



Plenary sitting

A8-0307/2017

16.10.2017

REPORT

on the proposal for a Council directive amending Directive 2006/112/EC and Directive 2009/132/EC as regards certain value added tax obligations for supplies of services and distance sales of goods
(COM(2016)0757 – C8-0004/2017 – 2016/0370(CNS))

Committee on Economic and Monetary Affairs

Rapporteur: Cătălin Sorin Ivan

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the **■** symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a Council directive amending Directive 2006/112/EC and Directive 2009/132/EC as regards certain value added tax obligations for supplies of services and distance sales of goods
(COM(2016)0757 – C8-0004/2017 – 2016/0370(CNS))**

(Special legislative procedure – consultation)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2016)0757),
 - having regard to Article 113 of the Treaty on the Functioning of the European Union, pursuant to which the Council consulted Parliament (C8-0004/2017),
 - having regard to Rule 78c of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs (A8-0307/2017),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to alter its proposal accordingly, in accordance with Article 293(2) of the Treaty on the Functioning of the European Union;
 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 substantially amend the Commission proposal;
 5. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a directive

Recital -1 (new)

Text proposed by the Commission

Amendment

(-1) The difference between expected VAT revenues and VAT actually collected (the ‘VAT gap’) in the Union was approximately EUR 152 billion in 2015 and cross-border fraud amounts to a VAT revenue loss in the Union of approximately EUR 50 billion a year, all

of which makes VAT an important issue to be addressed at Union level and the adoption of a definitive VAT regime based on the destination principle essential.

Amendment 2

Proposal for a directive

Recital 3

Text proposed by the Commission

(3) The assessment of those special schemes as introduced on 1 January 2015 has identified a number of areas for improvement. First, the burden for micro-businesses established in a Member State occasionally supplying such services to other Member States of having to comply with VAT obligations in Member States other than their Member State of establishment should be reduced. A Community-wide threshold should therefore be introduced up to which these supplies remain subject to VAT in their Member State of establishment. Second, the requirement of having to comply with the invoicing *and record keeping* requirements of all Member States to which supplies are made is very burdensome. Hence, to minimise burdens on business, the rules concerning invoicing *and record keeping* should be those applicable in the Member State of identification of the supplier making use of the special schemes. Third, taxable persons not established in the Community but having a VAT registration in a Member State (e.g. because they carry out occasional transactions subject to VAT in that Member State) can use neither the special scheme for taxable persons not established in the Community, nor the special scheme for taxable persons established in the Community. As a consequence, it is proposed that such taxable persons should be permitted to use the special scheme for taxable persons not

Amendment

(3) The assessment of those special schemes as introduced on 1 January 2015 has identified a number of areas for improvement. First, the burden for micro-businesses established in a Member State occasionally supplying such services to other Member States of having to comply with VAT obligations in Member States other than their Member State of establishment should be reduced. A Community-wide threshold should therefore be introduced up to which these supplies remain subject to VAT in their Member State of establishment. Second, the requirement of having to comply with the invoicing requirements of all Member States to which supplies are made is very burdensome. Hence, to minimise burdens on business, the rules concerning invoicing should be those applicable in the Member State of identification of the supplier making use of the special schemes. Third, taxable persons not established in the Community but having a VAT registration in a Member State (e.g. because they carry out occasional transactions subject to VAT in that Member State) can use neither the special scheme for taxable persons not established in the Community, nor the special scheme for taxable persons established in the Community. As a consequence, it is proposed that such taxable persons should be permitted to use the special scheme for taxable persons not established within the Community.

established within the Community.

Amendment 3

Proposal for a directive Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) While the assessment of the Mini-One Stop Shop (MOSS) has been largely positive, 99% of the VAT revenue processed via the MOSS is declared by only 13 % of the businesses registered, demonstrating the need for Member States to promote the MOSS to a wider range of small and medium sized enterprises, in order to overcome barriers to cross-border e-commerce.

