INDIRECT TAXATION

Indirect taxes include value added tax (VAT) and excise duties on alcohol, tobacco and energy. The common VAT system is generally applicable to goods and services that are bought and sold for use or consumption in the EU. Excise duties are levied on the sale or use of specific products. EU legislative activities are aimed at coordinating and harmonising VAT law and harmonising duties on alcohol, tobacco and energy, with the aim of ensuring the proper functioning of the internal market. In accordance with EU legislation in the field of VAT and excise duties, Parliament's role is limited to the consultation procedure.

VALUE ADDED TAX (VAT)

A. Legal basis

Article 113 of the Treaty on the Functioning of the European Union (TFEU).

B. Development

VAT harmonisation has proceeded in various stages with a view to achieving transparency in intra-EU trade. In 1970, the decision was taken to finance the European Economic Community from the Communities' own resources (the Communities being the European Coal and Steel Community, the European Atomic Energy Community and the European Economic Community). These own resources were to include payments based on a proportion of VAT and obtained by applying a common rate of tax on a uniform basis of assessment. The VAT Directive (Directive 2006/112/EC), adopted in 2007, codifies these amendments in a single piece of legislation.

In 1985, the Commission published a white paper on completing the internal market (COM(1985)0310), Part III of which concerned the removal of fiscal barriers. The need for action in the field of VAT arose from the 'destination principle'.

C. Achievements

1. The VAT system

a. The transitional system

In 1987, the Commission proposed changing to the 'origin principle', under which transactions between Member States would bear the tax already charged in the country of origin, which traders could then deduct as input tax. In addition, the Commission proposed the establishment of a clearing system to reallocate the VAT collected in the countries of origin to the countries of consumption. However, these proposals were unacceptable to the Member States. They outlined, as an alternative, the destination principle for transactions involving VAT-registered traders, thereby establishing the basis of the transitional system, which became operational in 1993 (Directives 91/680/EEC and 92/111/EEC).

b. Viable strategy to improve the existing system

Starting in 2000, the Commission pursued measures to improve the transitional rules then in force. The core EU legislative text on VAT is now the VAT Directive (Directive 2006/112/EC). This was followed in 2008 by Directives 2008/8/EC and 2008/9/EC. VAT on services between traders was now to be levied in the country where the services were provided.

In 2005, the foundation was laid for a more uniform application of EU rules (Implementing Regulation (EU) No 282/2011). All Member States now had the option of applying special rules to simplify the application of VAT. The system was improved by the adoption of Regulation (EC) No 37/2009 on administrative cooperation in the field of value added tax in order to combat tax evasion connected with intra-Community transactions.

2. VAT rates

Directive 92/77/EEC provided for a minimum standard rate of 15%, to be reviewed every two years. It was repealed and replaced by the VAT Directive, under which the standard rate of VAT to be applied by all Member States to goods and services is at least 15%. Member States may apply one or two reduced rates of at least 5% to specific goods or services listed in Annex III to the directive. A number of exceptions to these rules (e.g. lower rates on other goods or services) also apply under certain conditions. Considering the need to modernise and update the list of goods and services eligible for reduced rates, Council Directive (EU) 2022/542 notably amends the application of reduced rates for specific policy objectives.

Under Article 397 of the VAT Directive, the Council can, by a unanimous vote on a proposal by the Commission, adopt the measures necessary to implement the directive. On this basis, some of the guidelines agreed on by the VAT Committee have been transformed into binding implementing measures. These measures, which are directly applicable without transposition into national law, can be found in Council Implementing Regulation (EU) No 282/2011.

3. VAT rules on e-commerce

To simplify VAT collection and address the growth of cross-border e-commerce, the European Commission introduced the One-Stop Shop (OSS) and Import One-Stop Shop (IOSS) mechanisms as part of the VAT e-commerce legislative package, which came into effect in July 2021.

The One-Stop Shop allows businesses based in the EU or outside it to fulfil their VAT obligations for all sales within the EU through a single electronic portal.

The Import One-Stop Shop simplifies the collection and declaration of VAT for goods valued up to EUR 150 that are imported from non-EU countries and sold online to customers within the EU. Under this system, the seller registers for VAT in a single EU Member State and collects VAT from the customer at the point of sale, removing the need for the customer to pay VAT upon importation.

4. Recent developments

In March 2025, the Council adopted the 'VAT in the digital age' package to modernise the VAT system, make it work better for businesses and enhance its resilience to

fraud by embracing and promoting digitalisation (including requirements on real-time reporting and e-invoicing). One specific example is that the new rules aim to fully digitalise VAT reporting obligations for companies who sell goods and services to businesses in another EU Member State by 2030. They also introduce special VAT rules for the platform economy. The proposed measures will be implemented gradually, with full enforcement by January 2035.

