BRIEFING

EU Legislation in progress

European Parliament

VAT in the digital age

SUMMARY

Value added tax (VAT) is one of the key revenue raisers in national budgets, accounting on average for almost a fifth of all tax revenue collected in the EU. Yet, sizeable amounts of VAT revenue are lost to fraud. Moreover, VAT rules place a considerable administrative burden on businesses. Therefore, to help strengthen the fight against VAT fraud and reduce this burden, the European Commission tabled a three-part proposal for a directive on VAT in the digital age, on 8 December 2022.

The proposal has three main objectives. The first is to introduce an EU-wide reporting system on intra-EU business-to-business (B2B) transactions, whereby companies would share, in real-time, data drawn from electronic invoices with the authorities. This would allow Member States to keep a close eye on the trail of VAT collected and to intervene when there is suspicion of fraudulent practices. The second objective involves introducing a harmonised framework for charging VAT in passenger transport and short-term accommodation platforms. The third objective is to adopt measures lowering VAT compliance costs for businesses operating across borders.

For the proposal to become a directive, the Council needs to vote on it unanimously after having consulted the European Parliament and the European Economic and Social Committee.

Proposal for a Council directive amending Directive 2006/112/EC as regards VAT rules for the digital age		
Committee responsible:	Economic and Monetary Affairs (ECON)	COM(2022) 701 8.12.2022
Rapporteur:	Olivier Chastel (Renew, Belgium)	2022/0407(CNS)
Shadow rapporteurs:	Lidia Pereira (EPP, Portugal) Aurore Lalucq (S&D, France) Mikuláš Peksa (Greens/EFA, Czechia) Andżelika Anna Możdżanowska (ECR, Poland) Chris Macmanus (The Left, Ireland)	Consultation procedure (CNS) – Parliament adopts a non-binding opinion
Next steps expected:	Vote in plenary	

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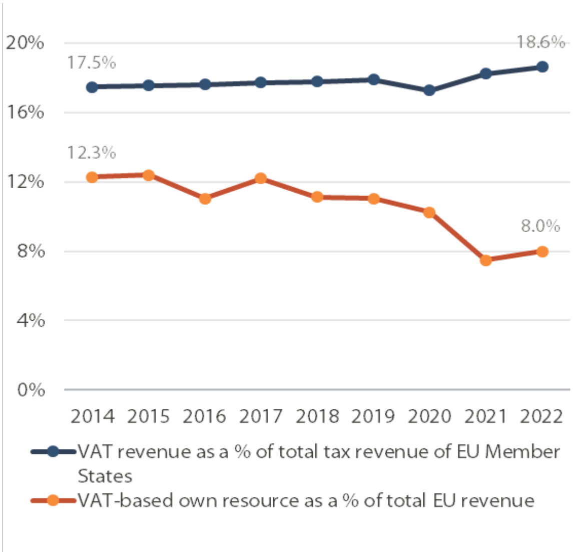
Context

Every year, about €1 trillion in VAT revenue is raised in the EU, making it a key revenue source for Member States' budgets. In 2021, VAT accounted for 18 % of all taxes collected in the EU (see Figure 1 below). Statistics shows that in some Member States VAT plays a more prominent role than in others. This is the case in Croatia, where 37 % of all tax revenue in 2021 was sourced from VAT. In contrast, Belgium (15 %) and Luxembourg (15 %) are least dependent on their VAT revenue.

Figure 1 – VAT revenue in the EU-27, 2014-2021



Data source: European Commission.

Since the 1970s, VAT has also been the basis of one of the EU budget's **own resources**, generating a total of €122 billion in revenue over the 2014-2020 period. Given the complexity of the mechanism for calculating the amounts the individual Member States had to pay as a share of their VAT revenue to the EU budget, this was changed as part of the negotiations on the 2021-2027 multiannual financial framework (MFF). In 2021 alone, €18 billion worth of VAT revenue was paid into the EU budget.

