

HEARING

“VAT FRAUD”

QUESTIONS

Presentation by the Eurofisc, Ms Alma Olofsdottir

Could Member States’ cooperation be improved in the fight against VAT (carousel) fraud? What is the role of Eurofisc?

1. Can you provide a presentation of how cooperation work within the framework of Eurofisc? Can you give figures as regards the number of persons working for Eurofisc? Do you consider this sufficient?

Eurofisc is a network for the swift exchange of targeted information between Member States (MS) to combat cross border VAT fraud. All 28 MS participate in the network. The MS appoint Eurofisc liaison officials who are experts in the fight against tax VAT fraud to swiftly exchange information between all the Eurofisc liaison officials in the working fields they take part in.

At national level the Eurofisc Liaison officials of the MS analysis data available and select companies or transactions that might be subject to VAT fraud. This information is shared with all the participating Eurofisc liaison officials in the working field who take at national level appropriate action on the data and warnings received. There are approximately 300 Eurofisc liaison officials partaking in the Eurofisc network from all the 28 MS. However, the efficiency of the Eurofisc network depends on the level of support for the Eurofisc work on national level in the MS.

2. VAT carousel fraud is a well-known problem. Eurofisc was notably set up to improve cooperation between Member States’ VAT authorities in tackling VAT fraud. How do you assess the VAT authorities’ capacities and coordination between them? Do you consider more improvements would be needed? If yes, which one?

The MS exchange information in the working fields as agreed by the Eurofisc liaison officials. Coordinators for the working fields are elected from among the Eurofisc liaison officials of the MS participating in the working fields. The

task of the coordinator is to collate the information received from the MS and make the information available to all the Eurofisc liaison official in the working field. Their task is also to ensure that the information received is processed, as agreed by the participants in the working field, and to encourage and facilitate the accomplishment of the tasks that are agreed to be carried out in the working field.

On national level the Eurofisc liaison official are supported by IT tools, team of analysts and fraud experts/auditors. However, the level of resources supporting the Eurofisc work on national level can vary between the MS. In some MS the capacity available for carrying out the Eurofisc tasks is not sufficient due to lack of management support and level of priority.

3. Have you identified legal/practical obstacles for obtaining relevant necessary information?

It is usually the tax administration who is responsible for the assessment and collection of VAT on behalf of the government and plays a central role in preventing and detecting tax crime.

The EU Council Regulation 904/2010 sets out the rules and conditions for the exchange of information between the VAT authorities for correct assessment of VAT and is covered by tax secrecy in accordance with article 55 in the Regulation, but the information exchanged can also be used in a criminal investigation.

Normally it is the tax administrations who are the competent authorities as regards of exchanging information according to the Regulation 904/2010, but in some MS also Law enforcement agencies are also considered to be competent authority.

To more efficiently tackle organised tax fraud, some MS have implemented specific rules making it possible to swiftly exchange information related to tax fraud involving organised crime groups with Law enforcement agencies.

Sharing information and knowledge is a necessity for efficiently fight organised MTIC fraud. However, the dissimilar possibilities in the MS to exchange relevant information between the various agencies authorities and bodies who are involved in combatting the fraud is an obstacle.

4. Can you share your experience of the Eurofisc cooperation with other EU bodies (OLAF, EUROPOL, EUROJUST)? Are there obstacles for an efficient cooperation?

The information exchanged between the tax administrations through the Eurofisc network is shared between the MS at an early stage. However, usually it is often not until the information results in a criminal investigation on national level the information can be shared with Law enforcement agencies, who have the possibility to exchange information with Europol or Eurojust.

The tax administrations have usually no legal possibility to exchange Eurofisc information directly with those bodies.

5. Can you also explain how cooperation with customs works in practical terms? Do you see a need for improvements?

Workingfield 3 in Eurofisc was set up to tackle the abuse of Custom code 42 and to enhance the cooperation between the tax administrations and customs on national level to combat MTIC fraud. Both customs and tax officials participate in Eurofisc WF3. Under Customs code 42, goods are imported in one MS with a final destination in another MS. VAT is only charged when the goods reach their final destination. This procedure is often misused in MTIC carousel fraud or the goods are diverted to the black market without VAT having been paid.

Risk analysis, connected to this type of transactions, requires good cooperation between the customs and tax administration on national level in the MS of importation. However, the level of cooperation between customs and the tax administration on national level vary between in the MS depending on national organisation.

6. Taking the different national VAT systems and enforcement rules in place, do you see that there is a risk of cross-border shopping and arbitrage by criminals? Could you comment on the concerns of some Member States in this regard?

Several MS have introduced sector specific reverse charge procedures over the last years on goods and services commonly used in VAT fraud. Although a reverse charge is beneficial to the MS to stop VAT fraud in a specific sector in their country, it can lead to shifting the fraud to other Member States or into

new markets. The fraudster's usually swiftly adapt to the measures taken by the MS.

During the investigation process, until the suspicion of fraud is established, it can be difficult for the tax administrations to evaluate whether classified information can be shared with Law enforcement agencies, although the law enforcement agencies might have valuable information for the tax administration for their investigation. Therefore, information related to VAT fraud is often shared with law enforcement agencies considerably late after detection, which consequently can result in additional VAT losses for the MS treasury.