The measures aim to address the 'VAT gap' within the EU. According to the Commission's 2024 VAT gap report, Member States lost EUR 89.3 billion in VAT revenue in 2022 or – in relative terms – 7% of the VAT total tax liability, which expresses the tax revenue that would be collected in the event of full compliance. This lost revenue is known as the VAT compliance gap, or simply the VAT gap.

Estimates suggest that one quarter of the missing revenue can be attributed directly to VAT fraud linked to intra-EU trade (this fraud is in great part possible because the 30-year-old VAT rules that were applied to cross-border trade until recently had not been adapted to the digital age). In addition, VAT arrangements in the EU can still be burdensome for businesses, especially for small and medium-sized enterprises, scale-ups and other companies with cross-border operations.

D. Latest positions of the European Parliament on VAT

In 2014, Parliament adopted its position on the Commission's proposal for a directive amending the VAT Directive as regards a standard VAT return; the Commission's proposal was later withdrawn). On 24 November 2016, Parliament adopted a resolution on the Commission's action plan on VAT, welcoming the intention to propose a definitive VAT system and additional measures to tackle fraud. In March 2019, Parliament adopted a report stemming from the work of the Special Committee on financial crimes, tax evasion and tax avoidance (TAX3), which reflects on a number of issues related to VAT. In its resolution of 15 February 2022 on the impact of national tax reforms on the EU economy, Parliament called on the Member States to compromise on a strong, comprehensible and ambitious reform on indirect taxation, mainly on VAT. It also called on the Commission to present concrete proposals to promote a more efficient system for exchanging information on intra-EU VAT transactions and to make it interoperable with national mechanisms. Furthermore, it called on the Commission and the Member States to analyse and exchange best practices in the Member States that have succeeded in avoiding a large VAT gap.

In its resolution of 10 March 2022, Parliament issued a number of recommendations to the Commission on fair and simple taxation supporting the recovery strategy. It called on the Commission to substantially reduce the VAT gap across the EU, especially in the post-COVID-19 economy, via specific proposed measures, including on the VAT gap associated with the exemption on cross-border EU trade. Other recommendations relate to e-invoicing across the EU and the need to analyse the technological possibilities (for example, linked to artificial intelligence), which can be applied to (near) real-time VAT reporting in business-to-business transactions, while taking into consideration data protection and confidentiality.

In November 2023, another consultation procedure took place. Parliament adopted its position on the Commission's 'VAT in the digital age' proposal on the basis of a report

prepared by its Economic and Monetary Affairs Committee. Parliament approved the Commission proposal subject to amendments and requested that the Commission conduct an independent study after 31 December 2027, to assess whether the rules regarding deemed suppliers (i.e. the taxable person operating an electronic interface facilitating the supply of goods) have been successful and, if so, to identify new sectors in a similar situation. It should submit this study to Parliament and the Council. In February 2025, Parliament was consulted again after the Council submitted amendments to the initial version of the new VAT Directive.

EXCISE DUTIES ON ALCOHOL, TOBACCO PRODUCTS AND ENERGY

A. Legal basis

Article 113 TFEU and, in relation to energy taxation, Article 192 TFEU, in order to pursue the objectives of Article 191 TFEU.

B. Objectives

The rates and structures of excise duties vary between Member States, affecting competition. Very wide disparities in the duties levied on a particular product can result in tax-induced movements of goods, loss of revenue and fraud. Attempts have been made since the early 1970s to harmonise both structures and rates, but progress has been insignificant.

C. Achievements

1. General rules

Common provisions applying to all products subject to excise duties under EU law are set out in Council Directive (EU) 2020/262, which repeals and replaces Council Directive 2008/118/EC as of 13 February 2023. The directive contains a number of measures to streamline and simplify the processes covering the export and import interaction of excise products, business-to-business interaction and exceptional situations. It has digitalised the supervision of the movement of goods between Member States where excise duty has already been charged in the Member State of dispatch (duty paid). As this was already the case for goods in duty suspension, these movements are performed by the exchange of electronic messages through the computerised Excise Movement Control System, as of 13 February 2023. The remaining provisions as regards alignment with customs procedures came into effect in February 2024.

The directive also aims to improve the freedom of movement for excise goods released for consumption in the single market while ensuring that the correct tax is collected by Member States, and to align EU excise and customs procedures.