Given the significance of VAT for both national budgets and that of the EU, policymakers, public administrations and academics have been discussing ways to bridge the 'VAT gap' – the large amounts of VAT revenue that remain uncollected every year. In 2020, the EU-27's estimated losses from uncollected VAT stood at €93 billion, or about 9 % of total expected VAT revenue. The VAT gap is largely[1] attributed to intra-Community carousel fraud and domestic VAT fraud, sometimes perpetrated with the involvement of highly organised criminal gangs. Maladministration, bankruptcies and legal tax optimisation[2] also contribute to the VAT gap. While €3 000 in VAT revenue is lost every second in the EU, overall, the gap has been decreasing over time, in part thanks to closer cooperation between Member States. For instance, since the European Public Prosecutor's Office (EPPO) became operational in 2021, it has uncovered several international VAT fraud schemes. In November 2022, following raids on individuals in 14 Member States, the EPPO brought to light what is believed to be the largest case of VAT fraud investigated in the EU, with damages estimated at around €2.2 billion.

Compliance with VAT rules has generally been burdensome for businesses, as they need to keep track of numerous transactions each day, as well as handle bookkeeping tasks, issue invoices, file VAT returns and draft recapitulative statements. Compliance is even more complex for businesses making sales abroad. A recent study reveals that the estimated VAT-related compliance costs ranged on average from nearly €3 000 for a micro-sized enterprise to nearly €6 000 for a large one.[3]

Existing situation

Digital reporting requirements

The digitalisation of society has had far-reaching consequences for the daily work of tax authorities. Next to modernising VAT rules to ensure they remain fit for purpose for the new digital sectors (such as e-commerce), tax authorities have made significant investments in digital infrastructure to improve the tax system overall. For instance, today tax authorities can use advanced AI-based tools to detect fraud in a quick and targeted way. Digital means of communication have also ensured a swifter exchange of information between Member States, which has helped to step up the fight against tax evasion. Digitalisation has also paved the way for the creation of online fast-access portals allowing businesses and individuals to file tax returns, ask questions and claim tax refunds, thereby making life simpler for all taxpayers.

The introduction of digital reporting requirements **(DRRs)** for VAT purposes has had a truly revolutionary effect. DRRs, whose primary objective is to fight VAT fraud, require businesses to exchange a detailed track of their sales and purchases with the tax authorities in real time. This fast, automatic and digital exchange of information – about the seller, the customer, the VAT charged and the individual transactions while they are taking place – allows the tax authorities to keep a close eye on transactions and the related VAT trail, and to intervene when they believe that there is fraud at hand. While most DRRs were introduced in a number of Member States fairly recently, there are some signs that they have already succeeded in reducing VAT fraud. According to estimates, DRRs led to an additional €19-28 billion in VAT revenue in the EU between 2014 and 2019.

However, the EU's current VAT legal framework does not place any requirements for the introduction of DRRs or restrictions on their design.[4] Some Member States do not have DRRs in place at all, and those that are in place in others differ in a number of ways:

- method of reporting (see Table 1);
- frequency of reporting: Member States can require businesses to report in real time (close to the time of purchase) or at greater intervals (weekly, monthly);
- size of business: DRRs may contain a turnover threshold below which businesses are not obliged to share data. This reduces the bulk of smaller businesses' reporting requirements;
- type of transactions to which DRRs apply: business-to-business (B2B), business-to-consumer (B2C), business to government transactions (B2G), transactions above a certain value, etc.;
- territorial scope of transactions: domestic but also intra/extra-EU;
- digital format: PDF, XML, UBL, etc.

Table 1 – How some EU Member States apply DRRs (as of September 2021)

Method of DRR	Explanation	Member States
e-invoicing	Businesses submit a structured e-invoice to the authorities prior, during or shortly after issuing the invoice. A distinction is made between systems whereby a business can send an invoice directly to a customer without prior authorisation from the tax authorities ('non-clearance invoicing'), and systems whereby the invoice can only be sent by the seller after they receive prior authorisation from the authorities ('clearance e-invoicing').	Italy (clearance e-invoicing)
Real time reporting	Businesses have to submit certain data, usually drawn from an e-invoice, to the authorities, without having to issue or forward an e-invoice. This occurs shortly after the purchase was made (sometimes dubbed 'quasi/near real time reporting').	Hungary, Spain
SAF-T bookkeeping	Based on the OECD standard. Businesses send the information quarterly or monthly.	Lithuania, Poland, Portugal
VAT Listings	Businesses send a periodical overview, usually quarterly or monthly, listing the values of sales or purchases per customer or supplier to the tax authority.	Bulgaria, Croatia, Czechia, Estonia, Latvia, Slovakia

Data source: Compiled by the author on the basis of G. Luchetta et.al. (2022) – Part 1.[5]

About half of the Member States currently have a DRR in place, and several others have announced their intention to implement one in the future. Yet others – particularly in northern Europe – have no plans to introduce such a system, possibly because of the small VAT gaps they have.[6]

In this context, businesses have raised concerns about the emergence of **unilateral and uncoordinated DRRs** in the EU. The variety of software used, coupled with the diverse requirements and regulatory frameworks, results in significant administrative costs. Businesses have to invest time and financial resources in setting up separate accounting systems for each country as well as working out the applicable national rules. For the EU as a whole, **fragmentation** is estimated to cost up to €1.6 billion, which could increase if divergences among Member States continue to grow.

