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REPORT

1. on the proposal for a Council directive amending Directive 77/388/EEC with a view to simplifying value added tax obligations
(COM(2004)0728 – C6-0024/2005 – 2004/0261(CNS))

2. on the proposal for a Council regulation amending Regulation (EC) No 1798/2003 as regards the introduction of administrative cooperation arrangements in the context of the one-stop scheme and the refund procedure for value added tax
(COM(2004)0728 – C6-0025/2005 – 2004/0262(CNS))

Committee on Economic and Monetary Affairs

Rapporteur: Zsolt László Becsey

Symbols for procedures

*	Consultation procedure *majority of the votes cast*
**I	Cooperation procedure (first reading) *majority of the votes cast*
**II	Cooperation procedure (second reading) *majority of the votes cast, to approve the common position* *majority of Parliament's component Members, to reject or amend the common position*
***	Assent procedure *majority of Parliament's component Members except in cases covered by Articles 105, 107, 161 and 300 of the EC Treaty and Article 7 of the EU Treaty*
***I	Codecision procedure (first reading) *majority of the votes cast*
***II	Codecision procedure (second reading) *majority of the votes cast, to approve the common position* *majority of Parliament's component Members, to reject or amend the common position*
***III	Codecision procedure (third reading) *majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

CONTENTS

1. DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a Council directive amending Directive 77/388/EEC with a view to simplifying value added tax obligations
(COM(2004)0728 – C6-0024/2005 – 2004/0261(CNS))

(Consultation procedure)

The European Parliament,

– having regard to the Commission proposal to the Council (COM(2004)0728)[1],

– having regard to Article 93 of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0024/2005),

– having regard to Rule 51 of its Rules of Procedure,

– having regard to the report of the Committee on Economic and Monetary Affairs (A6-0228/2005),

1. Approves the Commission proposal as amended;

2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;

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 amend the Commission proposal substantially;

5. Instructs its President to forward its position to the Council and Commission.

Text proposed by the Commission	Amendments by Parliament

Amendment 1
ARTICLE 1, POINT 4
Article 22 b, point C, paragraph 1, subparagraph 2 (Directive 77/388/EEC)

Text proposed by the Commission	Amendments by Parliament
The taxable person shall provide the information necessary for his registration under the one-stop scheme. He shall also state whether he is already identified for value added tax purposes in Member States where he is not established nor has a fixed establishment and, if so, indicate the identification number under which he is	The taxable person shall provide the information necessary for his registration under the one-stop scheme ***in the language of the Member State of identification***. He shall also state whether he is already identified for value added tax purposes in Member States where he is not established nor has a fixed establishment and, if so,

[1] Not yet published in OJ.

registered.	indicate the identification number under which he is registered.

Justification

This amendment would allow SMEs to reduce their translation costs.

Amendment 2
ARTICLE 1, POINT 4
Article 22 b, point C, paragraph 2, subparagraph 1 (Directive 77/388/EEC)

2. The Member State of identification shall register the taxable person referred to in paragraph 1 within ***a reasonable period of time.*** For that purpose the Member State shall use the individual number already allocated to the taxable persons in respect of his obligations under the internal system.	2. The Member State of identification shall register the taxable person referred to in paragraph 1 within ***20 days.*** For that purpose the Member State shall use the individual number already allocated to the taxable persons in respect of his obligations under the internal system.

Justification

The amendment strives for establishing a better cooperation between taxable persons and tax administrations. The suggested modification does not touch upon the fundamental principle of subsidiarity, but helps the SMEs to launch economic activity as quickly as possible. Setting a concrete deadline for tax registration enhances transparency as well.

Amendment 3
ARTICLE 1, POINT 4
Article 22 b, point C, paragraph 3 (Directive 77/388/EEC)

3. Every taxable person shall notify the Member State of identification of any modification of the registration data provided pursuant to paragraph 1. That notification shall be made by electronic means.	3. Every taxable person shall notify the Member State of identification ***within 20 days*** of any modification of the registration data provided pursuant to paragraph 1. That notification shall be made by electronic means.

Justification

The amendment strives for establishing a better cooperation between taxable persons and tax administrations. The suggested modification does not touch upon the fundamental principle of subsidiarity, but helps have the correct registration as soon as possible. Setting a concrete deadline for tax registration enhances transparency as well.

Amendment 4
ARTICLE 1, POINT 4

Article 22 b, point C, paragraph 5, subparagraph 1 (Directive 77/388/EEC)

5. The Member State of identification shall ***without delay*** strike from the identification register any taxable person who no longer meets the conditions necessary to qualify for the one-stop scheme.	5. The Member State of identification shall ***within five days*** strike from the identification register any taxable person who no longer meets the conditions necessary to qualify for the one-stop scheme ***and notify the Member States where he has already been identified for value added tax purposes***.