Amendment 4

Proposal for a directive Recital 9 a (new)

Text proposed by the Commission

Amendment

(9a) This amending Directive could lead to an increase in administrative costs for small consignments, since relevant packages require a distinguishing mark indicating that the VAT import scheme has been used and the postal sector is required to sort the packages based on whether the VAT import scheme is used. Member States and the Commission should pay close attention to the impact on the postal sector.

Amendment 5

Proposal for a directive

Recital 14

Text proposed by the Commission

(14) The date of application of the provisions of this Directive **shall**, where relevant, take account of the time needed to put in place the measures necessary to implement this Directive and for **the** Member States to adapt their IT system for registration and for declaration and payment of the VAT.

Amendment

(14) The date of application of the provisions of this Directive **should**, where relevant, take account of the time needed to put in place the measures necessary to implement this Directive and for Member States **and businesses** to adapt their IT system for registration and for declaration and payment of the VAT.

Amendment 6

Proposal for a directive

Recital 17 a (new)

Text proposed by the Commission

Amendment

(17a) The Commission's proposal is only a building block for closing the VAT gap; further measures are needed to effectively combat VAT fraud in the Union;

Amendment 7

Proposal for a directive

Article 1 – paragraph 1 – point -1 (new)

Directive 2006/112/EC

Article 14 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

(-1) In Article 14, the following paragraph is added:

‘3a. Where a taxable person, acting in its own name but on behalf of another person, participates in a distance sale of goods imported from third countries or territories in a consignment having an intrinsic value of less than EUR 150, or the equivalent in national currency, and has an annual turnover exceeding EUR 1

000 000, or the equivalent in national currency, in the current calendar year, and including cases where a telecommunications network, an interface or a portal is used for the purpose of the distance sale, that taxable person shall be deemed to have received and supplied those goods itself.'

Justification

Online platforms should be liable for the VAT due on imports where there is a risk that the VAT is not paid by suppliers based in third countries. A full customs declaration is compulsory for imports of goods of more than 150€, thereby reducing the risk of VAT not paid. A threshold of 1.000.000 € turnover is introduced in order to not impose the liability burden on SMEs or start ups.

Amendment 8

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2006/112/EC

Article 58 – paragraph 2 – point b

Text proposed by the Commission

(b) services are provided to customers located in any Member State other than the Member State referred to in point (a);

Amendment

(b) services are provided to customers located in any Member State other than the Member State referred to in point (a); **and**

Amendment 9

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2006/112/EC

Article 58 – paragraph 2 – point c

Text proposed by the Commission

(c) the total value, exclusive of VAT, of such supplies does not in the current calendar year exceed EUR **10 000**, or the equivalent in national currency, and did not do so in the course of the preceding calendar year.

Amendment

(c) the total value, exclusive of VAT, of such supplies does not in the current calendar year exceed EUR **35 000**, or the equivalent in national currency, and did not do so in the course of the preceding calendar year.

Amendment 10

Proposal for a directive

Article 1 – paragraph 1 – point 6

Directive 2006/112/EC

Article 369 – paragraph 2 – subparagraph 2

Text proposed by the Commission

The Member State of identification shall determine the period throughout which those records shall be kept by the taxable person not established within the Community.

Amendment

Those records shall be kept for a period of five years from the end of the calendar year during which the transaction was carried out.

Justification

Five years is sufficient in order to reduce the burden on honest taxpayers.

Amendment 11

Proposal for a directive

Article 2 – title

Text proposed by the Commission

Amendments to Directive 2006/112/EC with effect from 1 *January* 2021.

Amendment

Amendments to Directive 2006/112/EC with effect from 1 *April* 2021.

Amendment 12

Proposal for a directive

Article 2 – paragraph 1

Text proposed by the Commission

With effect from 1 *January* 2021, Directive 2006/112/EC is amended as follows:

Amendment

With effect from 1 *April* 2021, Directive 2006/112/EC is amended as follows:

Amendment 13

Proposal for a directive

Article 2 – paragraph 1 – point 6

Directive 2006/112/EC

Title V – Chapter 3a – Article 59c – paragraph 1 – point c

Text proposed by the Commission

(c) the total value, exclusive of VAT, of the supplies covered by these provisions does not in the current calendar year exceed EUR **10 000**, or the equivalent in national currency, nor did it do so in the course of the preceding calendar year.

