



**OPINION OF THE HIGH LEVEL GROUP**

**Subject:** Priority Area *Taxation (VAT)*

*Executive Summary*

The priority area Taxation (VAT) accounts for a large part of the total burdens of the legal acts covered by the Action Programme and is therefore of special importance.

The HLG supports the **reduction measures adopted or proposed** and in this context advises the Commission and Member States...

- to speedily adopt the proposed revision of the *invoicing rules*, to reconsider any additional requirements they impose on invoices right away and to simplify the requirements on e-invoicing on the national level.
- to proceed with the proposed *general one stop shop* for all taxable persons and the increased thresholds for the special schemes for SMEs and distance sales
- to ensure that the electronic portals, required for the *new refund procedure*, are easy to access and to use and to allocate the necessary resources to the processing of refund claims so that the refunds are paid out to enterprises as fast as possible
- to urgently deliver a proposal for a regulation clarifying a number of open questions related to the new rules concerning the *place of supply of services*
- to adopt *new anti-fraud measures* only based on thorough impact assessments and after having analysed whether the current measures have been effectively used

The HLG sees a significant burden reduction potential concerning the various **VAT returns and listings** and advises the Commission and Member States...

- to generally allow filing of the *periodical VAT return* in a frequency based on turnover thresholds and to look at whether the respective thresholds and the resulting frequencies could be harmonised on EU level
- to look further at whether the *summarizing annual VAT* return could be abolished
- to investigate whether the *intra-Community acquisitions listing* can be abolished
- to abolish the requirement to submit *intra-Community supplies listings* for periods in which the business did not make such supplies
- to exempt enterprises falling below certain thresholds from the obligation to submit the *intra-Community supplies listings*
- to facilitate and promote the fully electronic interaction between businesses and tax authorities, to make the respective *e-government solutions* simple and to create incentives for businesses to use them
- to allow and facilitate that enterprises *grant power of attorney* for signing VAT

returns and listings electronic as well as on paper

Furthermore, the HLG advises the Commission and Member States...

- to remove obligations that are perceived as irritating by businesses even in cases where the savings may be limited
- to identify the most efficient and least burdensome anti-fraud measures (**Art. 273**) in the Member States and to harmonize the most common measures along the lines of these best practices
- to specify a **minimum time frame** to be granted to the taxable persons for providing information to the tax authorities upon request
- to consider the **export document** as sufficient proof that the export has taken place
- to identify and disseminate best practices with regard to **VAT audits**
- to integrate the **VAT registration** into the general process of business registration and to provide one electronic portal for all registration purposes
- to consider a more uniform application of the optional “**VAT Grouping**” scheme
- to think out of the box and to investigate ideas even if they require **deep structural changes**
- to reconsider the necessity of national information obligations which go beyond what is required by the VAT Directive (**gold plating**) and, if applicable, to abolish them

The Consortium has preliminarily estimated<sup>1</sup> the administrative costs of the priority area VAT at €79.5 billion and the administrative burdens at €69.2 billion. It has estimated the reduction potential of the reforms adopted or proposed at €25 billion and the reduction potential of the additional suggestions presented in quantified form in this opinion at €7.8 billion.

## I. Background

- (1) The High Level Group of Independent Stakeholders on Administrative Burdens (HLG) was set up to advise the Commission with regard to the Action Programme for Reducing Administrative Burdens in the EU, and in particular to provide advice on administrative burden reduction measures<sup>2</sup>. Ms. Fritsch, Mr. Berger, Mr. Mollerup and Mr. Potdevin, who were appointed as reporting members for the priority area “Taxation (VAT)”, have prepared the present opinion.
- (2) A first opinion<sup>3</sup> on reducing administrative burdens related to the rules on invoicing and electronic invoicing in Directive 2006/112/EC (VAT Directive) was adopted by the HLG on 22 October 2008. The Commission has followed up on this opinion by issuing a legislative proposal on 28 January 2009. The present opinion complements the first opinion with regard to the remaining parts of the VAT Directive.

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<sup>1</sup> All figures cited in this opinion are preliminary. The HLG notes that the Commission has expressed reserves about some of the figures and shares these in many cases. Furthermore, the HLG notes that there is a certain amount of overlap in the reduction figures of different ideas.

<sup>2</sup> Cf. to Commission Decision COM(2007)4063.

