



2016/2033(INI)

6.7.2016

OPINION

of the Committee on Budgetary Control

for the Committee on Economic and Monetary Affairs

on Towards a definitive VAT system and fighting VAT fraud
(2016/2033(INI))

Rapporteur (*): Nedzhmi Ali

(*) Associated committee – Rule 54 of the Rules of Procedure

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SUGGESTIONS

The Committee on Budgetary Control calls on the Committee on Economic and Monetary Affairs, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

- A. whereas the fight against tax fraud is one of the main tax-related challenges faced by the Member States;
 - B. whereas VAT fraud is an extremely damaging practice that diverts significant amounts of Member States' budget revenues while hindering their efforts to consolidate their public finances;
 - C. whereas cross-border VAT fraud costs our Member States and European taxpayers nearly EUR 50 billion a year;
 - D. whereas VAT fraud typologies are multifaceted, evolving and concern many economic sectors, and thus require swift adaptation of relevant legislation in order to move towards a sustainable and simple VAT tax system enabling the prevention of the fraud phenomenon and the potential loss of tax revenue;
 - E. whereas the most popular VAT fraud technique is 'carousel' fraud; whereas in this type of fraud, which occurs very frequently in the electronic component, mobile telephony and textile trades, goods are passed around between several companies in different Member States, taking advantage of the fact that there is no tax levied on the intra-EU supply of goods;
 - F. whereas enhanced and continuous cooperation efforts between the Member States are urgently needed to set up comprehensive and integrated strategies in the fight against fraud, particularly considering current EU budgetary constraints, and the increase in e-commerce and internet trade that has weakened territorial control over VAT collection;
 - G. whereas the protection of the financial interests of the EU is a key element of the EU policy agenda to strengthen and increase the confidence of its citizens;
1. Welcomes the new VAT action plan as a long-overdue key initiative to foster and contribute to the implementation of the political priority 'A deeper and fairer internal market' through the EU Digital Single Market Strategy and the Single EU VAT Area; stresses that tackling the VAT gap and tax fraud should be an urgent priority for the EU and the Member States; emphasises the need for a deeper and more equitable single market in order to help promote tax justice, sustainable consumption, employment, growth, investment and competitiveness; considers that the new action plan should be subject to a comprehensive impact assessment;
 2. Welcomes the Commission proposal entitled 'EU eGovernment Action Plan 2016-2020: Accelerating the digital transformation of government';
 3. Notes that the new action plan includes further steps forward towards a more efficient and fraud-proof definitive regime that will be friendlier to businesses in the age of the digital

economy and e-commerce;

4. Reminds the Commission that VAT is a regressive tax and affects low-income groups hardest; reminds, thus, both the Commission and the Member States that they should be cognisant of this fact when setting rates for goods that are much used by low-income groups;
5. Reminds the Commission to take measures to enhance the effectiveness of VAT tax systems and ensure better compliance with VAT rules; welcomes the application of the 'country of destination' (that is to say, the country in which the goods and services are consumed) as the underlying principle of the definitive EU VAT system that could lead to the reduction of cross-border VAT fraud by an estimated EUR 40 billion per year; encourages the Commission to amend the VAT Directive so that the importer could be held jointly liable for VAT loss in the Member State of destination;
6. Supports the Commission proposal according to which VAT on cross-border sales (of goods or services) would be collected by the tax authority of the originating country, at the rate applicable in the country of consumption, and transferred to the country where the goods or services are ultimately consumed;
7. Notes that the current VAT system remains fragmented and creates significant administrative burdens, particularly for SMEs and online companies; calls on the Commission to propose amendments to the VAT Directive with a view to enabling a technologically neutral application of VAT rules that will ensure that the physical and digital versions of a given product are treated in the same way; calls on the Commission to minimise unnecessary administrative burdens, in particular for SMEs; supports the Commission's proposal to introduce a VAT-free threshold in order to help start-ups and microbusinesses;
8. Underlines the importance of presenting a legislative proposal to extend the Single Electronic Mechanism (for the registration and payment of VAT to cross-border businesses) to consumer online sales of physical goods in order to reduce the administrative burden, one of the main barriers that businesses face when operating across borders;
9. Calls on the Commission to address the administrative burden on businesses arising from the fragmented VAT regime by presenting legislative proposals to extend the current mini One Stop Shop to include tangible goods sold online, allowing businesses to make single declarations and VAT payments in their own Member States;
10. Calls on the Member States to simplify their national tax systems, and to make them more consistent and robust, so as to facilitate compliance, prevent, deter and punish tax fraud and evasion, and boost the efficiency of VAT collection;
11. Is concerned that the goal of simplifying the system of accountability for VAT as an own resource has not been totally achieved; recalls the need for further simplification of the management system related to own resources in order to reduce the possibilities of errors and fraud; regrets that the new action plan does not address the impact on the VAT own resource;