Platform economy

The platform economy is growing in size and importance throughout the EU, but the new business models it is generating pose challenges to the existing VAT system. While VAT concepts (such as taxable person and place of supply) have worked well in a more traditional economy that is based on linear supply chains (provider -> user), the platform economy operates through multi-layered supply chains, with multiple partners involved (provider -> platform -> user), making general VAT concepts less easy to apply. In particular, the platform economy allows private individuals to easily and independently carry out an economic activity through an online platform (working as a driver, renting out accommodation, etc.), even on an occasional basis. This blurs **the taxable status of the provider**, making the distinction between taxable persons (who carry out an economic activity on a continuous basis in exchange for consideration and are thus legally required to charge VAT) and private individuals (who have no obligation to charge VAT) less clear. Moreover, some platforms have attained such popularity that they have started creating economies of scale and network effects, allowing providers to connect with thousands of users.

The Commission considers that **VAT inequality** and distortion of competition are most significant between non-VAT registered providers of short-term rental of accommodation and passenger transport, and their traditional VAT-registered counterparts (i.e. hotels, taxi firms). The Commission refers to situations where the cost of accommodation offered through a platform can be up to 17 % cheaper than through offline counterparts.

VAT registration

As a general principle – although this depends on the nature and method of supply and the nature of the customer – when goods are being supplied across borders, VAT is due in the Member State of consumption (i.e. where the goods are located after their transportation from another Member State has ended). To ensure that a business making supplies abroad declares and remits the VAT due in the other Member State(s), businesses are required to register for VAT in each Member State to which they are making supplies (if their sales turnover exceeds a certain threshold).

However, **registering for VAT abroad can be a lengthy and costly procedure**. The registration process itself generally requires the provision and filing of numerous documents (possibly in a language the business registrant does not speak) with the local national authorities. The Commission estimates this one-off cost at a minimum of €1 200 per Member State in which the business registers. Once registered, the business has to start complying with the respective Member States' national VAT laws regarding invoicing, reporting, filing and payment (and, in case of non-compliance, national penalty regimes). These compliance costs are estimated at between €2 400 and €8 000 annually. The fact that businesses have to deal with a rather unfamiliar VAT regime and the related compliance costs can act as a barrier for cross-border trade in the single market.

To remove the need for companies to hold multiple VAT registrations, in 2015 the EU introduced the Mini-One-Stop-Shop (MOSS), an online portal allowing sellers **to declare and pay VAT on all sales across the EU in a single VAT return**. The scope of this portal was restricted at first to EU B2C supplies of telecommunications, broadcasting and electronic services (TBE). On 1 July 2021, the scope of the MOSS was broadened and its name was changed to One-Stop-Shop (OSS). Today, the OSS allows businesses to declare and pay VAT on all EU B2C transactions for the supply of services and B2C distance sales of goods.[7] In just 6 months after it had come into operation, the OSS had already collected €6.8 billion in VAT revenue.

Though the need for businesses to have multiple VAT registrations across the EU has diminished, some types of transactions still require non-resident suppliers to register for VAT when making supplies abroad. This particularly affects companies located near a country's borders (as a fairly large share of its customer base is more likely to be from abroad). Table 2 gives a list of those domestic B2C transactions of goods that still require VAT registration by non-established suppliers.

Table 2 – Domestic B2C supplies of goods requiring registration by non-established suppliers

Transactions	Example
Supply of goods with installation or assembly	A Latvian company supplies and installs solar panels on the roof of a house owned by a private individual in Lithuania. Lithuanian VAT needs to be charged and the company will have to register for VAT in Lithuania.
Supply of goods on board means of transport (ships, aircrafts, trains)	Newspapers are sold to passengers on a tourist travel ship from Helsinki to Tallinn. Finnish VAT is due on the newspapers. The seller will need to be registered for VAT in Finland. If they also sell newspapers on the return ride, Estonian VAT will be charged and the seller will need to be registered for VAT in Estonia.
Supply of gas, electricity, heating and cooling	A Dutch energy company supplies a private individual in Belgium with gas through the natural gas distribution system. Belgian VAT will be charged, and the energy company will need to be registered for VAT in Belgium.
Supply of second-hand goods, works of art, antiques (margin scheme)[8]	An Italian art dealer sells an antique vase to a private Greek collector. Greek VAT will be charged and the art dealer will need to be registered for VAT in Greece.