<sup>3</sup> Available under [http://ec.europa.eu/enterprise/admin-burdens-reduction/highlevelgroup\\_en.htm](http://ec.europa.eu/enterprise/admin-burdens-reduction/highlevelgroup_en.htm). Two reduction ideas related to the priority “Taxation” were examined in the opinion adopted on 18 September 2008.

- (3) The priority area “Taxation (VAT)” is one of the 13 priority areas of the Action Programme. The initial scope for the measurement consisted of the VAT Directive, which is the central legal act on EU level for the field of Value Added Tax (VAT). The costs associated with the refund procedure, governed by Art. 170-171 of the VAT Directive and Directive 79/1072/EEC (VAT Refund Directive) have been measured as part of this exercise<sup>4</sup>. The Commission extended the scope of the Action Programme on 28 January 2009 to include Regulation 2913/92 (Community Customs Code)<sup>5</sup>. The HLG will advise the Commission on administrative burden reduction in the customs area in a subsequent opinion.
- (4) The Consortium, hired by the Commission to map and measure the information obligations in the VAT Directive, has estimated that the 34 information obligations and possibilities in the VAT Directive lead to total administrative costs of €79.5 billion and total administrative burdens of €69.2 billion<sup>6</sup>. **This represents around 63% of the total cost and 68% of the total burdens of the legal acts originally covered by the Action Programme.** The HLG notes that all Consortium figures are preliminary and shares the Commissions reservations about some of them. The high number of enterprises and transactions affected by the VAT legislation was identified as the main driver behind the size of the cost figures. The HLG notes that information obligation going beyond what is required by the VAT Directive (“gold-plating”) impose costs of around €3.2 billion on businesses.
- (5) In a separate study, the Consortium measured the costs stemming from selected articles<sup>7</sup> in the VAT Directive, which typically leave space for the creation of information obligations on national level. **The total administrative cost and burden stemming from national information obligations linked to these articles was estimated at €1.4 billion, of which 50% is related to Art. 273 of the VAT Directive.** This provision allows Member States to adopt measures necessary to ensure the correct collection of VAT.

## II. State of Play of Reducing Administrative Burdens in the Field of VAT

- (6) A number of modifications to the VAT Directive have been adopted or proposed pursuing the objectives of simplifying compliance for taxable persons and of improving the access of businesses, including SMEs, to the single market. Of the proposed or adopted modifications of the VAT Directive, the following are of particular interest from an administrative burden reduction point of view and have therefore been quantified by the Consortium<sup>8</sup>. The HLG notes that these

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<sup>4</sup> With decision of 28 January 2009, the scope of the Action Programme has been formally extended to cover Directive 79/1072/EEC (VAT Refund Directive) as well.

<sup>5</sup> Cf. to Annex 9 of COM(2009)16.

<sup>6</sup> Business-as-usual costs have in principle been excluded up-front from the measurement of VAT-related bookkeeping and invoicing obligations; the difference between the figures for the administrative costs and the administrative burden is the result of an additional “25% corrective assessment” to exclude any remaining business-as-usual costs in the area of VAT bookkeeping.

<sup>7</sup> Art. 11, 131/143(d), 223, 224, 273 of the VAT Directive.

<sup>8</sup> At this point in time quantification is available only for major reduction aspects of the selected legislative initiatives. The aggregate of the reduction measures presented here must therefore be

Consortium estimates add up to € 25 billion, which demonstrates that the **reduction efforts have been successful in the VAT area and form a good basis for further reduction measures.**

- (7) The **revision of the rules on invoicing and electronic invoicing** in the VAT Directive, proposed by the Commission on 28 January 2009 following advice by the HLG, is pending in Council<sup>9</sup>. It is proposed to require national tax authorities to treat paper and electronic invoices equally. The additional requirements for electronic invoices, currently provided for by the VAT Directive, and notably the differing implementation by Member States have been identified as a major obstacle to the uptake of electronic invoicing in Europe. The maximum mid-term reduction potential of electronic invoicing and electronic storage has been estimated by the Consortium at €18.4 billion per year in terms of VAT-related administrative costs<sup>10</sup>. Apart from the equal treatment of electronic invoices, it is proposed to abolish the extra requirements for summary invoicing and self-billing (reduction potential estimated at €720 million), to extend the scope of simplified invoices (reduction potential estimated at €100 million) and to revise the rules on cash accounting for micro-enterprises which can bring a substantial cash-flow advantage to these very small enterprises and may reduce their administrative burden as far as they use cash accounting also for their general accounting.
- (8) A far-reaching simplification proposal<sup>11</sup> related to several aspects of the VAT Directive is pending in Council, subject to Member States agreement. It is notably proposed to **create a general one stop shop**, which - once implemented - would allow enterprises to fulfil all their VAT-related obligations in the Member State of their establishment. The reduction of the administrative burden resulting from the creation of a one stop shop has been estimated by the Consortium at €1.7 billion. Furthermore, it was proposed to **raise the thresholds of the special schemes** for SMEs up to €100,000 and for distance sellers of €150,000. The maximum reduction potential of the proposed threshold changes has been estimated at €3.2 billion.
- (9) A **modernisation of the VAT refund procedure**<sup>12</sup> for taxable persons established in another Member State was adopted on 12 February 2008 and will come into effect as of January 2010. The refund procedure allows enterprises, registered in one Member State, to apply for the reimbursement of VAT paid on a purchase in another Member State, in which they are not registered for VAT. The current refund procedure is perceived as being overly long and complicated and may have

