter. The information referred to in point (c) shall be submitted no later than nine months from the introduction of GRCM and shall be updated every three months thereafter.

Member States applying the GRCM shall submit an interim report to the Commission no later than ***one year*** after the start of application of the GRCM. This report shall provide a detailed assessment of the effectiveness of the GRCM.

Or. en

Amendment 19

Proposal for a directive

Article 1 – paragraph 1

Directive 2006/112/EC

Article 199c – paragraph 8 – subparagraph 1

Text proposed by the Commission

Member States not applying the mechanism shall submit an interim report to the Commission as regards the impact in its territory of other Member States applying the GRCM ***no later than 30 June 2019, insofar the GRCM will have been applied for at least one year in one Member State by that date.***

Amendment

Member States not applying the mechanism shall submit an interim report to the Commission as regards the impact in its territory of other Member States applying the GRCM. ***Such report shall be submitted to the Commission within three months of the GRCM being applied for one year in one Member State.***

Or. en

Amendment 20

Proposal for a directive

Article 1 – paragraph 1

Directive 2006/112/EC

Article 199c – paragraph 10 – point a

Text proposed by the Commission

Amendment

(a) *the evolution of the VAT gap;*

deleted

Or. en

Amendment 21

Proposal for a directive Article 2 – paragraph 2

Text proposed by the Commission

Amendment

It shall apply until 30 *September* 2022.

It shall apply until 30 *June* 2022.

Or. en