Justification

This amendment would help improve cooperation between Member States' tax authorities. The amendment strives for establishing a better and more transparent cooperation between taxable persons and tax administrations. The suggested modification does not touch upon the fundamental principle of subsidiarity, but guarantees the quick updating of legislation. Setting a concrete deadline for tax registration enhances transparency as well.

Amendment 5
ARTICLE 1, POINT 4
Article 22 b, point C, paragraph 5 a (new) (Directive 77/388/EEC)

	5a. Any documents and records relating to transactions shall be stored exclusively in the Member State of establishment.

Justification

The amendment aims at facilitating the administrative burden of the enterprise concerned by having the obligation to store documents and VAT-records in the Member State of establishment.

Amendment 6
ARTICLE 1, POINT 4
Article 22 b, point E, paragraph 1, subparagraph 2 (Directive 77/388/EEC)

The return, which shall be made by electronic means, shall be submitted within ***20 days*** following the end of the period to which it refers.	The return, which shall be made by electronic means, shall be submitted within ***40 days*** following the end of the period to which it refers.

Justification

The time limit for submitting a return of 20 days from the end of the period to which it refers is too short. It should be increased to 40 days as undertakings which carry out many *transactions in the EU could run the risk of being unable to meet a 20-day deadline owing to administrative bottlenecks (e.g. holiday periods, public holidays).*

Amendment 7
ARTICLE 1, POINT 4
Article 22 b, point E, paragraph 3 (Directive 77/388/EEC)

3. The return referred to in paragraph 1 shall be made in euro. The Member States of consumption which have not adopted the euro may require ***the part of*** the return concerning supplies of goods and services on their territory to be made in national currency.	3. The return referred to in paragraph 1 shall be made in euro. The Member States of consumption which have not adopted the euro may require ***in accordance with Article 2(b), fourth indent, of Council Directive 2001/115/EC*** the return concerning supplies of goods and services on their territory to be made in national currency.

Justification

The amendment strives for establishing more transparency without ambiguity on payment and repayment regime of VAT incurred in the Member State of destination. The modification means to clarify operation of VAT refund system.

Amendment 8
ARTICLE 1, POINT 4
Article 22 b, point F, paragraph 1 (Directive 77/388/EEC)

1. The taxable person shall pay the value added tax when submitting the value added tax return. Payment shall be made directly on the bank account and in the currency of each Member State of consumption concerned.	1. The taxable person shall pay the value added tax when submitting the value added tax return. ***In the case of VAT liability,*** payment shall be made directly on the bank account and in the currency of each Member State of consumption concerned***. Where the taxable person is owed value added tax, the Member State of consumption shall pay the amount due to the taxable person's bank account in the Member State of establishment.***

Justification

The amendment intends to clarify the place of bank account in case of excessive VAT payments. The modifications clarifies that the taxable person need not possess at any rate a bank account in the Member State of destination.

Amendment 9

ARTICLE 1, POINT 5
Article 24, point (a), paragraph 2 (Directive 77/388/EEC)

Text proposed by the Commission	Amendments by Parliament
2. Member States may exempt taxable persons whose annual turnover does not exceed a threshold which may be set no higher than EUR 100 000 or the equivalent in national currency at the conversion rate on 1 July 2006. They may apply one or several thresholds, which may not in any case exceed EUR 100 000 or the equivalent in national currency on 1 July 2006.	2. Member States may exempt taxable persons whose annual turnover does not exceed a threshold which may be set ***no lower than 50 000 EUR*** and no higher than EUR 100 000 or the equivalent in national currency at the conversion rate on 1 July 2006. They may apply one or several thresholds, which may not in any case ***be set lower than EUR 50 000 or*** exceed EUR 100 000 or the equivalent in national currency on 1 July 2006. ***The lower limit shall apply for the first three years of the activity of newly established SMEs.***

Justification

The Rapporteur suggests to introduce a minimum limit of EUR 50.000 for exemption from VAT. The suggestion concerns only first 3 years of the activity of a newly established SME. This new lower bound of exemption contributes to SME's brisker economic performance and by the way resulting in much higher level of employment in the entire territory of EU, coinciding with Lisbon's Goals.

Amendment 10
ARTICLE 2, PARAGRAPH 2 A (new)

	2a. The Commission shall analyse the budgetary and economic implications of this Directive within four years after the entry into force thereof. In conducting this analysis, the Commission shall examine the possibility of excluding SMEs' exchange rate losses.

Justification

It's very hard to foresee the budgetary implications of the newly introduced distance selling regime. Therefore it is suggested to revise distance selling arrangement after 4 years of its coming into force.

2. DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a Council regulation amending Regulation (EC) No 1798/2003 as regards the introduction of administrative cooperation arrangements in the context of the one-stop scheme and the refund procedure for value added tax (COM(2004)0728 – C6-0025/2005 – 2004/0262(CNS))

(Consultation procedure)

The European Parliament,

– having regard to the Commission proposal to the Council (COM(2004)0728)[1],

– having regard to Article 93 of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0025/2005),

– having regard to Rule 51 of its Rules of Procedure,

– having regard to the report of the Committee on Economic and Monetary Affairs (A6-0228/2005),

1. Approves the Commission proposal;

2. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;

3. Asks the Council to consult Parliament again if it intends to amend the Commission proposal substantially;

4. Instructs its President to forward its position to the Council and Commission.

[1] Not yet published in OJ.

EXPLANATORY STATEMENT

The Value Added Tax (VAT) is one of the most important features of modern tax system with the highest level of harmonisation in the EU. Currently, cross-border businesses need to comply with tax rules of every Member State where they undertake their activities. Consequently, they are faced with enormous administrative burden that discourages companies (first of all the SMEs) from creation of cross border business and obstructs smooth functioning of the European single market.

Proposal of the European Commission

COM (2004)728 is reviewing VAT strategy with the objective of simplifying business obligations and achieving a well-functioning VAT system that will enhance competitiveness of European companies, especially SMEs, in line with the Lisbon Strategy. It does not touch upon the principle of destination of the VAT mechanism. It is composed of the following:

1. Proposal for a Council Directive amending Directive 77/388/EEC with view to simplifying value added tax obligations.
2. Proposal for a Council Directive laying down detailed rules for the refund of value added tax, provided for in Directive 77/388/EEC, to taxable persons not established in the territory of the country but established in another Member State.
3. Proposal for Council Regulation amending Regulation (EC) No 1798/2003 as regards the introduction of the administrative cooperation arrangements in the context of the one-stop shop scheme and refund procedure for value added tax.

European Parliament has been asked for its opinion on the first and third proposal. The Council is expected to discuss this issue in the second half of 2005 with the entry into force of the new system foreseen for 1 July 2006.

Main features of the proposal - Simplifying VAT obligations

The proposal (COM(2004)0728) confirms the vital principle of destination that neutralises differences concerning domestic VAT rates in cross-border business transactions. It contains five measures for a less burdensome common VAT system, aiming for a better VAT compliance within the EU.

<u>1. Introduction of One-Stop Shop Scheme (OSS)</u>

Comparable to the 2003 special scheme for electronically supplied services. The OSS would give a trader the option of using the VAT number by which he is identified in the Member State of establishment for all supplies made to other Member States and of making VAT declarations to one single electronic portal. This information would then be submitted automatically to different Member States where he supplies goods or services. The trader would pay the VAT directly to the Member State where the VAT is due. The scheme would apply to certain business to business (B2B) transactions where reverse charge mechanism is not applicable and to business to consumer (B2C) transactions. The use of the scheme would be optional.

2. Narrowing the right to deduct the VAT charged

by harmonising the categories of expenses for which Member States may choose to apply restrictions to the right to deduct VAT.

3. Extending the scope of the reverse charge mechanism

The mechanism which obliges a receiving trader rather than a supply trader to pay the VAT would be extended on new transactions, for example supplies of goods which are installed or assembled by or on behalf of the supplier, services connected with immovable property, cultural, artistic, sporting, scientific and educational activities etc.

4. Simplifying VAT obligations for the SMEs

The threshold under which traders, in particular SMEs, would be exempt from VAT would be set by Member States at a maximum of EUR 100.000. This would give the Member States the autonomy to set up a regime they consider the most appropriate.

5. Undertaking an overhaul of the current distance selling arrangements

The arrangements concerning distance selling of goods subject to VAT would be simplified by introducing a global threshold set at EUR 150.000, calculated on all supplies in Member States of arrival as well as establishment.

Main features of the proposal - administrative cooperation arrangements

In order to make it possible for taxable persons to have a single point of contact for VAT compliance in their Member State of identification, it is necessary to build a system of exchange of information between tax administrations.

This electronic system to support the exchanges of information required under the one-stop scheme is to be integrated within a modernised VIES (VAT Information Exchange System) in order to make it possible to ease the burden on tax administrations. In particular, it will be necessary to ensure that information supplied electronically by taxable persons to their own Member State can be captured and processed. It is necessary to clarify the respective obligations of the Member States of identification and consumption, particularly as regards the deadlines for the transmission of information and the control of taxable persons.

Outstanding issues

Although the proposal is a valuable contribution towards the objective of reducing administrative burden on business, there are still some outstanding issues:

1. Certain administrative tax rules should be further simplified
Monthly, quarterly and annual VAT-return should be standardised with maximum declaration period to be reduced from 2 to 1 month. Furthermore, the Member States should ensure the principle of single point of contact for every administrative procedure related to the registration of taxable person. All the administrative formats and applications needed for identification should be streamlined for all the Member States.