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considered as preliminary. A further proposed simplification measure COM(2007)747 to the benefit of financial service providers has been found to reduce administrative burdens by increasing legal certainty.

<sup>9</sup> Proposal COM(2009)21 of 28 January 2009 on the common system of value added tax as regards the rules on invoicing.

<sup>10</sup> Note however that the reduction amounts to €15.3 billion if one assumes that the bookkeeping costs measured as VAT-related comprise 25% business-as-usual costs. The aggregate of the Consortium estimates for adopted or proposed reforms would then be €21.9 billion.

<sup>11</sup> Proposal COM(2004)728 of 29 October 2004 for a Council Directive amending Directive 77/388/EEC with a view to simplifying value added tax obligations.

<sup>12</sup> Directive 2008/9/EC of 12 February 2009 laying down detailed rules for the refund of value added tax, provided for in Directive 2006/112/EC, to taxable persons not established in the Member State of refund but established in another Member State

deterred traders from claiming refunds. The new Directive foresees a fully electronic procedure (subject to realisation by the Member States' authorities), with the objective of a quicker, less burdensome and less irritating refund to traders. The potential administrative burden reduction of such reform has been estimated by the Consortium at €450 million.

- (10) Finally, a **revision of the rules concerning the place of supply of services**<sup>13</sup> was adopted on 12 February 2008, changing the place of supply of services to taxable persons to the Member State of consumption of the service. The potential administrative burden impact of this change of the rules when combined with an extended use of the reverse charge mechanism and the proposed “mini one stop shop” for certain activities has been estimated at €460 million.

### III. Reduction Ideas

- (11) The Consortium has presented a number of recommendations on how to further reduce the administrative burdens related to the VAT Directive. Stakeholders and HLG reporting members have submitted additional reduction suggestions. The HLG has taken the following ideas into consideration. It notes that the **aggregate reduction potential of these ideas is around € 7.8 billion**, which however includes a certain amount of overlap in the reduction potential of the different ideas<sup>14</sup>. The reduction potential of some ideas has not been quantified and is therefore not included in this figure.

#### *Consortium Suggestions related to Returns and Listings*

- (12) Taxable persons are required to submit a **periodical VAT return** (Art. 250 VAT Directive) in which they set out all the information needed to calculate the VAT chargeable and the deductions to be made. The VAT Directive allows Member States to set the frequency of this periodical VAT return at intervals between monthly and yearly (Art. 251 VAT Directive). The most common frequencies used by Member States are monthly and quarterly. The Consortium recommends specifying frequencies in the VAT Directive based on the turnover of the enterprise. As turnover thresholds it proposes € 500,000 (up to which the frequency should be annual) and €2.5 million (up to which the frequency should be quarterly). Business would be allowed to opt for more frequent submission. The Consortium estimates the reduction potential at €1.9 billion.
- (13) The VAT Directive allows Member States to require that taxable persons submit an **annual summarizing VAT return** (Art. 261), containing the information provided in the periodical VAT returns and where necessary adjusting it. Currently, eight Member States do require such an annual return. The Consortium argues that the summarizing return in some cases simply replicates information

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<sup>13</sup> Directive 2008/8/EC of 12 February 2009 amending Directive 2006/112/EC as regards the place of supply of services. The Commission is currently working on an implementing regulation clarifying certain aspects of the changed rules.