While the above-mentioned examples only occur within limited market segments, a majority of respondents to a survey accompanying the VAT in the Digital Age initiative remarked that VAT registration following the **transfer of own goods** was a 'widespread' phenomenon, often representing 'a significant share' of business turnover. In a transfer of own goods, businesses move some of their stock to a warehouse/storage in another Member State (often in order to be closer to their customers and thus reduce delivery waiting times). Under current VAT rules, transfer of own goods requires VAT registration in each Member State where a company stores its goods.

One exception to the transfer of own goods are call-off-stock arrangements, which are only limited to situations where an 'intended acquirer' is already known before the stock is dispatched to another Member State, i.e. the seller knows in advance the identity and VAT identification number of the customer who will make use of the stock in future. Moreover, under call-off stock arrangements, the customer has the right to take goods out of this stock at his own discretion.

Non-EU suppliers can also make use of a digital portal to declare and pay VAT, through the Import One-Stop-Shop (IOSS). After choosing the Member State where they would register officially ('the Member State of identification'), they would gain access to the EU single market. They will then have to appoint an intermediary in that Member State (usually an accountancy company), responsible for filing their IOSS VAT returns and paying VAT on their behalf.[9] The IOSS can also be used by electronic interfaces (such as online marketplaces or platforms) that facilitate the distance sales transactions of their non-EU sellers. At present, the IOSS can only be used for distance sales of goods imported into the EU with an intrinsic value not exceeding €150. Use of the (I)OSS is currently optional. Companies can register for VAT in whichever Member State they wish to do so.

VAT treatment of transfer of own goods

An Italian vinyl records company is making a large number of online sales to Dutch customers (B2C). After the scope of the OSS was extended on 1 July 2021, the Italian company has been declaring and remitting the VAT on its vinyl record sales in the Netherlands through the OSS ('distance sale of goods').

However, the company has received a number of complaints from Dutch customers about the long delivery waiting time. To improve customer satisfaction, the Italian company decides to store a number of vinyl records in a warehouse in the Netherlands for sale at a later stage. The call-off-stock arrangement cannot apply here, as the Italian company does not know yet the identities of its future customers.

From a VAT point of view, the Italian company moving stock to the Netherlands is making a VAT-exempt supply in Italy and a taxable acquisition in the Netherlands. According to Article 200 of the VAT Directive, the company is liable to declaring VAT and needs to register for VAT purposes in the Netherlands. If the vinyl records are afterwards sold to Dutch customers, these sales would be a domestic supply of goods by an established supplier (for which the OSS cannot be used).

In short, the Italian company is incentivised – from a VAT compliance cost perspective – to ship the vinyl records on its own behalf to customers abroad (allowing it to use the OSS and avoid multiple VAT registrations), rather than moving stock abroad (which would require local VAT registration) despite the benefit of earning local customer satisfaction.

Parliament's position

In its resolution of 10 March 2022, the European Parliament voiced regret that the VAT system had remained 'fragmented triggering a significant administrative burden on firms, in particular those with cross-border operations and SMEs', and encouraged the Commission to simplify and harmonise the VAT system. The Parliament referred to the set-up of the OSS in particular and urged the Commission to investigate how the scope of the OSS could be broadened, 'especially with regard to all B2C transactions of goods and the transfer of own-stock'. On the setting of DRRs, the Parliament welcomed the Commission's aim of working towards a gradual alignment across the EU, but stressed how such a system would need to be taxpayer-friendly and ensure data confidentiality.

Preparation of the proposal

In June 2020, the Commission tabled a communication on an action plan for fair and simple taxation supporting the recovery strategy (COM(2020) 312), in which it committed to modernising VAT reporting obligations, facilitating VAT e-invoicing, updating the VAT rules for the platform economy and moving towards a single VAT registration for businesses.