2. Alcohol

A fundamental question in relation to alcohol taxation has been the extent to which different products are in competition. The Commission (COM(79)0261) and the Court of Justice of the European Union (Case 170/78, ECR 1985) have traditionally taken the view that all alcoholic drinks are more or less interchangeable and in competition. Directive 92/83/EEC, through which the products on which excise is to be levied and the method of fixing the duty are defined, was only adopted in 1992. Another

important Directive (92/84/EEC) followed, which sets out the minimum rates that must be applied to each category of alcoholic beverage and reduced rates for certain Greek, Italian and Portuguese regions. This means that the Member States are free to apply excise duty rates above these minimum levels of taxation, according to their own national needs.

On 29 July 2020, the Council adopted a series of new rules (Council Directive (EU) 2020/1151) amending Directive 92/83/EEC, which have been applicable since 1 January 2022. The new rules were developed following an evaluation conducted by the Commission of Directive 92/83/EEC.

3. Tobacco products

The basic structure of tobacco excise rates has been brought together in a consolidated directive (2011/64/EU). In contrast to the original Commission proposals, only minimum rates have been set. Different categories exist for taxable tobacco products. Taxes on cigarettes must comprise a proportional (ad valorem) rate, combined with a specific excise duty. Other tobacco products are subject to an ad valorem, a specific or a so-called mixed excise duty.

On 19 October 2020, the Commission announced a revision of Directive 2011/64/EU on excise rules for tobacco (the Tobacco Taxation Directive). The current rules are being reviewed to verify whether they remain fit for purpose to ensure the proper functioning of the internal market and a high level of health protection. This is particularly important in the context of Europe's Beating Cancer Plan, as taxation plays a pivotal role in reducing tobacco consumption, and in particular in deterring young people from smoking. An inception impact assessment was published on 8 January 2021. The Commission considers that the minimum rates set by the Tobacco Taxation Directive have lost their effect as a large number of Member States tax most tobacco products above these minimum rates. Several new types of tobacco products are also not fully covered by the current directive. Furthermore, the Commission notes that the current situation results in the abuse of cross-border purchases. The proposal was expected to be presented in 2023; however, in February 2025, the European Commission stated that preparatory work on a revision of the tobacco taxation rules is still ongoing.

4. Energy products (mineral oils, gas, electricity, alternative energy, aviation fuel)

The basic structure of mineral oil excise duties within the Community was established in 1992. Here too, as in the case of alcohol and tobacco, only minimum rates have been set, in contrast to the original plans (full harmonisation). In 1997, the Commission put forward a series of proposals for excise duties on energy products including mineral oils, gas and electricity. These were adopted, but with extensive alterations (Directive 2003/96/EC, derogations in Directives 2004/74/EC and 2004/75/EC).

Aircraft fuel, other than that used for private pleasure-flying, is exempt from excise duty. This exemption is included in Article 14(1)(b) of Council Directive 2003/96/EC (the Energy Taxation Directive). However, Member States can tax aviation fuel for domestic flights and, by means of bilateral agreements, also fuel for intra-EU flights. In such cases, Member States may apply a level of taxation below the minimum level set out in the Energy Taxation Directive.

In 2001, measures to promote the use of biofuels were proposed, including the possibility of applying a reduced rate of excise duty, and they were adopted in 2003 under Directive 2003/30/EC.

5. Recent initiatives on energy taxation

The European Green Deal is a package of policy initiatives aimed at setting the EU on the path to a green transition, with the ultimate goal of reaching climate neutrality by 2050. It was launched by the Commission in December 2019 and the European Council made note of it during its December meeting. The 'Fit for 55' package aims to translate the ambitions of the Green Deal into law. It comprises a set of proposals to align EU laws with the EU's climate goals, including a revision of the Energy Taxation Directive. This proposal aims to ensure more coherence with other EU policies and to contribute to achieving the EU's mid and long-term energy and climate objectives by reflecting more accurately the environmental impact of various energy sources and encouraging consumers and businesses to change their behaviour.

In the Council, a close examination of the proposal is taking place. The most contentious issues among Member States are the extent of indexation for minimum rates and the taxation of air and maritime transport. In December 2024, the Council assessed the progress made so far and noted that negotiations were advancing toward striking a balance between climate objectives, the particular needs of Member States and the EU's competitiveness. Nonetheless, further efforts are necessary to achieve unanimous agreement.

D. Latest positions of the European Parliament on energy taxation

As regards the Commission proposal of July 2021 on the revision of the Energy Taxation Directive, the rapporteur of the Committee on Economic and Monetary Affairs (ECON) delivered a draft report on 28 February 2022, which was then opened to amendments. Progress on this file is difficult given its politically sensitive nature and its possible impact on consumer prices. The file was unfinished business at the end of the previous parliamentary term; work on it has resumed in the 10th legislative term and a new report is being drafted.

For more information on this topic, please see the website of the Subcommittee on Tax Matters (FISC).

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