<sup>14</sup> The aggregate does not include the cost reduction for the structural change to a real-time VAT collection system, which is the most obvious case of overlap. Further overlap in the reduction figures exists between the e-government suggestion on the one hand and the other ideas on the other hand.

that Member States already have from the periodical return while in other cases Member States demand additional information, which would better be obtained in other contexts, such as the VAT audit. It suggests that corrections or amendments are done in the periodical returns, as practiced in those Member States which do not require the annual summarizing return. The Consortium therefore recommends repealing this option and estimates the reduction potential at €1.7 billion.

- (14) The VAT Directive also allows Member States to require that taxable persons submit a list of acquisitions of goods or transactions treated as such from sellers established in other Member States (**intra-Community acquisitions listing**, Art. 268). Seven Member States have made use of the option. The Consortium argues that the information on this listing can be obtained from other sources (such as the intra-Community sales listing and the VAT Information Exchange System - VIES) and recommends repealing the option. It estimates the reduction potential at €70 million.
- (15) The VAT Directive requires that taxable persons file lists of all supplies made to taxable persons in other Member States (**intra-Community supplies listing**, Art. 262). Most Member States require the filing of this listing also in the case that no intra-Community supplies have been made by the taxable person (so-called “nil”-listing). The Consortium argues that tax administrations do not gather additional insights from such nil-listings and proposes to clarify in the VAT Directive that taxable persons are not obliged to submit nil-listings. The Consortium also points at the high irritation factor of the obligation to submit nil-listings. The expected burden reduction is estimated at €40 million.
- (16) More general, the Consortium recommends that the **submission of the various returns and listings is fully automated** and is done by electronic interaction between taxable persons and tax authorities. It recommends that Member States introduce simple, easy to use, time-saving e-government solutions for this purpose. The expected administrative burden reduction is estimated at €3.4 billion.

#### *Further Reduction Suggestions by Consortium and Stakeholders*

- (17) **Article 273** of the VAT Directive allows Member States to impose obligations on taxable persons which they deem necessary to ensure the correct collection of VAT and to prevent tax evasion. The Consortium argues that certain of the national information obligations linked to Article 273 are not necessary or excessive and recommends abolishing them while for other information obligations it recommends implementing them in a less burdensome way (confer to the annex for details). For the general obligation to provide information to the tax authorities upon their request (implemented in nearly all Member States), the Consortium suggests to specify a minimum time frame granted to the taxable person, to limit the type of information requested, to oblige tax authorities to provide a clear, detailed and written request, and to stipulate a possibility for the taxable person to ask for a deadline extension. The combined reduction potential of the suggestions concerning Article 273 is estimated at around €360 million.
- (18) Taxable persons applying the **VAT export exemption** are required to prove to their tax authorities that they have dispatched the goods outside the European Union (Art. 131, 146, 147). The Consortium argues that the export document, drawn up for customs purposes, should be regarded as sufficient proof of the

exportation and that the export document, should be transmitted from the customs authorities to the VAT authorities by electronic information exchange. The Consortium assesses the burden reduction potential at up to €210 million.

- (19) In order to render **VAT audits** less costly and time-consuming for enterprises, the Consortium recommends that national tax authorities perform audits in line with the concepts of “supply chain audits” and “horizontal monitoring”. The concept of **supply chain audits** refers to audits that are performed on all enterprises of a supply chain. This allows tax authorities to cross-check documents of supplier and buyer, making the audit less burdensome for each of them. The concept of **horizontal monitoring** refers to a compliance covenant between the tax authorities and a taxpayer and the setting up of a tax control framework by the taxable person. This allows tax authorities to perform audits less often and less intrusive. The administrative burden reduction of applying these two concepts is estimated at €80 million.
- (20) Taxable persons are obliged to **communicate to the tax authorities the start of their activity as taxable persons** (Art. 213 VAT Directive). In order to avoid that businesses are obliged to transmit the same data several times to public authorities, the Consortium recommends that the VAT registration is integrated into a general business registration (covering all registration obligations, such as under commercial law, statistical law, direct taxation etc.). The Consortium points at the fact that the double submission of essentially the same information is perceived as irritating by businesses. It estimates the burden reduction potential at €50 million.
- (21) The VAT Directive allows Member States to regard several taxable persons which are legally independent but closely bound to one another by financial, economic and organisational links as a single taxable person (**VAT Group, Art. 11**). Sixteen Member States have made use of this simplification measure. Member States making use of this simplification can however impose special requirements, not further specified in the VAT Directive, on such VAT groups in order to guarantee correct collection of the VAT. The Consortium has identified the most common information obligations related to the VAT Group, such as the appointment of a representative member, the submission of an application file, the notification regarding the entry or exit of a new group member or the cessation of the VAT Group. The Consortium recommends reducing the corresponding burden notably by making (better) use of e-government solutions. It has furthermore identified specific requirements applied only by some Member States which impose considerable burden or irritation on the VAT Groups.
- (22) The Consortium, based on a suggestion by a stakeholder, presents the idea to change the VAT payment and refund to the point at which payment is settled and introduce a **real-time VAT collection** based on an electronic system where all VAT payments are settled in real time through the banking system. The Consortium estimates that the reduction potential would be substantial (€ 42 billion), but also points at the equally substantial implementation costs and at a number of open questions (e.g. cash payments, anti-fraud safeguards).

