

P7_TA(2013)0051

Common system of value added tax and a quick reaction mechanism against VAT fraud *

European Parliament legislative resolution of 7 February 2013 on the proposal for a Council directive amending Directive 2006/112/EC on the common system of value added tax as regards a quick reaction mechanism against VAT fraud (COM(2012)0428 – C7-0260/2012 – 2012/0205(CNS))

(Special legislative procedure – consultation)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2012)0428),
 - having regard to Article 113 of the Treaty on the Functioning of the European Union , pursuant to which the Council consulted Parliament (C7-0260/2012),
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs (A7-0014/2013),
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 enhanced fight against tax fraud and evasion is key to restoring and maintaining the stability and strength of public finances across the Union.

Amendment 2

Proposal for a directive

Recital 1

Text proposed by the Commission

(1) Tax fraud in the field of value added tax (VAT) **leads to** considerable **budget** losses and affects the conditions of competition and thus the operation of the internal market. Specific sudden and massive forms of tax fraud have recently developed especially via the use of electronic means which facilitate rapid illegitimate trade on a large scale.

Amendment

(1) Tax fraud in the field of value added tax (VAT) **results in** considerable losses **to public finances** and **negatively** affects the conditions of competition and thus the **fair and efficient** operation of the internal market. **Such losses should be curbed, in particular during times of fiscal austerity.** Specific sudden and massive forms of tax fraud have recently developed especially via the use of electronic means which facilitate rapid illegitimate trade on a large scale **that often extends beyond the borders of a particular Member State.**

Amendment 3

Proposal for a directive

Recital 2

Text proposed by the Commission

(2) Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax allows Member States to apply for a derogation from that Directive in order to prevent certain forms of tax evasion or avoidance. Authorisation of such derogation requires a proposal from the Commission and its adoption by the Council. Recent experience has demonstrated that the process for granting derogations is not always flexible enough to ensure a prompt and suitable reaction to requests by Member States.

Amendment

(2) Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax allows Member States to apply for a derogation from that Directive in order to prevent certain forms of tax evasion or avoidance. Authorisation of such derogation requires a proposal from the Commission and its adoption by the Council. Recent experience has demonstrated that the process for granting derogations is not always **quick or** flexible enough to ensure a prompt and suitable reaction to requests by Member States.

Amendment 4

Proposal for a directive

Recital 7

Text proposed by the Commission

(7) The designation of the recipient as

Amendment

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person liable for the payment of the VAT (*reverse charge*) is an effective measure to stop at once the most well-known types of tax evasion in certain sectors. However, *as* the situation may evolve over time, it may also be necessary to allow for other measures. To that end, the *Council* should, where appropriate, *upon proposal of the Commission, determine* any other measure as falling within the scope of the *Quick Reaction Mechanism*. The type of measures that could be authorised should be established in order to minimise the time necessary for the authorisation of the derogations by the Commission.

person liable for the payment of the VAT ("*reverse-charge mechanism*") is an effective measure to stop at once the most well-known types of tax evasion in certain sectors ("*carousel fraud*"). However, *given the existing weaknesses of the VAT system, and depending on how* the situation may evolve over time, it may also be necessary to allow for other measures. To that end, the *Commission* should, where appropriate, *propose* any other measure as falling within the scope of the *quick reaction mechanism*. *That measure should be approved unanimously by the Council after consulting the European Parliament*. The type of measures that could be authorised should be *thoroughly and transparently* established in order to minimise the time necessary for the authorisation of the derogations by the Commission.

Amendment 5

Proposal for a directive Recital 9 a (new)

Text proposed by the Commission

Amendment

(9a) In order to develop and improve the quick reaction mechanism on an ongoing basis, the Commission should report regularly to the European Parliament and to the Council on its application, examining, inter alia, other measures to be added to the scope of the mechanism and new ways to strengthen cooperation between Member States in the general framework of the mechanism.

Amendment 6

Proposal for a directive Recital 9 b (new)

Text proposed by the Commission

Amendment

(9b) In order for the quick reaction mechanism to function in a satisfactory manner, the Commission should, at all

times, be capable of acting swiftly and accurately on these matters. The human and other resources of the quick reaction mechanism should therefore be adequate and an accelerated internal decision-making procedure should be established and maintained.

Amendment 7

Proposal for a directive Recital 9 c (new)

Text proposed by the Commission

Amendment

(9c) Since the application of a special measure in one Member State could have repercussions on the VAT systems of the other Member States, the Commission should, in order to maintain transparency, inform all Member States about all requests made and all decisions taken pursuant thereto.

Amendment 8

Proposal for a directive Recital 9 d (new)

Text proposed by the Commission

Amendment

(9d) In its work on enhancing and fine-tuning the quick reaction mechanism, the Commission should consult extensively with undertakings in fraud-prone sectors and with other relevant stakeholders.

