

Tackling VAT fraud related to e-commerce

Changes to the value added tax (VAT) regulatory framework for e-commerce introduced the destination principle for cross-border business-to-consumer (B2C) transactions. Identification of the online businesses supplying goods and services to customers in other Member States is going to be key when it comes to ensuring compliance with VAT rules and addressing e-commerce VAT fraud. Parliament is due to vote on two Commission proposals in plenary in December.

Background

Once the new VAT regulatory framework for e-commerce applies as of January 2021 ([Council Directive \(EU\) 2017/2455](#)), VAT fraud in cross-border e-commerce will be difficult for the tax authorities where consumers are located to detect and tackle, because they will be relying on information from suppliers in another Member State that could be evading their VAT obligations. E-commerce payments generally involve intermediaries (payment service providers (PSPs), e.g. credit and direct debit providers) holding data relating to the payments (as provided for in the 2015 Payment Services Directive 2 ([Directive \(EU\) 2015/2366](#))).

European Commission proposals

On 12 December 2018, the Commission adopted two proposals aimed at bridging the information gap which hampers tax authorities, by providing them with access to payments information and strengthening cooperation between them.

The [proposal](#) for a Council Directive amending [Directive 2006/112/EC](#) would oblige PSPs to keep records of cross-border payments relating to e-commerce, in order to be able to identify cross-border suppliers.

The [proposal for a regulation](#) amending the VAT administrative cooperation regulation ([Regulation \(EU\) No 904/2010](#)) establishes a central electronic payment information system (CESOP) managed by the Commission for the purposes of VAT fraud detection and investigation, which would be accessible only to [Eurofisc](#) liaison officials. It also obliges Member States to collect electronic records available from PSPs, and allows them to store them in a national electronic system for a fixed duration of two years. The information exchange is to take place through a secure communications network.

The Commission consulted the European Data Protection Supervisor (EDPS) on the proposals and the EDPS adopted an [opinion](#) on 14 March 2019. Both proposals would apply as from 1 January 2024.

Legislative process

The proposals require unanimity in Council for their adoption, following consultation of the European Parliament (special legislative procedure). In Council, the proposals have been examined by the Working Party on Tax Questions in the course of 2019. An agreement ([general approach](#)) was reached in Council on the compromise texts on 8 November 2019. In Parliament, the proposals were referred to the Economic and Monetary Affairs Committee (ECON), which appointed Lidia Pereira (Portugal, EPP) as rapporteur for both proposals. The reports as voted in ECON on 2 December 2019 are due to be debated in plenary during the December 2019 session.

Consultation procedure: [2018/0412\(CNS\)](#) and [2018/0413\(CNS\)](#) Committee responsible: ECON; Rapporteur: Lidia Pereira (EPP, Portugal).