In January 2022, the Commission launched a public consultation. A majority of respondents acknowledged the current fragmentation in DRRs and the related unnecessary costs for companies operating in multiple countries, and encouraged the EU to intervene by establishing a more harmonised framework. Stakeholders were very positive about the introduction of the OSS, noting the benefits for small and medium-sized companies (SMEs) in particular. Yet, despite the improvements brought by the OSS, many respondents said that having to register for VAT a number of times was burdensome and encouraged the Commission to broaden the scope of the OSS.

In March 2022, the Council welcomed the implementation of the broadened OSS but 'invited the Commission to study further the impact of the possibility to make the use of the IOSS mandatory and to investigate more in-depth ... the possible removal of the €150 threshold'.

The changes the proposal would bring

In addition to a number of smaller modifications, the proposed directive would introduce: a) a mandatory EU-wide DRR for intra-EU B2B trade; b) a 'deemed supplier' rule for passenger transport and short-term accommodation platforms; and c) a broadened OSS.

According to the Commission, between 2023 and 2032, the proposed directive could bring between €172 billion and €214 billion in net benefits, including €51 billion in savings for businesses.

EU digital reporting requirement

A first objective of the proposal is to introduce a **mandatory harmonised EU-wide DRR for intra-EU B2B transactions**, based on the exchange of data drawn from e-invoices. Both the suppliers and the recipients of goods or services would need to share the data on their transactions with the authorities in (near-) real time. This harmonised EU-wide DRR system, envisaged to be in place as of 1 January 2028, should reduce VAT fraud while also limiting costs for businesses thanks to the single EU-wide reporting standard that they would be applying.

Table 3 – Key aspects of the EU-wide DRR (Articles 262-271 of the proposal)

Category	EU DRR	Comment
Method	Non-clearance	The EU DRR would not be based on 'clearance', i.e. there would be no prior authorisation needed by the tax authority when issuing the e-invoice to the customer.
Reporting frequency	(Near-) real time reporting	Reporting businesses would need to submit the data of the e-invoice within 2 working days of its issuance (Article 263).
Scope and type of transactions	Intra-EU B2B transactions	The EU-wide DRR would apply to all businesses, regardless of turnover, and to all intra-EU B2B transactions, regardless of monetary value. The required information (Article 262(1)) would be transmitted on a transaction-by-transaction basis electronically (Article 263). Member States would not be allowed to request additional data (Article 266).
Format	Acceptance of the European standard on e-invoicing	Authorities would always have to accept data drawn from structured e-invoices that comply with the European e-invoicing standard EN16931 (Directive 2014/55/EU). Member States could allow other data formats, but only in addition to the one mentioned above (Article 263).

Tax authorities would share the information received under the EU DRR in a central EU-wide database (VAT Information Exchange System). Rules on how these data would be exchanged, on the necessary IT infrastructure and on data protection are laid out in a Commission proposal for a Council regulation, COM(2022) 703.

Regarding **domestic B2B transactions**, the Commission seeks a more **partial DRR alignment** (Articles 271a-273). The proposal would allow Member States that do not yet have a DRR on domestic B2B transactions to introduce one under the same conditions as those applicable to the intra-EU B2B DRR. Member States that already have a DRR on domestic B2B transactions would have to adapt it to the EU standard by 2028. Similarly, DRRs on domestic B2B transactions could come in various data formats but would always need to accept e-invoices based on the European standard, to ensure that companies do not have to introduce separate accounting compliance standards for each Member State where they do business.

Member States with a DRR clearance system in place – i.e. where the transfer of the invoice to the customer is dependent on authorisation by the tax authorities – would need to discontinue this practice by 1 January 2028 (Article 218).

To ensure the effective introduction of the EU DRR and a wider take-up of e-invoices, the Commission proposes some additional modifications. Some of them are listed below.

