



Plenary sitting

A9-0019/2019

18.10.2019

REPORT

on the proposal for a Council directive amending Council Directive 2006/112/EC of 28 November 2006 as regards provisions relating to distance sales of goods and certain domestic supplies of goods (COM(2018)0819 – C8-0017/2019 – 2018/0415(CNS))

Committee on Economic and Monetary Affairs

Rapporteur: Ondřej Kovařík

(Simplified procedure – Rule 52(2) of the Rules of Procedure)

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 Council Directive 2006/112/EC of 28 November 2006 as regards provisions relating to distance sales of goods and certain domestic supplies of goods
(COM(2018)0819 – C8-0017/2019 – 2018/0415(CNS))**

(Special legislative procedure – consultation)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2018)0819),
 - having regard to Article 113 of the Treaty on the Functioning of the European Union, pursuant to which the Council consulted Parliament (C8-0017/2019),
 - having regard to Rule 82 of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs (A9-0019/2019),
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

Text proposed by the Commission

(1) Council Directive 2006/112/EC³ as amended by Council Directive (EU) 2017/2455⁴ provides that where a taxable person facilitates, through the use of an electronic interface such as a marketplace, platform, portal or other similar means, distance sales of goods imported from third

Amendment

(1) Council Directive 2006/112/EC³ as amended by Council Directive (EU) 2017/2455⁴ provides that where a taxable person facilitates, through the use of an electronic interface such as a marketplace, platform, portal or other similar means, distance sales of goods imported from third

territories or third countries in consignments of an intrinsic value not exceeding EUR 150 or the supply of goods within the Community by a taxable person not established within the Community to a non-taxable person, the taxable person who facilitates the supply shall be deemed to have received and supplied the goods himself. As this provision splits a single supply into two supplies, it is necessary to determine to which of these supplies the dispatch or transport of the goods should be ascribed in order to properly determine their place of supply.

³ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).

⁴ Council Directive (EU) 2017/2455 of 5 December 2017 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 (OJ L 348, 29.12.2017, p. 7).

Amendment 2

Proposal for a directive Recital 2

Text proposed by the Commission

(2) While a taxable person who facilitates through the use of an electronic interface the supply of goods to a non-taxable person in the Community may deduct, in accordance with existing rules, the VAT paid to suppliers not established in the Community, the risk is that the latter may not pay the VAT to the tax authorities. To avoid that risk, the supply from the supplier selling goods through the use of an

territories or third countries in consignments of an intrinsic value not exceeding EUR 150 or the supply of goods within the Community by a taxable person not established within the Community to a non-taxable person, the taxable person who facilitates the supply shall be deemed to have received and supplied the goods himself. As this provision splits a single supply into two supplies, it is necessary to determine to which of these supplies the dispatch or transport of the goods should be ascribed in order to properly determine their place of supply. ***It is also necessary to ensure that the chargeable event of those two supplies occurs at the same time.***

³ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).

⁴ Council Directive (EU) 2017/2455 of 5 December 2017 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 (OJ L 348, 29.12.2017, p. 7).

Amendment

(2) While a taxable person who facilitates through the use of an electronic interface the supply of goods to a non-taxable person in the Community may deduct, in accordance with existing rules, the VAT paid to suppliers not established in the Community, the risk is that the latter may not pay the VAT to the tax authorities. To avoid that risk, the supply from the supplier selling goods through the use of an

electronic interface should be exempt from VAT while that supplier should be granted the right to deduct the input VAT which it paid in respect of the purchase or import of the goods supplied.

electronic interface should be exempt from VAT while that supplier should be granted the right to deduct the input VAT which it paid in respect of the purchase or import of the goods supplied. ***For that purpose, the supplier should always be registered in the Member State where the supplier acquired or imported those goods.***

Amendment 3

Proposal for a directive

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

Directive 2006/112/EC

Article 66 a (new)

Text proposed by the Commission

Amendment

(1a) the following Article 66a is inserted:

‘Article 66a

By way of derogation from Articles 63, 64 and 65, the chargeable event in respect of a supply of goods by a taxable person who is deemed to have received and supplied the goods in accordance with Article 14a and of the supply to that taxable person shall occur and VAT shall become chargeable at the time when the payment has been accepted.’

Amendment 4

Proposal for a directive

Article 1 – paragraph 1 – point 4 a (new)

Directive 2006/112/EC

Article 272 – paragraph 1 – point b

Present text

Amendment

‘(b) taxable persons carrying out none of the transactions referred to in Articles 20, 21, 22, 33, 36, 138 and 141;’

(4a) in Article 272, paragraph 1, point b) is replaced by the following:

‘(b) taxable persons carrying out none of the transactions referred to in Articles 20, 21, 22, 33, 36, ***136a***, 138 and 141;’

Amendment 5

Proposal for a directive

Article 1 – paragraph 1 – point 7 – point –a (new)

Directive 2006/112/EC

Article 369a – paragraph 1 – point 2 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

(-a) in the first paragraph, the following subparagraph is added in point 2:

“Where a taxable person has not established his business in the Community and has no fixed establishment therein, the Member State of identification shall be the Member State in which the dispatch or transport of the goods begins. Where there is more than one Member State in which the dispatch or transport of the goods begins, the taxable person shall indicate which of those Member States shall be the Member State of identification. The taxable person shall be bound by that decision for the calendar year concerned and the two calendar years following.”