#### *Reduction Suggestions by Reporting Members*

- (23) Reporting members<sup>15</sup> suggest facilitating or increasing the use by enterprises of **granting the power of attorney to one or more persons to sign VAT-returns and listings on behalf of the company**. This should apply to returns and listings electronic as well as on paper. For SMEs it would be useful if they were not limited to the general authorization to sign for the company but allowed to grant limited powers of attorney. They would also benefit from the possibility to appoint several persons separately as authorized to sign the VAT-returns and sales listing reports.
- (24) Reporting members also suggest **exempting enterprises which fall below certain thresholds from the obligation to draw up intra-Community supplies listings**. As from January 2010 the obligation to file intra-Community sales listings is extended to cover both services and goods and will therefore apply to many more enterprises than at present. By introducing a threshold in the range of €2,000-5,000 of quarterly intra-Community sales, enterprises with very limited intra-Community sales would be exempted. For enterprises falling below these thresholds the information on those sales entered into their periodical returns should be considered as sufficient<sup>16</sup>.

#### **IV. Advice to the Commission and to Member States**

- (25) In light of the high number of enterprises affected by the VAT rules and the resulting significant total burden, the HLG finds it particularly important to reduce the administrative burdens resulting from this area in order to reach the overall reduction target. **The Group therefore welcomes the efforts made so far and the further reduction recommendations presented by the Consortium and stakeholders**. The HLG wants to stress that reforms or reform ideas are not only valuable if they have a significant total reduction potential but also if they remove obligations that are perceived as irritating or that impose a significant burden only on a limited number of enterprises. The removal of irritants is essential for ensuring that businesses feel the impact of the reduction efforts.

##### *Advice on Adopted and Proposed Reforms*

- (26) The HLG **supports the adopted proposal for a revision of the invoicing rules** by the Commission and reaffirms its opinion of 22 October 2008. The Group calls upon the Council to adopt the proposed reform as soon as possible and without modifications that would diminish the reduction potential. The HLG calls upon the Commission and the Member States **to reconsider any requirements they impose on invoices** even ahead of the adoption and transposition of the revision and calls upon the Member States to simplify their national requirements on e-invoicing to allow for an equal treatment of paper and electronic invoicing. The HLG encourages the Commission to further review the possibilities to extend the timeframe for issuing invoices and to further extend the scope of simplified invoices. The Group calls upon the Commission and the Member States to search for further means to encourage electronic invoicing.

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<sup>15</sup> The HLG thanks Ms. Fritsch for having tabled this and the subsequent suggestion.

<sup>16</sup> VAT exempted enterprises may under Art. 272(1)(d) be exempted from the obligation to submit the intra-Community sales listing.