2. OSS scheme should include rules on storage of documents and record keeping
In the current proposal, the trader might be confined to store documents in the Member State of supply, even if the VAT return could be filed in the Member State of establishment.

3. Costs of payments, and especially the exchange rate conversion costs (if any), should not be born entirely by a taxable person, especially if we are talking of the SMEs.

4. There should be further exclusions from the right to deduct the VAT charged
A more rigorous and precise deduction regime on telephone charges, fuel costs and restaurant bills should be considered. If a taxable person can not prove that charges have been incurred for business purposes, the Member State in question should have the right to reject the taxable person its right to deduct.

5. The application of the reverse charge mechanism should be extended
The OSS-scheme should be extended to suppliers falling within reverse charge rules whose input VAT incurred in the Member State of destination is in excess of pre-defined percentage of VAT self-assessed by taxable person in that Member State.

6. Diverse national thresholds of VAT- exemption shall be unified
The upper limit should be 100.000 EUR with the minimum level of 50.000 EUR for a Member State. To avoid revenue fall-out, the minimum limit should only apply for the first 3 years for a newly established SME. Such stimulus is in line with the goals of the Lisbon Strategy.

7. Distance selling arrangements need to be closely observed
The European Parliament should take into account possible budgetary consequences of a uniform threshold of 150.000 EUR in distance selling regime. This global threshold should be revised, if it turns out to be restrictive rather than stimulating for cross-border business.

8. A more efficient cooperation in VIES[1] regime
Including establishment of a uniform computer based electronic database via the Member States. A strict deadline for transmission of information between tax administrations, including request for information and export destinations for efficient combat of VAT related fraud.

9. Tax refund procedure
Although the EP is not requested to give opinion on 8th Directive, the deadline of 3 months for the refund of VAT to enterprises established in other Member State than the tax authority concerned, should be extended to maximum 4 months in case of questions for clarification by the authorities and reply in 20 days of the enterprise concerned.

[1] VAT Information Exchange System.

PROCEDURE

Title	1. Proposal for a Council directive amending Directive 77/388/EEC with a view to simplifying value added tax obligations 2. Proposal for a Council regulation amending Regulation (EC) No 1798/2003 as regards the introduction of administrative cooperation arrangements in the context of the one-stop scheme and the refund procedure for value added tax
References	COM(2004)0728 – C6 0024/2005 – 2004/0261(CNS) COM(2004)0728 – C6 0025/2005 – 2004/0262(CNS)
Legal basis	Article 93 EC
Basis in Rules of Procedure	Rule 51
Date of consulting Parliament	24.1.2005
Committee responsible Date announced in plenary	ECON 27.4.2005
Committee(s) asked for opinion(s) Date announced in plenary	IMCO 27.4.2005
Not delivering opinion(s) Date of decision	IMCO 30.11.2004
Enhanced cooperation Date announced in plenary	
Rapporteur(s) Date appointed	Zsolt László Becsey 30.11.2004
Previous rapporteur(s)	
Simplified procedure Date of decision	
Legal basis disputed Date of JURI opinion	/
Financial endowment amended Date of BUDG opinion	/
European Economic and Social Committee consulted Date of decision in plenary	
Committee of the Regions consulted Date of decision in plenary	
Discussed in committee	14.3.2005 23.5.2005 14.6.2005 21.6.2005
Date adopted	21.6.2005
Result of final vote	for: 34 against: 1 abstentions: 1
Members present for the final vote	Zsolt László Becsey, Pervenche Berès, Pier Luigi Bersani, Sharon Margaret Bowles, Udo Bullmann, Ieke van den Burg, Jan Christian Ehler, Elisa Ferreira, Robert Goebbels, Benoît Hamon, Karsten Friedrich Hoppenstedt, Sophia in 't Veld, Othmar Karas, Piia-Noora Kauppi, Wolf Klinz, Christoph Konrad, Kurt Joachim Lauk, Hans-Peter Martin, Cristobal Montoro Romero, Joseph Muscat, John Purvis, Alexander Radwan, Dariusz Rosati, Eoin Ryan, Antolín Sánchez Presedo, Peter Skinner, Margarita Starkevičiūtė, Ivo Strejček, John Whittaker

Substitutes present for the final vote	Mia De Vits, Petr Duchoň, Jules Maaten, Thomas Mann, Catherine Guy-Quint, Corien Wortmann-Kool
Substitutes under Rule 178(2) present for the final vote	Anna Ibrisagic
Date tabled – A5	6.7.2005 A6-0228/2005
Comments	...