Amendment 6

Proposal for a directive

Article 1 – paragraph 1 – point 7 – point a

Directive 2006/112/EC

Article 369a – paragraph 1 – point 3 – point c

Text proposed by the Commission

Amendment

(c) in the case of the supply of goods made by ***an electronic interface*** facilitating those supplies in accordance with paragraph 2 of Article 14a where the dispatch or transport of the goods supplied begins and ends in the same Member State, that Member State.’;

(c) in the case of the supply of goods made by ***a taxable person*** facilitating those supplies in accordance with paragraph 2 of Article 14a where the dispatch or transport of the goods supplied begins and ends in the same Member State, that Member State.’;

Amendment 7

Proposal for a directive

Article 1 – paragraph 1 – point 11

Directive 2006/112/EC

Article 369g – paragraph 1 – point a

Text proposed by the Commission

(a) intra-Community distance sales of goods **and** supplies of goods in accordance with paragraph 2 of Article 14a where the dispatch or transport of those goods begins and ends in the same Member State;

Amendment

(a) intra-Community distance sales of goods and supplies of goods;

(aa) supplies of goods in accordance with paragraph 2 of Article 14a where the dispatch or transport of those goods begins and ends in the same Member State;

Amendment 8

Proposal for a directive

Article 1 – paragraph 1 – point 11 a (new)

Directive 2006/112/EC

Article 369g – paragraph 2 a (new)

Text proposed by the Commission

Amendment

(11a) in Article 369g, the following paragraph is added:

2a. Where the taxable person supplying services covered by the special scheme has one or more fixed establishments, other than that in the Member State of identification, from which the services are supplied, the VAT return shall also include the total value exclusive of VAT, the applicable rates of VAT, the total amount per rate of the corresponding VAT and the total VAT due of such supplies, for each Member State in which the taxable person has an establishment, together with the individual VAT identification number or the tax reference number of each establishment, broken down by Member State of consumption.

Amendment 9

Proposal for a directive

Article 1 – paragraph 1 – point 12

Directive 2006/112/EC

Article 369zb – paragraph 2

Text proposed by the Commission

‘2. Member States shall require that the VAT referred to in paragraph 1 is payable monthly. The deadline for payment *is that* applicable to the payment of the import duty *in similar situations*.’

Amendment

‘2. Member States shall require that the VAT referred to in paragraph 1 is payable monthly *by* the deadline for payment applicable to the payment of the import duty.’

EXPLANATORY STATEMENT

On 11 Dec. 2018 the Commission adopted this proposal, in line with its communication on an Action Plan towards a single EU VAT Area.

The aim of the proposal, part of the VAT e-commerce package (together with a Council Implementing Regulation) is to lay down detailed rules needed to ensure the functioning of the new VAT rules for e-commerce following the amendments introduced by Directive 2017/2455 ("the VAT e-commerce Directive"), which will come into force in January 2021. It clarifies in particular the situations in which electronic interfaces such as a marketplace, platform and portal are considered to facilitate sales of goods and services between users and specifies the type of information they must keep on sales made through an electronic interface. It also clarifies under which conditions marketplaces will not be liable to pay VAT on supplies of goods in excess of the VAT which is declared and paid on these supplies.

The ECOFIN Council reached a general approach on the proposal on 12 March 2019. Your rapporteur agrees with the amendments by the Council, as they further clarify the Commission's proposal. Furthermore, your rapporteur agrees to adopt the Parliament's position as soon as possible, to facilitate a swift finalisation of the legislative procedure and the necessary steps for implementation at national level in order to meet the deadline of entry into force of the VAT e-commerce package in January 2021.

PROCEDURE – COMMITTEE RESPONSIBLE

Title	Distance sales of goods and certain domestic supplies of goods
References	COM(2018)0819 – C8-0017/2019 – 2018/0415(CNS)
Date of consulting Parliament	21.12.2018
Committee responsible Date announced in plenary	ECON 14.1.2019
Committees asked for opinions Date announced in plenary	IMCO 14.1.2019
Not delivering opinions Date of decision	IMCO 22.1.2019
Rapporteurs Date appointed	Ondřej Kovařík 18.7.2019
Simplified procedure - date of decision	7.10.2019
Discussed in committee	7.10.2019
Date adopted	18.10.2019
Date tabled	21.10.2019