- (27) With regard to the invoicing proposal, the HLG also notes that **cash accounting** can be a very interesting option for certain SMEs. It therefore fully supports the proposed extension of the optional cash accounting scheme and advises the Commission to propose measures to oblige Member States to offer this scheme to enterprises. Finally, the HLG suggests allowing businesses to use **simplified texts on invoices** for cases when exemptions or the reverse charge mechanism apply (e.g. using the abbreviations “RC” and “EX” instead of the currently required legal reference) already for the period until the entry into force of the rest of the proposed revision.
- (28) The HLG calls upon the Council **to adopt the simplification measures proposed by the Commission concerning the general one stop shop for all taxable persons and to consider the possible simplification potential of increased thresholds for the special schemes for SMEs and distance sales**. The HLG notes the high reduction potential notably related to the one stop shop and the widespread support of this idea among stakeholders. It notes that especially SMEs face difficulties if they have to interact with tax authorities in several Member States and the one stop shop could encourage them to do cross-border activities and expand. The mini one stop shop introduced for certain activities should therefore be extended to cover all economic operators and activities.
- (29) The HLG supports the **reform of the VAT refund procedure** and the use of electronic solutions for processing refund claims. The Group calls upon Member States to make sure that the **electronic portals, required by the Directive, are easy to access and to use and that they are made available to businesses as soon as possible**. Especially, in light of the current economic crisis and especially due to the need of a strong cash flow, the Group encourages tax authorities to **allocate the necessary resources to the processing of refund claims** so that the refunds are paid out to enterprises as fast as possible. Once implemented, the Commission should carefully monitor the practice in Member States and not hesitate to take appropriate actions against them where required.
- (30) The HLG **supports the reform of the rules on the place of supply of services**. It notes however that the rules are still complex and strongly encourages the Commission to urgently deliver a proposal for a regulation clarifying a number of open questions related to the place of supply of services. This is all the more pertinent as businesses have to adapt their business and invoicing systems to the new rules already by January 2010.
- (31) The HLG notes that other reforms adopted or proposed over the last years with the objective to combat VAT-fraud impose **new or more frequent information obligations**<sup>17</sup>. The HLG advises the Commission and Council to impose such new or increased burdens on enterprises only based on **thorough impact assessments** and after in-depth reflections on the proportionality. More general, the Commission should conduct an analysis of the extent and nature of VAT-fraud including whether the Member States are actually making effective use of information they already have access to and whether the measures to fight VAT-fraud are effective and proportionate, before introducing more information

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<sup>17</sup> E.g. Directive 2008/117/EC increases the frequency of the intra-community sales listing in order to combat the so-called “carousel fraud”.

obligations on business. The HLG points out in this regard that not all Member States even collect and publish information on the VAT fraud and therefore encourages the Commission to take appropriate actions.

*Advice with Regard to VAT Returns and Listings*

- (32) The HLG notes the significant burden incurred by businesses when submitting the various VAT returns and listings and the substantial reduction potential of the ideas presented by the Consortium in this domain. It advises the Commission, Council and Member States **to make special efforts to reduce the burden stemming from this area.**
- (33) The HLG notes the high costs related to the periodical VAT return and the corresponding high reduction potential of reducing and harmonizing its frequency. The HLG notes that in some Member States the frequency differs already depending on the turnover of the enterprise. The HLG therefore advises the Commission and Member States **to generally allow filing of the periodical VAT return based on turnover thresholds.** It notes however that to avoid cash-flow disadvantages for businesses with high input VAT claims, they need to have an option to use shorter periods. In particular, newly created and therefore usually smaller enterprises may have large input VAT amounts related to start-up costs so that their success can depend on shorter, that is quarterly or even monthly, filing periods. Furthermore, the HLG considers the threshold of € 2.5 million for monthly returns, suggested by the Consortium, as too low and advises to use a threshold of € 5 million instead. Finally, the HLG advises the Commission and Member States **to look at whether the respective thresholds and the resulting frequencies could be harmonised on EU level,** without increasing burdens for businesses in specific Member States. This harmonization will notably benefit businesses submitting returns in more than one Member State<sup>18</sup>.
- (34) The HLG finds that requiring businesses to draw up an annual summarizing VAT return, in addition to the periodical VAT return, imposes burdens on them that are excessive when compared to the limited value of this document. In light of the fact that the requirement applies only in eight Member States, the HLG has reservations concerning the high reduction estimate by the Consortium, which also appears to contain a large part of business as usual cost related to the annual VAT reconciliation that any prudent business manager would do. The HLG nevertheless sees an important reduction potential in suppressing the summarizing return. The HLG therefore advises the Commission and the Member States **to look further at whether this summarizing annual VAT return could be abolished and, if applicable, to amend the VAT Directive accordingly.**
- (35) The HLG is of the opinion that the information provided by the intra-Community acquisitions listing to tax authorities is in general redundant and that cross-checking of information could be done between the intra-Community sales listing and the periodical VAT return provided that the relevant information is contained. The Group therefore advises the Commission **to investigate whether the intra-Community acquisitions listing can be abolished** and, if applicable, to amend

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<sup>18</sup> The HLG is aware that a harmonization of the frequency of the periodical return was proposed in the context of Council Directive 2008/117/EC but did not find consensus among Member States.

the VAT Directive accordingly. The estimated reduction potential may however be reduced due to the cost of other anti-fraud measures.