Amendment

(c) the total value, exclusive of VAT, of the supplies covered by these provisions does not in the current calendar year exceed EUR **35 000**, or the equivalent in national currency, nor did it do so in the course of the preceding calendar year.

Amendment 14

Proposal for a directive

Article 2 – paragraph 1 – point 7

Directive 2006/112/EC

Article 143 – paragraph 1 – point ca

Text proposed by the Commission

(ca) the importation of goods where the VAT is declared under the special scheme in Chapter 6, Section 4, of Title XII and where, at the latest upon lodging of the import declaration, the VAT identification number of the supplier or of the intermediary acting on his behalf allocated under Article 369q has been provided to the competent customs office in the Member State of importation;'

Amendment

(ca) the importation of goods where the VAT is declared under the special scheme in Chapter 6, Section 4, of Title XII and where, at the latest upon lodging of the import declaration, the VAT identification number of the supplier or of the intermediary acting on his behalf allocated under Article 369q has been provided to the competent customs office in the Member State of importation, ***while the Commission shall specify in an act the precise nature of the import declaration;***

Amendment 15

Proposal for a directive

Article 2 – paragraph 1 – point 21

Directive 2006/112/EC

Article 369b – paragraph 1

Text proposed by the Commission

Member States shall permit any taxable person carrying out intra-Community distance sales of goods and any taxable person not established in the Member State of consumption supplying services to a non-taxable person ***who*** is established or

Amendment

Member States shall permit any taxable person carrying out intra-Community distance sales of goods and any taxable person not established in the Member State of consumption supplying ***any*** services to a non-taxable person ***to use the special***

has his permanent address or usually resides *in that Member State, to use this special scheme*. This special scheme applies to all those goods or services supplied in the Community.

scheme under this chapter, regardless of where such non-taxable person is established or has his permanent address or usually resides. This special scheme applies to all those goods or services supplied in the Community.

Amendment 16

Proposal for a directive

Article 2 – paragraph 1 – point 29

Directive 2006/112/EC

Article 369l – paragraph 1 – point 5 a (new)

Text proposed by the Commission

Amendment

(5a) *The value of the goods, which may not exceed EUR 150 in accordance with this paragraph, shall be determined by the currency conversion pursuant to Article 53 of the Union Customs Code, provided that the goods are being traded in foreign currencies.*

Amendment 17

Proposal for a directive

Article 2 – paragraph 1 – point 30

Directive 2006/112/EC

Article 369y – paragraph 1

Text proposed by the Commission

Amendment

Where the *person for whom the imported goods in consignments of an intrinsic value not exceeding EUR 150 are destined does not opt* for the *application of the standard arrangements for importation of goods, including for the application of a reduced VAT rate in accordance with Article 94(2)*, the Member State of importation shall permit the person presenting the goods to customs within the territory of the Community to make use of special arrangements for declaration and payment of import VAT in respect of goods for which the dispatch or transport

Where the *special scheme referred to in Section 4 of Chapter 6 is not used* for the importation of goods *in consignments having an intrinsic value not exceeding EUR 150*, the Member State of importation shall permit the person presenting the goods to customs *on behalf of the person for whom the goods are destined* within the territory of the Community to make use of special arrangements for declaration and payment of import VAT in respect of goods for which the dispatch or transport ends in that Member State.

ends in that Member State.

Amendment 18

Proposal for a directive

Article 2 – paragraph 1 – point 30

Directive 2006/112/EC

Article 369z – paragraph 1 – point b

Text proposed by the Commission

(b) the person *presenting* the goods to customs within the territory of the Community shall be responsible for collecting the VAT from the person for whom the goods are destined.

Amendment

(b) the person *declaring* the goods to customs within the territory of the Community shall be responsible for collecting the VAT from the person for whom the goods are destined.

