



2018/0164(CNS)

30.10.2018

DRAFT REPORT

on the proposal for a Council directive amending Directive 2006/112/EC as regards the introduction of the detailed technical measures for the operation of the definitive VAT system for the taxation of trade between Member States (COM(2018)0329 – C8-0317/2018 – 2018/0164(CNS))

Committee on Economic and Monetary Affairs

Rapporteur: Fulvio Martusciello

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 as regards the introduction of the detailed technical measures for the operation of the definitive VAT system for the taxation of trade between Member States (COM(2018)0329 – C8-0317/2018 – 2018/0164(CNS))

(Special legislative procedure – consultation)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2018)0329),
 - having regard to Article 113 of the Treaty on the Functioning of the European Union, pursuant to which the Council consulted Parliament (C8-0317/2018),
 - having regard to Rule 78c of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs (A8-0000/2018),
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 1

Text proposed by the Commission

(1) When the Council adopted in 1967 the common system of value added tax (VAT) by means of Council Directives 62/227/EEC¹ and 67/228/EEC², the commitment was made to establish a definitive VAT system for the taxation of trade between Member States operating in

Amendment

(1) When the Council adopted in 1967 the common system of value added tax (VAT) by means of Council Directives 62/227/EEC¹ and 67/228/EEC², the commitment was made to establish a definitive VAT system for the taxation of trade between Member States operating in

a similar way as it would within a single Member State. Since the political and technical conditions were not ripe for such a system, when the fiscal frontiers between Member States were abolished by the end of 1992 transitional VAT arrangements were adopted. Council Directive 2006/112/EC³, which is currently in force, provides that these transitional rules have to be replaced by definitive arrangements based in principle on the taxation in the Member State of origin of the supply of goods or services.

a similar way as it would within a single Member State. Since the political and technical conditions were not ripe for such a system, when the fiscal frontiers between Member States were abolished by the end of 1992 transitional VAT arrangements were adopted. Council Directive 2006/112/EC³, which is currently in force, provides that these transitional rules have to be replaced by definitive arrangements based in principle on the taxation in the Member State of origin of the supply of goods or services. *However, those transitional rules have now been in place for several decades, resulting in a complex transitional VAT system susceptible to intra-Union cross-border VAT fraud. Those transitional rules suffer from numerous shortcomings, which result in the VAT system being neither fully efficient nor compatible with the requirements of a true single market. The vulnerability of the transitional VAT system became obvious only a few years after its introduction. Since then several legislative (improving administrative cooperation, shorter deadlines for recapitulative statements, sectoral reverse charge) and non-legislative actions have been taken. However, the recent VAT gap studies demonstrate that the figures of non-collected VAT are still enormous. This is the first legislative proposal since the introduction of the current VAT rules in 1992 which aims at tackling the root of cross-border fraud. In its Communication of 28 October 2015 entitled “Upgrading the Single Market: more opportunities for people and business”, the Commission identified the complexity of the current VAT regulations as one of the major obstacles to the completion of the single market. At the same time, the VAT gap, defined as the difference between the amount of VAT revenue actually collected and the theoretical amount that is expected to be collected, has been increasing, reaching EUR 151,5 billion in 2015 in the EU-28. This illustrates the*

need for an urgent and comprehensive reform of the VAT system towards a definitive VAT regime, to facilitate and simplify cross-border intra-Union trade and make the system more fraud-proof.

¹ First Council Directive 67/227/EEC of 11 April 1967 on the harmonisation of legislation of Member States concerning turnover taxes (OJ 71, 14.4.1967, p. 1301).

² Second Council Directive 67/228/EEC of 11 April 1967 on the harmonisation of legislation of Member States concerning turnover taxes — Structure and procedures for application of the common system of value added tax (OJ 71, 14.4.1967, p. 1303).

³ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).

¹ First Council Directive 67/227/EEC of 11 April 1967 on the harmonisation of legislation of Member States concerning turnover taxes (OJ 71, 14.4.1967, p. 1301).

² Second Council Directive 67/228/EEC of 11 April 1967 on the harmonisation of legislation of Member States concerning turnover taxes — Structure and procedures for application of the common system of value added tax (OJ 71, 14.4.1967, p. 1303).

³ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).

Or. en

Amendment 2

Proposal for a directive Recital 1 a (new)

Text proposed by the Commission

Amendment

(1 a) In addition, in the past the European Commission, supported by the European Parliament, always pointed out that a VAT system based on taxation at origin was the correct response for making the EU VAT system more fraud proof, and most in line with the proper functioning of the Single Market. The current initiative, however, is based on the Member States' preferred approach of taxation at destination in view of allowing a certain flexibility in the setting of VAT rates by Member States.