- (36) The HLG is of the opinion that enterprises should not be required to submit intra-Community supplies listings for periods in which they did not make such supplies (nil-listings), as the relevant information can already be obtained from the periodical VAT return. **The HLG advises the Commission to amend the VAT Directive accordingly and to remove this irritant.**
- (37) In addition, the HLG calls upon the Commission to **exempt enterprises falling below certain thresholds from the obligation to draw up the intra-Community supplies listings** and to amend the VAT Directive accordingly. This would simplify for businesses to be active in the internal market and it would avoid adding burdens for those with very limited sales to other Member States without distorting competition.
- (38) The HLG sees huge reduction potential in electronic submission of the various returns and listings<sup>19</sup>. It notes however that the cost related to hard- and software requirements must be manageable in order to take the needs of micro-entities into account. The HLG notes that the VAT Directive allows electronic submission of returns and listings and advises Member States **to facilitate and promote the fully electronic interaction between businesses and tax authorities**. Tax authorities should not only **make the respective e-government solutions simple and easy to use but should also create incentives for businesses to use them**. The free distribution of VAT-compliance software, as practiced in Belgium, is a good example for such an incentive.
- (39) The HLG calls upon Member States to make it simpler for companies to **grant the power of attorney to one or more persons to sign VAT-returns and listings on behalf of the company and to not limit this to general authorizations**. This should apply to electronic and paper filings. Increased possibilities in this regard will be especially useful for SMEs that use external consultants to fulfil their VAT obligations.

#### *Advice on Further Issues*

- (40) The HLG notes the huge discrepancies between Member States in the obligations imposed on businesses under Article 273. It notes that some of these measures create per se a significant burden or irritation on the targeted businesses but that more broadly the existence of these diverging measures renders the VAT system unduly complex and creates problems for businesses performing intra-Community trade. The HLG therefore advises the Commission **to look at these anti-fraud measures, to identify the most efficient, least burdensome measures (best practices) in the Member States and, where appropriate to harmonize the most common measures along the lines of these best practices**. In this context the HLG notably sees the benefit for enterprises of a minimum time frame, granted

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<sup>19</sup> Art. 263(2) of the VAT Directive has been changed by Council Directive 2008/117/EC to allow the electronic submission of recapitulative statements to include electronic file transfer. A similar change for Art. 250(2) and the electronic submission of VAT returns was rejected in Council.

to the taxable person for providing information to the tax authorities upon their request.

- (41) The HLG notes that the export document is an officially certified document from a public authority and that the implementation of the new electronic customs regime (latest in 2013) will give tax authorities increased reassurance that the goods were exported, provided that the interoperability between customs and tax authorities (also on sub-national level) is ensured. The HLG therefore advocates that **the export document should normally be considered sufficient as proof that the export has taken place. The HLG will return to this issue in a subsequent opinion.** The HLG advises the Commission to amend the VAT Directive accordingly.
- (42) The HLG calls upon tax authorities **to perform VAT audits in the most efficient, least burdensome way.** The Commission should identify and disseminate best practices in this regard and Member States should adapt their practices accordingly.
- (43) The HLG advises Member States **to integrate the VAT registration into the general process of business registration and to provide one electronic portal for all registration purposes,** so that businesses are not required to submit the same information to different public authorities, which is rightly seen by them as irritating. Where only part of the overall registration is currently required, e.g. a VAT registration due to supplies carried out from a warehouse, the integration should however not lead to a “pro-forma” business registration.
- (44) The HLG sees a significant reduction potential in “VAT Grouping” although this instrument might bear some potential for tax planning or even avoidance. The Group calls upon Commission and Member States **to consider a more uniform application of this optional scheme.**
- (45) The HLG notes that stakeholders have suggested changes to the VAT system that go beyond a mere modernization and simplification of the current system and require deep structural changes (e.g. the idea to switch to a fully electronic, payment-based VAT collection system). The HLG notes the reduction potential that such ideas could bring but also acknowledges the important technological challenges to overcome and the heavy investments required. It therefore advises the Commission and Member States **to think out of the box, to investigate such ideas in more detail and to assess their implementability.** The HLG calls upon the Commission to make a preliminary assessment on the real-time VAT suggestion public as soon as possible but at least within the next 12 months, including a timetable for possible implementation.
- (46) Finally, the HLG notes the high costs imposed by national information obligations which go beyond what is required by the VAT Directive (gold-plating). The HLG calls upon Member States **to reconsider the necessity of these information obligations and to abolish them where possible.** Furthermore, the HLG notes the differences between Member States as regards the burden of the administrative implementation of many information obligations. It advises the Commission **to disseminate and Member States to adopt best administrative practices** so as to achieve the most efficient, least burdensome implementation of the requirements of the Directive. The HLG calls notably upon tax authorities to check in each

instance whether the information required from taxable persons are really necessary for the purpose of correct collection of VAT.