Amendment 19

Proposal for a directive

Article 2 – paragraph 1 – point 30

Directive 2006/112/EC

Article 369z – paragraph 2

Text proposed by the Commission

Member States shall provide that the person *presenting* the goods to customs within the territory of the Community takes appropriate measures to ensure that the correct tax is paid by the person for whom the goods are destined.

Amendment

Member States shall provide that the person *declaring* the goods to customs within the territory of the Community takes appropriate measures to ensure that the correct tax is paid by the person for whom the goods are destined.

Amendment 20

Proposal for a directive

Article 3 – paragraph 1

Text proposed by the Commission

With effect from 1 *January* 2021, Title IV of Directive 2009/132/EC is deleted.

Amendment

With effect from 1 *April* 2021, Title IV of Directive 2009/132/EC is deleted.

Amendment 21

Proposal for a directive

Article 4 – paragraph 1 – subparagraph 4

Text proposed by the Commission

They shall apply the provisions necessary to comply with Articles 2 and 3 of this Directive *with* from 1 *January* 2021.

Amendment

They shall apply the provisions necessary to comply with Articles 2 and 3 of this Directive from 1 *April* 2021.

Justification

The Commission and Member States have a legal obligation to allow business to register to the new OSS by 31 December 2020. The rapporteur however considers that business should be given 3 additional months to adapt their own IT systems to connect with the new OSS as developed by the COM and MS. This amendment is particularly addressed to ease the access to the OSS by SMEs. The rapporteur considers useful to give three extra months for business, notably taken into account the difficulties that arose at the entry into force of MOSS.

EXPLANATORY STATEMENT

The current VAT directive in force (Council Directive 2006/12/EC) was set up before the rise of the digital economy and encompasses an origin based taxation system which was intended to be transitional. Taking into account the new realities, an update is necessary.

The Commission's proposal for a Directive is part of a larger package of Commission responses to the VAT gap as well as a general modernisation exercise of the VAT system.

The Commission's proposal builds on the mini One-Stop-Shop (MOSS) which was introduced in 2015 in order to reduce the compliance costs of providers of electronic services. It is generally agreed that the MOSS is a success in terms of reduction of administrative burden, but also in terms of revenue raising. The Commission's proposal aims at extending the scope of the MOSS. The impact assessment of the Commission shows that current VAT obligations compliance costs for doing business cross-border are on average €8000 annually for each Member State which a business supplies to. This proposal will reduce this amount by up to 95%. It will also help Member States to raise revenue as the impact assessment shows that Member States lose 5 billion € of VAT annually due to the exemption of VAT for import of small consignments and to the non-compliance of business established outside the EU but making online business in the EU.

The rapporteur generally welcomes the Commission proposal, which overall aims to simplify VAT rules regarding cross-border e-commerce, reduce compliance costs - an important element for SMEs and microbusiness - and boost both intra- and extra- EU trade by eradicating the existing competitiveness distortion created by non EU-businesses making VAT-free supplies into the EU.

The rapporteur welcomes the amendment of article 28 proposed by the Commission which provides that online platforms are held liable for the collection of VAT in supplies of services. However, he also suggests to hold platforms liable for the collection of VAT when they act as intermediaries in supplies of goods imported from third countries. EU businesses and especially SMEs suffer from a competitive disadvantage when suppliers outside the EU sell goods online to EU consumers without paying the VAT due in the EU.

The rapporteur also welcomes the proposal to extend the mini One Stop Shop for electronic services (MOSS) to include online supplies of goods and to extend all cross-border services to end consumers, as well as the rapporteur agrees to the new One-Stop Shop (OSS) to be extended to imports. The latter mechanism would imply that VAT can be collected at the point of sale to EU customers by sellers on market places and would mean a faster customs mechanism. Regarding the implementation period however, the Member States have a legal obligation to allow business to register in the new OSS by 31 December 2020. The rapporteur however considers that business should be given 3 additional months to adapt their own IT systems to connect with the new OSS, and proposes an amendment in this regard so as to ease access for SMEs to the OSS.

The rapporteur very much welcomes the removal of the intra-EU distance sales regime and the small consignment exemption on imports. This proposal is an effort towards applying the destination principle for VAT.