Amendment 9

Proposal for a directive Recital 10

Text proposed by the Commission

Amendment

(10) Since the objective of the action to be taken, to address sudden and massive fraud phenomena in the field of VAT which very often have an international dimension, cannot be sufficiently achieved by the Member States, as they are not in a

(10) Since the objective of the action to be taken, to address sudden and massive fraud phenomena in the field of VAT which very often have an international dimension, cannot be sufficiently achieved by the Member States, as they are not in a

position to individually counter the fraud circuits related to new forms of trade which involve several countries at the same time, and can therefore, by reason of ensuring a quicker and, as a result, a more adequate and effective response to these phenomena, be better achieved at Union level, the Union *may* adopt measures, in accordance with the principle of subsidiarity, as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

position to individually counter the fraud circuits related to new forms of trade which involve several countries at the same time, and can therefore, by reason of ensuring a quicker and, as a result, a more adequate and effective response to these phenomena, be better achieved at Union level, the Union *should* adopt measures, in accordance with the principle of subsidiarity, as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

Amendment 10

Proposal for a directive

Article 1

Directive 2006/112/EC

Section 1a – Article 395a – paragraph 1 – point a

Text proposed by the Commission

(a) the designation of the recipient as person liable to pay VAT on specific supplies of goods and services by derogation from Article 193, following a request referred to in paragraph 2 of this Article for such measure;

Amendment

(a) the designation of the recipient as person liable to pay VAT on specific supplies of goods and services by derogation from Article 193 ("**reverse-charge mechanism**"), following a request referred to in paragraph 2 of this Article for such measure;

Amendment 11

Proposal for a directive

Article 1

Directive 2006/112/EC

Section 1a – Article 395a – paragraph 1 – point b

Text proposed by the Commission

(b) any other measure **determined by the Council acting unanimously on a proposal from** the Commission.

Amendment

(b) any other measure **proposed by** the Commission, **and approved unanimously by the Council after consulting the European Parliament.**

Amendment 12

Proposal for a directive

Article 1

Directive 2006/112/EC

Section 1a – Article 395a – paragraph 1 – subparagraph 2

Text proposed by the Commission

For the purposes of **point** (a), **the** special measure shall be subject to appropriate control measures by the Member States with respect to taxable persons who supply the goods or services to which that measure applies.

Amendment

For the purposes of **points** (a) **and** (b), **any** special measure **used** shall be subject to appropriate control measures by the Member States with respect to taxable persons who supply the goods or services to which that measure applies.

Amendment 13

Proposal for a directive

Article 1

Directive 2006/112/EC

Section 1a – Article 395a – paragraph 1 – subparagraph 4 a (new)

Text proposed by the Commission

Amendment

The procedure laid down in this paragraph shall be completed within three months.

Amendment 14

Proposal for a directive

Article 1

Directive 2006/112/EC

Section 1a – Article 395a – paragraph 2 – subparagraph 1

Text proposed by the Commission

Amendment

2. A Member State wishing to introduce a measure as provided for in paragraph 1 shall send an application to the Commission. The Member State shall provide **it** with the information indicating the sector concerned, the type and the features of the fraud, its sudden and massive character and its consequences in terms of considerable and irreparable financial losses. If the Commission considers it does not have all the necessary information, it shall contact the Member State concerned within **one month** of receipt of the application and specify what

2. A Member State wishing to introduce a measure as provided for in paragraph 1 shall send an application to the Commission. The Member State shall provide **the Commission, the competent committees of the European Parliament and the Court of Auditors** with the information indicating the sector concerned, the type and the features of the fraud, its sudden and massive character and its consequences in terms of considerable and irreparable financial losses. If the Commission considers it does not have all the necessary information, it shall contact the Member State concerned within **two**

additional information is required.

weeks of receipt of the application and specify what additional information is required. ***The Commission shall also consult the relevant business sector, where appropriate and where possible.***

Amendment 15

Proposal for a directive

Article 1

Directive 2006/112/EC

Section 1a – Article 395a – paragraph 2 – subparagraph 2

Text proposed by the Commission

Once the Commission has all the information it considers necessary for appraisal of the request it shall, within one month, either authorise the special measure or, *in case* the Commission objects to *the requested measure*, inform the Member State concerned thereof.

Amendment

Once the Commission has all the information it considers necessary for appraisal of the request it shall:

(a) notify the requesting Member State accordingly;

(b) transmit the request, in its original language, to the other Member States;

(c) within one month, either authorise the special measure or, if the Commission objects to it, inform the Member State concerned, the other Member States, the competent committees of the European Parliament, and the Court of Auditors thereof, together with a detailed justification..

Amendment 16

Proposal for a directive

Article 1

Directive 2006/112/EC

Section 1a – Article 395c (new)

Text proposed by the Commission

Amendment

Article 395c

Every three years, and for the first time by 1 July 2014, the Commission shall submit to the European Parliament and to the

Council a report on the application of the quick reaction mechanism established under this Section. The report shall, inter alia, examine further special measures to be added to the scope of the mechanism and new ways to strengthen cooperation between Member States in the general framework of the mechanism.

Amendment 17

Proposal for a directive Article 1 a (new)

Text proposed by the Commission

Amendment

Article 1a

By 1 January 2014, the Commission shall present a report on how the regular derogation procedure set out in Article 395 of Directive 2006/112/EC could be accelerated. The aim of the report shall be to identify changes to existing structures and routines that would ensure that the Commission always completes the procedure within five months of receipt of an application from a Member State. The report shall, if appropriate, be accompanied by legislative proposals.

Amendment 18

Proposal for a directive Article 2 – paragraph 2

Text proposed by the Commission

Amendment

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

2. Member States shall communicate *to the European Parliament and* to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Amendment 19

Proposal for a directive Article 3

Text proposed by the Commission

This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

Amendment

This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union. ***It shall be consolidated with Directive 2006/112/EC by ...****

**** Three months after the date of entry into force of this Directive.***