Brussels, 28 May 2009

## **Annex – Consortium reduction recommendations with regard to national information obligations linked to Art. 273 VAT Directive**

The Consortium has identified a total of 208 national information obligations linked to this provision. A number of information obligations appear in rather similar form in more than one Member State, others are unique to specific Member States.

The Consortium argues that the following information obligations are not necessary or excessive and **recommends abolishing them**, with a combined reduction potential estimated at €310 million:

- Obligation to report transactions with local registered VAT taxable persons, implemented in BE, ES, EL, PT and RO
- Obligation to draft and issue a document concerning a transfer of a totality of assets or part thereof, as implemented in BE, FI, EL, MT, PL and RO
- Obligation to draft and issue a document when the goods are dispatched in the framework of a sale on trial or a sale on consignment, as implemented in BE, CZ, IT and PT
- Obligation to store the confirmation that a credit note was received by the addressee, implemented in CZ, HU, PL, PT and SV
- Obligation to report transactions in timber to the VAT authorities, as implemented in LV
- Obligation to identify and register for VAT purpose the animals entering the slaughtering house, to weigh them and report their number and weight to the VAT authorities and finally to draw up a slaughtering declaration, as implemented in BE
- Obligation to draft a document in case of intra-Community acquisitions and reverse charge services, as implemented in BG, ES, IT and PL
- Obligation to store a summary document with the description and amount of advance payments, as implemented in ES and FR
- Obligation to use waybills with special numbering assigned by the tax authorities, as implemented in LV

The Consortium argues that the following information obligations are necessary for the fight against tax evasion but **should be implemented in a less burdensome way**, with a combined reduction potential estimated at €47 million:

- For the obligation to file a report regarding the sale of new means of transport to private individuals in other Member States<sup>20</sup> (implemented by BE, BG, CY, CZ, DK, EL, FI, HU, IT, LU and PL) businesses should not be required to submit the underlying invoices, the frequency for the submission of the report should be reduced and made uniform, electronic filing should be allowed and promoted, and the report should be merged with the intra-Community sales listing
- The obligation to draft and issue a document when buying from a non taxable person (implemented by BE, EL, FR, HU, LU, NL and PT) should be limited to cases where it substantiates the application of a specific VAT regime, the format should be harmonized, and electronic means should be allowed and facilitated

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<sup>20</sup> Confer also to Art. 254 VAT-Directive.

- Taxable persons should be allowed to fulfil the obligation to draft a transfer document, for transfers of goods between a company in one Member State and its branch in another Member State, (implemented by BE, CZ, DE, DK, FR, HU, IT, LV, PT, RO, SK and SV) and the obligation to draft a document for self-supplies (implemented by BE, BG, CZ, DK, HU, LV, MT, PT, SI, SK and SE) by using electronic means.
- The obligation to notify the tax authorities in case of change of the VAT return regime (implemented by BE, CY, CZ, ES, FR, HU, LV, LT, PL, RO and SK) should be restricted to voluntary changes of the VAT regime, electronic submission of the notification should be allowed and facilitated, and the data requirements should be kept to the minimum necessary.
- For the obligation to keep a register regarding distance sales (implemented by CZ, ES, FI, LT, MT, NL, PT, SK and UK) the requirement to keep attached to the register copies of the relevant invoices or other supporting documents should be abolished and the use of electronic solutions should be enabled and facilitated.
- For the obligation to keep a stock record in case of application of the margin scheme regime (implemented by BG, CY, EL, HU, MT, PT, RO, SI and UK) the data requirements should be restricted to the minimum necessary, such as certain purchase, sale and accounting details and the electronic keeping of the register should be allowed.
- The obligation to keep a record of capital goods (implemented by BE, CY, DK, ES, IE, LU, MT, NL, RO and UK) should be made less burdensome for taxable persons by limiting the number of data requirements to be put into the record to the specification of the capital good, a reference to the purchase invoice, the date on which the right of deduction has arisen, the amount of VAT paid and deducted, the ratio of VAT deduction.
- For the obligation to provide a guarantee to the VAT authorities (implemented by DK, FR, HU, IE, LT, MT and PT) taxable persons should be allowed to present a bank guarantee issued by any bank (not only a local bank).