The rapporteur furthermore proposes an amendment as regards the period for the record keeping of the transactions covered by the OSS, which currently is 10 years, and where the Commission now proposes home country rules. With the aim of both limiting administrative burdens and align rules within the internal market, the rapporteur proposes a limit of 5 years record keeping.

PROCEDURE – COMMITTEE RESPONSIBLE

Title	Value added tax obligations for supplies of services and distance sales of goods	
References	COM(2016)0757 – C8-0004/2017 – 2016/0370(CNS)	
Date of consulting Parliament	21.12.2016	
Committee responsible Date announced in plenary	ECON 16.1.2017	
Committees asked for opinions Date announced in plenary	IMCO 16.1.2017	JURI 16.1.2017
Not delivering opinions Date of decision	IMCO 25.1.2017	JURI 25.1.2017
Rapporteurs Date appointed	Cătălin Sorin Ivan 15.12.2016	
Discussed in committee	20.6.2017	30.8.2017
Date adopted	10.10.2017	
Result of final vote	+: 47 -: 1 0: 6	
Members present for the final vote	Burkhard Balz, Pervenche Berès, Udo Bullmann, Thierry Cornillet, Esther de Lange, Fabio De Masi, Markus Ferber, Jonás Fernández, Neena Gill, Roberto Gualtieri, Brian Hayes, Gunnar Hökmark, Danuta Maria Hübner, Cătălin Sorin Ivan, Petr Ježek, Barbara Kappel, Wajid Khan, Georgios Kyrtos, Werner Langen, Sander Loones, Olle Ludvigsson, Ivana Maletić, Fulvio Martusciello, Marisa Matias, Gabriel Mato, Costas Mavrides, Bernard Monot, Luděk Niedermayer, Stanisław Ożóg, Sirpa Pietikäinen, Pirkko Ruohonen-Lerner, Anne Sander, Alfred Sant, Molly Scott Cato, Pedro Silva Pereira, Peter Simon, Theodor Dumitru Stolojan, Kay Swinburne, Marco Valli, Tom Vandenkendelaere, Miguel Viegas, Jakob von Weizsäcker, Marco Zanni	
Substitutes present for the final vote	Alain Cadec, David Coburn, Andrea Cozzolino, Ashley Fox, Doru-Claudian Frunzulică, Sophia in 't Veld, Thomas Mann, Luigi Morgano, Michel Reimon, Lieve Wierinck	
Substitutes under Rule 200(2) present for the final vote	Judith Sargentini	
Date tabled	16.10.2017	

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

47	+
ALDE	Thierry Cornillet, Petr Ježek, Lieve Wierinck, Sophia in 't Veld
ECR	Ashley Fox, Sander Loones, Stanislaw Ożóg, Pirkko Ruohonen-Lerner, Kay Swinburne
ENF	Bernard Monot
PPE	Burkhard Balz, Alain Cadec, Markus Ferber, Brian Hayes, Gunnar Hökmark, Danuta Maria Hübner, Georgios Kyrtos, Werner Langen, Ivana Maletić, Thomas Mann, Fulvio Martusciello, Gabriel Mato, Luděk Niedermayer, Sirpa Pietikäinen, Anne Sander, Theodor Dumitru Stolojan, Tom Vandenkendelaere, Esther de Lange
S&D	Pervenche Berès, Udo Bullmann, Andrea Cozzolino, Jonás Fernández, Doru-Claudian Frunzuliță, Neena Gill, Roberto Gualtieri, Cătălin Sorin Ivan, Wajid Khan, Olle Ludvigsson, Costas Mavrides, Luigi Morgano, Alfred Sant, Pedro Silva Pereira, Peter Simon, Jakob von Weizsäcker
Verts/ALE	Michel Reimon, Judith Sargentini, Molly Scott Cato

1	-
EFDD	David Coburn

6	0
EFDD	Marco Valli
ENF	Barbara Kappel, Marco Zanni
GUE/NGL	Fabio De Masi, Marisa Matias, Miguel Viegas

Key to symbols:

+ : in favour

- : against

0 : abstention