Amendment 3**Proposal for a directive****Recital 2***Text proposed by the Commission*

(2) The Council, supported by the European Parliament¹ and the Economic and Social Committee², confirmed that an origin-based system was not achievable and invited the Commission to proceed with in-depth technical work and a broadly based dialogue with Member States to examine in detail the different possible ways to implement the destination principle³.

Amendment

(2) The Council, supported by the European Parliament¹ and the Economic and Social Committee², confirmed that an origin-based system was not achievable and invited the Commission to proceed with in-depth technical work and a broadly based dialogue with Member States to examine in detail the different possible ways to implement the destination principle³, ***in order to ensure that the supply of goods from one Member State to another is taxed as if they were supplied and acquired within one Member State. The creation of a single EU VAT area is crucial in order to decrease compliance costs for businesses, particularly SMEs working cross-border, reduce the risks of cross-border VAT fraud and simplify VAT-related procedures. The definitive VAT system will strengthen the Single Market and create better business conditions for cross-border trade. It should take account of the changes that are necessary due to technological developments and digitalisation. This Directive sets out the technical measures for the implementation of the so-called “corner stones” as laid down by the European Commission in its proposal of 18.1.2018^{3a}. Member States therefore should take decisions on the aforementioned “corner stones” in order to proceed swiftly with the implementation of this Directive.***

¹ European Parliament resolution of 13 October 2011 on the future of VAT

¹ European Parliament resolution of 13 October 2011 on the future of VAT

(P7_TA(2011)0436)

<http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P7-TA-2011-0436>

² European Economic and Social Committee Opinion of 14 July 2011 on the ‘Green Paper on the future of VAT - Towards a simpler, more robust and efficient VAT system’ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52011AE1168>

³ Council conclusions on the future of VAT - 3167th Economic and Financial affairs Council meeting, Brussels, 15 May 2012 (see in particular point B 4) http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ecofin/130257.pdf

(P7_TA(2011)0436)

<http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P7-TA-2011-0436>

² European Economic and Social Committee Opinion of 14 July 2011 on the ‘Green Paper on the future of VAT - Towards a simpler, more robust and efficient VAT system’ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52011AE1168>

³ Council conclusions on the future of VAT - 3167th Economic and Financial affairs Council meeting, Brussels, 15 May 2012 (see in particular point B 4) http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ecofin/130257.pdf

^{3a} ***Proposal for a Council Directive amending Directive 2006/112/EC as regards rates of value added tax, COM(2018)0020, 2018/0005(CNS).***

Or. en

Amendment 4

Proposal for a directive Recital 3

Text proposed by the Commission

(3) The Commission, in its VAT Action Plan¹, sets out the amendments to the VAT system that would be necessary in order to develop such a destination-based system for intra-Union trade by means of the taxation of cross-border supplies. The Council subsequently reaffirmed the conclusions of that Action Plan and stated, inter alia, that in its view the principle of taxation at origin as envisaged for the definitive VAT system should be replaced by the principle of taxation in the Member State of destination².

Amendment

(3) The Commission, in its VAT Action Plan¹, sets out the amendments to the VAT system that would be necessary in order to develop such a destination-based system for intra-Union trade by means of the taxation of cross-border supplies. The Council subsequently reaffirmed the conclusions of that Action Plan and stated, inter alia, that in its view the principle of taxation at origin as envisaged for the definitive VAT system should be replaced by the principle of taxation in the Member State of destination². ***That change should contribute to the reduction of VAT-related***

***cross-border frauds by an estimated
EUR 40 billion annually.***

¹ Action Plan on VAT – Towards a single EU VAT area - Time to decide (COM(2016) 148final of 7.4.2016).

² See:
<http://www.consilium.europa.eu/en/press/press-releases/2016/05/25-conclusions-vat-action-plan/>

¹ Action Plan on VAT – Towards a single EU VAT area - Time to decide (COM(2016) 148final of 7.4.2016).

² See:
<http://www.consilium.europa.eu/en/press/press-releases/2016/05/25-conclusions-vat-action-plan/>

Or. en

Amendment 5

Proposal for a directive Recital 13

Text proposed by the Commission

(13) The overall rule for supplies of goods, including intra-Union supplies of goods, and for supplies of services should be that the supplier is liable for the payment of the VAT.