12. Acknowledges that the adoption in July 2013 of the Directive on an optional and temporary application of the reverse charge mechanism in relation to supplies of certain goods and services susceptible to fraud¹ and the Directive on a quick reaction mechanism against VAT fraud² has helped further shape and enhance the system for combating VAT fraud;
13. Calls on the Member States to coordinate their respective policies on reverse charge mechanisms in a better way, with a view to establishing a mandatory exchange of accurate and comprehensible information; calls on the Commission to further explore, and better assess, possibilities for extending the application of the VAT reverse charge mechanism to business-to-business supplies of goods, as it already applies to digital products and services, in order to prevent VAT fraud from arising in new forms instead of ‘carousel fraud’, and to prevent an increase of the administrative burdens borne by SMEs;
14. Points out that the Member States’ VAT gaps, and the estimated losses on VAT collection within the Union, amounted to an estimated EUR 170 billion in 2015, and underlines the fact that in 13 of the 26 Member States examined in 2014, the average estimated VAT loss exceeded 15.2 %; calls on the Commission to make full use of its executive powers in order to both control and help the Member States; points out that effective action to reduce the VAT gap requires a concerted and multidisciplinary approach, as this gap is the result not only of fraud but of a combination of factors, including bankruptcy and insolvency, statistical errors, late payment, tax evasion and tax avoidance; reiterates its call on the Commission swiftly to promote legislation on the minimum level of protection for whistle-blowers in the EU in order to better investigate and deter fraud, and to establish financial support for cross-border investigative journalism, which clearly proved its effectiveness in the ‘LuxLeaks’, ‘Dieselgate’ and ‘Panama Papers’ scandals;
15. Considers that particular attention should be paid to the assessment of the VAT tax gap strategy in the context of the European Semester, insofar as it is an instrument for Member States to identify the causes of this gap, the segments of the economy vulnerable to fraud, the macroeconomic effects at stake and the correlative impact on the EU’s own resources;
16. Regrets that VAT fraud, and in particular the so-called ‘carousel’ or ‘missing trader’ fraud, distorts competition and deprives national budgets of significant resources, as well as being detrimental to the Union budget; is concerned that the Commission has no reliable data on VAT ‘carousel fraud’; calls, therefore, on the Commission to launch a coordinated effort by the Member States to establish a joint system of collecting statistics on VAT ‘carousel fraud’; points out that such a system could build upon practices already used in some Member States;
17. Urges the Commission to initiate the establishment of a common system that will allow a more refined estimation of the size of intra-EU VAT fraud by compiling intra-EU VAT fraud statistics, which would allow individual Member States to evaluate their respective performances in this regard on the basis of precise and reliable indicators of the reduction

¹ Council Directive 2013/43/EU of 22 July 2013 amending Directive 2006/112/EC on the common system of value added tax, as regards an optional and temporary application of the reverse charge mechanism in relation to supplies of certain goods and services susceptible to fraud.

² Council Directive 2013/42/EU of 22 July 2013 amending Directive 2006/112/EC on the common system of value added tax, as regards a Quick Reaction Mechanism against VAT fraud.

of intra-EU VAT and the increase in fraud detection and correlative tax recovery; takes the view that new auditing approaches, such as the single audit or joint audits, should be extended further to encompass cross-border operations;