- At present, businesses are required to file **recapitulative statements** (an EC sales list) on their intra-EU B2B trade, listing the names of their customers, their VAT number, the customer's country code and the amount of sales made per customer. These lists are filed monthly or quarterly and then shared between the Member States. As the EU DRR would provide all of the above information in greater detail and in real-time, the Commission believes that businesses should no longer have to file recapitulative statements. The proposed VAT directive therefore makes no reference to recapitulative statements.
- Similarly, the Commission considers the use of summary invoices (whereby multiple orders are summarised into one invoice) to run against the philosophy of the transaction-based EU DRR. Article 223 of the existing directive, together with the summary invoices, is therefore absent from the proposed directive.
- The Commission proposes to change the **status of e-invoices**. Under the current EU-rules, paper invoices and e-invoices exist on an equal footing. Previously, some Member States had wanted to introduce mandatory e-invoicing, for which they had asked for a derogation from the EU VAT Directive. By altering Article 218, the Commission proposes to make e-invoicing the default system as of 2024. Although Member States may also allow other standards, they should always allow businesses to issue e-invoices according to the European standard (EN16931). Paper invoices – outside the intra-EU DRR – would only be allowed if authorised by a Member State. Article 232 would be removed, whereby the issuance of e-invoices would no longer be conditional upon the acceptance of the recipient. It is also clarified that e-invoices should come in a structured format, meaning it would no longer be possible to send VAT e-invoices as PDF files (Article 217).
- To give tax authorities more detailed information, the Commission proposes to add a number of elements to the invoicing contents standard, including the IBAN of the supplier's bank to which the payment of the invoice would be credited (Article 226).

Platform economy

To ensure equal VAT treatment for the platform economy's short-term accommodation rental companies and passenger transport companies with their offline traditional counterparts, the Commission proposes to introduce a **'deemed supplier model'** for such companies (Article 28a). Under this rule, when the underlying supplier is a non-taxable person[10] (that is, does not charge VAT), the platform would automatically become responsible for charging and collecting VAT from the customer and remitting it to the authorities. Estimates suggest this measure could raise €6 billion in VAT revenue per year.

To ensure further harmonisation in the application of VAT rules in the platform economy, the Commission proposes a number of smaller changes relating to, for example, the classification of facilitation services. Right now, Member States are divided over how the facilitation services offered by platforms to non-taxable persons should be defined for VAT purposes. The Commission proposes to always consider these to be 'intermediary services' (in line with Article 46 of the VAT Directive). This means that VAT would be due in the country where the underlying transaction is supplied, i.e. the place where the transport takes place or where the rental accommodation is located.

Single VAT registration

To reduce further the need for businesses to have multiple VAT registrations, the Commission proposes **broadening the OSS (Article 369b)** to cover the remaining domestic B2C supply of goods transactions where local VAT registration by non-established suppliers is still required (see Table 2 above). This covers the supply of goods with installation or assembly; supply of goods on board means of transport; supply of gas, electricity, heating and cooling; plus supply of margin scheme goods. From January 2025, non-established suppliers would be able to declare the VAT collected from such transactions through the OSS.

Under the proposal, businesses would no longer have to register for VAT when moving stock to another Member State, through to the introduction of an **'OSS for transfers of own goods'** as of January 2025 (Article 369xa-Article 369xk). Businesses that simply move goods to another Member State (to sell them at a later stage) could use this scheme to take care of their VAT obligations through an online single portal without having to register for VAT in each Member State where their stock is stored.[11]

To reduce further the number of VAT registrations for companies, the Commission proposes to allow non-established suppliers to always use **the reverse charge mechanism** (whereby the responsibility for declaring VAT switches from the supplier to the customer) in the case of transactions of goods/services to taxable persons in another Member State (Article 194).[12] Now, the application of the reverse charge is optional in certain B2B transactions, with variations in application between Member States. Obliging tax authorities to accept the reverse charge means that non-established businesses would no longer have to register for VAT in the country of the customer. As regards the supply of services, this would in particular benefit suppliers of services related to immovable property, passenger transport, admission to events, restaurants and catering and short-term hiring of means of transport.[13] As regards the supply of goods, this would particularly benefit local supplies of goods after import; supplies of fuel; supplies of goods with installation or assembly; and supplies of goods previously rented or leased in the Member State of taxation.

Next to the broadening of the OSS, the introduction of a special scheme for the transfer of own goods and the mandatory application of the reverse charge, the proposed directive introduces a number of modifications and clarifications to the OSS to improve its efficiency. These include:

- removing call-off-stock arrangements, as the proposed scheme for the transfer of own goods would already cover these transactions (Articles 243(3) and 262(2)). A cut-off date for new arrangements – 31 December 2024 – and a transition period for pre-existing arrangements – 31 December 2025 – are put forward (Article 17a);
- making the IOSS mandatory for electronic interfaces (Article 369m). In its impact assessment, the Commission argues that this would further limit VAT fraud cases and level the playing field between IOSS users and those electronic interfaces that have not been registered in the IOSS.