Amendment

(13) The overall rule for supplies of goods, including intra-Union supplies of goods, and for supplies of services should be that the supplier is liable for the payment of the VAT. ***This rule would enable Member States to better fight VAT fraud, especially Missing Trader Intra-Community (MTIC), estimated to amount to at least EUR 50 billion a year.***

Or. en

Amendment 6

Proposal for a directive Recital 15

Text proposed by the Commission

(15) The rules on the temporary application of the reverse charge mechanism for movable goods should be reviewed in order to ensure their coherence with the introduction of the new rules

Amendment

(15) The rules on the temporary application of the reverse charge mechanism for movable goods should be reviewed in order to ensure their coherence with the introduction of the new rules

regarding the person liable for the payment of VAT on intra-Union supplies of goods.

regarding the person liable for the payment of VAT on intra-Union supplies of goods. ***With the implementation of this Directive the temporary application of the reverse charge mechanism may no longer be required. The Commission should therefore analyse in due course the need to repeal the proposal for a temporary application of the reverse charge mechanism.***

Or. en

Amendment 7

Proposal for a directive Recital 23

Text proposed by the Commission

(23) In view of ensuring coherence in the VAT reporting obligations for large enterprises, the frequency of submitting VAT returns under this special scheme should be reviewed by adding that taxable persons making use of the scheme shall submit monthly VAT returns under the scheme when their annual Union turnover is above EUR 2 500 000.

Amendment

(23) In view of ensuring coherence in the VAT reporting obligations for large enterprises, the frequency of submitting VAT returns under this special scheme should be reviewed by adding that taxable persons making use of the scheme shall submit monthly VAT returns under the scheme when their annual Union ***VAT*** turnover is above EUR 2 500 000.

Or. en

Amendment 8

Proposal for a directive Recital 28

Text proposed by the Commission

(28) As a result of the introduction of intra-Union supply of goods as a new concept, it is appropriate to replace the term 'Community' with 'Union' to ensure an updated and coherent use of the term.

Amendment

(28) As a result of the introduction of intra-Union supply of goods as a new concept, it is appropriate to replace the term 'Community' with 'Union' ***throughout the Directive*** to ensure an updated and coherent use of the term.

Amendment 9

Proposal for a directive

Recital 30 a (new)

Text proposed by the Commission

Amendment

(30 a) Legislative measures to reform the VAT system, to fight VAT fraud and to reduce the VAT Gap can only succeed if Member States' tax administrations cooperate more closely in a spirit of mutual trust, and exchange relevant information to be able to perform their tasks.

Or. en

Amendment 10

Proposal for a directive

Article 1 – paragraph 1 – point 4 a (new)

Directive 2006/112/EC

Article 8

Present text

Amendment

“Article 8

If the Commission considers that the provisions laid down in Articles 6 and 7 are no longer justified, particularly in terms of fair competition or own resources, it shall present appropriate proposals to the Council.”

(4 a) Article 8 is replaced by the following:

“Article 8

If the Commission considers that the provisions laid down in Articles 6 and 7 are no longer justified, particularly in terms of fair competition or own resources, it shall present appropriate proposals to the ***European Parliament and to the*** Council.”

Or. en

Amendment 11

Proposal for a directive

Article 1 – paragraph 1 – point 7

Directive 2006/112/EC

Article 13a – paragraph 1 – subparagraph 3

Text proposed by the Commission

Where the applicant is a taxable person who has been granted the status of an authorised economic operator for customs purposes, the criteria in paragraph 2 shall be deemed to have been met.

Amendment

Where the applicant is a taxable person who has been granted the status of an authorised economic operator for customs purposes, the criteria in paragraph 2 shall be deemed to have been met **for the purpose of this Directive.**

Or. en

Amendment 12

Proposal for a directive

Article 1 – paragraph 1 – point 56 a (new)

Directive 2006/112/EC

Article 145 – paragraph 1

Present text

“1. The Commission shall, where appropriate, as soon as possible, present to the Council proposals designed to delimit the scope of the exemptions provided for in Articles 143 and 144 and to lay down the detailed rules for their implementation.”

Amendment

(56 a) in Article 145, paragraph 1 is replaced by the following:

“1. The Commission shall, where appropriate, as soon as possible, present **to the European Parliament and** to the Council proposals designed to delimit the scope of the exemptions provided for in Articles 143 and 144 and to lay down the detailed rules for their implementation.”

Or. en

Amendment 13

Proposal for a directive

Article 1 – paragraph 1 – point 59 a (new)

Present text

“1. The Commission shall, where appropriate, as soon as possible, present to the Council proposals designed to delimit the scope of the exemptions provided for in Article 148 and to lay down the detailed rules for their implementation.”