18. Stresses the importance of implementing new strategies, and of making more efficient use of existing EU structures, to combat VAT fraud more vigorously; underlines the fact that greater transparency allowing for proper scrutiny, and the adoption of a more structured and 'risk-based' approach, are key to detecting and preventing fraud schemes and corruption;
19. Regrets that administrative cooperation among Member States in fighting VAT fraud is still not efficient when it comes to coping with intra-EU VAT evasion and fraud mechanisms, or to managing cross-border transactions or trading; stresses the need for a simplified, effective and accessible VAT system that will allow all Member States to reduce their VAT burdens and combat VAT fraud; calls on the Commission, therefore, to carry out more monitoring visits to Member States, selected on a risk basis, when assessing administrative cooperation agreements; asks the Commission, furthermore, to focus, in the context of its evaluation of the administrative arrangements, on removing legal obstacles preventing the exchange of information between administrative, judicial and law enforcement authorities at national and EU level; calls, in addition, on the Commission to recommend that Member States introduce a common risk analysis, including the use of social network analysis, to ensure that the information exchanged through Eurofisc is targeted on fraud; calls on the Member States to lay down effective, proportionate and dissuasive penalties, and to improve the system currently used to exchange information;
20. Stresses the need to reinforce Eurofisc in order to speed up exchanges of information; points out that there are still problems with regard to the accuracy, completeness and timeliness of information; considers it necessary to pool the actions, and coordinate the strategies, of the Member States' tax, judicial and police authorities, and of European bodies – such as Europol, Eurojust and OLAF – dealing with the fight against fraud, organised crime and money laundering; encourages all stakeholders to further consider simple and comprehensible models for real-time information sharing in order to allow for prompt reactions or mitigating measures to combat existing or newly emerging fraud schemes;
21. Considers it essential for all Member States to participate in Eurofisc in each of its fields of activity, so as to allow effective measures to be taken to combat VAT fraud;
22. Calls on the Commission to make proposals enabling effective cross-checks of data from customs and tax authorities, and to focus its monitoring of the Member States on measures indicative of improvements to the timeliness of their replies to information requests and of the reliability of the VAT Information Exchange System (VIES);
23. Asks the Commission to encourage those Member States that have not already done so to implement a two-tier VAT identification number (with a number allocated to traders wishing to take part on intra-Community trade that is different from the domestic VAT identification number) and to conduct the checks foreseen in Article 22 of Regulation No 904/2010, while providing free advice to traders;

24. Calls on the Commission to ensure that the Member States' electronic customs clearance systems are capable of, and carry out, automatic checking of VAT identification numbers;
25. Urges the Commission to propose an amendment to the VAT Directive with a view to achieving further harmonisation of Member States' VAT reporting requirements for intra-EU supplies of goods and services;
26. Regrets that the proposal of the Commission with regard to joint and several liability in cases of cross-border trade has not been adopted by the Council; points out that this reduces the deterrence against doing business with fraudulent traders; considers that the implementation of the VAT Directive, as regards the period of submission of recapitulative statements, is not uniform among the Member States, and that this increases the administrative burden on traders operating in more than one Member State; urges, therefore, the Council to approve the Commission's proposal on joint and several liability;
27. Believes that OLAF and Europol should have access to VIES and Eurofisc data, and that the Member States should benefit from intelligence information supplied by these bodies in order that they may gain efficiency in their fight against organised crime operating at a transnational level; stresses that OLAF needs to have clear competences and tools to investigate intra-EU VAT fraud;
28. Stresses that both the Directive on the fight against fraud to the Union's financial interests by means of criminal law (the PIF Directive) and the European Public Prosecutor's Office Regulation (EPPO Regulation) would complement and strengthen the legal framework, and would considerably reinforce the fight against fraud; reiterates its stance on the urgent need to adopt the PIF Directive and the EPPO Regulation, with the most harmful types of VAT fraud, such as international gang fraud, included in their scope; emphasises that excluding VAT from the scope of these proposals would represent a major step backwards, since VAT fraud is covered by the current legal framework, namely, the PIF Convention, as the Court of Justice recently recalled in its judgements of 8 September 2015 against Taricco and others (case C-105/14);
29. Encourages the Commission and the Member States to be more active at international level, to strengthen cooperation with non-EU countries and to enforce efficient VAT collection, so as to establish standards and strategies of cooperation based chiefly on the principles of transparency, good governance and exchange of information; encourages the Member States to exchange information received from non-EU countries among themselves in order to facilitate the enforcement of VAT collection, particularly in e-commerce.

RESULT OF FINAL VOTE IN COMMITTEE ASKED FOR OPINION

Date adopted	4.7.2016
Result of final vote	+: 19 -: 3 0: 0
Members present for the final vote	Nedzhmi Ali, Louis Aliot, Inés Ayala Sender, Dennis de Jong, Luke Ming Flanagan, Ingeborg Gräßle, Monica Macovei, Dan Nica, Georgi Pirinski, Claudia Schmidt, Igor Šoltes, Bart Staes, Michael Theurer, Marco Valli, Tomáš Zdechovský, Joachim Zeller
Substitutes present for the final vote	Iris Hoffmann, Cătălin Sorin Ivan, Marian-Jean Marinescu, Andrey Novakov, Julia Pitera, Patricija Šulin