Advisory committees

Consultation of the European Economic and Social Committee (EESC) is mandatory. The EESC opinion, drafted by rapporteur Philip Von Brockdorff (Workers - Group II, Malta), together with co-rapporteur Krister Andersson (Employers - Group I, Sweden), was adopted during the April 2023 plenary session. The EESC welcomed the Commission's move to harmonise VAT reporting rules and reduce the fragmentation of national VAT reporting schemes through the introduction of an EU DRR. However, it expressed concern that the suggested timeline for reporting intra-Community supplies seemed 'unreasonably short' and would 'constitute a barrier' to intra-community trade. The EESC expressed broad support for the broadening of the OSS, and encouraged the Commission to continue working on improving the OSS, e.g. by including input VAT deductions.

National parliaments

The national parliaments of Romania, Germany and Spain issued opinions on the proposal under the subsidiarity control mechanism.

The Romanian Senate is worried that the deemed supplier rule could particularly affect low-income drivers active in the passenger transport sector, as the additional VAT would lower demand for transportation trips. It welcomed the broader use of digital reporting, but pointed out that an EU DRR should leave some flexibility for the needs of individual Member States.

The German Parliament expressed support for the introduction of a harmonised digital reporting scheme, but highlighted the significant costs this would bring to businesses and tax administrations. The removal of summary invoices and the tight deadlines for reporting individual transactions would pose 'considerable challenges' for stakeholders, the German Parliament argued.

According to the Spanish Parliament, real-time invoice data exchange requires well-functioning internet. It therefore argued in favour of considering making investments to expedite the rollout of high-speed internet across Spain.

Legislative process

The Commission put forward its legislative proposal amending the VAT Directive on 8 December 2022. The proposal falls under a special legislative procedure requiring unanimous support in the Council, following consultation of the European Parliament and the European Economic and Social Committee (2022/0407(CNS)).

In the Parliament, the proposal was assigned to the Economic and Monetary Affairs Committee (ECON), with Olivier Chastel (Renew, Belgium) as rapporteur. The report was adopted by ECON in October 2023. While broadly supporting the Commission proposal, in a bid to reduce compliance costs it increases the maximum time for businesses to report the invoice data to the tax authorities and shortens the list of data to be reported. Given the vast amount of data that would need to be collected, the report calls on Member States and the Commission to ensure strict data protection. Furthermore, it encourages the Commission to identify any remaining shortcomings of the OSS portal and where possible, to update it further, for example, in connection with customs obligations.

Negotiations in the Council are ongoing. It has recently stated that more work needs to be done, while adding that the compromise texts prepared by the Swedish Council Presidency have been a solid basis for further dialogue. The proposal is being examined by the Working Party on Tax Questions (indirect taxation).

EUROPEAN PARLIAMENT SUPPORTING ANALYSIS

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ENDNOTES

1 According to the Commission, conservative estimates suggest that 'one quarter of the VAT gap can be attributed directly to intra-community VAT fraud'.

2 VAT optimisation occurs in border regions in particular, with residents exploiting price differences between countries.

3 These figures do not reflect actual tax costs. For more information, see: Tax compliance costs for SMEs: An update and a complement Final Report (2022).

4 Article 273 of the VAT Directive allows Member States to 'impose other obligations [next to the VAT return] to ensure the correct collection of VAT and to prevent VAT fraud'.

5 Detailed information on each country's DRR can be found in the annex of Luchetta, G. et.al. (2022).

6 VAT gaps are estimated to range from 35.7 % in Romania to 1.3 % in Finland.

7 There is an annual €10 000 turnover threshold for cross-border supplies of B2C TBE services and intra-Community distance sales of goods. For suppliers below it, the place of supply is in the Member State where they are established.

8 The cross-border B2C supply of second-hand goods, works of art, and antique objects falls under the VAT margin scheme, whereby taxable dealers pay VAT on the difference between the sales price and the purchase price of goods.

9 An exception is made for non-EU suppliers who are established in a country with which the EU has made a VAT mutual assistance agreement. At present, only Norway has such an agreement with the EU.

10 Either a private individual or an enterprise making use of the SME relief scheme (Article 284 of the VAT Directive).

11 The transfer of own goods would also apply, for instance, to suppliers who are making sales on a weekly market or when they are participating in an exhibition, trade fair or similar in Member States where they are not established.

12 The reverse charge is already mandatory for non-established suppliers involved in transactions goods/services mentioned in Articles 195-198, 200 of the VAT Directive.

13 In terms of the VAT Directive, this applies to Articles 47-48, 53, 55-57.

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