



## **“VAT FRAUD: ECONOMIC IMPACT, CHALLENGES AND POLICY ISSUES”**

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### **EXECUTIVE SUMMARY**

#### **Background**

In spite of a comprehensive anti-VAT fraud regulatory framework, the EU Member States are losing billions of euros each year on account of fraud. As the EU VAT system is undergoing profound modernisation, it is important to take stock of the current state of play and to assess the relevance and effectiveness of the current system and proposals for reform currently under discussion.

#### **Aim**

Against this background, the first objective of this study is to clarify the features of the main cross-border VAT fraud schemes and to provide updated figures regarding the related loss of revenue for the EU Member States. The second objective is to present the existing EU anti-VAT fraud regulatory framework, together with the most recent proposals made by the European Commission towards the adoption of the ‘definitive VAT system’. The third objective of this study is to make selected recommendations.

#### **Key findings**

- MTIC/carousel fraud is the most damaging type of cross-border VAT fraud (EUR 50 billion losses in average per year). Whilst the ‘definitive system’ proposal (2017) is meant to put an end to it, its entry into application is not envisaged before 2022. Therefore, it is essential that the Member States take immediate actions to control the damage. This can be done within existing frameworks, in particular Eurofisc and the newly created European Public Prosecutor Office.
- The ‘definitive system’ proposal (2017) will eradicate MTIC/carousel fraud as we know it. However, new forms of MTIC fraud will rapidly arise that have to date been overlooked. Moreover, the one-stop-shop as currently designed is likely to create severe tensions between the Member States.
- The creation of a ‘certified taxable person’ status under the ‘definitive system’ proposal (2017) will result in a discriminatory treatment of taxable persons and will open new opportunities for fraud. Moreover, the correct monitoring of this status would be extremely costly for the Member States.
- The newly adopted measures to tackle CP42 fraud (ECOFIN 22 June 2018) heavily rely on active administrative cooperation between the Member State of import and the Member State of final destination, keeping in mind that the goods may be rerouted to a different Member State of destination than initially foreseen. This means that unwavering dedication of all the Member States is needed to tackle CP42 fraud. However, experience has shown



that administrative cooperation between tax authorities is sub-optimal. In this area in particular, the EU is a chain as strong as its weakest link and fraudsters will take any opportunity to exploit the holes. The risk of 'tax dumping' also arises.

- The newly adopted measures to prevent VAT fraud related to cars (ECOFIN 22 June 2018) seem appropriate to tackle this specific type of fraud. However, their success will once again depend on the effectiveness of the implementation by the Member States.
- Non-registration, undervaluations and underreporting are three major risks that have not yet been properly addressed in the recently adopted e-commerce package (December 2017). Accompanying measures should also be adopted in order to prevent abuse of VAT registration numbers in the case of imports.
- The current proposal regarding VAT rates (January 2018) might seem appropriate in the context of the proposed transition towards a destination based definitive VAT system. However, it should be acknowledged that a diversification of the VAT rate structure of the Member States would open new opportunities for fraud. Moreover, the monitoring of the correct application of a diversified rate structure (in order to avoid potential VAT fraud issues) will come at a far from negligible cost for the Member States.
- The Member States should be able to curb VAT avoidance schemes such as those recently revealed in the Panama Papers (aircraft leasing schemes) based on the current state of the CJEU case law.
- Digitalisation and tremendous changes in the way businesses operate are the main challenges that need to be addressed for the VAT system to remain a neutral, efficient and effective means of taxation. Traditional methods will not suffice to address these challenges, in particular to maintain a satisfactory level of protection against fraud. New technologies and strategies should be investigated.

#### **Key (summary) recommendations**

- Increased cooperation of the Member States within Eurofisc and active participation in the Transactional Network Analysis system.
  - Better use of the existing EU bodies.
  - An ambitious mandate for the European Public Prosecutor Office.
  - Effective judiciary sanctions of VAT fraud at the national level, with the Criminalisation Directive as a 'minimum standard'.
  - Amendment of the definitive system proposal to take into account new risks of fraud and tension between the Member States.
  - Accompanying measures for the e-commerce package and further reflection on more structural changes.
  - Investing in new technologies to improve the robustness of collection systems, in particular in the case where the liability to pay the VAT lies with non-EU taxable persons.
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