Amendment

(59 a) in Article 150, paragraph 1 is replaced by the following:

“1. The Commission shall, where appropriate, as soon as possible, present ***to the European Parliament and*** to the Council proposals designed to delimit the scope of the exemptions provided for in Article 148 and to lay down the detailed rules for their implementation.”

Or. en

Amendment 14

Proposal for a directive

Article 1 – paragraph 1 – point 68 a (new)

Directive 2006/112/EC

Article 166

Present text

Article 166

“The Commission shall, where appropriate, as soon as possible, present to the Council proposals concerning common arrangements for applying VAT to the transactions referred to in Sections 1 and 2.”

Amendment

(68 a) Article 166 is replaced by the following:

Article 166

“The Commission shall, where appropriate, as soon as possible, present ***to the European Parliament and*** to the Council proposals concerning common arrangements for applying VAT to the transactions referred to in Sections 1 and 2.”

Or. en

Amendment 15

Proposal for a directive

Article 1 – paragraph 1 – point 123 a (new)

Present text

“Every four years starting from the adoption of this Directive, the Commission shall present to the Council, on the basis of information obtained from the Member States, a report on the application of this Chapter, together, where appropriate and taking into account the need to ensure the long-term convergence of national regulations, with proposals on the following subjects:”

Amendment

(123 a) In Article 293, paragraph 1, the introductory part is replaced by the following:

“Every four years starting from the adoption of this Directive, the Commission shall present ***to the European Parliament and*** to the Council, on the basis of information obtained from the Member States, a report on the application of this Chapter, together, where appropriate and taking into account the need to ensure the long-term convergence of national regulations, with proposals on the following subjects:”

Or. en

Amendment 16

Proposal for a directive

Article 1 – paragraph 1 – point 166 a (new)

Directive 2006/112/EC

Article 395 – paragraph 3

Present text

“3. Within three months of giving the notification referred to in the second subparagraph of paragraph 2, the Commission shall present to the Council either an appropriate proposal or, should it object to the derogation requested, a communication setting out its objections.”

Amendment

(166 a) In Article 395, paragraph 3 is replaced by the following:

“3. Within three months of giving the notification referred to in the second subparagraph of paragraph 2, the Commission shall present to the ***European Parliament and to the*** Council either an appropriate proposal or, should it object to the derogation requested, a communication setting out its objections.”

Or. en

Amendment 17

Proposal for a directive

Article 1 – paragraph 1 – point 166 b (new)

Directive 2006/112/EC

Article 396 – paragraph 3

Present text

“3. Within three months of giving the notification referred to in the second subparagraph of paragraph 2, the Commission shall present to the Council either an appropriate proposal or, should it object to the derogation requested, a communication setting out its objections.”

Amendment

(166 b) In Article 396, paragraph 3 is replaced by the following:

“3. Within three months of giving the notification referred to in the second subparagraph of paragraph 2, the Commission shall present to the ***European Parliament and to the*** Council either an appropriate proposal or, should it object to the derogation requested, a communication setting out its objections.”

Or. en

Amendment 18

Proposal for a directive

Article 1 – paragraph 1 – point 169 a (new)

Directive 2006/112/EC

Article 404 a (new)

Text proposed by the Commission

Amendment

(169 a) The following new Article 404a is inserted after Article 404:

"Article 404a

Within four years from the adoption of Council Directive (EU) .../...*⁺, the Commission shall present to the European Parliament and to the Council, on the basis of information obtained from the Member States, a report on the implementation and application of the new provisions of this Directive, where appropriate [and taking into account the need to ensure the long-term convergence of national regulations], with proposals."

** Council Directive (EU) .../... of ...
amending ... (OJ ...).*

*+ OJ: Please insert in the text the number
of the Directive contained in document
PE-CONS ... (2018/0164(CNS)) and insert
the number, date, title and OJ reference
of that Directive in the footnote.*

Or. en

Amendment 19

Proposal for a directive

Article 1 – paragraph 1 – point 169 b (new)

Directive 2006/112/EC

Article 404 b (new)

Text proposed by the Commission

Amendment

*(169 b) The following new Article 404b is
inserted after Article 404a:*

"Article 404b

*Within two years from the adoption of
Council Directive (EU) .../...* +, the
Commission shall present to the
European Parliament and to the Council
a report on the effectiveness of the
exchange of the relevant information
between Member States Tax
Administrations, given the importance of
the mutual trust for the definitive VAT
regime to succeed."*

** Council Directive (EU) .../... of ...
amending ... (OJ ...).*

*+ OJ: Please insert in the text the number
of the Directive contained in document
PE-CONS ... (2018/0164(CNS)) and insert
the number, date, title and OJ reference
of that Directive in the footnote.*

Or. en

